

**Army Regulation 27-1**

**Legal Services**

# **Judge Advocate Legal Services**

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

**Headquarters  
Department of the Army  
Washington, DC  
30 September 1996**

**UNCLASSIFIED**

# ***SUMMARY of CHANGE***

AR 27-1

Judge Advocate Legal Services

This rapid action revision, dated 13 September 2011--

- o Implements the Don't Ask, Don't Tell Repeal Act of 2010 by deleting all references to separation for homosexual conduct (para 14-10f and fig 14-1).
- o Makes administrative changes (app A: obsolete publications and forms marked; corrected publication and form titles; removed "-R" from DA Form 3973-R in referenced forms list).

## Legal Services

### Judge Advocate Legal Services

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By Order of the Secretary of the Army: provides guidance for applicants for voluntary active duty with the Judge Advocate General Corps; and explains and describes the administration of The Judge Advocate General's Funded Legal Education Program.

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*Chief of Staff*

Official:

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

**Summary.** This publication contains essential information concerning the Judge Advocate Legal Services and the Judge Advocate General's Corps. It defines responsibilities; explains policies, objectives, and procedures for the development and maintenance of the Reserve Component Judge Advocate General Corps officers; details responsibilities for the supervision, training, employment, and administration of Judge Advocate General Service Organizations; procedures for acquiring and maintaining Army law library materials; defines the professional standards and procedures for processing alleged violations of professional standards;

**Applicability.** This regulation applies to the active Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve, unless otherwise stated. It also applies to Department of the Army civilians who are involved in any matter that falls under the responsibility and authority of The Judge Advocate General, regardless of whether such person is a member of the Judge Advocate Legal Service. This publication is applicable during mobilization.

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

their higher headquarters to the policy proponent. Refer to AR 25-30 for specific guidance.

**Army management control process.** This regulation contains internal control provisions and provides an Internal Control Evaluation for use in evaluating key internal controls (Appendix C).

**Supplementation.** Supplementation of this regulation and establishment of command and local forms is prohibited without prior approval from The Judge Advocate General, 2200 Army Pentagon, DAJA-ZX, Washington, DC 20310-2200.

**Suggested improvements.** Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to The Judge Advocate General, 2200 Army Pentagon, DAJA-ZX, Washington, DC 20310-2200.

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

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\*This regulation supersedes AR 27-1, dated 15 September 1989. This edition publishes a rapid action revision of AR 27-1.

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## Chapter 1 Introduction

### 1–1. Purpose

This regulation provides general information about the Judge Advocate Legal Service (JALS) and the Judge Advocate General's Corps (JAGC); prescribes the composition, mission, and functions of the JALS; details responsibilities and explains policies, objectives, and procedures for the development and maintenance of Reserve Component (RC) JAGC officers; details responsibilities for the supervision, training, employment, and administration of Judge Advocate General Service Organizations (JAGSOs), including Table of Organization and Equipment (TOE) changes; updates procedures for acquiring and maintaining Army law library materials; defines the professional standards and procedures for processing alleged violations of professional standards; provides guidance for applicants for voluntary active duty with the JAGC; and explains and describes the administration of The Judge Advocate General's Funded Legal Education Program (FLEP).

### 1–2. References

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

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

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

### 1–4. Responsibilities

Responsibilities are listed in chapter 2.

### 1–5. Statutory authority

Statutory authority for this regulation includes 5 USC 3109, 10 USC 1044, 10 USC 2004, 10 USC 3036, 10 USC 3037, 10 USC 3064, 10 USC 3065, and 10 USC 3072.

## Chapter 2 Responsibilities

### Section I

#### Overall Responsibilities

##### 2–1. The Judge Advocate General

*a. General responsibilities.* TJAG will—

- (1) Head the JALS.
- (2) Serve as a personal staff officer (AR 10–5, paras 2–36 and 2–39).
- (3) Have those duties established by statute, regulation, delegation, designation, and assignment.
- (4) Secure legal services by appointment of professional consultants.

*b. Responsibilities as legal advisor.* The Judge Advocate General is the legal advisor to the Chief of Staff, U.S. Army (CSA), members of the Army Staff, and members of the Army generally. The Judge Advocate General serves as military legal advisor to the Secretary of the Army (SA) and members of the Secretariat, in coordination with the General Counsel. Laws, executive orders, and regulations specify the responsibilities of TJAG to provide legal advice in the following areas:

- (1) Administration and operation of Department of the Army (DA).
- (2) Business, property, and financial operations under the jurisdiction of the Army.
- (3) Administration, control, discipline, status, civil relations, and activities of DA personnel.

*c. Judicial responsibilities.* TJAG will—

(1) Designate, establish, alter, and dissolve judicial areas and judicial circuits of the U.S. Army Judiciary. (See AR 27–10, para 8–3.)

(2) Establish U.S. Army Court of Criminal Appeals (ACCA), refer cases to the court, and instruct convening authorities to take action according to the decisions of the court. In accordance with Article 66, Uniform Code of Military Justice (UCMJ, Art. 66 (10 USC 866)), TJAG will—

*(a)* Along with the Judge Advocates General of the other armed forces, prescribe uniform rules of procedure for proceedings in and before Courts of Military Review.

*(b)* Meet periodically with the Judge Advocates General of the other armed forces to formulate policies and procedures in regard to review of courts-martial in the Office of The Judge Advocate General (OTJAG) and by the ACCA.

(3) Examine all records of trial by general court-martial (GCM) that result in guilty findings not otherwise reviewed under UCMJ, Art. 66 (10 USC 866), and in which the accused has not waived or withdrawn appellate review under UCMJ, Art. 61 (10 USC 861). The Judge Advocate General may modify or set aside the findings, or sentence or both if any part of the findings or sentence is unsupported in law or if reassessment of the sentence is appropriate. TJAG also may direct review by the ACCA with respect to matters of law. (UCMJ, Art. 69 (10 USC 869)).

(4) Receive petitions for a new trial on the grounds of newly-discovered evidence or fraud on the court within 2 years after approval by the convening authority of a court-martial sentence. If the accused's case is pending before the ACCA or before the U.S. Court of Appeals for the Armed Forces (USCAAF), TJAG will refer the petition to the appropriate court for action. Otherwise, TJAG will act on the petition (UCMJ, Art. 73 (10 USC 873)). (See AR 27-10, Interim change, No. IO1, dated 27 September 1991, para 5-30.4.)

(5) Prior to completion of appellate review, if appropriate, mitigate, remit, or suspend, in whole or in part, any unexecuted portion of a sentence adjudged by a court-martial (including all uncollected forfeitures), other than a sentence of death or dismissal, or one affecting a general officer (UCMJ, Art. 74 (10 USC 874)). (See AR 27-10, para 5-30.3.)

(6) If appropriate, vacate or modify, in whole or in part, the findings and/or sentence in a court-martial case not otherwise reviewed under UCMJ, Article 69 (10 USC 869) or by the ACCA, on any of the following grounds:

- (a) Newly-discovered evidence.
- (b) Fraud on the court.
- (c) Lack of jurisdiction over the accused or the offense.
- (d) Error prejudicial to the substantial rights of the accused.
- (e) Appropriateness of the sentence.
- (f) TJAG also may direct review by the ACCA with respect to matters of law.

(7) Pursuant to designation as the next superior authority by the SA, act on appeals from punishments imposed under UCMJ, Art. 15 (10 USC 815), by Army commanders when no intermediate superior authority is reasonably available to take this action. (See AR 27-10, para 3-30.)

(8) After a decision by the USCAAF, return the record to the ACCA for further review or instruct the convening authority to take action (UCMJ, Art. 67 (10 USC 867)).

*d. Military justice responsibilities.* TJAG will—

(1) Be the principal legal advisor to the SA and to the CSA concerning matters pertaining to military justice. Acting through the Assistant Judge Advocate General for Military Law and Operations, TJAG will establish DA policy on military justice and provide legal guidance and staff supervision of the Army's system of military justice. TJAG, or senior staff members, will make frequent inspections in the field to supervise the administration of military justice (UCMJ, Art. 6(a) (10 USC 806(a))).

(2) Serve as a member of the Code Committee established by UCMJ, Art.146.

(3) Receive, revise, and record the proceedings of courts of inquiry and military commissions (10 USC 3037(c)(3)).

(4) Designate and certify as competent the officers who may serve as military judges (MJs) and certify trial counsel and defense counsel of GCM (UCMJ, Art. 26 and 27 (10 USC 826, 827) and AR 27-10, paras 6-3 and 8-2).

(5) Forward cases reviewed by the ACCA to the USCAAF for review of issues raised by TJAG (UCMJ, Art. 67 (10 USC 867)).

(6) Detail appellate Government counsel and appellate defense counsel (UCMJ, Art. 70 (10 USC 870)).

(7) By direction of the SA, establish a branch office under an Assistant Judge Advocate General (AJAG) (UCMJ, Art. 68 (10 USC 868)).

(8) Authorize access to records of trial by GCM and records of trial by those special courts-martial in which the sentence, as approved, includes a bad-conduct discharge and the record of trial has been forwarded for appellate review. Requests for records of trial that have not been forwarded for appellate review will be addressed to the SJA of the command that convened the court. TJAG is the initial denial authority for that category of records. (See AR 25-55, para 5-200.)

(9) Manage the administration of military justice in the Army.

(10) Administer an independent, Army-wide trial and appellate judiciary and provide for appellate review and representation. The U.S. Army Legal Services Agency (USALSA), a field operating agency (FOA) under the jurisdiction of TJAG, assists TJAG in managing courts-martial, records, and statistics. (See AR 10-72 and AR 27-10.)

(11) Administer an independent, Army-wide Trial Defense Service to provide representation for soldiers tried by courts-martial. The Chief, USATDS, assists TJAG in managing the TDS mission. (See AR 27-10, para 19-2.)

(12) Supervise training in military justice for all U.S. Army personnel.

(13) Prescribe rules to govern the supervision and discipline of military trial and appellate judges, judge advocates (JAs), and lawyers who practice in proceedings governed by the UCMJ and the Rules for Courts-Martial (RCM) 109, Manual for Courts-Martial (MCM), 1984.

*e. Administrative law responsibilities.* TJAG will—

- (1) Provide legal advice relating to:

- (a) Organization, powers, functions, and employment of the Army.
  - (b) Powers and duties of Army officials and the delegation of those powers and duties.
  - (c) Interpretation and application of laws relating to DA and its members generally.
  - (d) Legal matters affecting the United States Military Academy, U.S. Soldiers' and Airmen's Home, Reserve Officers' Training Corps (ROTC), US Army Reserve (USAR), Army National Guard (ARNG), nonappropriated funds (NAF), gifts, donations, use of Government property, and military installations.
  - (e) DA military personnel, appointment, induction, enlistment, promotion, reduction, separation, discharge, retirement, status, discipline, administration, and authorized activities of active duty, Reserve, and former military personnel. TJAG also provides legal advice on the jurisdiction and procedures of administrative boards, including the Army Discharge Review Board, Army Disability Review Board, Army Board for Correction of Military Records, and boards in the physical disability evaluation process.
  - (f) Pay and allowances of military personnel and their dependents (other than policy issues).
- (2) Act as—
    - (a) Designee of the SA in making required good-faith findings on claimed marriages.
    - (b) An initial denial authority on requests made pursuant to the Freedom of Information Act (5 USC 552) for the release of legal records. (See AR 25–55, para 5–200.)
    - (c) The access and amendment refusal authority on requests made pursuant to the Privacy Act (5 USC 552a) for access to or amendment of legal records contained within a system of records. (The Army Privacy Program is set forth in AR 340–21.) In addition, requests for Army records, regardless of functional category, related to actual or potential litigation in which the United States has an interest may only be approved by TJAG.
    - (d) Designee of the SA on all complaints pursuant to UCMJ, Art. 138 (10 USC 938). (See AR 27–10.)
  - (3) Prepare opinions and furnish advice on questions of law related to the DA security program, prepare allegations in personnel security cases (AR 604–10), and provide counsel and attorney-advisors for field boards of inquiry.
  - (4) Prepare or examine for legal sufficiency, where required, drafts of proposed Army regulations and other DA publications. TJAG will also review and prepare comments or concurrences on proposed regulations and directives with legal implications for the Department of Defense (DOD) and other military departments.
  - (5) Determine whether participation by an Army agency in the activities of a private association is authorized and whether the use of technical, trade, or industrial associations as an advisory committee to obtain advice on DA problems is authorized. (See AR 1–210, para 3b, and AR 15–1, para 22b(7).)
- f. Legislative responsibilities.* TJAG will—
- (1) Review proposed legislation; and
    - (a) Examine for legal sufficiency and comment on legislative proposals of other DA agencies and render an opinion or comment on legislation pending before Congress or proposed by the Office of the Secretary of Defense (OSD), other military departments, or other agencies or departments of the Government.
    - (b) Present necessary testimony, both oral and written, to appropriate congressional committees on military justice legislation and private relief legislation, except on matters of civil works.
  - (2) Prepare drafts and reports—
    - (a) Of bills and letters to the Office of Management and Budget and Congress in connection with proposals.
    - (b) Of executive orders and proclamations and comment on those prepared by other agencies of the Government.
    - (c) As required, on recently enacted legislation.
  - (3) Formulate and coordinate the Army's position on all private bills concerning the Army (except those arising from civil works and real estate functions that the Chief of Engineers formulates and coordinates with TJAG).
  - (4) Comment on regulations and directives proposed by the DOD and military departments to implement new or proposed legislation.
  - (5) Assist in rulemaking functions concerning Army directives that directly affect the public (5 USC 553).
- g. International and Operational Law responsibilities.* TJAG will—
- (1) Act as the primary legal advisor to the Army Staff on operational matters (Operational Law (OPLAW)) and provide legal advice on all international law issues arising from deploying and stationing U.S. forces overseas. This includes the development, drafting, negotiating, and interpreting of international agreements pertaining to all aspects of foreign, comparative, and international law. This also includes advice on: the negotiation and interpretation of international agreements in general, and arms control and disarmament agreements, as required; international legal issues involved in military assistance to other countries, including assistance to foreign armed forces under the Foreign Assistance Act, the Arms Export Control Act, and the North Atlantic Treaty Organization (NATO) Mutual Support Act; legal issues affecting military operations overseas, including domestic laws, executive orders, and regulations related to the use of military force; martial law, defense and disaster plans, and military aid to civil authorities; the law of war, including the reporting, investigation, and prosecution of war crimes; air and space law, and law of the sea as they relate to Army activities; legal issues involving Army counter-drug activities; the propriety of intelligence activities, reporting of violations of federal law, and intelligence oversight functions of the Army Staff; and the Army International Activities Program.

- (2) Provide overall legal advice and guidance as the primary legal advisor on Army implementation of the DoD Law of War Program. This includes:
- (a) Supporting through international law teams or other resources the reporting, investigation and collection of evidence, and evaluation of alleged war crimes against U.S. personnel;
  - (b) Supporting investigative agencies, and, if necessary, overseeing the prosecution of alleged war crimes committed by U.S. personnel;
  - (c) Providing legal review of all operation and concept plans and rules of engagement for compliance with domestic and international law as part of the Army Staff review in the joint review process;
  - (d) Providing legal review of all new weapons for compliance with international law;
  - (e) Preparing the necessary literature to support the training of Army personnel in the law of war;
  - (f) Ensuring, on behalf of the CSA, that commanders receive legal advice and assistance to enable them to determine appropriate disposition of cases involving alleged violations of the law of war by U.S. personnel; and
  - (g) Providing legal advice and guidance regarding the governing of occupied enemy territory and the treatment of displaced civilians or refugees.
- (3) Provide legal advice on all international law issues arising from deploying and stationing U.S. forces overseas. This includes training U.S. personnel in their rights and obligations in foreign countries, to include compliance with human rights law and policy. It also includes involvement in the drafting, negotiating, and interpreting of international agreements pertaining to:
- (a) Base rights, facilities, operations, to include environmental law;
  - (b) Arms control;
  - (c) Status of Forces; and
  - (d) Other matters relating to US military activities in foreign countries.
- (4) In coordination with Deputy Chief of Staff for Operations and Deputy Chief of Staff for Logistics, prepare and conduct courses of instruction in international human rights for use in education and training of U.S. and foreign military and civilian personnel. Additionally, deploy, as required, JAGC personnel to provide assistance to foreign countries under security assistance programs in areas related to military law and human rights.
- (5) Monitor trials of U.S. Army personnel, civilian component personnel, and dependents by foreign courts and conditions of confinement in foreign prisons to ensure proper treatment of imprisoned personnel.
- (6) Compile and—
- (a) Submit to DOD, as its executive agent, consolidated quarterly reports for the military departments of U.S. personnel confined in foreign prisons pursuant to sentences of foreign courts. (RCS: DD-GC(Q) 706.)
  - (b) Forward each year to DOD (for submission to the Senate Armed Services Committee), as executive agent for DOD, worldwide statistics and a comprehensive report on the exercise of foreign criminal jurisdiction over U.S. personnel.
- (7) Review, as necessary, decisions of military magistrates related to Status of Forces Agreement confinement according to AR 27-10.
- (8) Serve as U.S. Army Agent for questions relating to the exercise of criminal jurisdiction by “Friendly Service Courts,” as provided according to AR 27-51.
- (9) Receive notifications of the apprehension, confinement, or trial by court-martial of foreign nationals serving in the U.S. Army as provided according to AR 27-52.
- h. Litigation responsibilities.* (Litigation involving patents, copyrights, invention secrecy orders, trade secrets, and other pertinent data is processed under AR 27-60.) TJAG will—
- (1) Be the primary point of contact between DA and the Department of Justice (DOJ) and other Federal and State agencies concerning civil litigation matters (except litigation arising from the civil works and real estate functions of USACE, see AR 27-40).
  - (2) Act for the SA in the initiation, administration, supervision, coordination, and defense of civil litigation matters. (See AR 27-40.)
  - (3) Authorize the appearance of military personnel and civilian employees of the Army as counsel.
  - (4) Obtain from DOJ authority for the employment of private counsel at Government expense.
  - (5) Act upon subpoenas and requests for release of information and for appearance of Army personnel as witnesses.
  - (6) Accept service of process upon the Secretary of Army.
- i. Procurement fraud responsibilities.* TJAG will—
- (1) Be the single authority (and provide the central organization) to coordinate remedies in Army fraud and corruption cases.
  - (2) Be the primary point of contact and liaison for the Army with DOJ and U.S. attorneys on procurement fraud under Army Federal Acquisition Regulation Supplement (AFARS) 9.491(a).
  - (3) Receive and act on reports of procurement fraud by Army contractors under DOD Federal Acquisition Regulation (FAR) Supplement 9.406-3.

- (4) Act as Fraud Advisor to the Assistant Secretary of the Army, Research, Development, and Acquisition (ASA(-RDA)) under AFARS 9.491(b).
- (5) Serve on the SA's Task Force on Fraud, Waste, and Abuse.
- (6) Act on behalf of SA in matters of suspension, debarment, and ineligibility pursuant to Federal Acquisition Regulation (FAR) Subpart 9.4.
- (7) Chair and be a member of the DAR Council Committee on Debarment.
- j. Claims responsibilities.* The U.S. Army Claims Service (USARCS), Fort Meade, Maryland, a FOA under the jurisdiction of TJAG, administers the Army Claims Program (AR 27–20) and assists the SA and TJAG in the discharge of their claims responsibilities. The USARCS has been designated the Receiving State Office for claims cognizable under the NATO Status of Forces Agreement, Article VIII (AR 27–20, chap 7). (Claims against the Army involving patents, copyrights, invention secrecy orders, trade secrets, and other pertinent data fall under AR 27–60.)
- (1) TJAG is responsible for the Army Claims Program and provides legal guidance, training, staff supervision, and inspection in the administrative settlement of claims (both by and against the Government) worldwide under statutes, treaties, international agreements, DOD directives, and Army regulations.
- (2) TJAG has authority from the SA to settle claims under the—
- (a) Military Claims Act (10 USC 2733).
  - (b) Federal Tort Claims Act (28 USC 2671–2680).
  - (c) Use of Government Property Claims Act (10 USC 2737).
  - (d) National Guard Claims Act (32 USC 715).
  - (e) International Agreement Claims Act (10 USC 2734a and b).
  - (f) Army Maritime Claims Settlement Act (10 USC 4801–4804 and 4806).
  - (g) Foreign Claims Act (10 USC 2734).
  - (h) Industrial Personnel Security Clearance Program.
  - (i) Postal Agreement between the Postal Service and DOD.
  - (j) Claims pertaining to NAF activities. (See AR 27–20, chap 12.)
  - (k) Military Personnel and Civilian Employees Claims Act (31 USC 3721, Personnel Claims).
  - (l) Health care claims (10 USC 1089(f)).
  - (m) Legal service claims (10 USC 1054(f)).
  - (n) Article 139, UCMJ claims.
  - (o) Federal Claims Collection Act (31 USC 3711).
  - (p) Federal Medical Care Recovery Act (42 USC 2651–53).
- k. Intellectual Property.* TJAG will—
- (1) Supervise and manage the administration, control, and coordination of all patent, copyright, trademark, and other intellectual property activities of DA, including formulating and implementing policies. (See AR 27–60.)
- (2) Act on behalf of the SA in determining rights in employee inventions, the imposition of secrecy orders on patent applications, and nonexclusive licensing of Army-owned patents.
- l. Legal assistance responsibilities.* TJAG is responsible for the overall supervision and administration of the Army Legal Assistance Program (ALAP). The ALAP is based on 10 USC 1044 and 3013g and AR 27–3. Its mission is to assist those eligible for legal assistance with their personal legal affairs in a timely and professional manner by—
- (1) Meeting their needs for help and information on legal matters; and
  - (2) Resolving their personal legal problems whenever possible.
- m. Contract law responsibilities.* TJAG will provide—
- (1) Technical-channel supervision over appropriated and nonappropriated fund acquisition legal matters in units and agencies of DA;
  - (2) Legal advice to Headquarters, Department of the Army (HQDA), and technical-channel supervision over units and agencies of DA concerning classified procurement legal matters;
  - (3) Legal advice on fiscal law aspects of acquisition and logistics matters reviewed by OTJAG and on other operational fiscal law questions referred by the Office of General Counsel;
  - (4) Legal and administrative determinations regarding mistakes in bids; legal advice on and support for and presentation of Army positions on bid protests to the General Accounting Office (GAO), to the General Services Board of Contract Appeals (GSBCA), or other administrative agencies; and legal coordination on all bid protests submissions by Headquarters Services–Washington (HQSVS–W);
  - (5) Legal guidance with respect to foreign military sales under the Arms Export Control Act, logistical support to NATO and other allied armies, and other security assistance matters, such as co-production and international cooperative research and development agreements;
  - (6) Technical-channel supervision over legal advice provided to other units and agencies of DA concerning procurement of information resources including automated data processing equipment;

(7) Policy guidance and legal advice concerning the use, lease, and disposal of Government personal property related to contracts;

(8) Policy guidance and legal advice on the applicability of all taxes to contracts and activities of DA, including NAF activities, and processing of all Army tax litigation and the DA representative for the DOD Foreign Tax Relief Program;

(9) Members to the DOD Tax Policy and Advisory Group, DAR Council Committee on Taxes, and other committees, boards, and study groups, as required;

(10) Technical-channel advice, information, and assistance on acquisition law matters to attorneys at major commands, installations, and other organizations;

(11) Expedited legal review and technical legal supervision of acquisition law matters of HQSVS-W;

(12) Legal advice to the Administrative Assistant to the SA, in that official's role as the Initial Denial Authority for requests for procurement records directed to HQSVS-W;

(13) Legal advice and assistance to the Commercial Activities Management Agency, Office of Chief of Staff, Army, on commercial activities and other related procurement matters;

(14) The Labor Advisor to the ASA(RDA) will provide legal advice to ASA(RDA), the Army staff, and installations on all matters pertaining to contractor employees and will promulgate, as appropriate, laws and regulations pertaining to labor standards affecting such employees. Represents the Army before the Department of Labor and its administrative boards; serves as the DA point of contact with organized labor. Member, DAR Council Committee on Labor/Equal Employment Opportunity;

(15) Legal advice to the Department of the Army regarding mobilization and contingency contracting;

(16) Legal advice to the Department of the Army regarding the use of intra- and interagency support agreements, grants, and cooperative agreements; and

(17) Participation in SARDA procurement management reviews (PMRs).

