

Our Premiere Issue!!

THE SEVENTH ARMY JMTC LEGAL CORNER



Brought to you by the Seventh Army JMTC Office of the Staff Judge Advocate

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The Scope of the Legal Assistance Program

by SPC Devyn Neta

The Seventh Army JMTC Legal Assistance Offices are available to offer a variety of legal services to our Soldiers, their families, and DoD Civilians.

Both the Tower Barracks Legal Assistance Office and the Rose Barracks Legal Assistance Office offer assistance with powers of attorney and notary services on a walk-in basis during business hours Monday through Friday (closed Thursday mornings for training). Check our Facebook page at <https://www.facebook.com/BavariaOSJA> for closures due to training and holidays.

Some of the topics we can assist you with on an appointment basis include: family law, estate planning, landlord/tenant law, credit disputes, immigration, and German legal issues.

Family law issues that we can address include marriage, separation, divorce, financial nonsupport, and child custody. We may be able to assist you on other family law cases based on availability of expertise and resources.

Estate planning issues that we can address include wills, testamentary trusts for the benefit of minors, guardianships, advance medical directives, healthcare powers of attorney, and the designation of beneficiaries under life insurance policies.

Our German attorneys at Rose Barracks and Tower Barracks can help you with matters such as German contract disputes, German landlord/tenant issues, civil fines and cell phone issues (cancellation, payments, etc.).

Legal assistance is also provided regarding the protections available under the Servicemember's Civil Relief Act. These protections include protection from some default judgements, stays of proceedings, release from some U.S. contracts, and reduction of interest rates for debts incurred prior to active duty service.

All of these services and more are available to both Soldiers and their families, even when the Soldier is away training in the field, or deployed. If you have any questions, come stop by one of the Legal Assistance Offices, located at Tower Barracks Building 106, and Rose Barracks Building 245.

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United States Army Judge Advocate General's Corps — Soldiers First, Lawyers Always

Deployments are Hard: How to Best Prepare for any Contingencies

by 1LT Glenanne Kennedy

Deployments are stressful. Preparing as best you can for any unforeseen events that may occur, however, can alleviate some of the stress both for you and your Soldier downrange. We at the Legal Assistance Office are here to help.

The most frequent, and avoidable, situations that we see include problems related to a family's finances, the location of any important documents, repairs or maintenance of a home in your spouse's name, and car/transportation issues. We have created this Pre-Deployment Family Readiness Checklist to make sure you have done all you can before your Soldier leaves.

Finances

Do you have access to the bank accounts? If not, is there an allotment/ automatic transfer set up into your account to cover monthly expenses? Do you need a power of attorney to access the account?

Do you have a plan for how the deployed soldier will access funds while deployed, and how he/she will communicate those transactions to you?

Do you know how the deployment will affect the soldier's paycheck (increase or decrease)?

Family Documents

Do you know the location of each family member's birth certificate? Your marriage certificate? Other important legal documents?

Do all the children of age 10 or older have ID cards? Will they expire while the soldier is deployed? Are all the children in DEERS?

Is your ID card set to expire while the Soldier is deployed? Can you get a new ID card if you lose yours?

Do you know the location of the TRICARE cards for all dependents?

Legal

Do you have a power of attorney? Does it cover all the areas in which you may be required to act on your spouse's behalf?

Do you have a will? Does your spouse have a will? Is your will up-to-date?

House

Do you have a duplicate set of keys for the house?

Do you have a financial plan for emergency repairs?

Do you have authority to authorize home repairs?

Do you have home/renters insurance?

Car

Do you have a duplicate set of keys for the cars?

Do you have a financial plan for emergency repairs?

Are the registration and proof of insurance papers physically located in each vehicle?

Where is the car insurance policy located, and do you know how to file a claim?

Other

If you are on the housing list, does housing have a phone number where you can be contacted?

Do you have a pet care plan if you need to leave your home during your spouse's deployment?

Do you know the phone numbers for Army Community Services, Red Cross, and Family Advocacy?

Do the children's teachers know that the soldier is deploying so that they can better understand the moods and behavior changes in the children?

Do you know the phone numbers for the unit's rear detachment personnel in charge, and the rear detachment chaplain?



