



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
1322 PATTERSON AVENUE SE SUITE 3000
WASHINGTON NAVY YARD DC 20374-5066

IN REPLY REFER TO:

JAGINST 5801.2A CH-1
Code 16
MAY 23 2012

JAG INSTRUCTION 5801.2A CHANGE TRANSMITTAL 1

From: Judge Advocate General

Subj: NAVY-MARINE CORPS LEGAL ASSISTANCE PROGRAM

Ref: (a) 10 U.S.C. § 1044
(b) JAGINST 5800.7 (series)

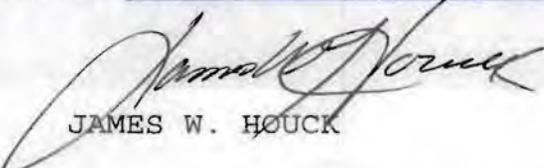
Encl: (1) Summary of Changes
(2) Revised Appendices

1. Purpose. To transmit Change 1 to the Legal Assistance Manual in JAGINST 5801.2A, Navy-Marine Corps Legal Assistance Program.

2. Information. Enclosure (1) contains a summary of the pertinent changes to the Appendices of the Legal Assistance Manual.

3. Action. Insert new pages contained within enclosure (2) and remove superseded pages. Appendix A provides updated legal assistance tiers of service that should be used to guide legal assistance provider training and larger mission focus. Appendix B contains standardized forms and practices mandated for use by all Navy legal assistance providers.

4. Availability. The Navy-Marine Corps Legal Assistance Manual may be accessed and downloaded from Navy Knowledge Online (<https://wwa.nko.navy.mil/portal/home/>) at the Judge Advocate General's Corps community portal and on the official Judge Advocate General's Corps website at <http://www.jag.navy.mil>.


JAMES W. HOUCK

Distribution:

Electronic only via the Office of the Judge Advocate General website, <http://www.jag.navy.mil>.

MAY 23 2012

SUMMARY OF CHANGES

1. Appendix A. Redefines tiers of services to clarify prioritization of legal assistance support for clients and provides guidance on training focus for legal assistance providers.

2. Appendix B. Formalizes standardized forms, briefs and software that legal assistance providers shall use in the provision of legal assistance services to customers and clients. This appendix encompasses previous Appendix B - Quarterly Report of Legal Assistance, Appendix C - Legal Assistance Client Intake Questionnaire, and Appendix D - Legal Assistance Intake Form LN/Paralegal Services. The appendix notes standardized forms and briefs may be further updated by "successor" versions; allowing future updates without revision of the underlying instruction. Standardized forms may be downloaded from Navy Knowledge Online.

TIERS OF SERVICES

1. Tier I Services. Tier I services are standard legal readiness services/first priority services. Advice or services regarding the following matters are normally available to eligible persons but may be limited due to availability of a qualified attorney or other resources:

a. Basic foreclosure advice and counseling.

b. Consumer finance issues, including:

(1) Consumer fraud/identity theft issues advice, counseling, and action to resolve.

(2) Consumer protection statutes (Federal and State) advice, counseling, and action to resolve.

(3) Consumer services/motor vehicle contract and financing review, advice and counseling (excluding real estate purchase and sale contracts), and action to resolve.

(4) Credit/Debt collection advice, counseling, and action to resolve.

(5) Credit report counseling, advice, and action to resolve.

(6) General indebtedness, government indebtedness, involuntary allotment, and garnishment issues advice, counseling, and action to resolve.

(7) Payday loan/Predatory Lending advice, counseling, and action to resolve.

c. Crime victim information and advice (regardless of whether victim elected unrestricted or restricted (confidential) reporting of a sexual assault), to include:

(1) Victim/Witness Program, including the rights and benefits afforded the victim (including those under 10 U.S.C. § 1565b), the role of the Victim Advocate and what privileges do or do not exist between the victim and the Victim Advocate, and the nature of the communication made to the Victim Advocate as opposed to those made to the legal assistance attorney;

(2) The differences between restricted and non-restricted

types of reporting in sexual assault cases;

(3) General information concerning the military justice system including the roles and responsibilities of trial counsel, defense counsel, and the investigators; this may include the ability of the government to compel testimony;

(4) Services available from appropriate agencies or offices for emotional and mental health counseling and other medical services;

(5) The availability of and protections offered by civilian and military restraining orders;

(6) Eligibility for and benefits potentially available as part of the transitional compensation benefits established in 10 U.S.C. § 1059 and in other state and federal victims' compensation programs;

(7) Traditional forms of legal assistance involving matters such as leases, taxes, consumer affairs, estate planning and powers of attorney; and

(8) Other additional rights or benefits provided under DoD Directive 1030.1 Victims and Witness Assistance, DoD Instruction 1030.2 Victim and Witness Assistance Procedures, SECNAVINST 5800.11 (series) Victim and Witness Assistance Program, OPNAVINST 5800.7 (series) Victim and Witness Assistance Program, SECNAVINST 1752.4 (series) Sexual Assault Prevention and Response, SECNAVINST 1752.3 (series) Family Advocacy Program, JAGINST 5801.2 (series), COMNAVLEGSVCCOMINST 5800.1 (series) Naval Legal Service Command Manual, and service-specific or subsequent regulations.

d. Demobilization briefings, to include information on USERRA.

e. Dependent nonsupport/support counseling, advice, and document drafting (regarding service support obligations).

f. Deployment briefings and assistance.

g. Disaster relief support/advice.

h. Family Care Plan and court custody orders advice and counseling.