*n. Contract appeals responsibilities.* TJAG will—

(1) Designate the Army Chief Trial Attorney (CTA) and, through the CTA, present all Army cases to the Armed Services Board of Contract Appeals (ASBCA). When requested, TJAG will present the cases of other Government agencies to the appropriate boards of contract appeals. The CTA is the authorized representative of the SA and has sole authority and responsibility for the conduct and control of litigation of contract disputes docketed with the ASBCA. The CTA shall designate and supervise one or more lawyers assigned to Contract Appeals Division (CAD) to act as trial attorneys for each appeal. However, under such rules and procedures as the CTA in his or her discretion may prescribe, the CTA may authorize attorneys designated by a cognizant Head of Contracting Activity (HCA) to act as trial attorneys in, or to assist in the presentation of, Army cases.

(2) Represent the Army, through the Army CTA, before the ASBCA in gratuity cases arising out of Army contracts.

(3) Record and review Bonds and Consents of Surety (40 USC 270a-e and FAR, part 28).

*o. Regulatory law responsibilities.* TJAG will provide Army representation before Federal and State regulatory bodies in all cases and hearings at which the Army is a party or that affect Army interests. TJAG will also provide such representation for the DOD and other Government agencies, when requested.

*p. Responsibilities for custody of records.* TJAG or designees are the custodians of—

(1) All records of trials by GCM or by special court-martial in which a bad-conduct or dishonorable discharge or dismissal has been approved.

(2) All records of courts of inquiry and military commissions.

(3) Records of war crimes against U.S. personnel.

(4) DA records relating to war crime trials.

(5) Assignments, licenses, and other instruments evidencing rights and interests of the Government in patents and trademarks or applications for patents and trademarks.

(6) DA records relating to allegations of professional misconduct and mismanagement processed under chapters 7 and 8 of this regulation.

*q. Labor and civilian employment law responsibilities.* TJAG will—

(1) Provide legal advice to the Army staff on all matters relating to the administration of civilian personnel of DA and NAF activities.

(2) Provide counsel to the Director of Civilian Personnel, Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs); and legal services for the promulgation of laws and regulations administering the civilian personnel system.

(3) Act as counsel for DA in all matters relating to labor-management relations.

(4) Be responsible for the administration of the Labor Counselor Program throughout the Army. TJAG's principal assistant for discharging labor counselor duties and responsibilities is the Chief, Labor and Employment Law, Office of The Judge Advocate General (DAJA-LE), who is responsible for management and control of the Army's Labor Counselor Program, and exercises technical supervision over all Army labor counselors. Technical communication and

guidance will normally be provided in an expeditious manner through the major command concerned. Any taskings required, for example, in an Office of Special Counsel (OSC) investigation, will also be handled in a similar manner.

*r. Responsibilities regarding cooperation with the Office of Special Counsel.* Pursuant to AR 27–40, chapter 9, the Chief, Labor and Employment Law, Office of The Judge Advocate General, acts for TJAG and is the Senior Management Official in cooperating with OSC. As Senior Management Official, the Chief, Labor and Employment Law, Office of The Judge Advocate General, is responsible to the DA General Counsel for the administration of policies and procedures in AR 27–40, chapter 9, including—

(1) Informing DA General Counsel of an OSC investigation and consulting with the DA General Counsel on any legal or policy issue arising from an OSC investigation.

(2) Serving as HQDA point of contact in providing assistance to OSC.

(3) Acting as DA attorney-of-record in administrative matters before the Merit Systems Protection Board (MSPB) which arise from an OSC investigation.

(4) Monitoring ongoing OSC investigations.

(5) Ensuring that DA personnel are apprised of their rights and duties regarding OSC investigations.

(6) Preparing recommendations to the General Counsel concerning any OSC recommended corrective action referral to DA.

(7) Seeking OSC approval of DA proposed disciplinary action against an employee.

(8) Reviewing and preparing recommendations for the DA General Counsel concerning requests for counsel. Upon approval of the General Counsel, detailing DA attorneys, including attorneys from the U.S. Army Materiel Command (AMC) and the U.S. Army Corps of Engineers (USACE), to represent individual military members and employees.

(9) Providing guidance and assistance to activity labor counselors in fulfilling their duty as liaison officers.

*s. Responsibilities for giving legal advice and assistance to certain National Guard officials.* Upon request by a State adjutant general through the National Guard Bureau, TJAG will consult with the State adjutant general on counseling members of the National Guard whom Federal, State, or local agencies may interview, interrogate, or prosecute on events that occurred during a period of call under chapter 15, title 10, USC, or order (10 USC 3500) into Federal service to aid civil authorities. TJAG will develop appropriate plans for furnishing legal advice and counsel, removal to Federal court, and defense by DOJ.

*t. Professional legal training responsibilities.* TJAG will manage professional legal training within the Army. To aid in management, The Judge Advocate General's School, U.S. Army (TJAGSA), has been established at the University of Virginia, Charlottesville, Virginia, as an FOA under the jurisdiction of TJAG. (See AR 10–72.)

*u. Army field law library responsibilities.* (See chap 12.) TJAG will—

(1) Formulate policies governing the establishment and content of Army field law libraries.

(2) Determine the requirements for acquisition of legal and legislative publications for Army field law libraries.

(3) Determine the requirements for periodic liaison trips to Army field law libraries.

*v. Responsibilities for assignment and direction of members of the Judge Advocate General's Corps.* TJAG will—

(1) Recruit members and manage the careers of the members of the JAGC. These duties include technical supervision of Active and Reserve officers of the JAGC and DA civilian attorneys under the qualifying authority of TJAG. TJAG will determine the duty assignment of all Judge Advocates (JAs) (UCMJ, Art. 6 (10 USC 806)). For USAR JAs, see chapter 10 and AR 140–10.

(2) Direct the members of the JAGC in the performance of their duties (10 USC 3037(c)(2)).

(3) Guide and assist JAs in the discharge of their professional duties and, orally or in writing, furnish directly to JAs opinions, instructions, digests, special texts, and other technical information pertaining to the performance of those duties.

(4) Administer the Acquisition Legal Specialty (ALS) Program to encourage JAGC attorneys to develop and practice this specialty; to ensure that JAGC attorneys who are members of the ALS have sufficient job opportunities at the various grade levels so that they can compete for advancement and schooling on a par with the non-ALS JAGC attorneys; and to ensure that the various contract law positions in the Army are identified and the level of expertise determined.

*w. Environmental law responsibilities.* TJAG will provide legal advice and services on all aspects of environmental matters, and is specifically responsible for—

(1) Representing Army activities in environmental litigation in coordination with DOJ.

(2) Monitoring State and Federal environmental legislative and regulatory developments affecting Army activities.

(3) Providing advice as to the appropriateness of any taxes, penalties, fees, fines, sanctions, or compliance orders arising from State or Federal environmental requirements or enforcement activities.

(4) In prior consultation with OGC coordinating environmental legal policy matters with the OSD, other services, and other Federal agencies.

(5) Representing the Army at local, State, or Federal agency hearings concerning policy or alleged violations of environmental laws or regulations arising from Army activities.

(6) Serving as a member of the DAR Council Environmental Committee.

*x. Responsibilities as the qualifying authority for civilian attorneys.* (See AR 690–200, chap 213, subchap 4). The General Counsel retains this authority for all attorney positions in the Office of the Secretary of the Army (OSA), including its field operating agencies, and for SES and senior level attorney positions Army-wide. Such positions may not be filled without prior approval of the proposed selectee’s qualifications by the General Counsel. For the remainder of the Department, The General Counsel has delegated qualification authority, without the power of redelegation, to TJAG for persons recommended for appointment, transfer, reassignment, or promotion as civilian attorneys or law clerk trainees in grades GS/GM–15 and below (less the elements under the Corps of Engineers and AMC) and for—

- (1) Defense Supply Service-Washington.
- (2) Armed Forces Institute of Pathology.
- (3) U.S. Army elements of joint commands.

*y. Law office automation responsibilities.* TJAG will—

- (1) Act as functional proponent for the Legal Automation Army-wide System (LAAWS).
- (2) Act as Executive Agent for coordinating automation of the Army legal community.
- (3) Develop automation standards, policies, and procedures associated with legal support missions.

*z. Ethics responsibilities.*

(1) Establish policy, precedent and guidance for the Army’s Standards of Conduct program, provide oversight of ethics program at each major command, and provide consultation assistance and advice to active Army, Reserve and National Guard Ethics Counselors.

(2) Direct the Army-wide process of public and confidential financial disclosures; serve as the filing office, conduct the final ethics reviews, and be the repository for public reports.

(3) Conduct oversight visits to major Army commands (MACOMs) and other selected organizations and commands.

(4) Ensure that standards of conduct training is being conducted throughout the Army in accordance with OGE and DoD direction and guidance, develop training materials, and assist with training as required.

(5) Provide Ethics Counselor support to the Army Secretariat and Army Staff offices, and to their staff support agencies and field operating agencies not having independent counsel.

(6) Establish policy and operational guidance for the professional responsibility program, to include TJAG’s Professional Responsibility Committee, and for ethics training in the JALS.

(7) Task supervisory JAs to conduct inquiries into allegations of professional misconduct or mismanagement by members of the JALS or civilian attorneys subject to TJAG UP RCM 109, MCM, 1984, and take appropriate action on substantiated violations.

## **2–2. The Assistant Judge Advocate General (TAJAG)**

TAJAG will—

*a.* Supervise the following OTJAG FOAs:

- (1) USALSA.
- (2) USARCS.
- (3) TJAGSA.

*b.* Be responsible for the organization, administration, and functioning of OTJAG.

*c.* Supervise the procurement of officers and civilian attorneys for the JALS.

*d.* Supervise the professional training of civilian attorneys and officers of the JAGC.

*e.* Be responsible for the proficiency of RC JAs.

*f.* Inspect JA activities as directed by TJAG.

*g.* Supervise Regulatory Law Office and Intellectual Property Law Office.

*h.* Oversee patent and copyright licenses, assignments, and infringement claims. Under certain circumstances, licenses and assignments of patents and copyrights must be approved by or on behalf of the TJAG when authorized by—

- (1) The Foreign Assistance Act of 1961 (22 USC 2356).
- (2) The Invention Secrecy Act (35 USC 181–188).
- (3) 10 USC 2386.

*i.* Supervises the Judge Advocate Guard Reserve Affairs Department (GRA), OTJAG, located at TJAGSA, Charlottesville, VA.

*j.* Supervise the Standards of Conduct Office and act on professional responsibility cases referred to OTJAG for action.

*k.* Supervise JALS information management and automation activities and oversee Legal Automation Army-wide System (LAAWS) project management.

## **2–3. The Assistant Judge Advocate General for Civil Law and Litigation (AJAG/CLL)**

The AJAG/CLL will—

- a. Supervise the following elements of OTJAG and USALSA:
  - (1) Contract Law Division.
  - (2) Litigation Division.
  - (3) Procurement Fraud Division.
  - (4) Contract Appeals Division.
  - (5) Environmental Law Division.
- b. Oversee Defense Appellate Division (DAD).
- c. Through the Chief, Trial Defense Service, exercise operational control and supervision of U.S. Army Trial Defense.

#### **2-4. The Assistant Judge Advocate General for Military Law and Operations (AJAG/MLO)**

The AJAG/MLO will—

- a. Supervise the following sections of OTJAG:
  - (1) Criminal Law Division.
  - (2) Administrative Law Division.
  - (3) International and Operational Law Division.
  - (4) Legal Assistance Division.
  - (5) Labor and Employment Law Division.
- b. Oversee the Government Appellate Division (GAD), USALSA, and, acting through the Chief, GAD, supervise and guide the JAs serving in the division.
- c. Review complaints under UCMJ, Art. 138 (10 USC 938). The AJAG/MLO will—
  - (1) Review Article 138 complaints forwarded to HQDA under AR 27-10, chapter 20.
  - (2) Act as designee of the SA in taking final action on Article 138 complaints.

### **Section II Conflicts of Interest**

#### **2-5. General**

- a. JALS attorneys should not provide legal advice to others when doing so may result in a conflict of interest with their primary duties.
- b. Only JAs assigned to U.S. Army Trial Defense Service (USATDS) authorized to perform the functions of defense counsel, or made available as individual defense counsel, may provide advice and assistance to soldiers suspected, accused, or convicted of violations of the UCMJ on matters relating to those violations or suspected violations. The assistance provided will comply with the policies of superiors responsible for supervising the defense function. Staff and command JAs will first obtain the approval of MACOM SJA before providing advice or assistance to such soldiers.

#### **2-6. Not Used.**

Not used.

### **Chapter 3 Judge Advocate General's Corps**

#### **3-1. Personnel**

- a. The JAGC (10 USC 3072) consists of the following individuals:
  - (1) TJAG;
  - (2) TAJAG;
  - (3) Brigadier Generals of the JAGC;
  - (4) Commissioned officers of the Regular Army (RA) appointed in the JAGC; and
  - (5) Other members of the Army assigned thereto by the SA. (See 10 USC 3063(c), 10 USC 3064(c), and 10 USC 3072(5).)
- b. The JAGC is a special branch of the Army (10 USC 3064(a)) and exists in the RA, in the Army National Guard (ARNG), and in the U.S. Army Reserve (USAR). As a special branch, it is grouped with the Services of the Army. (See AR 10-6, paras 2-43 and 2-44.)

### 3-2. Use of judge advocate officers

*a.* JA officers perform their duties under commanders of their assigned or attached commands or under other supervisory JAs, such as the Staff Judge Advocate; Chief, Trial Judiciary; or the Chief, Trial Defense Service.

*b.* JA officers receive technical legal supervision from TJAG and from the SJAs of superior commands.

*c.* As much as possible, JA officers will perform only professional legal duties for which they are trained. They should not perform any nonlegal duties, such as officer of the day, inventory officer, range officer, casualty notification officer, casualty assistance officer, or any other duties that would interfere with their primary assigned legal duties. To ensure availability of professional services during other than normal duty hours, a legal officer duty roster is appropriate. JA officers assigned to this roster will be exempt from comparable nonlegal duties.

### 3-3. Use and qualifications of professional legal consultants

*a.* TJAG or designees are authorized to secure legal services by appointment of professional consultants when these services are required in matters that come under the duties and responsibilities of TJAG under this regulation, other regulations, or statute, including claims settlement and approving authorities designated by AR 27-20.

*b.* Except as provided in *c* below, to be eligible for appointment, a professional consultant must meet all of the following criteria:

(1) Be a graduate of a law school approved by the American Bar Association (ABA).

(2) Be a member of the bar in good standing of the highest court of a State of the United States or of the District of Columbia or a Federal court.

(3) Be a U.S. citizen.

*c.* TJAG or designees may decide to appoint professional consultants who do not have qualifications stated in *b* above. These professional consultants must, in the opinion of TJAG or designees, be reputable and have the professional competence and expertise to provide sound advice in matters for which their services may be required.

*d.* Normally, professional consultants may not serve for a period or periods exceeding 90 days in any one fiscal year. TJAG may authorize additional days of service during any fiscal year, but the aggregate of all service may not exceed 130 days in any one fiscal year.

*e.* The SA must give prior approval to effect or review appointments in excess of the 130 days during any one fiscal year. (See AR 690-300, chap 304, subchap 1.)

*f.* As a general rule, the temporary or intermittent employment of professional consultants is by appointment under AR 690-300, chapter 304, subchapter 1, rather than by contract. If, however, such an appointment cannot provide the necessary services, and AFARS 1.696-2(a) and 37.104.70 authorize a contract, TJAG may contract for the services.

*g.* As a general rule, 5 USC 3109 and 10 USC 1296, are the authority to employ professional consultants with or without compensation. When some other authority specifically applies to a particular appointment or contract, however, using that authority is permissible.

*h.* Before appointing professional consultants, the appointing official must forward the originals of SF 52 (Request for Personnel Action), SF 171 (Personnel Qualification Statement), and SF Form 450 (Confidential Financial Disclosure Report) or SF 278 (Public Financial Disclosure Report), as appropriate, with all reviews completed except for the final agency review for SF 278, to Headquarters, Department of the Army, 2200 Army Pentagon, ATTN: DAJA-PT, Washington, DC 20310-2200, leaving item H of part I of SF 52 blank. TJAG or designee will evaluate the prospective professional consultant's qualifications, indicate approval or disapproval on the original SF 52, and return it and the SF 171 to the appropriate command. Upon receipt of approval by TJAG, the appropriate command or authorized appointing official may make appointments.

*i.* The appropriate command or authorized appointing official must immediately notify the civilian personnel officer of the command or of the appointing activity upon receipt of—

(1) Approval or disapproval of appointment or termination of appointment by TJAG or designee (*h* above); or

(2) Determination by TJAG or designee to terminate an appointment (*l* below).

*j.* The security requirements established in AR 380-67 for assignment to civilian positions in the competitive service apply to professional consultants appointed under the authority of this regulation. Nonsensitive positions require completion of a National Agency Check and Inquiries (NACI) with satisfactory results, even after the appointment, if necessary.

*k.* TJAG or designee may reappoint professional consultants at the end of the fiscal year. The employing command or appointing authority should forward recommendations for renewal of appointments to Headquarters, Department of the Army, 2200 Army Pentagon, ATTN: DAJA-PT, Washington, DC 20310-2200, for evaluation and approval or disapproval. If approved by TJAG or designee, the approvals will be forwarded to appropriate commands or appointing officials, who may effect the reappointments. A copy of the reappointment SF 50 (Notification of Personnel Action) will be forwarded to HQDA (DAJA-PT). The SF 50 will include, in the remarks section, the number of days service the consultant provided during the preceding fiscal year.

*l.* Subject to prior approval of TJAG or designee, the services of a professional consultant may be terminated at any time. The appropriate command or appointing official should forward requests for termination, with supporting reasons, to Headquarters, Department of the Army, 2200 Army Pentagon, ATTN: DAJA-PT, Washington, DC 20310-2200, for

evaluation and approval or disapproval. If TJAG or designee determines that the services of a professional consultant should be terminated, the appropriate command or appointing official will immediately end the services of the professional consultant concerned. The termination of SF 50 will include, in the remarks section, the number of days service the consultant provided during the preceding fiscal year.

*m.* The appropriate command or appointing official must send one copy of any SF 50 affecting professional consultants to Headquarters, Department of the Army, 2200 Army Pentagon, ATTN: DAJA-PT, Washington, DC 20310-2200.

*n.* TJAG or designee will determine the rate of pay for professional consultants appointed in the continental United States. Subject to concurrence by TJAG or designee, major overseas commanders will determine the rate of pay for professional consultants appointed locally. If the consultant's or expert's services are obtained pursuant to 5 USC 3109, payment for the services of each consultant or expert will not exceed the daily equivalent of the maximum rate fixed for GS-15. Local funds will be used to employ professional consultants.

*o.* Commanders may agree to share consultants or experts. The using command must pay for the services provided by the civilian consultants or experts to the parent command as follows:

(1) In the case of appointments made under AR 690-300, chapter 304, subchapter 1, from funds made available by the using command by means of an obligation authority.

(2) In the case of contract employment, from funds of the parent command subject to reimbursement by the using command.

*p.* If a consultant or expert employed in a civilian capacity is a member of an RC, his or her consultant or expert employment must be in a civilian capacity only.

## **Chapter 4**

### **Judge Advocate Legal Service (JALS)**

#### **4-1. Personnel and facilities**

The JALS consists of—

- a.* The JAGC.
- b.* Officers detailed to the JAGC.
- c.* Civilian attorneys for whom TJAG is the qualifying authority. (See AR 690-300, subchap 213, para 4-2).
- d.* Professional consultants, legal technicians, warrant officers, enlisted personnel, civilian employees, and other personnel on duty with the JALS.
- e.* For purposes of paragraph 4-3 and chapter 7 of this regulation only, officers and employees assigned or detailed to medical officer/attorney positions in the Department of Medicine, Armed Forces Institute of Pathology.
- f.* Facilities, supplies, and equipment necessary to carry out its mission and functions.

#### **4-2. Mission**

*a.* The JALS will support the total army mission by administering the military justice system and providing other quality legal services that meet the highest professional standards. TJAG is responsible for developing and executing plans and programs in the following legal fields:

- (1) Criminal law and related military justice.
- (2) Administrative law.
- (3) Military personnel law.
- (4) International, comparative, foreign, and operational law.
- (5) Claims.
- (6) Business, commercial, and financial law.
- (7) Contract, security assistance, fiscal, tax, and property law.
- (8) GAO and GSBCA protests.
- (9) Contract appeals.
- (10) Procurement fraud and corruption.
- (11) Litigation.
- (12) Environmental law.
- (13) Regulatory law.
- (14) Intellectual property law.
- (15) Intelligence activities law.
- (16) Law relating to military installations.
- (17) Labor and civilian employment law.
- (18) Legal assistance.

- (19) Legal relief.
- (20) Professional legal training.
- (21) Medical jurisprudence.
- (22) Standards of conduct.
- (23) Professional responsibilities.

*b.* To accomplish its mission in such diverse fields with the best qualified people, TJAG provides both military and civilian attorneys in the JALS with the following professional benefits:

- (1) Full career development opportunity.
- (2) Employment mobility.
- (3) Assignment flexibility.
- (4) Advanced professional education.
- (5) Army-wide scope for promotion opportunities.
- (6) Uniformity and continuity in legal services.
- (7) Economy and efficiency in operation.

#### **4-3. Policies**

*a.* Unless otherwise specifically authorized by AR 690-200 or other DA publication, only attorneys of the JALS and attorneys under the qualifying authority of the General Counsel of the Army, the Chief Counsel of the Army Corps of Engineers, or the Command Counsel of the Army Materiel Command are authorized to:

- (1) Engage in the practice of law (see glossary) on behalf of any Army command, unit, agency, or office; or
- (2) Be assigned against any authorization or requirement for an attorney within any Army Command, unit, agency, or office; or
- (3) Provide legal instruction or training to any Army command, unit, agency, or office.

*b.* An Army officer assigned to duties involving professional work in the field of law must have the education, training, and experience equal to or similar to that required of other members of the legal profession (10 USC 3065(e)).

*c.* An attorney of the JALS will not engage in private law practice without the prior written approval of TJAG. This requirement does not apply to RC members of the JALS unless they are ordered to active duty for more than 30 consecutive days. AR 27-3, AR 27-40, and AR 27-26 further govern the conduct of attorneys in the JALS.

#### **4-4. Command**

Officers of the JAGC are eligible to assume command. (See AR 600-20.)

## **Chapter 5**

### **Judge Advocates of Military Commands**

#### **5-1. Designation of supervisory judge advocates**

*a.* The JALS provides legal services to military commands through legal offices and legal sections headed by JAs. JAs are on the staffs of the commanders of military commands. Except for the JA, U.S. Army, Europe and Seventh Army, an officer of the JAGC assigned as prescribed in the UCMJ, Article 6a (10 USC 806(a)) as JA on the staff of a commander empowered to convene GCMs will be the Staff Judge Advocate of the command. A description will precede the designation of the command, such as "Theater Staff Judge Advocate," or "Division Staff Judge Advocate." Other officers of the JAGC also may be designated as supervisory JAs, and where appropriate, a description of their command or of their function may be included in their designation, such as "Command Judge Advocate," "Center Judge Advocate," or "Claims Judge Advocate." Only an officer commissioned in, or assigned or detailed to the JAGC will be designated a SJA or other supervisory JA.

*b.* When an SJA or other supervisory JA is prevented, due to a conflict of interest, from providing advice to a commander on a particular case, the MACOM SJA may appoint another JA within the MACOM to advise the commander on that case.