Soldiers May Avoid Unnecessary Credit Card Fees

by MAJ Paul Butler

Tired of paying foreign transaction or annual fees when you use your credit card overseas? If you're on Active Duty (or a Reservist on Active Duty) you're in luck!

Military life while stationed overseas can be expensive. One expense many servicemembers don't realize is that most credit card companies charge anywhere between 2 to 4% every time you use the card to purchase an item or service in foreign currency. Over a 2-3 year overseas assignment, that small percentage can add up to thousands of dollars that goes right into your credit card company's pocket!

If you are on Active Duty (or are a Reservist on Active Duty), you don't have to take this lying down. With a little work, you can get most major credit card companies (i.e. Chase, American Express, CitiBank, Wells Fargo, Barclay N.A., USAA, etc.) to waive all foreign transaction fees, and several other fees including even high annual membership fees on your credit card account.

What's the catch? Besides a little work on your part, there really is no catch. All you need to do is call your credit card's customer service line and ask to speak with a representative which handles SCRA (Servicemember Civil Relief Act) requests because not all customer service representatives are aware of their company's benefits to servicemembers. Explain to the customer service rep that you are an active member of the military and you want to know/request what benefits they extend to servicemembers. They may ask you to send them some documentation (i.e. a copy of your current military orders), as well as basic information like when you came on active duty and your present ETS date. Then your credit card company will verify your military status with the DoD and inform you in writing of their ultimate decision regarding your request.

The key is the primary card holder must be the servicemember. So long as that's the case, your spouse can also benefit from this if he/she is an additional cardholder.

One Soldier in our office had amazing success getting thousands of dollars in fees refunded to them. He got American Express to not only waive all fees (to include fees for foreign transactions, annual membership, late fees) but they audited his account dating all the way back to when his active duty service began and refunded him all previously charged fees to include his \$450 annual membership fees and even refunded him the extra \$150 additional cardholder fee for his spouse. Chase N.A. and Barclay N.A. did the exact same thing as American Express. Just between two credit card companies, he and his wife had over \$2000 refunded to them!!!

For more information on how to request these benefits contact your credit card issuer directly or come and visit us at any of the legal assistance offices for details.

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Website: <http://www.eur.army.mil/JMTC/SJA.html>



Seven Common Myths about the Legal Assistance Office Explained

by CPT Clyde J. Kilgore



Myth #1 - A general power of attorney will allow my spouse to take any action that I could take.

False. General powers of attorney are often not accepted by corporations, agencies and institutions. Any organization to whom a power of attorney is presented may choose to refuse to honor a general power of attorney. A specific power of attorney is more likely to be accepted.

Myth #2 - I can get certified copies of my legal documents at Legal Assistance.

False. To obtain a certified copy of a document, you must request a certified copy from the source that holds the original document. For example, if I were born in Dade County, Florida, I should request a certified copy of my birth certificate from Dade County clerk's office.



Myth #3 - The military will provide a lawyer to represent me for my divorce. False. Legal Assistance attorneys are not allowed to represent you in court. If you are considering divorce, the first step is to contact the Military Family Life Counselors and talk about your relationship. The attorneys at the legal assistance office can advise you about the procedures and consequences of divorce, but are unable to represent you in court.

Myth #4 - I can quit paying my cell phone and internet bill whenever I deploy or PCS as long as I send in my orders. False. In the United States, the Servicemembers Civil Relief Act allows you to break some contracts with military orders. However, the SCRA only applies to United States companies. German companies are not required by law to release you from a contract, regardless of whether or not you have orders.

Myth #5 - I received a letter in the mail that says I have to appear at court, but I'm stationed in Europe, so I can ignore it. False. As soon as you are notified of a court date, you need to stop by your legal assistance office. Being stationed in Europe does not relieve you of court orders, but the legal assistance office may be able to help you contact the court to request a stay of court proceedings and schedule a time when you can appear.

Myth #6 - I don't need a will, because I have the SGLI. False. Anyone who is married, or who has children, or who owns real property should consider making a will. The SGLI is important, but it is not a substitute for a will.

Myth #7 - I just got married here in Germany, my German spouse can PCS with me stateside because we are married and my spouse is on my military orders. False. Any family member who is not US citizen must have a visa to move to the United States. This requires a lot of paperwork and the visa process often takes more than six months. Information is available at the Rose Barracks ACS Immigration Briefing, at 1100 hours, the third Wednesday of every month. Military orders alone are not sufficient to allow a non-citizen to immigrate to the United States.