- i. Family Law Advice, including:
 - (1) Basic child custody, child support and child visitation counseling and advice.
 - (2) Basic divorce, dissolution, annulment counseling, and advice.
 - (3) Basic separation agreement and spousal support agreement counseling and advice.
- j. Military rights under the Servicemembers Civil Relief Act.
- k. Naturalization and immigration advice and counseling.
- l. Notary services.
- m. Paternity advice and counseling.
- n. Power of Attorney (General Power of Attorney and Special Power of Attorney) advice and drafting.
- o. Preventative law briefings.
- p. Simple estate planning to include advice, counseling, drafting and document execution of:
 - (1) Basic Wills.
 - (2) Advance Health Care Directives.
 - (3) Death Gratuity, unpaid pay and allowances, and DD93 advice and drafting.
 - (4) Durable Financial/Property Management Powers of Attorney.
 - (5) Health Care Powers of Attorney.
 - (6) Pre-residuary and residuary trusts for minors, including UGMA/UTMA accounts and nomination of guardians/conservators.
 - (7) SGLI advice and SGLI beneficiary designation drafting.

(8) "Page 2" dependent designations.

q. Tenant advice and counseling, to include security deposits, early termination and SCRA protections.

2. Tier II Services. Tier II services are second priority services. Advice or services regarding the following matters are normally available to eligible persons but may be limited due to availability of a qualified attorney or other resources:

a. Adoption advice and counseling limited to:

(1) Step-parent adoption advice and counseling.

(2) Navy/DoD adoption reimbursement and adoption tax credit and deduction advice and counseling.

b. Guardianship (Conservatorship) of the person advice and counseling.

c. Guardianship of the estate advice and counseling, limited to the estates of dependent minor children of servicemembers who died while on Active Duty.

d. Immigration paper-work filing, review, and advice for dependents.

e. Small claims court pro se pleadings advice, counseling, and drafting.

f. Service as a guardian to a mentally incompetent servicemember during Department of Defense proceedings conducted under 37 U.S.C. §§ 601-604, and under Bureau of Medicine and Defense Finance and Accounting Service regulations. This service shall only extend until the appointment of a permanent guardian by a qualified court.

3. Tier III Services. Tier III services are third priority services not normally provided by active duty military legal assistance providers. In rare circumstances where Tier I and Tier II support is fully established, addressed and sustainable, support in the following matters shall only be extended to eligible clients by fully qualified providers with the express permission of the unit Commanding Officer.

a. Bankruptcy advice and counseling.

b. Drafting of Family Law/Domestic Relations Documents, including:

(1) Drafting of child custody, child support, and child visitation documents.

(2) Drafting of divorce, dissolution, and annulment documents.

(3) Drafting of separation and spousal support agreements.

c. Federal and state tax advice and counseling.

4. Tier IV Services. Tier IV services are lowest-priority services not normally provided by active duty military legal assistance providers. In rare circumstances where Tier I and Tier II support is fully established, addressed and sustainable, support in the following matters may be balanced against Tier III services and extended to eligible clients by fully qualified providers with the express permission of the unit Commanding Officer. These qualified providers might include Reserve Judge Advocates and civilian subject matter experts, or in rarest of circumstances, fully qualified military legal assistance providers.

a. Expanded Legal Assistance Program (ELAP) cases:

(1) Adoption.

(2) Bankruptcy.

(3) Consumer law issues.

(4) Probate filing and hearings.

(5) Uncontested divorce or dissolution.

(6) Uncontested separation.

b. Complex estate planning to include advice, counseling, drafting and document execution of the following:

(1) Credit shelter trusts and disclaimer credit shelter trusts.

(2) Marital deduction trusts.

(3) Qualified Domestic Trusts (QDT) when a foreign national spouse is the client's beneficiary.

(4) Qualified Terminable Interest Property (QTIP) trusts.

(5) Special Needs Trusts or Supplemental Needs trusts, under the supervision of a civilian subject matter expert.

(6) Survivor Benefit Plan.

c. Real estate purchase agreement contract review and explanation of terms. No drafting of real estate purchase or sale contracts is authorized.

5. Other services. Legal assistance offices may provide additional services not specifically prohibited by regulation if the legal assistance providers are competent to provide such services and they are approved by the Commanding Officer and Commander, Naval Legal Service Command.

MAY 23 2012

STANDARDIZED FORMS, BRIEFS, AND SOFTWARE (NAVY)

The following forms, briefs, and software are mandatory and shall be used in lieu of any other forms currently in use anywhere in the field.

FORMS

- Acknowledgment of Limited Services (Crime Victims) Issued 9 September 2011 or its successor
- Joint Representation Letter Re-Issued 13 October 2011 or its successor
- Revised Standard Will Work Sheet Issued 23 July 2010 or its successor
- Standardized Client Intake Sheet Issued 8 October 2011 or its successor
- Standardized Power of Attorney/Customer Intake Sheet to be Issued May 2012 or its successor
- Standardized Will Execution Script Issued 4 October 2011 or its successor
- Quarterly Report of Legal Assistance to be Issued May 2012 or its successor

BRIEFS

- Standardized PDB PPT/PDF Issued 19 January 2011 or its successor

SOFTWARE

- CMTIS for conflict checking and recording time for client, customer and administrative work performed while assigned to or working in the area of legal assistance
- DL Wills for all estate planning documents authorized under this program
- HotDocs for Powers of Attorney, Affidavits, SCRA Letters, Creditor Letters, Private party Bill of Sale for Vehicle Transfer, etc., as promulgated within the HotDocs program to be used by Legal Assistance Support Staff and others who regularly provide deployment related powers of attorney and/or affidavits to eligible persons (NOTE: Offices shall cease using internal office templates or what have been referred to as JAG POAs unless specifically authorized, in writing, by Code 16 to deviate from use of HotDocs).