#### **5-2. Responsibilities of supervisory judge advocates**

*a. General.* The supervisory JA of a command is the legal advisor to the commander, a member of the commander's personal staff, and assists the commander in exercising his or her duties. As part of the command, the supervisory JA has responsibilities generally corresponding to those discharged by TJAG with relation to HQDA. The supervisory JA will assist the commander by identifying legal problems and participating in making legally acceptable decisions. The supervisory JA of a command will not serve as the personal legal advisor to the commander on matters of alleged misconduct without the approval of TJAG. The functions normally assigned to the supervisory JA by his or her commander include—

- (1) Resolving legal problems regarding administrative boards and investigations, military commissions, provost courts, or other military tribunals.
- (2) Technical supervision of JAGC officers, Active and Reserve, civilian attorneys, legal technicians, and enlisted legal specialists located in the headquarters or assigned to subordinate commanders. This includes—
  - (a) Providing professional responsibility training as required in chapter 7 of this regulation.
  - (b) Determining the credibility of allegations of or suspected violations of the Rules of Professional Responsibility for Lawyers, and reporting such to OTJAG for inquiry, in accordance with chapters 7 and 8 of this regulation.
- (3) Furnishing legal advice and assistance concerning:
  - (a) *Contracts*. This includes, but is not limited to acquisition planning, contract formation, bid protests, contract performance, contract dispute litigation, fiscal law, procurement fraud and oversight of procurement fraud programs, taxation, government furnished property (GFP), labor standard compliance, real property, non-appropriated funds (NAFs), commercial activities and bankruptcy.
  - (b) *Health care matters*.
  - (c) *Environmental matters*. This includes, but is not limited to all federal, state and local environmental laws and regulations; representing the command before state environmental regulatory agencies, reviewing installation National Environmental Policy Act (NEPA) documentation, and providing MACOMs with all notices of violations or noncompliance.
  - (d) *Compensation matters*. Providing assistance and advice on workers compensation and unemployment compensation cases.
- (4) Furnishing legal counsel to the civilian personnel office, the equal employment opportunity (EEO) office and the command, under the DA Labor Counselor Program. This provision includes—
  - (a) Representing the command before the Federal Labor Relations Authority, arbitrators, the MSPB, the EEO Commission and the Federal Service Impasses Panel.
  - (b) Acting as liaison officer with the Office of Special Counsel in accordance with AR 27-40.
  - (c) Providing legal advice on all matters affecting civilian employees including negotiation and administration of collective bargaining agreements; disciplinary and performance actions; reductions in force and transfer of function; EEO complaints.
- (5) Furnishing counsel to the Family Advocacy Case Management Team.
- (6) Furnishing a member of the JALS to serve as Command Ethics Counselor. This includes—
  - (a) Oversight of financial disclosure program within command and review of financial disclosure reports filed locally and forwarded to HQDA for completeness and accuracy. This review will be accompanied by completing the applicable portions of DA Form 4971-R (Certificate of Preliminary Review of SF 278). DA Form 4971-R will be locally reproduced on 8 1/2-inch by 11-inch paper. A copy for reproduction is located at the back of this regulation.
  - (b) Conducting necessary training for the command in the area of government ethics.
  - (c) Providing, as the Army's representative, post-employment restriction counseling for retiring and departing personnel.
- (7) Providing legal advice and assistance in the areas of International and Operational Law. This includes, but is not limited to—
  - (a) Advice and assistance to implement the DOD Law of War Program as discussed in paragraph 2-1g(2), with particular emphasis on Law of War training, review of operation and concept plans, review of rules of engagement, and supervising the reporting, investigation, trial, and preparation and maintenance of records of trial or other reports of war crimes referred to trial or other disciplinary action.
  - (b) Advice and assistance on all international legal issues arising from the stationing or presence of U.S. forces overseas as discussed in paragraph 2-1g(3).
  - (c) Monitoring and reporting the trials of U.S. Army personnel, civilian component personnel, and dependents by foreign courts and conditions of confinement in foreign prisons to ensure proper treatment of imprisoned personnel.
  - (d) Advice and assistance regarding the legal issues associated with Army counter-drug activities.
  - (e) Advice and assistance on security assistance matters and personnel exchanges.
- (8) Reporting the initiation of legal proceedings, preparing investigative reports concerning litigation in which the United States has an interest, and maintaining liaison with and furnishing assistance to U.S. attorneys in connection with Army activities involved in litigation and legal proceedings. (See AR 27-40.)
- (9) Operating the—
  - (a) Command's Legal Assistance Program (See AR 27-3.)
  - (b) Command's Claims Program, which includes several areas: the investigation of claims and incidents that may result in claims; the settlement of claims by and against the United States within delegated authority; and the recovery from carriers, warehousemen, and other third parties for loss of or damage to soldiers' personal property while transported or stored at Government expense; implementing the Army Medical Care Recovery Program and the program for settlement and waiver of claims in favor of the United States for damage to, loss of, or destruction of

Army property, within his or her designated area. In conducting these programs, heads of area claims offices will supervise claims processing offices. (See AR 27–20.)

(c) Command's Procurement Fraud Program, including appointment of a procurement fraud advisor. (See AR 27–40, chap 8.)

(10) Supervising the—

(a) Operation of the Federal Magistrate Court Program within the command. (See AR 190–29.)

(b) Training in military justice, including providing technical advice and assistance for all military justice instruction.

(11) Assisting in implementing mutual support training programs for RC officers and JAGSO units during annual training (AT) and inactive duty training (IDT) that includes the performance of legal duties as JA officers. The supervisory JA of a command evaluates JA Officer Reserve training performed at his or her installation.

(12) Advising on matters relating to the conduct of intelligence activities.

(13) Establishing and providing overall supervision for the Victim/Witness Assistance Program. (See AR 27–10, chap 18.)

*b. Technical assistance.* The supervisory JA of any command may communicate directly with the supervisory JA of a superior or subordinate command or with TJAG (UCMJ, Art. 6(b) (10 USC 806(b))). He or she may receive and give technical guidance through these channels. The supervisory JA is, however, primarily a staff officer, responsible to his or her commander, and is subject to his or her command just as any other command member. Technical guidance is designed only to make the supervisory JA a more effective staff officer.

*c. Military justice.* The supervisory JA of any command provides commanders and convening authorities legal advice concerning military justice. In this capacity, the supervisory JA must balance the needs of good order and discipline in the command and the rights of the accused to ensure justice is done in every case. In performing these duties, the supervisory JA must be vigilant to recognize, reveal, and take steps to correct the actual occurrence or appearance of unlawful command influence. Additionally, the supervisory JA must ensure that military justice is administered fairly, without regard to race, color, religion, gender, or national origin. Duties of an SJA include those prescribed by the UCMJ, Art. 6, 34, and 60 (10 USC 806, 834, and 860(d)) and RCM 406 and 1106, MCM, 1984.

### **5–3. Preventive law**

As staff officers, JAs will be aggressive and innovative in disseminating information to soldiers and their families that is responsive to potential legal problems and issues in such areas as legal assistance, military justice, and claims. An effective preventive law effort will enhance soldiers' morale, discipline, and effectiveness and save JAs a great amount of time and effort that would otherwise be expended in addressing legal problems after they occur.

## **Chapter 6 Agency Legal Officer**

### **6–1. General Duties**

*a.* TJAG is responsible for developing policies that will be implemented by DA legal offices.

*b.* HQDA (DAJA–PT) is responsible for authorizing the establishment of such offices.

### **6–2. Establishment, Modification, and Elimination of Legal offices and Positions**

*a.* The responsibility of TJAG as legal advisor (para 2–1) does not preclude the existence of integral legal offices in DA agencies that require such offices to carry out their responsibilities. Such authorized legal offices will provide legal services according to policies developed by TJAG. Novel questions of law of far-reaching significance, such as those involving the interpretation of statutes or affecting other agencies, will be coordinated with TJAG.

*b.* Before establishing a legal office, a new position of legal advisor, or a civilian attorney position under the qualifying authority of TJAG, the agency head concerned will forward to HQDA DAJA–PT), 2200 Army Pentagon, WASH DC 20310–2200, a request for authority to establish the office or position. The request will contain a justification for the special services the proposed office or position would perform and a statement that TJAG cannot perform such services.

*c.* As required by AR 570–4, any proposed addition, deletion, or modification of a TDA or MTOE authorization coded for MOS 55A or 55B, or for civilian job series 905 or 1222, must be coordinated with OTJAG (DAJA–PT) prior to effecting such addition, deletion, or modification.

### **6-3. Staffing**

Available members of the JAGC will be placed in these legal offices whenever practicable. Assignment of officers will be made by TJAG in coordination with the agency head concerned.

## **Chapter 7 Professional Conduct Inquiries**

### **7-1. General**

*a.* This chapter establishes procedures for processing alleged or suspected violations of the Army Rules of Professional Conduct for Lawyers (app B, AR 27-26) or other applicable ethical standards by JAs, civilian attorneys subject to this regulation, or other attorneys who are subject to the disciplinary authority of TJAG pursuant to RCM 109, MCM, 1984. To the extent it does not conflict with the UCMJ, the MCM, directives, regulations or rules, the 1972 ABA Code of Judicial Conduct applies to all JAs and civilian attorneys performing judicial functions, including all trial and appellate MJs and military magistrates. Whenever processing alleged or suspected violations on the part of trial or appellate MJs, the provisions of RCM 109, MCM, 1984, should also be considered.

*b.* Nothing in this chapter limits the authority of TJAG to issue or withdraw any certification of qualification to act as a MJ or any certification of competency to act as counsel before courts-martial, or to suspend any JA or civilian attorney from performing duties pending resolution of an allegation that, if substantiated, would reflect adversely on fitness for duties as a lawyer. Further, nothing in this chapter prevents TJAG from referring a case to command channels for consideration of disciplinary action.

*c.* Chapter 8 of this regulation prescribes procedures for handling allegations of mismanagement, unless coupled with an allegation of a violation of professional ethical standards (See para 8-2).

### **7-2. General Duties**

*a.* TJAG and supervisory lawyers (as defined in glossary, AR 27-26) are responsible for making reasonable efforts to ensure that all attorneys in the JALS conform to the Army Rules of Professional Conduct for Lawyers, the 1972 ABA Code of Judicial Conduct and other applicable ethical standards.

*b.* Supervisory lawyers at all levels are responsible for reviewing all alleged or suspected violations of the Army Rules of Professional Conduct for Lawyers, the 1972 ABA Code of Judicial Conduct, or other applicable ethical standards by subordinates who come to their attention. They will report through technical channels, any credible alleged or suspected violation that raises a substantial question as to a lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects to the Chief, Standards of Conduct Office (SOCO), OTJAG, for action under this chapter. An alleged or suspected violation is "credible" if the information received provides a reasonable belief that a violation occurred. If a supervisory lawyer, upon initial review, determines that a third party complaint of a violation is not credible, a copy of any response to the complainant, with all associated documentation, will be retained in accordance with applicable filing regulations.

*c.* Supervisory lawyers at the office or higher level are responsible for ensuring that all Army lawyers under their jurisdiction receive annual training on the Army Rules of Professional Conduct for Lawyers, the 1972 ABA Code of Judicial Conduct and other applicable ethical standards, as appropriate. At a minimum, a total of three hours of training will be conducted each year. The Commandant, TJAGSA, will assist by making available educational materials on the Army Rules of Professional Conduct for Lawyers. The Chief, U.S. Army Judiciary, will provide training materials in support of training under the 1972 ABA Code of Judicial Conduct for all MJs. Supervisory lawyers are encouraged to make maximum use of TDY to allow Army lawyers to attend civilian ethics training courses.

*d.* Standards of Conduct Office, TJAG, is responsible for the management of TJAG's professional responsibility program, to include the formulation of policy and guidance, oversight of preliminary screening inquiries, professional responsibility advice to TJAG, TAJAG and the AJAGs, and administrative support to the Professional Responsibility Committee (PRC).

*e.* All members of the JALS are responsible for knowing and complying with all applicable ethical standards, for meeting training requirements imposed by their licensing authorities, and for reporting violations of ethical standards to their superiors or to SOCO in compliance with the Army Rules of Professional Conduct for Lawyers.

### **7-3. Policies**

*a.* Credible alleged or suspected violations of the Army Rules of Professional Conduct for Lawyers, the 1972 ABA Code of Judicial Conduct or other applicable ethical standards that raise a substantial question as to a lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects will be informally investigated by means of a preliminary screening inquiry (PSI). Tasking documents and other administrative directions related to a PSI will be issued by SOCO, OTJAG, on behalf of TJAG.

*b.* A PSI normally will not be conducted if the alleged or suspected violation—

(1) Is being investigated as criminal misconduct by the attorney, punishable under the UCMJ, until initial action adjudicating guilt or administrative action tantamount thereto is completed;

(2) Involves conduct for which there exists a clear avenue of review that does not interfere with TJAG's supervision of lawyers under his or her jurisdiction, for example, appellate review of a court-martial conviction, on-going civil litigation, or the contesting of an efficiency report, until that review has occurred;

(3) Involves purely discretionary conduct of an administrative nature, for example, an award recommendation; or

(4) Has been thoroughly investigated under another procedure, in which case the investigation will be provided to the Senior Supervisory JA for action under paragraph 7-5. (This will often occur in cases falling under (1) and (2), above.)

c. Whenever a supervisory lawyer has credible evidence of conduct which falls under *b* above, and believes that the facts involve a matter of significance to the military practice of law, he or she will refer the evidence to OTJAG, ATTN: DAJA-SC, for review and decision by TAJAG (or TJAG) as to the propriety of a PSI.

d. In arriving at their findings, PSI officers, senior supervisory JAs, and the PRC will use a preponderance of the evidence standard of proof. Under this standard, findings must be supported by a greater weight of the evidence than supports a contrary conclusion, that is, the evidence points to a particular conclusion as being more credible and probable than any other conclusion.

e. If an alleged or suspected violation of professional standards involves conduct of a National Guard JA not committed while performing federal duties under Title 10, US Code, it will be referred to the Office of the Judge Advocate, National Guard Bureau, for action.

#### **7-4. Preliminary screening inquiry (PSI)**

a. *Scope.* The purpose of the PSI is to assist senior supervisory JAs in determining whether the questioned conduct occurred and, if it did, whether it constituted a violation of the Army Rules of Professional Conduct for Lawyers, the 1972 ABA Code of Judicial Conduct, or other applicable ethical standards, and to recommend appropriate action in cases of substantiated violations. The PSI is not intended to constitute an ethical investigation that most licensing authorities normally require lawyers to report to them. Nevertheless, it is the responsibility of the subject of the PSI to know and comply with the reporting requirements of his or her licensing authority.

b. *Senior Supervisory JA.*

(1) *General.* The senior supervisory JA is the MACOM SJA or other JA in an equivalent supervisory position.

(2) *RC Personnel—Title 10, Mobilization, or IMA Status.* The senior supervisory JA for alleged or suspected violations involving RC personnel is the MACOM SJA or equivalent supervisory JA having responsibility for the installation or activity at which the training or duty was conducted if the RC JA was serving—

(a) Pursuant to orders issued under Title 10, U.S. Code, during AT, active duty for training, or extended active duty;

(b) Pursuant to mobilization orders; or

(c) In an individual mobilization augmentee (IMA) status.

(3) *RC Personnel—TPU Members.* The senior supervisory JA for alleged or suspected violations (except as stated in (2) above) involving RC Troop Program Unit (TPU) members is the SJA of the appropriate superior headquarters—

(a) Eighth U.S. Army;

(b) U.S. Forces Command;

(c) U.S. Army Europe;

(d) U.S. Army Pacific; or

(e) U.S. Army Special Operations Command.

(4) *RC Personnel—IRR Members.* The senior supervisory JA for alleged or suspected violations (except as stated in (2) above) involving members of the Individual Ready Reserve (IRR) is the Center Judge Advocate, U.S. Army Reserve Personnel Center.

c. *Appointment.* Normally, upon receipt of a tasking memorandum or oral approval from OTJAG, the senior supervisory JA will appoint a PSI officer. In unusual cases, or cases where there is no clearly identifiable senior supervisory JA, the PSI officer will be appointed by TAJAG. The PSI officer for an inquiry involving a trial or appellate MJ will be a current MJ. Unless impracticable, the PSI officer will be senior to the subject of the inquiry.

d. *Procedure.*

(1) The PSI will be conducted according to the procedures set forth in this regulation. Where this regulation is silent, the PSI officer will follow the rules governing informal investigations under the provisions of AR 15-6.

(2) The PSI officer will determine the facts and circumstances of the alleged or suspected violation. A subordinate officer may be detailed to gather the facts, for example, question individuals and collect pertinent documents, but the PSI officer must independently review the facts.

(3) The PSI officer will provide the senior supervisory JA with a written report which will summarize the facts, provide conclusions as to whether a violation occurred, and, as appropriate, recommend corrective or disciplinary action. (See para 7-3d.) The PSI officer's report may, in some instance, contain conclusions, observations, or recommendations concerning a subject's conduct or performance which is unrelated to an alleged or suspected

violation which is the focus of the inquiry. Such conclusions, observations, or recommendations that a reasonable person would consider to be adverse to the subject will be included only when substantiated by a preponderance of the evidence, and then only insofar as such matters are relevant to the subject's service in the JALS. Copies of documentary evidence and witness statements will be attached as exhibits.

#### **7-5. Senior Supervisory JA action**

*a.* Upon receipt of the PSI report, the senior supervisory JA will determine if the report is complete. If not, he or she will return it to the PSI officer for further inquiry. Once satisfied that the report is complete, the senior supervisory JA will take one of the following actions.

(1) If the report concludes that no violation has occurred, the senior supervisory JA will coordinate with the Chief, SOCO, and close the case (see *b* below). The senior supervisory JA will inform the subject and complainant, if any, of this action in writing, and will provide a copy of the PSI report and subsequent correspondence to TJAG, ATTN: DAJA-SC.

(2) If the report shows that only a minor or technical violation occurred, the senior supervisory JA may determine that counselling is appropriate. In this case, the senior supervisory JA will coordinate with the Chief, SOCO, and refer a copy of the PSI report to the subject for comment (see *b* below). Thereafter, the senior supervising JA will ensure that the counselling takes place, will inform the complainant, if any, in writing that final action under this chapter has been taken, and will provide a copy of the PSI report and subsequent correspondence to TJAG, ATTN: DAJA-SC. The finding of even a minor or technical violation may trigger a reporting requirement imposed by subject's licensing authority, even if initiation of a PSI did not require a report by the subject to his or her licensing authority. It is the responsibility of the subject to know and comply with the reporting requirements of his or her licensing authority.

(3) If the report shows that more than a minor or technical violation occurred, the senior supervisory JA will refer the PSI report to TJAG, ATTN: DAJA-SC, for further action.

*b.* At the time a case is coordinated with the Chief, SOCO, under *a*(1) or (2) above, OTJAG may assume the case and take further action, as deemed appropriate under the circumstances.

#### **7-6. Action at OTJAG**

*a.* If action is to be taken at OTJAG, a copy of the PSI file will be referred to the subject for comment. The subject will be given a reasonable time (normally 14 to 21 days) to provide comments; the Chief, SOCO, may grant extension(s) for good cause, for example, for reasons beyond the subject's control. Failure to provide comments in the time provided, or any extension thereof, will constitute waiver of the opportunity to comment.

*b.* In any case in which action is to be taken at OTJAG, the Chief, SOCO will provide the file, with a memorandum of advice, to TAJAG or, in his absence, an AJAG (as designated by TAJAG). TAJAG, or the designated AJAG, can:

- (1) Return the file to the senior supervisory JA for further inquiry or consideration;
- (2) Appoint a new inquiry officer for a supplemental inquiry;
- (3) Determine there was no violation and return to the Chief, SOCO, to close and notify the subject of such action;
- (4) Determine that the violation is minor or technical and either take appropriate action or direct referral to the appropriate senior supervisory JA or other supervisory lawyer for specified action;
- (5) Determine that a substantial violation is clearly shown, take appropriate action on that violation, and then refer the file to TJAG for possible referral to a state or local bar; or,
- (6) Determine that a substantial violation appears to have been committed and refer the file to the PRC for opinion; upon receipt of an opinion, take action, as appropriate, under (3) thru (5) above.

*c.* The subject lawyer will be advised by the Chief, SOCO, of the referral to TJAG under *b*(5) above, or to the PRC under *b*(6) above, in order to provide the attorney with the opportunity to comply with any applicable reporting requirements of his or her licensing authority.

*d.* Upon completion of action at HQDA, the Chief, SOCO, will advise the complainant, if any, that an inquiry was conducted.

#### **7-7. Professional Responsibility Committee (PRC)**

##### *a. Mission.*

(1) A PRC may be convened to advise TJAG on alleged or suspected violations of professional ethical standards. When performing this function, the PRC has no investigative powers and will neither allow appearances by, nor communicate directly with, the subject attorney, counsel or witnesses. The PRC will report any attempts by such parties to communicate with it to the Chief, SOCO.

(2) A PRC may be convened to provide an advisory opinion to TJAG or a member of the JALS. A PRC advisory opinion is not an authoritative Army interpretation of the Army Rules (Rule 9.1(a), app B, AR 27-26), but is binding on personnel under TJAG's jurisdiction until an authoritative opinion is issued by the DA Professional Conduct Council. Requests for advisory opinions by a member of the JALS should be forwarded through technical channels to OTJAG, ATTN: DAJA-SC. Forwarding JAs will provide their recommendations as to whether the request should be submitted to the PRC. TAJAG (or TJAG) will make the final decision on referral to the PRC and publication of the

resulting opinion. This procedure will be followed when an Army lawyer under TJAG's jurisdiction desires an authoritative interpretation of the Army Rules by the DA Professional Conduct Council (Rule 9.1(e)-(f), app B, AR 27-26).

*b. Composition.* The PRC will consist of six "permanent" members appointed by TJAG for terms of two years and of any ad hoc members appointed by TAJAG (or TJAG) for a particular case.

(1) The permanent members will be JAs in pay grades 06 or 05. Permanent members of the PRC will not be detailed to conduct a PSI during their tenure on the PRC.

(2) Ad hoc members will be appointed to a PRC when they possess expertise in a particular legal field or other expertise relevant to the matter being presented to the PRC normally not possessed by a permanent member of the PRC.

(3) When a case is referred to the PRC for advice or opinion, a panel of three members will be designated by the Chief, SOCO, from among the permanent members. If special expertise requiring an ad hoc member is required, the Chief, SOCO will select two permanent members and obtain appointment of the ad hoc member by TAJAG (or TJAG). When the conduct of a MJ is being considered, the majority of the PRC will be MJ's. If a MJ is to be placed on the PRC as an ad hoc member, the Chief, SOCO, will request nominations from the Chief, U.S. Army Judiciary. In the case of refusal, illness or military necessity, a member may be replaced by the authority who originally placed him or her on the panel.

(4) If practicable, the members of the PRC asked to review the alleged or suspected violation of the ethical standards by an attorney should be senior to that attorney, for example, the officers should be senior in rank to an officer under review and a civilian member should be in a higher pay grade than a civilian under review.

(5) When asked for an advisory opinion, the members do not have to be senior to the person requesting the opinion.

(6) In unusual circumstances, TAJAG (or TJAG) may appoint a special panel of the PRC to consider a single case.

(7) Each panel will have an executive secretary, appointed from SOCO, to ensure administrative support to the panel.

*c. Procedures.* The senior permanent member on the panel will serve as President; two members, including the President, constitutes a quorum. The panel will meet at the call of the President, who will assign responsibilities for research and writing to panel members, and establish other operating procedures necessary to accomplish the panel's mission within the time prescribed.

*d. Opinions.*

(1) Advisory opinions will be in memorandum form and addressed through TAJAG to TJAG.

(2) Opinions on alleged or suspected violations of professional ethical standards will be in the format prescribed by the Chief, SOCO, will make specific findings and recommendations, and will be addressed thru the Chief, SOCO, to TAJAG. A member dissenting from the opinion of the other two members may file a minority opinion in any case.

(3) If the PRC determines that it has insufficient information on which to base an opinion, it will so advise the Chief, SOCO. If available, the needed information will be obtained and provided to the PRC.

## **7-8. Action by The Judge Advocate General**

*a. General.*

(1) Advisory opinions prepared by the PRC will be reviewed by TJAG, who will decide if and how the opinions will be published.

(2) Upon receipt of an opinion related to alleged or suspected violations of professional ethical standards and the PSI file, TJAG will determine the appropriate action to be taken. In this regard, TJAG is not bound by the findings or recommendations of the PSI officer, the senior supervisory JA, a subordinate within OTJAG or the PRC. Before reporting an attorney's conduct to his or her licensing authority, or taking any action which does not, under other regulations, provide for notice and the opportunity to comment, TJAG will advise the subject attorney of the contemplated action and give him or her not more than ten days to show cause why TJAG should not take such action. Once decided, TJAG will announce his or her decision in an appropriate form.

*b. Finality.* Any action taken by TJAG is final and not subject to appeal unless such action is under the purview of another regulation which provides for an appeal.

*c. Report to bar.* Upon determining that a violation of professional ethical standards has occurred, TJAG may cause the Chief, SOCO to report that fact to the licensing authorities of the attorney concerned, if warranted by the seriousness of the violation.

## **7-9. Release of information**

*a.* Professional conduct files contain sensitive personnel information which is compiled for the purpose of internal management, administration, and regulation of the delivery of legal services by offices under the jurisdiction of TJAG. Requests for information will be processed according to AR 25-55 and AR 340-21; releases of information will be coordinated with HQDA (DAJA-SC). The Chief, SOCO has been delegated the initial denial authority by TJAG for all professional conduct files.