Army Regulation 608-99 — Family Support

by CPT Rob Lavine

What is it? Army Regulation 608-99 is the regulation that dictates support to family members when Soldiers are geographically separated from their families. This usually occurs as a precursor to divorce, but may also occur in other situations.

Who determines the amount? There are four different situations that can dictate the amount of money a Soldier pays to their spouse.

Court Order: If a court has issued a support order, Soldiers must comply with the financial support provision of that order. That amount may be lesser than, or greater than, the amount specified in AR 608-99. If the order contains no financial support provision, the interim support requirements of AR 608-99 may apply.

Support Agreement: In the absence of a court order, the parties can agree to a support amount, so long as the agreement is recorded in a signed document. This document is binding on the Soldier until both parties agree to a change in the amount, and make a new document.

Oral Agreement: This is an unwritten agreement between both parties. While this is allowed, it is not binding, and should there be a disagreement as to support, the support requirement will revert to the amounts mandated by BAH RC/T. Essentially, an oral agreement is fine... Until it isn't. It is recommended that any oral agreement regarding support be memorialized in a written, signed, agreement.

Interim Support: In the absence of a court order or support agreement, a Soldier is required to pay the interim support requirement IAW AR 608-99, para. 2-6. This amount is dictated by the "BAH w/ Dependents" rate found in the BAH RC/T table. This amount changes every calendar year, and is not dependent on the Soldier actually receiving BAH. (i.e. absent extraordinary circumstances, you have to pay the amount specified in the table, even if you live in the barracks.)

Extraordinary Circumstances, you say? Do tell!

Under certain circumstances, the Battalion Commander may waive a Soldier's liability under AR 608-99, para. 2-14, following a Legal Review. Those circumstances are:

- (1) Order issued by Court w/o Jurisdiction;
- (2) Court Order does not contain financial support requirement;
- (3) Income of the Spouse is more than the Soldier;
- (4) The Soldier has been the victim of a substantiated case of abuse;
- (5) The supported family member is in jail;
- (6) Regulatory support has been provided for 18 months; or,
- (7) The supported child is in the custody of another, who is not the lawful custodian.

What About the Brigade Commander?

The Brigade Commander may release a Soldier when it is a matter of "fundamental fairness." The Brigade Commander may not, however, release a Soldier from his obligation to provide child support.

What if a Soldier Just Doesn't Pay?

The Commander has the option to pursue administrative and non-judicial punishment for violation of Article 92, UCMJ, in addition to any other action, as appropriate.

I Got a Complaint, Now What?

The Company Commander has 14 days to respond to an unsupported spouse with the results of his/her investigation. An unsupported spouse may also contact the local Inspector General's Office and file a complaint; the IG Office will either work with the command or open their own investigation in to the matter.

Anything Else? Just know that a Soldier cannot be ordered to provide back-pay for periods of non-support. Additionally, the Soldier owes the entirety of his/her support payments on the 1st of the month, absent an agreement. Any other questions? Contact Legal Assistance!



Can I Get “Untitled?”

by CPT Matt Montazzoli

The Legal Assistance Office frequently receives inquiries about getting “untitled.” Army criminal investigative organizations (Military Police and the Criminal Investigation Division, known as “CID”) place the names and identifying information of the subjects of investigations in the “title blocks” of their investigative reports. A subject is “titled” as soon as an investigator develops credible information that that person committed a criminal offense. This process is governed by Army Regulation 195-2. Credible information is a very low standard – any information that convinces a trained criminal investigator, considering the source of the information and the surrounding circumstances, that the information is true constitutes credible information. Titling can occur very early in an investigation and a person remains titled regardless of the outcome of the investigation. A person will remain titled even if subsequent investigation reveals that the crime never even occurred.