*b.* Every substantiated allegation under this chapter, and any other substantiated information that is determined by

TAJAG (or TJAG) to be relevant to an individual's potential as a member of the JALS, will be documented (normally by a final action document) in the individual's Career Management Individual File (CMIF). Such documents will be available to assignment managers and TJAG for all future personnel actions, subject to constraints imposed by the Secretary with regard to HQDA selection boards.

c. The requirements of AR 600-37, paragraph 3-6 (for example, referral of information to the subject, [to include notice of the intended location for filing of the information], and rebuttal or acknowledgment), will be complied with in any case in which documentation relating to professional conduct is to be filed in the CMIF of a member of the JALS.

### **7-10. Reporting requirements**

a. Any attorney governed by this regulation will promptly report to OTJAG, ATTN: DAJA-SC, upon being notified that he or she is being investigated by his or her licensing authority under circumstances which could result in the attorney being disciplined as an attorney or a judge. Reportable discipline does not include censure by a judge during a judicial proceeding unless made a matter of record in the proceeding.

b. In a matter that involves the U.S. Army, prior to reporting any alleged or suspected violation of ethical standards to the governing body of an attorney, any member of the JALS will inform OTJAG, ATTN: DAJA-SC, through normal technical channels, regardless of whether the attorney concerned is subject to the Army Rules of Professional Conduct for Lawyers.

## **Chapter 8 Mismanagement Inquiries**

### **8-1. General**

This chapter establishes the procedures for processing allegations of mismanagement in Army legal offices which are under the technical supervision of TJAG.

### **8-2. Scope**

a. Mismanagement involves any action or omission, either intentional or negligent, which adversely affects the efficient and effective delivery of legal services, any misuse of government resources (personnel and material), or any activity contrary to operating principles established by Army regulations or TJAG policy memoranda. Mismanagement does not include mere disagreements over management "styles," or isolated instances of matters which have their own clear course of appeal and resolution (for example, an OER or NCOER appeal) or which are purely discretionary (for example, an award recommendation).

b. Allegations of mismanagement will only be considered if made against a member of the JALS who, at the time of the alleged mismanagement, was actually serving in a supervisory capacity. It includes commissioned and warrant officers, enlisted personnel and civilian personnel who meet the above criteria.

c. If a complaint of mismanagement made against an attorney subject to this regulation is coupled with an allegation of a violation of professional ethical standards, any inquiry will be governed by the procedures set forth in chapter 7 of this regulation.

### **8-3. Procedures**

a. *Complaints.* Supervisory lawyers at all levels are responsible for reviewing complaints of mismanagement to determine if they meet the criteria of paragraph 8-2 above, and are credible (see para 7-2b above). If so, the complaint will be reported to the Executive, OTJAG.

b. *Inquiry.* Upon receipt of a credible complaint of mismanagement, the Executive will refer it to the Chief, SOCO for inquiry.

(1) As the designee of TJAG, the Chief, SOCO is authorized to task one or more JAs as inquiry officer(s) to conduct (or cause to be conducted) an inquiry into the complaint, using the informal procedures of AR 15-6, as modified herein.

(2) Normally, complaints of mismanagement will be referred by SOCO to the appropriate MACOM SJA for purposes of conducting the inquiry. The MACOM SJA may appoint a subordinate as a fact-finder for this inquiry.

(3) The inquiry officer should normally be senior to the subject of the inquiry, and have had a recent assignment in a supervisory position. When the conduct of a trial or appellate MJ is being investigated, the inquiry officer will be a current MJ.

(4) The inquiry officer will conduct a complete inquiry of the complained activities; the statements of witnesses, at a minimum, will be preserved in summarized form, signed by either the witness or the inquiry officer. Findings will be based on a preponderance of the evidence standard of proof. Under this standard, findings must be supported by a greater weight of the evidence than supports a contrary conclusion, that is, the evidence points to a particular conclusion as being more credible and probable than any other conclusion.

(5) The report of the inquiry officer will be forwarded through technical channels to TJAG, ATTN: DAJA-SC, except as provided in *c* below.

*c. Action below HQDA.* If the inquiry officer's report concludes that the complaint against a supervisor, other than a staff or command judge advocate or the deputy of such officer, is unfounded or that the mismanagement is minor in nature and can be resolved by counselling, a MACOM SJA or any equivalent supervisory lawyer (that is, Chief, TDS; Chief, Trial Judiciary) may, after coordination with the Chief, SOCO, take the necessary action and/or close the case. The subject of the inquiry and the complainant, if any, will be so notified in writing. A copy of the report and subsequent correspondence will be provided to TJAG, ATTN: DAJA-SC.

#### **8-4. Action at OTJAG**

*a.* When a report of inquiry is received at OTJAG, it will be reviewed in SOCO and a copy of the file will be referred to the subject for comment. The subject will be given a reasonable time (normally 14 to 21 days) to provide comments; the Chief, SOCO, may grant extension(s) for good cause, for example, for reasons beyond the subject's control. Failure to provide comments in the time provided, or any extension thereof, will constitute waiver of the opportunity to comment. Thereafter, the Chief, SOCO, will prepare an action memorandum for TAJAG, recommending an appropriate course of corrective action. TAJAG, in his discretion, will determine the appropriate action in each case, and will not be bound by the recommendations of the inquiry officer, intermediate JAs, or SOCO. If TJAG has, in a given case, reserved action to himself, the case will be forwarded through TAJAG. TJAG will determine the appropriate action in such cases, and will not be bound by recommendations of subordinate JAs.

*b.* If TAJAG (or TJAG) determines that an action adverse to the interests of the subject of the complaint is appropriate (other than action under the UCMJ, AR 600-37, or other regulations or directives that contain their own procedural safeguards), he will cause a copy of the file to be served on the subject. The subject will be given a reasonable time (normally 14 to 21 days) to provide comments on the report or any proposed action, and to submit any materials in rebuttal to the findings of the report.

*c.* Any action taken by TJAG is final and not subject to appeal unless such action is under the purview of another regulation which provides for an appeal. The Chief, SOCO, will notify the complainant, if any, that an inquiry has been conducted.

#### **8-5. Reprisal prohibited**

No SJA, deputy, supervisor, or other official may take or fail to take any action in regard to a complainant as a reprisal for a complaint of mismanagement. See 5 USC 2301(b)(9) and 5 USC 2302(b)(8). See 5 CFR 1253.5 for guidance regarding the disclosure of the identity of a DA civilian employee complainant. The law which protects soldiers from reprisals for complaints of mismanagement (to an IG or a member of Congress) is at 10 USC 1034(b).

#### **8-6. Release of information**

Release of information from files generated under this chapter will be in accordance with the rules and procedures set out in paragraph 7-9 of this regulation.

## **Chapter 9 Logistical Support of Judge Advocates**

### **9-1. General Duties**

Installation commanders and their supervisory JAs will ensure adequate personnel and logistical support of the JALS.

### **9-2. General requirements**

*a.* The JALS includes those personnel, facilities, supplies, and equipment necessary to carry out its mission and functions in the most professional, efficient, uniform, and economical manner possible.

*b.* The following logistical support shall be provided to all JA offices:

(1) Sufficient work space that ensures freedom from unnecessary distractions and supports work accomplishment, to include private offices for attorneys.

(2) Adequate libraries, including both general research material and legal services for specialized topics.

(3) Commercial automated legal research capability (including lines of communication) wherever possible.

(4) Modern typewriters, printers, copiers (including semiautomatic feed and sorting), telephones, FAX machines, and dictation systems.

(5) Modern furnishings, including carpet and draperies, that contribute to the professional atmosphere of the office.

(6) Sufficient attorneys and qualified administrative, paralegal, and clerical support personnel to accomplish workload.

(7) Adequate transportation support.

(8) Computer hardware, software, networking, and telecommunication equipment that meets standards established for the LAAWS.

(9) Maintenance and supplies for computer hardware and software and training for people who use the computers.

(10) Funds to ensure continuing legal education (CLE) for all assigned and attached attorneys, sufficient to satisfy both basic CLE requirements of each attorney's primary jurisdiction of bar membership as well as any additional requirements of the attorney's specialty or assignment.

### **9-3. Specific requirements**

#### *a. Legal assistance.*

(1) Legal assistance services support the Army's needs to maintain readiness, morale, discipline, and a quality force. (See AR 27-3.)

(2) On installations where legal assistance services are provided, an adequate staff of attorneys, paralegals, and administrative and clerical personnel will be provided to meet the legal assistance needs of those eligible for legal assistance in accordance with AR 27-3. On installations where that is not possible, the discontinuation of legal assistance, or the consolidation of legal assistance programs between Army legal offices in close proximity may be warranted. Because support personnel must possess specialized skills and experience and protect client confidentiality, the use of general installation clerical support in legal assistance is inappropriate.

(3) The offices of attorneys who provide legal assistance will be located or constructed in a manner that will protect the privacy of all attorney-client communications. Locking file cabinets will be provided to ensure that the privacy of client records is protected. Computer hardware and software used to maintain client records will also be restricted to authorized personnel only.

(4) In addition to common law library materials, complete, current, and annotated volumes of statutes applicable in the jurisdictions surrounding the military installation will be made available to attorneys providing legal assistance.

#### *b. Military justice.*

(1) *General.* Discipline and morale in the Army depend on a fair and properly supported military justice system. Installation commanders and their supervisory JAs should ensure that MJJs and military counsel receive the following resources to perform their assigned functions:

(a) Sufficient office, courtroom, deliberation room, and library space.

(b) Separate witness waiting rooms.

(c) Adequate transportation and investigative support.

(2) *Trial counsel.* The effective administration of military justice requires adequate logistical support. Trial counsel shall be given private, soundproofed office space to permit the confidential interview of witnesses, commanders, and others. Installation support shall be provided that best preserves the sensitive and personal nature of the information processed and the integrity of the military justice system.

#### *(3) Defense counsel.*

(a) AR 27-10, paragraph 6-4, addresses installation support of U.S. Army Trial Defense Service (USATDS) counsel and requires providing private office space, for attorneys, furniture, equipment, supplies, class A telephone service, electronic research capacity, library and reference materials, and clerical, administrative, and logistical support. Supporting installation commanders and supervisory JAs are responsible for providing resources that meet minimum standards set forth in AR 27-10. These resources are to be provided to the same degree as provided to trial counsel, legal assistance officers, and other attorneys assigned to the local legal office.

(b) The requirements for physical appearance of legal assistance offices and preservation of client confidences apply to USATDS offices. USATDS offices will be given independence and equality in their operations and facilities.

(c) Specific installation support problems should be addressed to the Chief, USATDS, through appropriate channels. Wherever feasible, USATDS office, file storage space, and client waiting rooms should be physically segregated from local legal offices but have ready access to adequate library and research materials and be easily accessible by clients. USATDS offices should have skilled and experienced clerical and support personnel who are not assigned other duties within the local legal office. Such personnel should be under the direct supervision of the senior defense counsel.

*c. Claims.* The prompt and informed processing and settlement of claims in favor of and against the Government is essential to protect the Government's financial interests and to maintain the morale of soldiers and their dependents. Heads of area claims offices will budget for and fund claims investigations and activities, including per diem and transportation of claims personnel, claimants, and witnesses, independent medical examinations, appraisals, independent expert opinions, long distance telephone calls, recording and photographic equipment, use of express mail or couriers, and other necessary expenses. Heads of area claims offices will also ensure an adequate number of adequately trained, qualified JAs or claims attorneys, claims examiners, claims adjudicators, and claims clerks in all claims offices within their area to take prompt action on claims. Chiefs of command claims services will supervise the area claims offices within their jurisdictions and ensure that the noted requirements are accomplished.

*d. Contract law.* It is important to ensure that contract law counsel receive the support necessary to create the requisite professional environment and to provide the essential professional tools. This support includes—

(1) Private offices with sufficient space to accommodate contract files, blueprints, protests, and other litigation files with which they routinely deal.

(2) Professional furnishings that not only enhance their working environment, but also provide the appropriate surroundings for meeting and dealing with Government and civilian executive personnel, to include opposing counsel.

(3) Close and immediate access to a datafax machine, which is especially critical for dealing with protests (it should be located in the legal office, if not within the contract law office).

(4) Access to transportation and/or funds so that the contract law counsel can visit the contracting office, contract sites, contractors and their counsel, and others, and assist in presentation of the government's case in litigation, as required.

(5) Subscriptions to the contract law loose-leaf services and other related periodicals to ensure sufficient research material and the ability to follow the development of new legislation, policy, and case law, adequate funding to support use of electronic research libraries (for example, WESTLAW, LEXIS).

(6) Individual personal computers with modems to expand and enhance their productivity; to ensure immediate access to electronic research capabilities; to permit electronic transfer of multipage litigation documents; and to permit access to electronic bulletin boards being created to assist the contract attorneys.

(7) Providing contract law resources for deployment purposes at all deployable divisions; such resources should include laptop computers with modems and CD-ROM devices and a primarily CD-based contract law library.

*e. Labor and Employment Law.* The outcome of disputes involving civilian employees including labor relations matter, equal employment opportunity cases, civilian disciplinary actions and reduction in forces frequently depends upon the investigative, research, advisory and representational functions of Labor Counselors in local legal offices. Labor Counselors must be adequately trained and have the necessary support to provide professional advice and representation. This support includes—

(1) Subscriptions to labor and employment law research materials covering decisions of the MSPB, Federal Labor Relations Authority, EEO Commission, Federal Service Impasses Panel and the Comptroller General.

(2) Individual personal computers with modems to permit electronic transfer of multipage documents, access to electronic bulletin boards designed to assist Labor Counselors, and access to computer legal research.

(3) Funds for continuing legal education related to labor and employment law to ensure currency of knowledge.

(4) Facilities similar to those provided trial counsel, including private offices and conference facilities for preparation of witnesses and exhibits. (See *b(2)* above.)

*f. International and Operational Law.* Legal offices providing international law support to commanders, particularly in overseas commands require—

(1) Adequate treaty and foreign law source materials.

(2) Typewriters and word processing equipment with foreign language capabilities.

(3) Qualified administrative and clerical personnel who possess appropriate foreign language fluency.

(4) At least one attorney with appropriate foreign language proficiency who can function as trial observer in foreign criminal trials and provide required liaison with host nation officials.

(5) Judge Advocates with security and access clearances necessary to perform OPLAW support requirements in all "TOC" locations.

*g. Professional Ethics.* Policing the profession to ensure adherence to the Army Rules of Professional Conduct for Lawyers (app B, AR 27-26) depends on the efforts of all JA offices. Professional responsibility inquiries requires that offices provide both personnel resources and the necessary travel funds to conduct complete inquiries.

## **Chapter 10**

### **Reserve Component Judge Advocate Training**

#### **Section I**

##### **General Duties**

##### **10-1. TJAG Responsibilities.**

TJAG has overall responsibility for RC JA legal training.

##### **10-2. The Commandant, The Judge Advocate General's School, U.S. Army.**

*a.* TJAG has delegated to the Commandant, TJAGSA, the following training duties:

(1) Develop individual and unit JA training programs. (See *b* below.)

(2) Prepare and make available for distribution instructional materials in support of JA training programs, including materials distributed through the Defense Technical Information Center.

(3) Conduct staff visits to evaluate the effectiveness of these training programs.

- (4) Coordinate automation training for JA personnel, including legal technicians.
- b. TJAGSA will develop and offer resident instruction and the JA correspondence course program (see AR 10–73) to the RC. TJAGSA will administer the following training programs:
  - (1) CLE resident courses.
  - (2) The Judge Advocate Triennial Training (JATT) program, consisting of an annual resident course for RC JAs covering designated subject areas.
  - (3) An annual offering of a Judge Advocate Officer Advanced Course resident phase.
  - (4) The JA Correspondence Course Program.
  - (5) The Judge Advocate General’s Reserve Component (On-Site) training program in designated locations.

### **10–3. Technical supervision**

a. The Forces Command (FORSCOM) SJA will supervise and monitor JA training of JAGSO Teams and JA sections of non Special Operation Force (SOF) USAR units. The United States Army Special Operations Command (USASOC) SJA will supervise and monitor JA training of all JA personnel assigned to SOF units. (SOF units include any unit performing a Special Operations activity as defined in para 167(j), 10 USC 166 or which is under the command of USASOC.) THE FORSCOM SJA will supervise and monitor the scheduling of overseas duty training (ODT) of JAGSOs, facilitate coordination for ODT of JAGSOs, and monitor ODT for JA sections of other non-SOF TPUs. The FORSCOM SJA is responsible for technical supervision of JAGSO units and JA sections on non-SOF units; this includes directing, supervising, and monitoring RCJA training. These functions will be performed by the USASOC SJA for SOF units. The FORSCOM SJA prepares training strategy for JA sections and JAGSO units and defines the mission, goals, and intent of RC legal training. The FORSCOM SJA will supervise training programs such as those providing initial qualifications, without concurrent call to active duty, and refresher/MOS sustainment training for legal specialists and court reporters. An executive for Reserve Affairs will be appointed in the Office of the Staff Judge Advocate, FORSCOM, to carry out this responsibility.

b. Continental United States Army (CONUSA) SJAs will schedule JAGSO AT assignments and forward final AT schedules to COMMANDER, FORSCOM, ATTN: FCJA–ML, Fort McPherson, GA 30330–6000 and COMMANDER, USARC, ATTN: AFRC–JA, 3800 North Camp Creek Parkway SW, Atlanta, GA 30331–5099. AT assignments for other units with JA sections fall under AR 140–1.

c. CONUSA SJAs will conduct periodic staff visits, evaluate training prescribed by this regulation, and provide an annual evaluation on the JA training and readiness program of each JAGSO unit and JA staff section to the Commander, FORSCOM, ATTN: FCJA–ML, and COMMANDER, USARC, ATTN: AFRC–JA with copy furnished to Director, Guard and Reserve Affairs Department, TJAGSA, ATTN: JAGS–GRA, Charlottesville, VA 22903–1781.

d. The SJA, United States Army Reserve Command (USARC) is responsible for technical supervision over JA sections of subordinate units and for staff technical supervision over assigned JAGSO detachments. The USARC SJA prepares USARC command legal training policy guidance; executes responsibility for training readiness; translates the FORSCOM training strategy into achievable goals, objectives, and tasks; allocates training resources to the strategy; and takes action on the CONUSA SJA annual evaluations. The USARC SJA will perform frequent inspections and liaison visits to evaluate training and readiness of USAR JA sections and JAGSO units.

### **10–4. Implementation**

a. *Reserve Component judge advocate.* The Chief, National Guard Bureau (for Army National Guard of the United States (ARNGUS) officers), the State adjutants general, the Commandant, TJAGSA, and the Commanding General, FORSCOM, are responsible for implementing training for RCJAs.

b. *Active Army (AA) staff judge advocates.*

(1) Those AA JA offices scheduled to host the AT of USAR or ARNG JA units or staff sections will prepare and execute training in accordance with appendix B of this regulation.

(2) AA SJAs with assigned IMAs have supervisory responsibility to ensure technical and professional development of their IMA officers and for coordinating and executing each officer’s AT. This responsibility includes the following duties:

(a) Preparing and executing training in accordance with appendix B of this regulation and AR 140–145.

(b) Initiating DA Forms 2446 (Request for Orders) and forwarding them to Army Reserve Personnel Center (ARPERCEN), ATTN: DARP–MSB–IM, 9700 Page Boulevard, St Louis, MO 63132–5200, through appropriate channels not later than 60 days before the IMA’s reporting date and before 31 March each year.

(c) Reserve Component JA personnel must be equipped with, and trained on, computer hardware and software that is compatible with LAAWS standards.

## **Section II**

### **Educational and Training Requirements**

#### **10-5. Branch Qualification**

*a.* TJAG has prescribed the following branch qualifications:

(1) Judge Advocate positions authorized the grade of captain or lower require credit for the Judge Advocate Officer Basic Course (JAOBC) or the Reserve Component Judge Advocate Officer Basic Course (RCJAOBC).

(2) Judge Advocate positions authorized the grade of major or higher require credit for the Judge Advocate Officer Graduate Course or Judge Advocate Officer Advanced Course.

(3) Military Judge positions require completion of the Military Judge Course at TJAGSA in addition to the Judge Advocate Officer Graduate or Advanced Course. Officers selected for MJ positions will be scheduled to attend the next Military Judge Course, unless already certified as a Military Judge.

(4) Acquisition Law Specialty JA positions normally require completion of the Contract Attorneys Course, the Fiscal Law Course, and one additional contract-law-related course within 36 months of first assignment to a contract law position (whether contract law is a primary or part-time duty). The Contract Attorneys Course should be completed first and not later than within the first 12 months of assignment to a contract law position.

*b.* Reserve Component JA officers must be branch qualified before assignment to a JA position. (TJAG may grant exceptions.)

*c.* Any RC officer assigned to a JA position who is not branch qualified for the position or who is not making satisfactory progress (as determined by the Director, Guard and Reserve Affairs Department, TJAGSA, in coordination with the Director of Academics, TJAGSA) in a course of instruction leading to such qualification will be reassigned. (The Director, Guard and Reserve Affairs Department, TJAGSA, may grant exceptions.)

*d.* Commanders of TPUs whose TOE or Table of Distribution and Allowances (TDA) include JA positions will ensure that officers occupying such positions are branch qualified as required. Commanders will not assign non-JAGC officers to JA positions and will remove from JA positions non-JAGC officers who have been improperly assigned or who are not progressing satisfactorily toward JAGC branch qualification.

#### **10-6. Educational requirements for newly appointed Judge Advocate General's Corps officers**

Applicants for USAR appointments or ARNG Federal recognition as JAGC officers must have completed the following minimum educational requirements:

*a.* Appointment to the grade of first lieutenant or captain requires credit for the Reserve Component Judge Advocate Officer Basic Course (RCJAOBC).

*b.* Appointment to the grade of major or higher requires credit for the Judge Advocate Officer Graduate Course or the Judge Advocate Officer Advanced Course.

#### **10-7. Conditional appointment to or conditional Federal recognition in the Judge Advocate General's Corps**

*a.* Pursuant to AR 135-100, paragraph 3-11b, USAR and ARNGUS applicants, otherwise qualified, who have not completed the education requirements specified in paragraph 10-6 above may receive conditional appointment to or conditional Federal recognition in the JAGC. Such officers must complete the following educational requirements:

(1) Officers in the grade of first lieutenant or captain must complete the RCJAOBC (Correspondence Phase) within 12 months of the date of conditional appointment or conditional Federal recognition. If they have not completed a resident officer basic course for another branch, they must also attend the RCJAOBC (Resident Phase) within 12 months of the date of conditional appointment or conditional Federal recognition. Captains within 42 months of their promotion eligibility date, must complete the Judge Advocate Officer Advanced Course within 24 months of the conditional appointment, conditional Federal recognition, or completion of the RCJAOBC, whichever is later.

(2) Officers in the grade of major or higher must complete the Judge Advocate Officer Advanced Course within 24 months of the date of conditional appointment, conditional Federal recognition, or completion of the RCJAOBC, whichever is later.

*b.* Failure to complete the educational requirements in the time specified will result in termination of the officer's appointment.

#### **10-8. Educational requirements for promotion**

For Reserve promotion or Federal recognition of state promotion, JA officers must meet the general educational requirements for promotion to the next higher grade as stated in AR 135-155 and AR 135-156. As specified in AR 135-155, note 11 to table 2-2, RC officers conditionally appointed to the JAGC with a military education stipulation under paragraph 10-7 above will be educationally qualified for promotion to grades below lieutenant colonel if they are progressing satisfactorily (as determined by TJAG or his designee) toward completion of required military education at the date the promotion or Federal recognition board convenes. Officers may request a certificate of

satisfactory progress for promotion/Federal recognition boards to consider by writing TJAGSA, ATTN: JAGS–GRA, Charlottesville, VA 22903–1781.

### **10–9. Equivalent or constructive credit**

The Commandant, TJAGSA, ATTN: JAGS–ADN–C, Charlottesville, VA 22903–1781, may grant equivalent or constructive credit for part or all of a TJAGSA course to applicants who can justify such credit with documented experience, ability, or equivalent education.

### **10–10. Individual training requirements**

*a.* United States Army Reserve JA officers assigned or attached to JAGSO units or to JA sections organic to other USAR units must attend, each year, The Judge Advocate General’s Reserve Component (On-Site) training program.

*b.* Individual Ready Reserve (IRR) JA officers (including control groups/IMA and Reinforcement) must complete branch qualification training (para 10–5) and education required for promotion (para 10–8). IMA and other IRR JAs should attend the on-site training program (*a* above).

### **10–11. Unit training requirements**

*a.* A JAGSO unit will attend the TJAGSA JATT session covering its functional areas. The JATT program is available but not required for IRR, ARNG, and JA section unit officers. (See chap 11 for specific policies and procedures for training JAGSO units.)

*b.* All JAGSO units and JA sections in RC units will train through performance of tasks arising from mission-related operations and training.

*c.* Judge Advocate Reinforcement Training Units are organized and will conduct training in accordance with AR 140–1, paragraph 2–8.

*d.* All JAGSO units and USAR JA sections may perform mutual support training with Active components units. (See AR 11–22 for policies and responsibilities for implementing mutual support programs within the Army.)

*e.* All JAGSO teams and JA sections of other TPUs will train as follows:

- (1) Receive mission-oriented training during IDT and AT.
- (2) Train with their CAPSTONE-aligned units.
- (3) Participate in exercises, such as command post exercises and field training exercises.
- (4) Participate in ODT.
- (5) Receive periodic refresher training.

## **Chapter 11**

### **Judge Advocate General Service Organization (JAGSO)**

#### **Section I**

##### **General**

#### **11–1. Objectives**

To ensure that JAGSO units are qualified to perform operational JA functions, TJAG has established a program to develop, train, employ, and maintain competent specialized JAGSO teams.

#### **11–2. Technical supervision and training duties**

*a.* TJAG is responsible for professional training of JAGSO units and the technical supervision of the JAGC Reserve program. TJAG or a TJAG representative will make frequent inspections to evaluate JAGSO unit training and readiness.

*b.* TJAG has delegated to the Commandant, TJAGSA, the following training responsibilities:

- (1) Formulate, develop, and provide selected individual and unit JA training programs.
- (2) Prepare and distribute instructional material to support these programs.
- (3) Conduct staff visits to assess the effectiveness of these training programs.

*c.* The SJAs of FORSCOM, USARC and CONUSA are responsible for directing, supervising, and monitoring training of JAGSO units.

*d.* The FORSCOM and USARC SJAs and the SJA at each ARCOM is responsible for technical supervision of assigned JAGSO units.

*e.* The commander of each Legal Support Organization (LSO) will train, administer, and supervise operations of all teams assigned or attached to his or her command. LSO commanders will provide mission guidance to CAPSTONE-aligned functional detachments.

### **11-3. Responsibilities for assignment of Judge Advocate General Service organization officers**

a. TJAG or his designee will appoint the LSO commander. The ARCOM commander will nominate eligible officers per FORSCOM and USARC command selection board procedures. A JA will be a member of command selection boards considering assignment to JA positions. The selection board will submit a list of at least three nominations, in order of merit, through the Commander, USARC, ATTN: AFRC-JA, Commander, FORSCOM, ATTN: FCJA, Fort McPherson, GA 30330-6000, and the Director, Guard and Reserve Affairs Department, TJAGSA, ATTN: JAGS-GRA, Charlottesville, VA 22903-1781, to The Assistant Judge Advocate General, 2200 Army Pentagon, ATTN: DAJA-ZB, Washington, DC 20310-0200.

(1) The ARCOM commander will consider all eligible officers, including the IRR, residing within a reasonable commuting distance for the position. Because they vary geographically, reasonable commuting distances will be determined by the USARC staff judge advocate in coordination with the appropriate MUSARC staff judge advocate.

(2) Submit nominations based on an in-depth review of each officer's total military service, including demonstrated performance as recorded in officer evaluation reports (OERs) for the previous 3 years, levels of responsibility and experience in military and civilian life, military and civilian education completed, records of active duty in an officer status, awards and decorations, and overall personal suitability for assignment to a position of high responsibility and trust as an MLC detachment commander. The ARCOM commander should also consider the reputation and accomplishments of the individual in both military and civilian occupations. Final selection will depend on these criteria and other qualities that TJAG deems appropriate.

(3) If submitting a recommendation that has fewer than three names, commanders should explain why and note the names of officers considered but not recommended.

b. As TJAG's designee, Chief, U.S. Army Trial Judiciary appoints MJs in MJ teams from a list of at least three eligible officers submitted by the LSO Commander, through the ARCOM SJA, the USARC SJA, ATTN: AFRC-JA, the FORSCOM SJA, ATTN: FCJA-ML and Director, Guard and Reserve Affairs Department, TJAGSA, ATTN: JAGS-GRA, to the Chief Trial Judge. Selected officers whom TJAG has not previously certified for MJ positions must satisfactorily complete the next scheduled Military Judge Course or be removed from the MJ position.

c. The Director, Guard and Reserve Affairs, TJAGSA, appoints all officers and warrant officers of JAGSO functional teams from a list of all eligible officers, including officers assigned to the IRR, submitted by the LSO commander concerned. The LSO commander routes the list of all eligible officers with recommendations, through the ARCOM SJA, the USARC SJA, and the FORSCOM SJA, to the Director, Guard and Reserve Affairs Department, TJAGSA for approval. The priority for consideration for vacant JA positions is:

(1) Reserve Component JAs with active duty commissioned JA experience.

(2) Reserve Component JAs with active duty commissioned service in a branch other than JAGC.

(3) Reserve Component JAs with enlisted active duty experience or no active duty experience.

(4) Reserve Component officers with active duty experience who have not branch transferred to JAGC, but are branch qualified (see chap 10) and have submitted a request for branch transfer to JAGC.

d. Officers assigned to JA positions authorized the rank of colonel (06) will receive a 3-year tenure. TJAG, or his designee, must approve any requests to curtail or extend this period.

(1) Requests for exception to this tenure policy will be forwarded through channels as described in paragraph a above, 6 months before the 3-year term of the incumbent expires.

(2) TJAG may grant exceptions to this policy only when no qualified JAs of the required grade are available in the geographical area or other mission-related reasons exist and are justified in writing.

e. Officers assigned as senior members of JAGSO functional teams will receive a 3-year tenure.

(1) Requests for exceptions to this tenure policy will go through channels to the Director, Guard and Reserve Affairs, TJAGSA, for approval 6 months before expiration of the 3-year term of the incumbent.

(2) Exceptions to this policy require the conditions explained in paragraph d(2) above.

*Note.* The appointment and assignment of officers to the positions in JA sections of ARCOMs and GOCOMS is governed by AR 140-10, sec VI.

### **11-4. Command and control**

The Commander, Forces Command, commands and controls USAR JAGSOs until a unit under another major command employs them. The Commander Forces Command has further assigned peacetime command and control of USAR JAGSOs to the Commander, USARC.

## **Section II Organization**

### **11-5. Legal Support Organizations in the Active Army**

a. *Organization.* LSO teams are organized under TOE/MTOE Series 27600.

b. *Tasks.*

- (1) LSO teams provide legal services in all seven functional areas: criminal law, claims, international law, operational law, contract law, administrative law, and legal assistance.
- (2) LSO teams also provide command and control over assigned and attached JA functional teams.
- (3) LSO teams may be organized as a regional law center or mobilization support organization.

#### **11-6. Functional Teams**

*a. Organization.* Functional teams are organized under TOE/MTOE Series 27600.

*b. Tasks.*

(1) The international/operational law team provides international and operational law legal services, and investigates and reports on the law of war.

(2) The court-martial trial team, under the direction of the SJA, advises the commander on matters related to the administration of military justice, including disposition of alleged violations of the UCMJ; performs all trial counsel duties in courts-martial; completes post trial processing of records of trial; serves as recorder before administrative boards; records courts-martial administrative proceedings and prepares records of those proceedings.

(3) The court-martial defense team performs all defense counsel duties in courts-martial; represents soldiers before administrative boards and other proceedings as required or authorized by law or regulation; and acts as consulting counsel as required or authorized by law or regulation.

(4) The legal assistance/claims team receives, investigates and adjudicates claims for and against the United States.

(5) The administrative/contract law team performs all administrative law functions and provides advice and assistance on all aspects of the acquisition process.

(6) Military judges on the military judge team preside at general and special courts-martial and perform magistrate and other judicial duties.

(7) Senior military judges on the senior military judge team perform the same functions as military judges and provide technical supervision to military judges.

### **Section III Training**

#### **11-7. Policy**

JAGSO unit training is conducted according to this regulation and FORSCOM directives. JAGSO units may participate in mutual support training activities in accordance with AR 11-22 and training in support of other USAR units, provided the training does not conflict with JAGSO functional mission requirements.

#### **11-8. Command and assignment of Judge Advocate General Service Organization units not on active duty**

*a.* JA LSO's not on active duty will be assigned directly to ARCOMs for command, control, training, and administration. They may not be assigned to other type units, and units other than JAGSO functional teams will not be assigned to them. They may be attached to other units for administrative and logistical support only. Supporting teams may be attached to them.

*b.* JA functional teams not on active duty, including MJ teams, will be assigned only to a LSO for command, control, training, and administration. A functional team located in an ARCOM other than the ARCOM of the LSO to which assigned will be attached to its host ARCOM headquarters for rations, quarters, and administration. Command and control will be exercised by the host ARCOM in coordination with the LSO commander. JA functional teams may be attached to other units for administrative and logistical support only.

#### **11-9. Training year**

The JAGSO unit training year will begin on 1 October and end on 30 September.

#### **11-10. Training schedules**

LSO commanders will prepare consolidated training schedules for subordinate JA units. The schedules will go to the appropriate ARCOM commander for approval. Information copies will go to:

*a.* HQDA (DAJA-PT), 2200 Army Pentagon, WASH DC 20310-2200.

*b.* Director, Guard and Reserve Affairs Department, TJAGSA, ATTN: JAGS-GRA, Charlottesville, VA 22903-1781.

*c.* The appropriate Army SJAs.

*d.* HQ, U.S. FORSCOM, ATTN: FCJA, Fort McPherson, GA 30330-6000.

*e.* HQ, USARC, ATTN: AFRC-JA, Bldg 1400, 3800 North Camp Creek Parkway SW, Atlanta, GA 30331-5097.

#### **11-11. Unit training**

*a. Purpose of training.* The purpose of unit training is to prepare units to perform their CAPSTONE missions.

*b. Inactive duty training.* IDT for personnel assigned to JAGSO units will combine general military training and specialized training. IDT for MJ teams will be coordinated with the LSO and the Chief Trial Judge. JAGSO units may conduct mutual support training at AA SJA offices and other military legal offices in performance of specialized training. Personnel from TJAGSA will present The Judge Advocate General's Reserve Component (On-Site) training each year. JAGSO units may use staff training problems or other instructional material prepared by TJAGSA or by the unit during those periods of IDT when the foregoing training is not available.

*c. Annual training.* AT should consist of training that is not normally available during IDT. CONUSA SJAs will recommend JAGSO AT assignments and forward final AT schedules, including the AT schedule for MJ teams, to HQ, FORSCOM, ATTN: FCJA-ML and HQ, USARC, ATTN: AFRC-JA. AR 140-1 covers AT assignments for non-JAGSO units with JA sections. The Chief Judge, U.S. Army Trial Judiciary, must approve AT for MJ teams. Functional JAGSO teams will attend Judge Advocate Triennial Training (JATT) conducted at TJAGSA. JATT is conducted on a 3-year cycle.

*d. Overseas deployment training.* JAGSO units may be assigned to participate in ODT in accordance with AR 350-9.

*e. Exemptions.* JAGSO units are exempt from Army Testing and Evaluation Program, Army Training Program, and Mission Essential Task List requirements.

## **Section IV Administration**

### **11-12. Equipment**

TOE/MTOE Series 27600 establishes authorized equipment for JAGSO teams. The LSO may maintain the property book for each JAGSO team and hand-receipt items of equipment and property for accountability.

### **11-13. Reporting**

For administration and reporting, LSO and its functional teams will be a single unit. The teams, under single unit administration, will prepare required reports, including consolidation of reports. Unless specifically prohibited by Army regulation (for example, AR 220-1 Unit Status Reporting), administration and reporting will occur at the LSO level. The reports will come from informal feeder reports from subordinate functional teams.

### **11-14. Administrative supply technicians**

Organizational structure and mission responsibilities of each LSO and each assigned functional team determine the allocations for administrative supply technicians. (See DA Pam 570-554.)

### **11-15. Status and identity**

Nothing in this regulation alters the unit status or organizational identity of LSO or of functional teams ordered to active duty in accordance with the RC troop basis.

### **11-16. Exceptions**

When geographic or operational considerations make it desirable to assign, supervise, or administer JAGSO teams other than as provided in this regulation, a request for exception will be forwarded through the chain of command (including the USARC and FORSCOM SJAs) through the Director, Guard and Reserve Affairs Department, TJAGSA (ATTN: JAGS-GRA), to TJAG or his designee.

## **Section V Employment**

### **11-17. Employment objectives**

JAGSO units on active duty normally work under the direction of the SJAs of major headquarters. They augment the resources of existing or new JA offices.

### **11-18. Assignments and attachments**

JAGSO units should be attached or assigned to echelons above their division. Except for defense and military judge teams, they will be under the control and supervision of the SJA. They may be attached or assigned for operational control and administration to a subordinate headquarters under that headquarters' SJA.

### **11-19. Operational control**

All JAGSO units, except defense and military judge teams, function under and are responsible only to the SJA of the headquarters to which attached or assigned. Team members augment the SJA section as an integral part, work as a remote team, or may be employed separately as individuals.

## **11–20. Employment of teams**

*a. Legal Support Organizations.* These teams, when attached for operational control to a headquarters with an SJA, normally should be merged with that section. They may also become the SJA section of a provisional headquarters that does not have an SJA section.

*b. International/operational law teams.* These teams may be attached to any staff/command JA section or LSO.

*c. Court-martial trial teams.* These teams are attached to echelons above their division. They may be further attached to subordinate units as required.

*d. Court-martial defense teams.* These teams come under the supervision and control of the USATDS upon mobilization and will be attached to echelons above their division. These teams may be further attached to subordinate units as required.

*e. Legal assistance/claims teams.* These teams augment a staff/command JA section or LSO teams.

*f. Administrative/contract law teams.* These teams augment a JA section of a headquarters with administrative and contract law requirements.

*g. Military judge teams.* These teams come under the supervision and control of the USALSA upon mobilization and will be attached to echelons above their division. These teams may be further attached to subordinate units as required.

## **Chapter 12 Army Law Library Service (ALLS)**

### **Section I General**

#### **12–1. Objectives**

The objectives for the ALLS are to—

- a.* Provide effective service to Army law libraries within available resources.
- b.* Develop policies for cooperative Army law library activities.
- c.* Reduce duplication and operational costs.

#### **12–2. General Duties**

*a.* The Commandant, TJAGSA, is responsible for—

- (1) Formulating policies that govern the establishment, content, and administration of Army law libraries.
- (2) Determining which law library materials the ALLS will acquire.
- (3) Determining the requirements for surveys of Army law libraries.
- (4) Budgeting funds for central acquisition of law library materials.
- (5) Determining the minimum function inventory for legal specialties.

*b.* The Chairperson, Army Law Library Service Committee (ALLSC), ensures that the ALLSC will—

- (1) Examines and makes recommendations to the Commandant, TJAGSA, on Army law library matters, such as holdings, updating, new selections, standard composition, transfer, and disposition.
- (2) Reviews possible purchases and advise the Administrator, ALLS, on the utility of the publication for the JAGC mission.

(3) Evaluate use of computer technology in support of the ALLS.

*c.* The Administrator, ALLS—

- (1) Plans and conducts all activities necessary to centrally procure legal materials for Army law libraries.
  - (2) Provides expert assistance to the ALLSC regarding law library operations and requests.
  - (3) Advises the ALLSC on the subject matter, cost, availability, and need for all publications.
  - (4) Advises the ALLSC and the Commandant, TJAGSA, on ALLS budget matters.
  - (5) Implements procurement and disposition decisions of the ALLSC and the Commandant, TJAGSA.
  - (6) Requests periodic inventories of Army law libraries.
  - (7) On request of the Commandant, TJAGSA, directs inspections of specific Army law libraries.
  - (8) Directs the transfer or other disposition of excess materials among law libraries.
  - (9) At the beginning of the fiscal year, provides each Army law library a listing of library materials currently being purchased for that library.
  - (10) Maintains a roster of all Army law library managers (ALLMs) and accountable officers.
- d.* Senior military attorneys (such as SJAs) or heads of legal activities (such as chief counsels) that operate Army law libraries are responsible for—

- (1) Appointing an ALLM.
- (2) Appointing an accountable officer meeting the prerequisites of AR 735-5, paragraph 2-11. The ALLM may also be the accountable officer.
- (3) Ensuring that the Army law library meets the requirements of this regulation and other applicable regulations.
  - e.* Army Law Library Managers are responsible for—
    - (1) Managing Army law libraries under this regulation and all other pertinent regulations and directives. They may not delegate this responsibility.
    - (2) Preparing a written standing operating procedure (SOP) for operation of the Army law library.
    - (3) Justifying to the Commandant, TJAGSA, requests for purchases by ALLS of mission-essential library materials.
    - (4) Consolidating Army law library facilities if feasible.
    - (5) After coordination with ALLS, deactivating Army law libraries no longer required.
    - (6) Ensuring that all correspondence with ALLS includes the Army law library account number.
  - f.* Army law library accountable officers are responsible for—
    - (1) Maintaining accountability records for the Army law library.
    - (2) Developing local procedures for the use and accountability of Army law library materials and publish those procedures in the library SOP.
    - (3) Performing inventories of the Army law library and forward inventory reports to the ALLM and the ALLS Administrator.
    - (4) Writing and sending to the ALLM requests, with justification, for the purchase of new law library materials.
    - (5) Identifying excess or obsolete materials in the Army law library and coordinate their disposition with ALLS.
    - (6) Recommending to the ALLM the consolidation of Army library facilities if feasible.
    - (7) Completing required correspondence with the ALLS Administrator.
    - (8) Recommending the deletion of unused law library materials from the Selections and Holdings List published annually by the ALLS. (The Selections and Holdings List is an internally generated computer program and is unique to each individual Army law library.)

## **Section II**

### **Administration of Army Law Libraries**

#### **12-3. Establishment of Army law libraries**

- a.* The senior military attorney (such as the SJA) or the head of the activity that will use the library, submits the justification for establishing a new Army law library to the Commandant, TJAGSA, ATTN: JAGS-DDS, Charlottesville, VA 22903-1781. Justification includes the following information:
  - (1) Proposed date the library begins operations.
  - (2) Legal mission of the command, installation, or activity the library serves.
  - (3) Number of persons the library serves.
  - (4) Availability of local funds to cover establishment and first year operating costs of the library.
- b.* If the Commandant, TJAGSA, approves the establishment of a new Army law library, ALLS will provide guidance on initial selection of materials.
- c.* ALLS will assign a stock record account number to each Army law library.

#### **12-4. Facilities**

- a.* An Army law library will be a separate entity in the facilities of the responsible command, installation, or activity. A general or technical library may provide administrative support, but the Army law library must maintain separate accountable document files and other related files.
- b.* If more than one Army law library exists at an installation or activity, the ALLMs should consider consolidation. Whenever Army law libraries are close enough, the ALLMs should establish a generous sharing arrangement to avoid unnecessary duplication of material.

#### **12-5. Acquisition of law library materials**

- a.* At the beginning of each fiscal year, the ALLS Administrator sends a Selections and Holdings List to each Army law library. The list contains the publications that ALLS purchases for each library during that fiscal year.
  - (1) The accountable officer must—
    - (a)* Review the list to ensure inclusion of all materials previously requested through the ALLS and approved by the Commandant, TJAGSA, for purchase by the ALLS.
    - (b)* Correct errors on the list in the "Needs" column.
    - (c)* Return the original of the list to ALLS within 30 days after receipt.
  - (2) The ALLS Administrator, then sends a final Selections and holdings List to each library.

*b.* The purchase of new material by the ALLS begins with a request, with justification from ALLMs, showing that the requested item is mission essential. Materials costing less than \$150 must be purchased with local funds. (See *d* below for guidance on consolidated purchases.) The ALLS will acquire law library materials for direct shipment from the publisher to the requesting Army law library on approval of the ALLM's request by the Commandant, TJAGSA.

*c.* Approval from the ALLS is not required to purchase law library materials with local funds. The ALLS Administrator must be notified, however, by letter of all local purchases of accountable materials to avoid duplicate purchases.

*d.* ALLMs are encouraged to recommend legal materials that the ALLS should acquire for Army law libraries. The title, author, and name of publisher should be provided to the ALLS along with justification for purchase. Materials costing less than \$150 may be recommended for acquisition by the ALLS if they are recommended for purchase for more than one library.

*e.* The ALLS will not purchase periodicals, such as law reviews and newspapers.

#### **12-6. Receipt of law library materials**

*a.* Accountable law library materials added to the collection of an Army law library will be supported by voucher. Any document other than vendor shipment documents may be used as a voucher.

*b.* The Army law library accountable officer will complete two copies of DD Form 250 (Material Inspection and Receiving Report) upon receipt of accountable material directly from the vendor or publisher. One copy will go to TJAGSA, ATTN: JAGS-DDS, Charlottesville, VA 22903-1781; the second copy will remain in the voucher file. Vendor shipping documents will not be retained after reconciliation with the purchase order.

*c.* Army law library accountable officers will ensure that all accountable Army law library materials have required markings affixed and have been posted to accountable records within three working days of receipt.

#### **12-7. Standing operating procedures**

Army Law Library Managers will develop SOPs for their libraries. At a minimum, the SOP should address the following topics:

*a.* The library address and account number.

*b.* The appointment of an ALLM and an accountable officer.

*c.* The duties of the ALLM and the accountable officer.

*d.* The acquisition processes through ALLS, through Army publications channels, or with local funds.

*e.* The accounting process related to each method of acquisition, with particular attention to the distinction between accountable and nonaccountable materials.

*f.* The inventory process.

*g.* The treatment of lost or destroyed materials.

*h.* The disposal or transfer of obsolete or excess materials.

*i.* The disposition of library records.

### **Section III**

#### **Accountability in Army Law Libraries**

##### **12-8. General**

*a.* For each Army law library, the senior military attorney (such as the SJA) or the head of the activity (such as the chief counsel) that uses the Army law library will appoint an accountable officer meeting the prerequisites of AR 735-5, paragraph 2-11, and send a copy of the appointing order to the ALLS Administrator (TJAGSA, ATTN: JAGS-DDS, Charlottesville, VA 22903-1781). Bonding is not required.

*b.* The accountable officer will use DA Form 3973 (Voucher Register of Books) to record all transactions involving accountable materials. (See AR 735-17, para 7*b* and app B, for instructions on completing DA Form 3973.)

*c.* DA Form 4460-R (Army Law Library Shelf-List Card) gives a sequential record of all accountable law library transactions for a particular title or set. The accountable officer will prepare cards for all accountable material in Army law libraries and maintain them in alphabetical order.

(1) All transactions for receipt, adjustment, transfer, or other final disposition of Army law library accountable material will appear on this form.

(2) If accountable material is maintained in other than a central location, a separate DA Form 4460-R will be prepared for each location.

(3) These records will be used to locate materials and for inventories.

(4) Instructions for preparing this form are in paragraph 12-13.

(5) DA Form 4460-R will be locally reproduced on 8-inch by 5-inch #110 index cover stock paper, printed head to head. A copy for reproduction is located at the back of this regulation.

d. Accountable materials acquired with local funds will be accounted for under this regulation rather than under AR 710-2.

e. All accountable Army law library materials will be marked with the words "Property of U.S. Government" and with the Army law library account number. Rubber stamps shall be used for this purpose.

f. The accountable officer will use vouchers to record the receipt, shipment, transfer, or other disposition of all law library materials.

g. AR 735-5, chapter 5, governs transfer of accountability.

h. The accountable officer will maintain and dispose of Army law library records according to AR 25-400-2.

### **12-9. Use of automated records**

The accountable officer may use automated accountable records instead of manual records. As a minimum, automated records must contain the information normally recorded on the manual records. To avoid possible loss of records, a current printout must be maintained.