Titling information is entered into the Defense Clearance and Investigations Index (DCII), as well as, in many cases, the FBI’s National Crime Information Center (NCIC) database. This process is called “indexing,” and it results in a “hit” if somebody performs a background check on that person. DCII and NCIC information is used for security clearances and for assignments to positions of trust including recruiters, drill sergeants, SARCs, and instructors. NCIC checks are also commonly used for civilian employment decisions. On occasion, individuals are not even aware they were titled until they are denied an assignment or a job. If you find yourself in this situation, a Legal Assistance Attorney can help you prepare a Privacy Act Request to obtain the relevant reports and also assist you with attempting to get “untitled.”

Titling information will only be removed from DCII in the case of mistaken identity or mistaken information. Mistaken identity means that the wrong person’s information was input into the title block of the report. Mistaken information means that, at the time the person was titled, there was not credible information that the person committed the offense. It is important to understand that it does not matter if the person was later found innocent of the offense – to get “untitled” the person must prove that, *at the moment of titling*, the criminal investigator who titled them did not have credible information. A person who seeks to become “untitled” in this way should meet with a Legal Assistance Attorney, who will help that person draft a request to the U.S. Army Crime Records Center (CRC). If the CRC denies the request, a Legal Assistance Attorney can help Soldiers or former Soldiers apply to the Army Board for the Correction of Military Records to remove the titling information.



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PETITIONING FOR A RELATIVE TO IMMIGRATE TO THE UNITED STATES

by CPT Clyde J. Kilgore

Each year, thousands of U.S. Citizens petition the U.S. Government to allow a relative living overseas to immigrate to the United States and become a permanent resident. This can happen when a U.S. citizen marries a foreign national, but this process can also be done for a blood relative, such as a parent, child or sibling of the U.S. citizen. In some cases, even a permanent resident alien can petition for their relative to immigrate.

Q: My non-U.S. Citizen-spouse is listed on my military PCS orders, so can bring him/her back to the U.S. when I PCS, right?

Incorrect. The DoD has issued your orders, but your relative must acquire a visa, issued by the State Department, to bring your non-U.S. Citizen-Spouse to the States. To acquire a resident status for your family member, you must work with the Department of Homeland Security to obtain a Green Card.

Q: What is the process? There are two basic steps:

Step 1: The petitioning sponsor will complete a U.S. Citizenship and Immigration Service (USCIS) form I-130 and submit it with supporting documents. Those supporting documents include birth certificates, military orders, pictures, and marriage certificates, if applicable. Once the sponsor's petition is accepted, USCIS will mail a notice of acceptance, instructions to obtain a visa and a case number.

Step 2: The relative will need to answer a security questionnaire, obtain police certificates, and undergo medical screening. The sponsor will need to complete an affidavit of support. All of these documents are mailed to the consulate. After the consulate receives the documents, the consulate will instruct you to schedule an interview appointment. After the interview, the state department can issue a visa.

Q: How long does this process take?

This varies, depending on your individual situation and your relative. To complete the process for a non-citizen spouse, estimate eight months to a year. If there are complications, or if your situation is complex, the process can take more than a year.

Q: Are there helpful filing tips from USCIS that could expedite this process?

Yes! Here are some important tips:

- Use the most current form version for all forms. Download the pdf fillable forms from the USCIS website and complete it on computer.
- Complete the entire form and answer all of the questions. If there is a question that does not apply to you, instead of leaving it blank, write in "N/A".
- Submit all of the documents or evidence listed in the forms instruction.
- Submit supporting documents or evidence listed in the form instructions. They must be in English, or accompanied by an English translation. Military One Source can assist with obtaining a translation or finding a translator service at <http://www.militaryonesource.mil>.
- Submit copies, unless original documents are requested.

Q: What resources should I use to assist me with this process?

The most important resource available is the USCIS website at www.uscis.gov. At this website you can find the pdf fillable forms and instructions that you will follow during most of the steps of the immigration process.

If you are just beginning the immigration process look for the Green Card tab on the USCIS website and select the appropriate link, "Green Card Through Family." Look for the Form I-130 and the I-130 Instructions. A useful guide called "How do I Help my Relative Become a U.S. Citizen" is available from USCIS at the website.

You should check the forms and instructions at www.uscis.gov several times during the process and always right before you mail anything in or attend an interview. The fees, instructions and mailing addresses are often updated. If you are unaware of an update, you may accidentally cost yourself time and or money.

Stop by any legal assistance office for help assembling an immigration packet, advice on supporting documentation, and if you have any questions about the immigration process.