### **12-10. Lost, damaged, or destroyed law library materials**

a. Army law library materials lost or destroyed without negligence may be dropped from accountability using DA Form 444 (Inventory Adjustment Report) as prescribed by AR 710-2, paragraph 3-13. Use of estimated cost figures is authorized. DA Form 444 will serve as a valid credit voucher to the account. Such shortages, regardless of the total dollar value, may be approved by the senior military attorney (such as, the SJA) or head of the legal activity that uses the law library. In acting on such reports, the approving officer should be aware that a certain loss in library materials will occur. A one percent loss of total law library material stock within 1 year is normal. The approving authority may choose not to approve the DA Form 444, but instead to take action listed in AR 735-5.

b. AR 735-5 governs adjustments in all other cases of loss, damage, or destruction.

c. The ALLS will replace Army law library materials worn through fair wear or damaged without negligence on approval of requests with justification from the senior military attorney (such as the SJA) or head of the legal activity that uses the Army law library.

d. Law library material that is dropped from accountability and is later recovered in good condition will be reinstated by listing it on DA Form 2765-1 (Request for Issue or Turn-In) or DA Form 3161 (Request for Issue or Turn-In). (Instructions for completing DA Form 2765-1 and DA Form 3161 are in AR 710-2). This record will serve as a new debit voucher to the account.

### **12-11. Disposition of law library materials**

a. Army Law Library Managers will notify the ALLS Administrator of any library that is transferred or deactivated or that contains excess law library materials and request instructions for disposition of library materials. Library materials will not be sent to TJAGSA or ALLS unless the ALLS Administrator so directs.

b. Law library materials that are worn through fair wear, damaged without negligence, obsolete, or superseded will be disposed of under appropriate local property disposal procedures.

c. Law library materials may be transferred to another Army law library on approval by the Commandant, TJAGSA.

### **12-12. Inventories**

a. Every ALLM must account for and safeguard the property issued to the Army law libraries. Therefore, inventories will be conducted to ensure that property records are complete and accurate and that the materials on hand are serviceable.

b. The Army law library accountable officer will inventory all law library property at least once each year and record inventories on DA Form 4460-R and DA Form 3973.

c. Event-oriented inventories are as follows:

(1) *Change of accountable officer inventory.* On change of accountable officer, a joint inventory of Army law library property is required. The outgoing accountable officer will make the property records and associated files available to the incoming officer for review. The incoming accountable officer will determine whether the records comply with this regulation.

(2) *Annual accountable officer inventory.* The accountable officer will schedule the date of the annual inventory based on the date of the last change of accountable officer inventory or annual inventory, whichever is later.

(3) *Command-directed or TJAGSA-directed inventory.*

d. It is best to complete the Selections and Holdings List in conjunction with an inventory and not from DA Forms 4460-R alone.

e. Inventory discrepancies will be corrected as follows:

(1) Overages will be added to the record of responsibility.

(2) Shortages will be accounted for as discussed in paragraph 12-10.

f. A copy of the inventory will be sent to the ALLS Administrator (TJAGSA, ATTN: JAGS-DDS, Charlottesville, VA 22903-1781).

### 12-13. Guidance for preparation of DA Form 4460-R

a. Type or hand write entries in ink except as noted in (1), (5), (7), and (8) below. Use authorized abbreviations. Enter information on the form in the following blocks:

(1) *Location*. In pencil, enter the physical location of the item. If the item is maintained in a central library or location, give the location (for example, main library) and enter the shelf number(s), microfilm cabinet(s), or microfiche cabinet(s) where the item is located (for example, shelf 10C; microfiche cabinet 1; A/V shelf #4). If the item is a large series, show the inclusive shelf numbers or drawers (for example, shelves 5A-8D, drawers A-L). If the item is not maintained in a central library or location, give the location where it can be found (for example, Criminal Law Division, Room 18, Bldg 133, Main Post).

(2) *Author/title*. Enter the author's name, if given, or the title of the book, set, or series (for example, Jones, John J.: Army Procurement Law; Smith and Jones: Evidence; Federal Supplement). Include a series number if it is integral to its identification (for example, American Jurisprudence 2d). Include the format if it helps identify an item (for example, Congressional Record Microfilm Set).

(3) *Publisher*. Enter the name of the publisher or manufacturer (for example, Lex Law Book Co; XYZ Microfiche Corp.).

(4) *Edition/copyright date*. Enter the edition, if given, and/or the latest copyright date of individual volumes (for example, 3d Edition; 6th Rev Ed; 2d Edition—replace (s2 ) 1979; (s2 ) 1978). Leave this item blank for reporter series and subscription services.

(5) *Volumes*.

(a) For a single volume or definitive set, enter the number of volumes.

(b) For an expanding set, enter the inclusive volume numbers (for example, 1-7A; I-III).

(c) For a reporter series, enter the inclusive volumes recorded on that card (for example, 196-219). If space permits, indicate, in pencil, the number of each volume (for example, 1, 1A, 2, 2A, 3, 4, 5).

(d) For microfilm, microfiche, ultrafiche, or audiovisual tapes, line through the word "volumes," to the right print the format involved, and enter the total number of items (for example, 1 audiovisual tape; 19 microfilm reels; 35 microfiche cards).

(6) *Copies*. Enter the total number of copies if all are maintained together. If the copies are maintained in separate locations (for example, Military Justice Reporter), prepare separate cards, and enter the copy number along with the total number of copies maintained (for example, copy 3 of 7 or 3/7).

(7) *List price*. In pencil, enter the item's price, obtained from the purchase order, invoice, or vendor's catalog. If not available, use a reasonable estimate and so indicate (for example; \$15.00/est). For a multi-volume set or series, indicate only the price per volume (for example, \$20.00/vol). Update this entry as the price of future volumes changes.

(8) *Remarks*. Enter any appropriate notes or comments. For example, if a title uses more than one card, enter "Card # of #" at the very top of the column. Pencil suspense entries, such as "Lent to # on (date)" or "Vol # missing; DA Form 444 submitted (date)" may also be inserted.

(9) *Column entries*. The remaining entries refer to a single item (volume) per line entry. A three-volume set, three reels of microfilm, or three audiovisual tapes should be recorded on three separate lines (in which case all data would be the same except for the volume, microfilm reel, or tape number). This is for ease of identification and maintenance of debit, credit, and balance entries. Complete column entries as follows:

(a) *Date column*. Enter the date of the voucher substantiating the transaction, using the year-month-day sequence for brevity (for example, 850809).

(b) *Voucher column (VOL)*. Enter the number assigned to the voucher that substantiates the transaction (for example, 85-45). If an item is being dropped from accountability (for example, current volume 1 is replaced by new volumes 1 and 1A), enter the voucher number that added the item to accountability. This number should go in parentheses immediately below the voucher number dropping the item from accountability.

(c) *Volume column (VOU)*. Enter the volume number for a set or multi-volume series (for example, 7A; II; 196).

1. For a single-volume item, insert NA (not applicable).

2. For microfilm, microfiche, ultrafiche, or audiovisual tapes, line through "VOL," and below it print the format involved (for example, audiovisual, microfilm, microfiche).

3. Enter the number of each individual reel, microfiche card, or tape or other identifying data on the microfilm box, or at the start of a reel of microfilm, or on the audiovisual product (for example, card 1, pages 1-95).

(d) *Cost column*. Enter the cost of the volumes, audiovisual tapes, microfilm reels, or microfiche being recorded, obtained from the purchase order, vendor's catalog, or earlier line entry for items being dropped from accountability. If not available, use a reasonable estimate (for example, \$15.00/est).

(e) *Debit (DR) column*. If accountability for the item is being assumed, enter the number "1" in this column.

(f) *Credit (CR) column*. If the item is being dropped from accountability, enter the number "1" in this column.

(g) *Balance (BAL) column.* Enter the number of volumes, audiovisual tapes, microfilm, reels, or microfiche or ultrafiche cards for which the account is charged, obtained by adding the line's debit figure to or subtracting the line's credit figure from the previous line's balance figure. This figure should also equal the number obtained by subtracting the sum of all previous credit figures from the sum of all previous debit figures for that set or series. If the item is a single-volume title, the balance is 1. For multi-volume reporter series or extensive sets that may require more than one card, the balance should reflect the total number of accountable volumes, microfilm reels, and so forth, for that set or series.

b. If desired, DA Form 4460-R may be posted to reflect accountability droppage. Do this by lining through the entry dropping the item from accountability with a single nonobliterating line in red pencil or ink and by lining through the original voucher entry that added the item to accountability. This procedure will produce a DA Form 4460-R that lists only those volumes currently on hand in the library. A properly posted DA Form 4460-R is thus an acceptable mechanism for conducting an inventory.

## Chapter 13

### Voluntary Active Duty With the Judge Advocate General's Corps

#### 13-1. General Duties

TJAG is responsible for recruiting and selecting candidates for voluntary duty with JAGC.

#### 13-2. Eligibility

Applicants must have the following qualifications for appointment with concurrent order to active duty or order to active duty (without new appointment) under this program at the time of appointment or order to active duty.

a. *Age.* Applicants must be at least 21 years of age and not have reached their 35th birthday; and be able to complete 20 years of active commissioned service before their 55th birthday.

(1) TJAG may grant exceptions to (a) above to otherwise qualified persons who have unusual skills, experience, or outstanding professional qualifications uniquely suited to service on active duty with the JAGC.

(2) TJAG may grant exceptions to (b) below if, in addition to meeting the criteria in (c) below, such action satisfies a special need of the Army.

(3) When TJAG grants exceptions to (b) below, the applicants must sign a statement before commissioning, acknowledging that they may not be able to qualify for retirement benefits and/or Regular Army commission.

b. *Citizenship.* Applicants must be a citizen of the United States, have been lawfully admitted to the United States for permanent residence under 8 USC 1101, *et seq.*, or have previous service in the Army.

c. *Character.* Applicants must be of high moral character.

d. *Leadership ability.* Applicants must be qualified for potential leadership positions and have the ability to deal with people.

e. *Physical fitness.* JAs must meet the Army Physical Fitness Test Standards. All applicants must meet the retention weight standards of AR 600-9.

f. *Personnel security requirements.* Applicant must have, as a minimum, a SECRET security clearance before receiving an appointment. As an exception, applicants may receive their commissions before completion of National Agency Check/DOD National Agency Check Plus Written Inquiries (NAC/DNACI) under these conditions:

(1) An NAC/DNACI has begun by the time an applicant enters active duty; and

(2) The applicant agrees in writing that, if the results of the investigation are unfavorable, he or she will be subject to discharge if found ineligible to hold a commission (fig 13-1).

(3) Waivers of these conditions will not be granted.

g. *Law degree.* Applicants must have earned a J.D. or an LL.B. degree from a law school accredited by the ABA at the time the applicant received the degree. A student in his or her last year in law school may apply for a commission before either graduation or admission to the bar. To receive a commission, an applicant must meet all admission requirements before appointment or detail.

h. *Admission to practice.*

(1) Applicants must be admitted to practice and have membership in good standing of the bar of the highest court of a state of the United States, the District of Columbia, Commonwealth of Puerto Rico, or a Federal court.

(2) Officers appointed in, or assigned or detailed to, the Judge Advocate General's Corps will remain members in good standing of the bar of the highest court of a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a Federal Court.

#### 13-3. Service Commitment

a. Applicants selected must serve for the period of duty with the Active Army or with the USAR not on active duty specified in the service commitment statement the applicants signed.

b. Applicants who received ROTC scholarships and have not yet fulfilled their service obligations must serve on active duty for 4 years, if in the best interest of the JAGC and U.S. Army, and then complete their service obligations with the USAR not on active duty. (See AR 135–91.)

c. Officers who enter active duty with duty in JAGC must apply and be selected competitively to remain on active duty beyond their initial period of service obligation. Officers may request a short term extension of active duty in accordance with AR 135–215.

#### **13–4. Submission of application**

a. All applicants will complete DA Form 3175 (Preliminary Application for Active Duty Service with the Advocate General’s Corps) and submit it directly to the Army JA Recruiting and Placement Service, 8930 Franklin Road, Fort Belvoir, VA 22060–5223. Blank copies of DA Form 3175 are stocked and issued by the same office. Applicants will take the following actions, depending on their status:

(1) *Army commissioned officers on the active duty list in another branch who have not attained career status (that is, who are not RA, Conditional Voluntary Indefinite (CVI), or Voluntary Indefinite (VI)).* Immediately after submitting their applications to the Army JA Recruiting and Placement Service, these applicants will request through channels (including the appropriate Total Army Personnel Command (TAPC) career branch) from the Army JA Recruiting and Placement Service, 8930 Franklin Road, Fort Belvoir, VA 22060–5223 a new appointment with concurrent order to active duty in the JAGC. The request will state that it is contingent upon the applicant’s selection for JAGC.

(2) *Army commissioned officers on the active duty list in another branch who have attained career status (that is, who are RA, VI, or CVI).* Immediately after submitting their applications to the Army JA Recruiting and Placement Service, these applicants will send a request for branch detail through channels (including the appropriate TAPC career branch) to the Army JA Recruiting and Placement Service, 8930 Franklin Road, Fort Belvoir, VA 22060–5223. The request will state that it is contingent upon the applicant’s selection for JAGC.

(3) *Officers serving in another armed force.* Immediately after submitting their applications directly to the Army JA Recruiting and Placement Service, these applicants will submit a request for interservice transfer according to the regulations of the respective armed force. The request will state that it is contingent upon the applicant’s selection for Army JAGC.

(4) *United States Army Reserve and ARNG personnel not on the active duty list.*

(a) *United States Army Reserve commissioned officers and enlisted personnel (other than ROTC graduates who hold reserve commissions and have received educational delays from active duty to obtain a law degree).* Immediately after submitting the application directly to the Army JA Recruiting and Placement Service, these applicants will submit a request for branch transfer and send it through proper channels. The request will state that it is contingent upon the applicant’s selection for Army JAGC.

(b) *ROTC graduates granted an educational delay from active duty for law school.* These applicants will submit their applications directly to the Army JA Recruiting and Placement Service during the fall semester of their final year of law school.

(c) *National Guard officers and enlisted personnel.* Immediately after submitting their applications directly to the Army JA Recruiting and Placement Service, these applicants will submit a request for release for the purpose of extended active duty through channels to their State Adjutant General. The request should state that it is contingent upon the applicant’s selection for Army JAGC. If the State Adjutant General agrees to release the applicant for extended active duty, the release should be sent to the Army JA Recruiting and Placement Service.

(5) *Warrant Officers on the active duty list.* These applicants will submit their applications through their SJAs to the Army JA Recruiting and Placement Service.

(6) *Enlisted personnel on the active duty list.* These applicants will submit their applications through their SJAs to the Army JA Recruiting and Placement Service.

b. All applicants will send the following items with their applications:

(1) A consolidated official transcript of all undergraduate and law school studies. If the schools compute class standings, the transcripts should show the applicant’s class standing.

(2) A certificate or statement from the clerk of the highest court of a State or Federal court, District of Columbia or Puerto Rico showing admission to practice and standing before the bar. Applicants who are not yet members of a bar will furnish a statement that they have taken a bar examination and the date thereof or state an intent to take any required bar examination as soon as the applicant becomes eligible.

(3) A description of the applicant’s full-time or part-time legal experience.

(a) For private practice experience, applicants should provide a description of the most important cases handled.

(b) For governmental or military legal work, applicants should provide a description of the position and grade or rating.

(c) For judicial work, applicants should describe the court and the extent of its jurisdiction.

(d) For law teaching experience, applicants should provide a list of the subjects taught.

(4) A description of the applicant’s full-time or part-time nonlegal work experience.

(5) A statement (100–200 words) of interest, objectives, and motivation for applying for a JAGC commission.

*c.* Applicants may submit letters of recommendation based on personal acquaintance from unbiased judges, lawyers, law school professors, or military officers. These letters should discuss the applicant's reputation and professional standing. The letters should be attached to the application form; however, they may be sent in a sealed envelope if the writer does not want the applicant to know the contents.

*d.* The JAGC will not consider applications without Law School Admission Test (LSAT) scores unless the law school did not require the LSAT. In such cases, applicants should attach an explanation to the application.

*e.* An active duty JAGC officer designated as a field screening officer (FSO) must interview each applicant. The procedure for initiating the interview is as follows:

(1) The applicant will arrange for the interview. To obtain the name and location of the nearest FSO, the applicant should contact the Army JA Recruiting and Placement Service, 8930 Franklin Road, Fort Belvoir, VA 22060–5223. Applicants will not be reimbursed for travel or incidental expenses incurred to complete the interview requirement.

(2) Applicants will list the date and place of the interview and identify the interviewing officer on the application form (DA Form 3175).

(3) An FSO will contact ABA-accredited law schools in the fall and spring of each year to arrange interviews with prospective JAGC applicants.

(4) FSOs who conduct interviews will use DA Form 5000–R (Applicant Interview Report–Judge Advocate General's Corps) and send reports directly to the Army JA Recruiting and Placement, Fort Belvoir, VA 22060–5223. DA Form 5000–R will be locally reproduced on 8 1/2-inch by 11-inch paper. A copy for reproduction purposes is located at the back of this regulation. Additionally, DA Form 5000–R may be electronically generated. The electronically generated form must contain all data elements and follow the exact format of the existing printed form. The form number of the electronically generated form will be shown as DA Form 5000–R–E and the date will be the same as the date of the current edition of the printed form.

### **13–5. Selection**

A board convened by TJAG will consider all applications. The board will make recommendations to TJAG, who will make final selections. Offers of an appointment with duty in JAGC are contingent on applicants' meeting all qualifications for appointment and on the actual number of positions available in that fiscal year.

### **13–6. Admission to practice**

*a.* Applicants must be admitted to practice before appointment in or assignment to the JAGC. Law students who apply under paragraph 13–2a(7) may be selected contingent upon admission to practice.

*b.* An offer to an applicant for an appointment with duty in the JAGC may be withdrawn if the applicant is unsuccessful in passing the bar examination, is denied admission to the bar on other grounds, or in the judgment of TJAG has become unqualified or unsuitable to perform duties as a JA.

*c.* Applicants who have twice been unsuccessful in bar examinations (regardless whether one or more jurisdictions are involved) will be ineligible for appointment in the JAGC unless specifically granted a waiver by TJAG.

### **13–7. Entry grade**

The entry grade of JAGC officers will be determined by appointment regulations of the SA.

### **13–8. Application forms**

For further information and a copy of the application form (DA Form 3175), write to the Judge Advocate General's Corps Professional Recruiting Office, Fort Belvoir, VA 22060–5818.

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**Statement of Understanding for Appointment as a Commissioned Officer**

I understand that my appointment as commissioned officer in the United States Army Reserve (*may be/is*) occurring before completion of a National Agency Check/DOD National Agency Check Plus Written Inquiries, issuance of a SECRET clearance, and a Federal Bureau of Investigation Name Check.

I further understand that if, as a result of the postcommissioning investigative processes, I am determined unacceptable for appointment as a commissioned officer, I will be discharged from the United States Army Reserve and that I will receive an appropriate discharge certificate.

(DATE)  
(SIGNATURE)  
(NAME TYPED)  
(SOCIAL SECURITY NUMBER)

Figure 13-1. Format for statement of understanding for appointment as a commissioned officer

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## **Chapter 14**

### **The Judge Advocate General's Funded Legal Education Program**

#### **14-1. General Duties**

TJAG is responsible for selecting up to 25 Army officers each fiscal year to attend the regular course of instruction leading to a J.D. or an LL.B. degree at an approved civilian law school. This course, normally 3 academic years, will be at the Government's expense (see 10 USC 2004). TJAG will direct assignments during the period the officers are attending law school and while awaiting assignment to or appointment in the JAGC.

#### **14-2. Nonwaivable eligibility requirements**

Applicants must be U.S. citizens on active duty as commissioned Army officers in the grade of O-1 through O-3. They must also—

- a. Have graduated from an accredited college or university with a baccalaureate (or equivalent) degree.
- b. Have not less than 2 years nor more than 6 years of active duty, including warrant officer and enlisted service, and be serving in the grade of O-1 through O-3, at the time legal training commences. Legal training commences on the first day of formal classroom instruction at the law school.
- c. Be able to meet the requirements of AR 601-100, chapter 2, section XI, after completing law school.
- d. Have at least a SECRET security clearance.

#### **14-3. Law School Admission Test**

Commissioned officers applying for funded legal education program (FLEP) must take the LSAT. The following procedures apply to LSAT:

- a. Law School Admissions Services, Box 2000, Newtown, PA 18940-0998, prepares and administers the test.
- b. Officers who apply for FLEP are responsible for arranging to take the LSAT at their own expense.
- c. Applicants will send copies of all test scores directly to Personnel, Plans and Training Office, The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310-2200, before the selection board convenes. The selection board will not consider an application unless an LSAT score is available.
- d. Applicants may retake the LSAT if they desire and must provide results of all tests to the selection board.
- e. Officers accepted for FLEP may request reimbursement for LSAT fees (para 14-5a(3)) with the initial vouchers submitted for textbooks and supplies.

#### **14-4. Procedures**

- a. Applicants must—
  - (1) Submit applications for detail to JAGC under FLEP in military memorandum format.
  - (2) Send the original through command channels to Commander, U.S. Total Army Personnel Command, ATTN: (TAPC— appropriate career management division), 200 Stovall Street, Alexandria, VA 22332-0400. Career management divisions will return applications not sent through proper channels.
  - (3) Concurrently send a copy of the application to Personnel, Plans and Training Office, The Judge Advocate

General, 2200 Army Pentagon, Washington, DC 20310–2200. Binders and document protectors should not be used. Applications will not be returned.

*b.* The application packet will include—

(1) Applicant's telephone number (Defense Switched Network (DNS) and commercial), home address, and military address. Applicants must notify DAJA–PT of all changes of address and telephone numbers.

(2) Official transcripts of all college-level and higher education. Transcripts will show the class standing of the applicant if available.

(3) Description of legal studies completed and legal experience in civilian or military life.

(4) Date of expected return to the United States, if applicable.

(5) Reasons for applying for the program. The applicant will briefly describe the motivation for attending law school and for applying for the FLEP. The applicant may list any special circumstances that the selection board should consider.

(6) List of law schools to which applicant has applied or will apply. Acceptance by a law school is not a prerequisite to application.

(7) Full-length official photograph.

(8) LSAT score or date of test. The applicant may submit an application without an LSAT score but must provide the score separately before the board convenes (See para 14–3*c*).

(9) A statement as follows:

On 1 September (year), I will have (number of) years and (number of) months of active Federal commissioned service and (number of) years and (number of) months of active warrant officer/enlisted service for a total of (number of) years and (number of) months of active Federal service.

Applicants should compute this service statement as of the September in which legal training will begin if the applicant is selected for the program.

(10) Date and place of the interview required in *c* below and the name of the officer conducting the interview.

(11) A statement that the applicant has at least a SECRET clearance.

*c.* The SJA or acting SJA of the applicant's command must personally interview the applicant. Then the interviewing SJA—

(1) Makes specific candid comments concerning the applicant's motivation for attending law school, motivation for service as a career JA, potential as a JA, military bearing, sincerity, general physical appearance and condition, oral communicative skill, reputation in the command, and any other matters considered appropriate, using the format provided by DAJA–PT.

(2) Sends comments about the applicant directly to DAJA–PT, in military letter format. These comments will be treated as confidential.

*d.* The proper career management division of TAPC will refer the application, with appropriate comments, to DAJA–PT.

*e.* Applications must be received by career management branch and DAJA–PT not earlier than 1 August and not later than 1 November. Applications will not be accepted at DAJA–PT or branch after 1 November.

#### **14–5. Selection of law school**

*a.* The selectees must—

(1) Apply to and be accepted by an ABA-accredited law school in the United States. Selectees will normally attend an institution in their State of legal residency or attend an institution that will grant in-state tuition rates to out-of-State students. This is to ensure quality of education at the lowest possible cost (See AR 621–1, para 3–4(f), 15 OCT 85 UPDATE).

(2) Must pay all expenses incurred by applying to a law school. Any and all requests for reimbursement (except for tuition and fees) will be reimbursed up to a maximum of \$300.00. (See AR 621–1.)

*b.* TJAG will determine which law schools selectees will attend. TJAG may direct that selectees apply to additional schools.

#### **14–6. Assignments**

*a.* Upon receiving notice from DAJA–PT that an applicant has been selected for detail to JAGC under this regulation, the commander having jurisdiction over the applicant will issue assignment instructions as directed by TJAG.

*b.* While attending law school, officers will be assigned to the U.S. Army Student Detachment, Strom Thurmond Soldier Service Center, Fort Jackson, SC 29207. All assignment orders will state specifically the purpose of the assignment. A copy of each assignment order will be sent to DAJA–PT.

c. Officers will attend law school on a normal schedule without acceleration or deceleration, unless TJAG makes an exception in an individual case.

d. Each officer will perform on-the-job training (OJT) under the supervision of an SJA or legal officer as designated by TJAG when school is not in session. Training is mandatory during the summer vacation period. During other breaks in the school year of five days or longer, TJAG may direct officers to perform OJT. All officers will, at the end of each OJT period, notify DAJA-PT in writing of the exact duration of the training. They also will furnish a copy of paid travel vouchers and transportation requests to DAJA-PT.

#### **14-7. Evaluation reports**

a. After each academic session of each academic year, officers will send a law school transcript or copy of the grade report issued by the law school directly to DAJA-PT. Upon graduation, officers will send a consolidated transcript of all law school work, with a notation of degree conferred, to DAJA-PT. The transcript will show the officer's class standing, if available. The transcript and grade report are in addition to DA Form 2125 (Report to Training Agency), which is submitted to Commander, U.S. Total Army Personnel Command, ATTN: TAPC-OPB-D, 200 Stovall Street, Alexandria, VA 22332-0400.

b. Academic reports on DA Form 1059-1 (Civilian Institution Academic Evaluation Report) are not required.

c. On the job training for periods of more than 30 days requires officer evaluation reports. (See AR 623-105.)

#### **14-8. Maintenance of records**

a. The U.S. Army Student Detachment will maintain officers' personnel and finance records while officers are assigned to law school.

b. Officers will keep their medical and dental records while they are attending school and performing OJT.

#### **14-9. Bar admission**

a. In jurisdictions that require passing a bar examination as a condition to admission to practice, the following rules apply:

(1) FLEP officers must take the first bar examination offered after graduation in the jurisdiction of the law school attended or in the jurisdiction of the officer's domicile.

(2) If approved by TJAG, they may take the bar examination in another jurisdiction.

(3) They may take the bar examination during their final year of law school if the jurisdiction concerned permits it.

(4) An officer who fails to pass the first bar examination will take the next bar examination in the same jurisdiction; or the officer may, with TJAG approval, take the next available bar examination in any other jurisdiction.

b. In jurisdictions that do not require passing a bar examination as a condition for admission to practice, officers will apply for admission to practice as soon as they are eligible.

c. FLEP officers will provide evidence of admission to practice to DAJA-PT as soon as they are admitted. They will not be certified as counsel under UCMJ, Art. 27(b), until they have furnished evidence of admission to practice.

d. The Department of the Army will not pay any expenses incident to any review course for the bar examination, the bar examination, or admission to practice. An officer will not be reassigned to an OJT site in the State in which he or she hopes to gain admittance solely for the purpose of taking the bar review course.

#### **14-10. Assignment or appointment in or detail to the Judge Advocate General's Corps**

a. Officers participating in the FLEP will be detailed to the JAGC, but will be under the control of their basic branch for promotions, career status integration, and so forth, while attending law school. Officers who complete the FLEP and are admitted to practice will remain detailed to the JAGC for at least 1 year for evaluation of their qualifications for appointment in or assignment to the JAGC. They will be assigned to legal duties and considered members of the JAGC during this observation period. After at least 1 year, a board of officers will automatically consider records of these officers to determine whether they are fully qualified to continue serving as JAs. During this one-year time period, the officer will be considered part of the JAGC competitive category for promotion consideration. RA officers found fully qualified will be tendered appointments in the JAGC, RA. These officers remain detailed to the JAGC until they execute their JAGC, RA oath. Other than RA officers will be assigned to the JAGC in a voluntary indefinite (VI) status.

b. Officers who fail bar examinations twice in one or more jurisdictions may be released from their JAGC detail. Officers released from their JAGC detail will be returned to their basic branch for assignment and completion of their service obligation.

c. Officers detailed to the JAGC who fail to be selected for promotion from the primary zone of consideration may, at TJAG's discretion, be returned to their basic branch for assignment and completion of their service obligation.

d. Officers who complete law school under the FLEP and who are admitted to practice are required to accept appointment in or assignment to the JAGC if tendered.

e. Officers detailed to the JAGC under the FLEP who refuse to accept appointment in or assignment to the JAGC when tendered may, at the discretion of TJAG, be retained in a JAGC detail status to complete their active duty

obligation, or be returned to their basic branch to complete their active duty obligation. Officers returned to their basic branch will reimburse the Government for all costs of advanced education, or portion thereof, as determined by the SA.

*f.* Officers who fail to complete their active service commitment as a result of action not initiated by the Government will reimburse the Government for all costs of advanced education or portion thereof, as determined by the SA. Separation as a result of misconduct, moral or professional dereliction, or substandard performance of duty (including separation based on drug abuse, alcohol abuse, or failure to maintain Army weight standards) is not separation “initiated by the Government” for the purpose of this paragraph.

*g.* Officers may be removed from the FLEP using the procedures set forth in paragraph 14–11, and returned to the control of their basic branch, for substandard academic performance, misconduct, or derelictions indicative of failure to meet the personal and professional standards for appointment in the JAGC, including applicable height and weight and physical fitness standards. Officers so removed will reimburse the Government for all tuition and other education costs or portions thereof as determined by the SA.

#### **14–11. Removal procedures**

*a.* If TJAG finds evidence of substandard academic performance, misconduct, or dereliction as described in paragraph 14–10g, TJAG will advise the officer in writing that TJAG is considering removing the officer from FLEP and the reasons therefor and that the officer has the right to:

- (1) Request relief from the program.
- (2) Submit matters in the officer’s own behalf.

*b.* TJAG will determine the duty status of the officer during the investigation.

*c.* Ordinarily, conclusion of the investigation and a decision by TJAG regarding the officer’s status will not be delayed while waiting for the final disposition of any criminal proceedings arising out of the same general matter.

*d.* An officer may be relieved from FLEP for the reasons stated in paragraph 14–10g. If the misconduct resulted in criminal charges by military or civil authorities, and the charges are later dismissed or the officer is later acquitted in court, the officer may request that TJAG reconsider the case with a view toward reinstatement in the program. Dismissal of the charges or acquittal will not, however, necessarily entitle the officer to favorable reconsideration.

*e.* The removal procedures in *d* above do not apply to cases in which an officer—

- (1) Is relieved from detail to the JAGC and returned to the officer’s basic branch for failure to be found fully qualified for JAGC appointment or assignment after completing one year of duty with JAGC after admission to the bar.
- (2) Is removed for twice failing a bar examination or for nonselection for promotion.

#### **14–12. Service obligations**

*a.* Officers selected for FLEP must, before final acceptance into FLEP and detail to the JAGC, sign the Service Obligation statement. (See fig 14–1 for sample.)

*b.* Officers accepted for FLEP incur a 2-year active duty service obligation (ADSO) for each academic year or part thereof spent in law school under the program, except as provided in *h* below.

*c.* Officers will serve the ADSO incurred by participating in the FLEP by performing legal duties prescribed by TJAG. These duties will commence at the time the service obligation begins (*d* below); normally, they will continue without interruption by performance of other duties not prescribed by TJAG.

*d.* Service in satisfaction of the ADSO begins on the date the officer either begins performing legal duties as prescribed by TJAG following graduation from law school or reports to the JAIBC, whichever is earlier. No period of time during which the officer is regularly performing duties other than duties prescribed by TJAG will count toward satisfying the service obligation incurred under the FLEP.

*e.* The ADSO under this program runs consecutively and not concurrently with any other service obligation.

*f.* Time spent in law school does not satisfy the ADSO incurred under this or any other program; however, the period between graduation from law school and reporting to officer basic course or commencing performance of legal duties will count toward satisfaction of preexisting ADSOs.

*g.* Time spent on OJT does not satisfy the FLEP obligation, but may count toward satisfying other ADSOs.

*h.* If the officer’s participation in FLEP ends at the officer’s request before completion of legal studies, the officer will incur a 1-year service obligation in the officer’s basic branch for each year or part thereof spent in law school under FLEP, or in bar examination and preparatory study. This rule also applies if TJAG terminates the officer’s participation for the convenience of the Government before appointment in or assignment to the JAGC. Termination of participation in the FLEP, however, is at the discretion of TJAG. Officers have no right to termination from the FLEP.

#### **14–13. Outside employment**

Officers detailed to law school under FLEP will not engage in outside employment, except as approved by TJAG.

**14-14. Direct communication**

Officers who contemplate applying for FLEP or who are selected for participation in FLEP are authorized to correspond informally and directly with DAJA-PT.

**14-15. Publicity**

This chapter will receive the widest publicity among active duty Army officers.

**14-16. Insignia**

FLEP officers will not wear the JAGC insignia until they have been admitted to practice.

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Service Obligation Statement

In consideration of being assigned to law school to obtain an LL.B. or a J.D. degree, I hereby accept detail to the Judge Advocate General's Corps (JAGC), effective upon my assignment to law school. I understand that my detail to the JAGC will continue throughout law school and thereafter until my assignment to or appointment in the JAGC, unless The Judge Advocate General (TJAG) affirmatively terminates my detail earlier or my detail is terminated by operation of law or regulation. Further, I agree to—

- a. Complete the civilian educational course of legal training.
- b. Make prompt application for admission to practice before the highest court of a State or a Federal court of the United States.
- c. Serve on active duty for 2 years for each academic year or part thereof spent in law school under this program.
- d. Accept appointment in or assignment to the JAGC if tendered.
- e. Reimburse the Government for all costs of advanced education if I voluntarily (including separation as a conscientious objector) or as a result of misconduct, moral or professional dereliction, or substandard performance (including separation based on drug abuse, alcohol abuse, or failure to maintain Army weight standards) fail to complete the appropriate service obligation.
- f. Serve as an Army Judge Advocate performing legal duties prescribed by TJAG during the obligated period of service following law school, if so ordered.

Any other provision of this agreement notwithstanding, time spent in law school will not be considered to have been served in satisfaction of any active duty service obligation I may have. "Time spent in law school" is time during the "academic year" —from the first day of class in the fall until the final class and/or examination in the spring—but does not include periods actually spent in an on-the-job training (OJT) status. Additionally, periods spent in an OJT status will not be considered to have been served in satisfaction of the service obligation incurred as a result of participation in the FLEP; however, periods spent in an OJT status under this program, as well as the time between academic years and time spent between graduation and the date I begin discharging my FLEP obligation, will be considered to have been served in satisfaction of any other active duty service obligation I may have (other than the FLEP obligation).

I understand that I will not begin to satisfy the service obligation incurred as a result of participation in the FLEP until the date I begin performing legal duties as prescribed by TJAG or the date I report for attendance at the Judge Advocate Officer Basic Course (JAOBC), whichever is earlier. Further, I understand that I must be performing legal duties prescribed by TJAG (including attendance at JAOBC) in order to satisfy this service obligation and that, once service in satisfaction of this obligation has begun, it must normally continue, uninterrupted, until the obligation is fully satisfied.

Any period of time that is served in satisfaction of my FLEP obligation may not be applied in satisfaction of any other active duty service obligation. If I have another active duty service obligation when I begin satisfying my FLEP obligation, I understand that I cannot satisfy any part of such obligation until after I have satisfied my FLEP obligation.

I also understand that my detail to JAGC (and, if I am still in law school, my attendance at law school) may be terminated if: I am unable to maintain acceptable grades, or I abandon the study of law; I twice fail to pass the bar examination, or I am otherwise subject to the removal procedures stated in AR 27-1. In case of termination from the FLEP before admission to practice, I will begin serving in satisfaction of the obligation incurred as a result of participation in this program, effective on the date my participation is terminated.

I also understand that should my participation in the FLEP be terminated for any reason (including voluntary withdrawal or termination by TJAG for convenience of the Government) before completion of law school, I will incur a 1-year obligation in my basic branch, or another branch to which I may be detailed or assigned, for each academic year or part thereof during which I attended law school under FLEP.

Any regulation or policy concerning service obligations inconsistent with the terms of this agreement does not apply.

(Signature)

(Print Name, Grade, SSN)

(Date)

Figure 14-1. Sample service obligation statement for applicants for the Funded Legal Education Program

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## Chapter 15 Contract Law Attorneys

### 15–1. General

*a.* This chapter sets forth principles and guidance for management of, and practice by contract law attorneys. The recruitment, training, and career development of contract law attorneys are managed under the Acquisition Law Specialty (ALS) Program. However, a JALS attorney need not be a member of the ALS Program to practice contract law or to fill a contract law position if otherwise competent to provide legal advice on acquisition issues.

*b.* Soldier training, installation management, family housing maintenance, morale and welfare support, mobilization capability, and other Army missions require significant contractor support. Money to pay for the steadily increasing contract requirements is rarely sufficient. Accordingly, it is important that commanders and their contracting officers receive the best possible legal support in planning, executing, and administering these contracts, from definition of the requirement through contract closeout, including disputes and contract litigation.

### 15–2. General Duties

*a.* Commanders, SJAs, JAs, and Command Counsel are responsible for ensuring that their contract law attorneys receive adequate support to create the necessary professional environment and obtain the necessary professional tools. The specifics of this support are set forth in chapter 9.

*b.* SJAs, JAs, and Command Counsel will ensure, as appropriate, that their contract attorneys have access to experienced contract attorneys, and that they have early and continuous involvement in the contracting process.

*c.* SJAs, JAs, and Command Counsel will provide adequate litigation support for disputes to contracting personnel and trial attorneys.

### 15–3. Management

*a. Technical supervision.* The contract lawyer's technical chain of supervision and assistance flows from TJAG's Contract Law Division (DAJA–KL, WASH DC 20310–2200), through the MACOM SJA or JA and through the installation, agency, or organization SJA, JA, or Command Counsel to the contract lawyer(s). For nonappropriated fund instrumentality acquisition, the Community and Family Support Center Command Judge Advocate (DACF–W, ALEX VA 22311–0506) is between DAJA–KL and the MACOM SJA or JA.

*b. Command supervision.* Notwithstanding the technical chain that establishes and promulgates legal policy and otherwise provides assistance, contract lawyers work for the commander of the organization to which they are assigned.

*c. Staff and command judge advocates.* In most staff and command judge advocate offices, acquisition law is one of a number of legal subjects on which the office provides support and advice. The following guidelines should be followed to the extent practicable.

(1) A mix of civilian and military attorneys providing acquisition law support is desirable. In this regard, an adequate number of military contract law positions at installation level is necessary to maintain a training base for military attorneys in acquisition law, in order to provide qualified military attorneys for deployment or other military needs, and to fill senior lawyer positions throughout Army acquisition. Military contract law positions shall not be considered for conversion to civilian without prior coordination in writing with DAJA–PT.

(2) SJAs, JAs, and Command Counsel should seek continuity and stability in the lawyer(s) whose primary responsibilities are acquisition legal support. This is desirable not only to develop technical expertise, but also to maintain effective relations with contracting personnel. This does not preclude cross-training military attorneys whose primary responsibility is acquisition law in other fields of law. Similarly, rotating other military attorneys to assist acquisition law attorneys on a part-time basis helps cross-train them in acquisition law, and is encouraged.

(3) Contract law attorneys should not be collocated with Directors of Contracting, or their equivalents, and should not be rated by them. However, Directors of Contracting or their equivalents are urged to provide office space in their organizations for periodic use by their supporting contract law attorneys, and to meet with their supporting SJAs on a periodic basis to discuss contract law issues and support.

(4) SJAs, JAs, and Command Counsel should be personally involved in the acquisition process.

(5) The complexity of acquisition law requires additional education. Funds should be obtained for continuing legal education (CLE) for acquisition law attorneys.

### 15–4. Principles of contract law practice

Army policy mandates full legal counsel participation throughout the acquisition process (AFARS 1.697). However, to ensure effective legal advice and counsel, contract lawyers must implement the following principles:

*a. Availability.* Contract lawyers must be continuously available to the clients.

(1) Lawyers should be assigned to support the acquisition function as their primary duty; it is usually less effective when contract work shifts from lawyer to lawyer and the acquisition priorities must be mixed with other actions.

(2) Availability means more than having contract law as a primary duty and conducting reviews on a timely basis. It means availability whenever contracting officers or specialists phone or visit, to accompany them to a contract site, to attend meetings at the contract office, to assist the contract office with its own contract and standards of conduct training, and so forth.

(3) Although the contracting officers and specialists are the contract lawyers' primary clients, this same availability is necessary for the requiring activities and the other offices and directorates that comprise and support the contract team.

*b. Early involvement.*

(1) Contract lawyers must be involved early in the contract formation process. This involvement means such things as, reviewing specifications and architect-engineer plans prior to completion; assisting the requiring activity in describing its needs; assisting the resource manager with the fiscal plans; working with the facility engineer in determining the proper work classification and the type of funds required for proposed projects to ensure compliance with statutory limitations; and working with the contract specialist in drafting the evaluation section of the solicitation.

(2) Limited legal resources generally will not permit unfettered early involvement with every requirement on a routine basis. SJAs, JAs, or Command Counsel, in conjunction with their contract attorneys, must identify appropriate dollar levels, originating offices, types of requirements, and/or types of contracts, wherein early involvement is practiced on a routine basis. Notwithstanding these criteria, the contract lawyer must be available whenever early assistance is requested by the requiring activity or the contracting office.

(3) Early involvement must also occur throughout contract performance. The lawyer's involvement comes too late if he or she first sees a problem when reviewing a proposed termination for default or a proposed supplementary agreement to settle a claim.

(4) Early involvement does not mean merely setting criteria, cut-offs, and so on. It is a rapport among lawyer, contracting officer/specialist, and requiring activities/users that must be developed and nurtured. This rapport does not come from lawyers who sit in their offices and adjudge the actions of their clients. It comes from a confidence created in the clients that the contract lawyers are a proven asset on the contract team, who aggressively and creatively seek and develop legal courses of action to accomplish the mission.

*c. Communication.* This is an essential element of proactive, timely, innovative, and substantively correct and comprehensive acquisition legal services.

(1) Contract lawyers at all levels are authorized to contact other contract lawyers within and outside their technical chain, to include AMC and ACE attorneys, to discuss contract issues. SJAs, JAs, and Command Counsel should encourage their contract attorneys, especially when there are only one or two in their offices, to seek the professional collegiality of other Army or Government contract attorneys.

(2) This same type of routine interaction must occur at installations and within other commands, crossing functional lines at the working level. Contract attorneys, in conjunction with their SJAs, JAs, or Command Counsel, should encourage coordinating committees that meet regularly, attended by the contract lawyers and action personnel from the contracting office, resource management, and the various requiring activities. The primary purposes of such meetings are to identify and discuss high-priority acquisitions, solicitations that are having problems, contract performance problems and systemic problems, and to share lessons learned. The experienced contract lawyers should be helpful in identifying and discussing systematic problems and lessons learned.

*d. Business counsel.* In addition to being the command's contract legal advisors, contract lawyers are business counselors. They are members of the contracting officer's team and, as representatives of the SJA, JA, or Command Counsel, they are part of the management team. As such, they participate fully in the discussions about the propriety or wisdom (business, financial, need, or otherwise) of a proposed action. These lawyers are in a unique position to provide effective counsel, usually having a perspective that crosses the other functional areas. As "honest brokers," they can bring a useful objectivity to problem solving.

(1) Business counsel entails an element of experience that relatively new lawyers may not possess. Therefore, the SJA, JA, or Command Counsel must ensure appropriate training and guidance from experienced Army lawyers. Some of the training may be technical, particularly in highly complex areas such as information systems and medical acquisitions.

(2) Contract lawyers must be sensitive to the difference between legal advice and business counsel. An opinion that an action is not legally sufficient has a significantly different impact than suggesting that it is not a good idea. Accordingly, contract lawyers must differentiate legal opinion from business counsel for themselves and their clients.

## **15-5. Contract disputes and litigation support**

*a. Disputes support.* Attorneys supporting the disputes process, including contract litigation, are performing contract law functions. Included among disputes functions performed by local counsel are those of a legal nature that AFARS 33.212-90(a)(1) mandates heads of contracting activities perform. Of particular importance are functions related to the contracting officer's final decision and those in support of contract litigation. Attorneys must be thoroughly aware of

the factual and legal issues of a dispute before advising a contracting officer about a proposed final decision. Local counsel must also provide responsive support as requested by the Army official responsible for contract litigation. SJAs, JAs, and Command Counsel shall ensure that support is provided to command contracting personnel throughout the disputes process and to Army officials responsible for contract litigation.

*b. Armed Services Board of Contract Appeals (ASBCA) litigation support.*

(1) The Chief Trial Attorney (CTA) represents the Army for all ASBCA appeals. The CTA exercises that authority and responsibility through trial attorneys designated by the CTA.

(2) After an appeal has been filed with the ASBCA, local counsel, like the contracting officer, is a member of the Government's litigation team. Local counsel should be thoroughly knowledgeable of legal and factual issues of an appeal; a responsibility mandated by AFARS as the legal advisor to the head of the contracting activity and contracting officer. Local counsel can often perform certain litigation functions, for example, obtaining evidence and interviewing witnesses, much more economically than Contract Appeals Division (CAD) trial attorneys. Thus local counsel support is essential both for effective CAD legal representation and conservation of Army resources. SJAs, JAs, and Command Counsel shall ensure that local counsel is dedicated for each appeal and that other duties do not hinder local counsel's ability to provide litigation support throughout the appeal to the CTA, and the assigned trial attorney as requested.

(3) To ensure that the Government is adequately represented before the ASBCA, the CTA is responsible for determining the nature and quality of support necessary for the best representation of the Government's interests, including the litigation support that contracting activities will need to provide. SJAs, JAs, and Command Counsel shall ensure that assistance is rendered the CTA in obtaining additional evidence, or in making other necessary preparations for presenting the position of the Government before the ASBCA, including formation of command litigation support teams, acquisition of support tools (for example, computer programs and simulations) and administrative and clerical support.

#### **15-6. Acquisition Law Specialty Program**

*a. Mission.* The Army identified a need for military and civilian legal talent to work at and support all levels of the contracting process. To fulfill this need for lawyers in a constantly changing and increasingly complex area, it became necessary to establish a system to—

- (1) Identify, select, train, and develop contract lawyers;
- (2) Identify where the needs are for contract lawyers and the level of those needs; and
- (3) Match the lawyers with those needs.

*b. Operation.* The particulars of the ALS Program are set forth in the JAGC Personnel Policies (JAG Pub 1-1). A key to the operation, however, is for the SJAs, JAs, and Command Counsel to keep DAJA-PT advised of how many positions they have filled by military or civilian attorneys whose primary duty is to provide legal support to an acquisition function. These positions, and any changes in number or incumbent, must be routinely reported to DAJA-PT, even if the incumbent is not a member of the ALS Program.

## **Appendix A References**

### **Section I Required Publications**

#### **AFARS**

Army Federal Acquisition Regulation Supplement (Cited in paras 2-1*i*, 3-3*f*, 15-4, and 15-5*a* and *b*.)

#### **AR 1-210 (obsolete)**

Participation in Activities of Private Associations (Cited in para 2-1.)

#### **AR 10-6 (obsolete)**

Branches of the Army (Cited in para 3-1.)

#### **AR 10-72**

Field Operating Agencies of the Judge Advocate General (Cited in para 2-1.)

#### **AR 11-22 (obsolete)**

Mutual Support and Equipment Sharing Program (Cited in paras 10-11 and 11-7.)

#### **AR 15-1**

Boards, Commissions, and Committees-Committee Management (Cited in para 2-1*e*(5).)

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

Procedures for Investigating Officers and Boards of Officers (Cited in paras 7-4*d*(1) and 8-3*b*(1).)

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

The Department of the Army Freedom of Information Act Program (Cited in paras 2-1*d*(8), 2-1*e*(2)(*b*), and 7-9*a*.)

#### **AR 25-400-2**

The Army Records Information Management System (ARIMS) (Cited in para 12-8*h*.)

#### **AR 27-3**

The Army Legal Assistance Program (Cited in paras 2-1*l*, 4-3*c*, 5-2*a*9(*a*), and 9-3*a*(1) and (2).)

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

Military Justice (Cited in paras 2-1*c*(1), (4), (5) and (7), 2-1*d*(4), (10), and (11), 2-1*g*(7), 2-4*c*(1), 5-2*a*(13), and 9-3*b*(3)(*a*).)

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

Claims (Cited in paras 2-1*j*, 2-1*j*(2)(*j*), 3-3*a*, and 5-2*a*(9)(*b*).)

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

Rules of Professional Conduct for Lawyers (Cited in paras 4-3*c*, 7-1*a*, 7-2*a*(2), and 9-3*g*.)

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

Litigation (Cited in paras 2-1*h*(1) and (2), 2-1*r*, 4-3*c*, 5-2*a*(4)(*b*), 5-2*a*(8), and 5-2*a*(9)(*c*).)

#### **AR 27-50 (not cited in publication)**

Status of Forces Policies, Procedures, and Information. (Cited in para 2-1.)

#### **AR 27-52/AFR 110-13/SECNAVINST 5820.6**

Consular Protection of Foreign Nationals Subject to the Uniform Code of Military Justice (Cited in para 2-1*g*(9).)

#### **AR 27-60**

Intellectual Property (Cited in paras 2-1*h*, *j*, and *k*(1).)

#### **AR 40-50 (not cited in publication)**

Standards of Medical Fitness

**AR 135-91**  
Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Procedures (Cited in para 13-3*b*.)

**AR 135-100**  
Appointment of Commissioned Officers and Warrant Officers of the Army (Cited in para 10-7*a* and sec II terms.)

**AR 135-156**  
Reserve Component General Officer Personnel Management (Cited in para 10-8.)

**AR 135-215 (obsolete)**  
Officer Periods of Service on Active Duty (Cited in para 13-3.)

**AR 140-1**  
Army Reserve Mission, Organization, and Training (Cited in paras 10-3*b*, 10-11*c*, and 11-11*c*.)

**AR 140-10**  
Army Reserve: Assignments, Attachments, Details, and Transfers (Cited in paras 2-1*v*(1) and 11-3*e*(2).)

**AR 140-145**  
Individual Mobilization Augmentation (IMA) Program (Cited in para 10-4*b*(2)(a).)

**AR 190-29 (obsolete)**  
Misdemeanors and Uniform Violation Notices Referred to U.S. Magistrates or District Courts (Cited in para 5-2.)

**AR 340-21**  
The Army Privacy Program (Cited in paras 2-1*e*(2)(c) and 7-9*a*.)

**AR 380-67**  
Department of the Army Personnel Security Program (Cited in para 3-3*j*.)

**AR 600-9**  
The Army Weight Control Program (Cited in para 13-2*e*.)

**AR 600-20**  
Army Command Policy (Cited in para 4-4.)

**AR 600-37**  
Unfavorable Information (Cited in paras 7-9*c* and 8-4*b*.)

**AR 601-100**  
Appointment of Commissioned and Warrant Officers in the Regular Army (Cited in para 14-2*c*.)

**AR 621-1**  
Training of Military Personnel at Civilian Institutions (Cited in paras 14-5*a*(1) and (2).)

**AR 623-105 (obsolete)**  
Officer Evaluation Reporting System (Cited in para 14-7.)

**AR 690-200**  
General Personnel Provision (Cited in paras 2-1*x* and 4-3*a*.)

**AR 690-300**  
Employment (Civilian Personnel) (Cited in paras 3-3*e* and *f*, 3-3*o*(1), and 4-1*c*.)

**AR 710-2**  
Supply Policy Below the National Level (Cited in paras 12-8*d*, 12-10*a*, and 12-10*d*.)

**AR 735-5**  
Policies and Procedures for Property Accountability (Cited in paras 12-2*d*(2), 12-8*a* and *g*, and 12-10*a* and *b*.)

**AR 735–17**

Accounting for Library Materials (Cited in para 12–8*b*.)

**DA Pam 27–26 (obsolete)**

Army Rules of Professional Conduct for Lawyers (Cited in para 7–4.)

**DA Pam 570–554 (obsolete)**

Staffing Guide for U.S. Army Readiness Regions (Cited in para 11–14.)

**AFARS**

Army Federal Acquisition Regulation Supplement. (Cited in para 2–1.)

**FAR**

Federal Acquisition Regulation (Cited in para 2–1.)

**MCM**

Manual for Courts-Martial (Cited in paras 2–1*d*(13), 2–1*z*(7), 5–2*c*, 7–1*a*, 7–4, and 7–6.)

**Section II**

**Related Publications**

**AR 11–3 (obsolete)**

Department of the Army Functional Review

**AR 12–15**

Joint Security Cooperation Education and Training (JSAT)

**AR 27–53**

Review of Legality of Weapons Under International Law

**AR 27–55**

Notarial Services

**AR 135–175**

Separation of Officers

**AR 135–200**

Active Duty for Missions, Projects, and Training for Reserve Component Soldiers

**AR 215–1**

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

**AR 350–9**

Oversea Deployment Training (ODT)

**AR 381–10**

U.S. Army Intelligence Activities

**AR 550–51**

Authority and Responsibility for Negotiating, Concluding, Forwarding, and Depositing of International Agreements

**AR 614–10**

U.S. Army Personnel Exchange Program with Armies of Other Nations

**AR 623–1 (obsolete)**

Academic Evaluation Reporting System

**FM 27–100 (obsolete)**

Legal Operations

## **JAGC Personnel Policies**

Booklet

### **TOE Series 27–600**

#### **Section III Prescribed Forms**

##### **DA Form 3175**

Preliminary Application for Active Duty Service with The Judge Advocate General's Corps (Prescribed in para 13–4.)

##### **DA Form 4460–R**

Army Law Library Shelf List (Prescribed in paras 12–8, 12–12, and 12–13.)

##### **DA Form 4971–R (obsolete)**

Certificate of Preliminary Review of SF 278 (Prescribed in para 5–2.)

##### **DA Form 5000–R**

Applicant Interview Report-Judge Advocate General's Corps (Prescribed in para 13–4.)

#### **Section IV Referenced Forms**

##### **DA Form 444**

Inventory Adjustment Report (IAR)

##### **DA Form 873 (obsolete)**

Certificate of Clearance and/or Security Determination

##### **DA Form 1059–1**

Civilian Institution Academic Evaluation Report

##### **DA Form 2125**

Report to Training Agency

##### **DA Form 2446**

Request for Orders

##### **DA Form 2465**

Client Legal Assistance Record

##### **DA Form 2765–1**

Request for Issue or Turn-In

##### **DA Form 3161**

Request for Issue or Turn-In

##### **DA Form 3973**

Voucher Register of Library Materials

##### **DD Form 250**

Material Inspection and Receiving Report

##### **SF 50**

Notification of Personnel Action

##### **SF 52–B**

Request for Personnel Action

**SF 278**

Executive Branch Personnel-Public Financial Disclosure Report

**SF 171 (obsolete)**

Application for Federal Employment

**SF 450 (obsolete)**

Executive Branch Personnel-Public Financial Disclosure Report

**Appendix B****Installation Support of Reserve Component Judge Advocate Training: A Model Training Plan****B-1. Introduction**

*a. Objectives.* The objectives of this model training plan are to establish consistency in RC training periods of AT and to provide guidance to AA and RC JAs for accomplishing their mutual training goals.

*b. Scope.* This program covers the training and use of the following RC JA personnel assigned to AA units during AT.

(1) *Reserve TPUs.*

(a) JAGSO functional detachments: Military Law Center, International and Operational Law/Claims Detachment, Trial Detachment, Defense Detachment, Administrative/Contract Law Detachment, Legal Services Detachment, and Military Judge Detachment.

(b) Organic JA sections of non-JAGSO TPUs, such as the SJA section of a training division.

(2) *IMAs.*

**B-2. Pretour responsibilities**

Upon notification that TPU/IMA will train at installation, the SJA will appoint action officer/sponsor.

*a.* The action officer/sponsor is responsible for—

(1) Sending SJA welcoming letter to TPU/IMA. (See fig B-1.)

(2) Coordinating with RC unit training officer to determine unit training objectives, including whether AT must include Army Physical Readiness Test (APRT), the number of personnel accompanying unit, and materials the unit should review before report date.

(3) Briefing SJA on TPU/IMA and seeking guidance for how to use TPU/IMA.

(4) Drafting utilization plan (see *c* below).

(5) Informing the installation Director of Reserve Components (DRC) as soon as possible and other staff members as required that TPU/IMA will train at installation.

(6) Ensuring that the DRC arranges for billeting, messing, and local transportation.

(7) Preparing an inprocessing/welcome briefing.

*b.* Planners will consider—

(1) Mission of the host installation/legal section.

(2) TPU mission and training objectives outlined by RC SJA or unit training officer.

(3) Individual Mobilization Augmentees (IMA).

(a) Training for the specific position to which IMA assigned.

(b) IMAs need to understand office functions/operations.

(c) IMA training requirements (an IMA's AT is the only formal training received during the year).

(d) Legal background and military experience of IMA.

(e) Use of IMAs in other capacities after AT, such as ongoing projects throughout the year for retirement points only.

(f) Written requests for orders must go to ARPERCEN 60 days before AT period and in no case later than 31 March of the fiscal year within which tour will take place. (Tour coordination and request for order must be done not later than 31 March to facilitate ARPERCEN budget control and planning.)

(4) Office priorities.

(a) Tasks that Reserves can supplement or perform alone.

(b) Degree of coordination/supervision required. Are resources and personnel adequate?

(c) Other demands on AA during AT: skill qualification test, courts-martial, and visits by inspector general and VIPs.

(5) Plans for both officers and enlisted members.

(6) Individual training requirements:

- (a) Specialty training/military occupational specialty qualification.
- (b) APRT requirements. (Reserves must be tested during AT.)
- (c) Other requirements: common task training and weapons qualification.
- c. The utilization plan must be constructive and creative-utilization virtually unlimited. The best plan matches RC capabilities with training objectives. The utilization plan should include—
  - (1) Training dates.
  - (2) Training locations: sections within office that will be involved and other locations as needed.
  - (3) Training assignments. Specific assignments should go to all TPU and IMA members before their reporting dates. Assignments may include one or more subjects appropriate to the officers' positions and levels of development. Training may consist of activities such as assistance to AA officers performing duties in the areas of contract law (for example, review procurement actions and commercial activities program), administrative law (for example, review elimination actions and reports of survey), legal assistance, and criminal law (for example, summary court officer, advise service members on Article 15(s), write pretrial advices/post-trial reviews). Other utilization appropriate for assignment includes review of regulations and standard operating procedures (SOPs), replacement of AA JAs who are on leave or temporary duty, and formal instruction in various legal and military subjects.
  - (4) Training goals for TPU/IMA personnel.
  - (5) Training evaluation. Develop means to evaluate success of the training. When required, create and monitor officer efficiency report/enlisted efficiency report (OER/EER) rating scheme, including required support forms and height/weight and APRT data. (Normally, TPUs will have OER/EER rating schemes already in place.)

### **B-3. Tour (Annual Training) responsibilities**

- a. *Reception/orientation.*
  - (1) SJA welcoming remarks.
  - (2) Command briefing (optional) previously arranged by the Secretary, General Staff (SGS) or appropriate operations officer.
  - (3) Office briefing by deputy and/or branch chiefs outlining the organization and mission of SJA office.
- b. *Utilization.* Utilization is by section(s). The accountable officer within each section—
  - (1) Briefs and assigns projects according to utilization plan.
  - (2) Sponsors unit members within section and provides resources and assistance.
- c. Exit briefing with active component SJA.

### **B-4. Post-tour responsibilities**

- a. Forward after-action report to CONUSA and FORSCOM SJAs and TJAGSA.
- b. Complete required OERs/EERs.
- c. Maintain files on TPU/IMA.
- d. Use information to plan future tours.

---

(Letterhead)

S: (SUSPENSE DATE)

(OFFICE SYMBOL) (MARKS NUMBER)

(DATE)

MEMORANDUM FOR: (IMA's name and address)

SUBJECT: IMA Annual Training

1. It is my pleasure to welcome you to your 2 week annual training tour with the (name of installation) SJA office from (date) to (date). We appreciate the opportunity to work with you and your unit in this annual training endeavor.

2. To introduce you to our installation, I am enclosing some information concerning billeting, messing, health care facilities, and a map of (name of installation)

3. To assist this office in developing an effective training program for your unit, please send us the following information not later than (date).

- a. Names, grades and titles of all personnel in your unit.
- b. Short biographies of all personnel outlining military and civilian job experience and education.
- c. Unit mission and training goals.
- d. Your preferences regarding unit utilization.

4. (Rank and name) will act as your sponsor during your tour here and will provide you with further details as to reporting place and time and other information pertaining to your assignment. You may contact (him/her) at (area code and telephone) if you have any questions. If I can be of further assistance to you, please let me know. I look forward to seeing you on (date).

(Authority line)

(SJA's signature)

COL, JAGC

Staff Judge Advocate

Figure B-1. Format for Staff Judge Advocate Welcoming Memo to IMAs

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## **Appendix C Management Control Evaluation Checklist**

### **C-1. Function.**

The function covered by this checklist is administration of the Army Law Library System (ALLS).

### **C-2. Purpose.**

The purpose of this checklist is to assist the Army Law Library administrator and Army Law Library managers in evaluating their key management controls. It is not intended to cover all controls.

### **C-3. Instructions.**

Answers must be based on the actual testing of key management controls (for example, document analysis, direct observation, sampling, and simulation). Answers that indicated deficiencies must be explained and corrective action indicated in supporting documentation. These management controls must be evaluated at least once every five years. Certification that this evaluation has been conducted must be accomplished on DA Form 11-2-R, Management Control Evaluation Certification Statement.

### **C-4. Test Questions.**

- a.* Has the senior military attorney or head of the legal activity appointed an Army Law Library manager and accountable officer to ensure the law library meets the requirements of AR 27-1 and other applicable regulations?
- b.* Has the accountable officer conducted an inventory at least once each year, upon change of accountable officer, or as directed by the local staff judge advocate, Army Law Library manager, or the ALLS administrator?
- c.* Does the ALLS administrator have a copy of the annual inventory conducted by each Army Law Library?

### **C-5. Supersession.**

This checklist replaces the checklist for AR 27-1, Judge Advocate Legal Services, previously published in DA Circular 11-91-1.

### **C-6. Comments.**

Help make this a better tool for evaluating management controls. Submit comments to the Office of The Judge Advocate General, ATTN: DAJA-PT, 2200 Army Pentagon, Washington, DC 20310-2200

## **Glossary**

### **Section I Abbreviations**

**AA**

active Army

**ABA**

American Bar Association

**ACCA**

Army Court of Criminal Appeals

**ADSO**

active duty service obligation

**AFARS**

Army Federal Acquisition Regulation Supplement

**AJAG**

Assistant Judge Advocate General

**AJAC/CLL**

Assistant Judge Advocate General for Civil Law and Litigation

**AJAG/MLO**

Assistant Judge Advocate General for Military Law and Operations

**ALAP**

Army Legal Assistance Program

**ALLM**

Army law library manager

**ALLS**

Army Law Library Service

**ALLSC**

Army Law Library Service Committee

**ALS**

Acquisition Law Specialty

**AMC**

U.S. Army Materiel Command

**APFT**

Army Physical Fitness Test

**ARCOM**

Army Reserve Command

**ARNG**

Army National Guard

**ARNGUS**

Army National Guard of the United States

**ARPERCEN**

Army Reserve Personnel Center

**ASA(RDA)**

Assistant Secretary of the Army, Research, Development, and Acquisition

**ASBCA**

Armed Services Board of Contract Appeals

**AT**

annual training

**CAD**

Contract Appeals Division

**CLE**

continuing legal education

**CONUSA**

Continental United States Armies

**CSA**

Chief of Staff, Army

**CTA**

Chief Trial Attorney

**CVI**

conditional voluntary indefinite

**DA**

Department of the Army

**DDL**

Developments, Doctrine, and Literature Department

**DOD**

Department of Defense

**DOJ**

Department of Justice

**DRC**

Director of Reserve Components

**FAR**

Federal Acquisition Regulation

**FLEP**

Funded Legal Education Program

**FOA**

field operating agency

**FORSCOM**

Forces Command

**FSO**

field screening officer

**GAD**

Government Appellate Division

**GAO**

General Accounting Office

**GCM**

general court-martial

**GSBCA**

General Services Board of Contract Appeals

**HQDA**

Headquarters, Department of the Army

**HQSVS-W**

Headquarters Services-Washington

**IDT**

inactive duty training

**IMA**

individual mobilization augmentee

**IRR**

Individual Ready Reserve

**JA**

judge advocate

**JAGC**

Judge Advocate General's Corps

**JAGSO**

Judge Advocate General Service Organization

**JALS**

Judge Advocate Legal Service

**JAOBC**

Judge Advocate Officer Basic Course

**JATT**

Judge Advocate Triennial Training

**LAAWS**

Legal Automation Army-wide System

**LSAT**

Law School Admission Test

**MACOM**

major Army command

**MCM**

Manual for Courts-Martial

**MJ**

military judge

**LSO**

legal support organization

**MSPB**

Merit Systems Protection Board

**NAC/DNACI**

National Agency Check/DOD National Agency Check Plus Written Inquiries

**NAF**

nonappropriated funds

**NATO**

North Atlantic Treaty Organization

**NEPA**

National Environmental Policy Act

**ODT**

overseas duty training

**OER/EER**

Officer efficiency report/enlisted efficiency report

**OJT**

on-the-job training

**OSC**

Office of Special Counsel

**OSD**

Office of the Secretary of Defense

**OTJAG**

Office of The Judge Advocate General

**PERSCOM**

U.S. Total Army Personnel Command

**PRC**

Professional Responsibility Committee

**PSI**

Preliminary screening inquiry

**RA**

Regular Army

**RC**

Reserve Component

**RCJA**

Reserve Component Judge Advocate

**RCJAOBC**

Reserve Component Judge Advocate Officer Basic Course

**RCM**

Rules for Courts-Martial

**ROTC**

Reserve Officers' Training Corps

**SA**

Secretary of the Army

**SGS**

Secretary, General Staff

**SJA**

staff judge advocate

**SOCO**

Standards of Conduct Office

**SOF**

Special Operations Forces

**SOP**

standing operating procedure

**TAJAG**

The Assistant Judge Advocate General

**TJAG**

The Judge Advocate General

**TJAGSA**

The Judge Advocate General's School, U.S.Army

**TAPA**

Total Army Personnel Agency

**TOE/MTOE**

Table of Organization and Equipment/Modified Table of Organization and Equipment

**TPU**

troop program unit

**UCMJ**

Uniform Code of Military Justice

**USACE**

U.S. Army Corps of Engineers

**USALSA**

U.S. Army Legal Services Agency

**USAR**

U.S. Army Reserve

**USARC**

U.S. Army Reserve Command

**USARCS**

U.S. Army Claims Service

**USATDS**

U.S. Army Trial Defense Service

**USCAAF**

U.S. Court of Appeals for the Armed Forces

## **VI**

voluntary indefinite

### **Section II Terms**

#### **Accountable materials**

Legal materials that are accountable, including the following:

- a. Bound volumes that are intended for permanent addition to the Army law library.
- b. Permanent compilations of looseleaf legal materials in compression binders.
- c. Microfilm, microfiche, ultrafiche, and similar items photographically reproduced. Each set of microfiche or ultrafiche counts as one accountable unit.
- d. Each videotape, audio tape, audiovisual tape, and similar items audiographically reproduced.
- e. Items not specifically identified below as nonaccountable if they are directly involved in the legal research process.

#### **Accountable officer**

The officer, warrant officer, or DOD civilian employee (GS-9 or equivalent grade or higher) responsible for the supervision and accountability of materials at a specific Army law library.

#### **Army law library**

A collection of law library materials maintained by an accountable officer at a command, installation, or activity. Law library materials are for legal reference and research in support of the mission at a command, an installation, or an activity.

#### **Army law library manager**

The military or DA civilian attorney, or DOD civilian employee (GS-9 or equivalent grade or higher) appointed by the senior military attorney (such as the SJA) or head of the legal activity. The ALLM supervises the accountable officer's management and accountability at Army law libraries. One person can perform both ALLM and accountable officer duties.

#### **Army Law Library Service**

A branch of the Developments, Doctrine, and Literature Department (DDL) of TJAGSA that advises the Commandant, TJAGSA, on all Army law library matters, including acquisition, policy, holdings, modernization, new selections, standardization, transfer, and disposition, and implements the Commandant's directives concerning the ALLS.

#### **Army Law Library Service Administrator**

The central manager of the Army Law Library Service at TJAGSA. Army Law Library Service Committee A committee consisting of the Director, DDL; the senior legal editor; the ALLS administrator; the TJAGSA librarian; and a faculty member of each teaching division of the Academic Department, TJAGSA.

#### **Branch qualification**

The satisfaction of those educational requirements for assignment to a judge advocate position of a specified grade or for certification for the designated specialty of military judge. Branch qualification is not necessarily the same as promotional qualification (AR 135-155), appointment qualification (AR 135-100), or qualification for Federal recognition (see NGR 600-100).

#### **Constructive credit**

Credit given for part or all of a TJAGSA course to military personnel who are qualified through civilian experience or demonstrated ability. Constructive credit applies only to officers who have unique in-depth, specialized professional qualifications or experience.

#### **Equivalent credit**

Credit given for part or all of a TJAGSA course or subcourse for satisfactory completion of essentially the same program at another military or civilian institution.

#### **Individual training**

Beginning or refresher instruction given to qualify a person to perform a required military skill.

#### **Inventory**

A physical count of property on hand. Judge Advocate General Service Organizational functional teams JAGSO teams

of varying sizes with special functions and capabilities organized under TOE 27512LB-H00. JAGSO teams normally are assigned or attached to legal support organizations for operational control and supervision. International/operational law, court-martial trial, legal assistance/claims, and administrative/contract law teams normally will be attached or assigned to any LSO team or SJA section for augmentation purposes, or perform as a separate unit assigned to any headquarters, as required. Court-martial defense teams come under the supervision and control of the U.S. Army Trial Defense Service, USALSA, upon mobilization. These teams normally will be attached to units commanded by a general court-martial convening authority and provide defense legal services on an area basis. Senior military judge and military judge teams come under the supervision and control of the U.S. Army Trial Judiciary, USALSA, upon mobilization. These teams normally will be attached to units commanded by a general court-martial convening authority and provide judicial legal services on an area basis.

### **Judge Advocate General Service Organization**

The Judge Advocate General Service Organization provides professional and responsive total legal service support to combat support and combat service support nondivisional commanders and soldiers in units which lack organic legal assets. The organization is organized into eight separate teams, each with specific missions: the legal support organization team and JAGSO functional teams.

### **The Judge Advocate General's School of Continuing Legal Education (On-site) Training**

A legal training program provided by TJAGSA instructors to military attorneys of all services and components at designated locations and hosted by local Army Reserve or National Guard judge advocates.

### **Judge Advocate Position**

An officer's position for which the prescribed Special Skill Identifier is in the 55 series.

### **Judge Advocate section**

The office of a command or staff judge advocate (SJA) or other legal section organic to a USAR or an ARNG unit other than a JAGSO.

### **Legal support organization (LSO)**

A JAGSO team organized under TOE 27512LA00 that provides legal service support to nondivisional troops not otherwise provided organic legal support. The LSO team provides legal services in all functional areas of military law as described in FM 27-100, Legal Operations (28 Sep 91): administrative law, claims, contract law, criminal law, legal assistance, international law, and operational law. LSO teams normally are assigned to corps and units at echelons above corps. LSO teams provide legal services to the unit to which they are assigned and to nondivisional troops on an area basis. The LSO team also provides operational control and technical supervision for attached JAGSO teams, when required.

### **Minimum function inventory**

An informational guide, compiled by Army law office functional areas (for example, criminal law), prepared by the ALLS, that lists legal materials normally required by Army law libraries.

### **Nonaccountable materials**

Categories of legal materials that are exempt from accountability, including—

- a. Slip opinions, advance sheets, and pocket parts.
- b. Superseded looseleaf pages.
- c. Materials printed by the U.S. Government Printing Office or received through Army publications channels.
- d. Magazines and newspapers.
- e. Legal materials that are later replaced by bound volumes or that are nonpermanent, such as U.S. Law Week or Family Law Reporter.

### **Operational Law**

The application of domestic, international, and foreign law to the planning for, training for, and deployment of US military forces in peacetime and wartime environments.

### **Practice of Law**

For the purpose of paragraph 4-3 of this regulation, "law practice" and "practice of law" are terms that specifically include, but are not limited to, the providing of any advice, opinion, document, or instrument that construes or interprets law or legal authority, or is legal in nature (such as a contract, will, lease, power of attorney, and so forth, or any advice or opinion that purports to render a legal evaluation of such), or that is construed, or intended to be construed, by either the drafter or the recipient, as a legal opinion, document, or instrument.

**Reserve Components**

The Army National Guard of the United States and the United States Army Reserve.

**Section III****Special Abbreviations and Terms**

This section contains no entries.

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