



KAISERSLAUTERN LEGAL INFORMER

CHIEF OF CLIENT SERVICES RETIRES

by Pete Masterton

Stephen W. Smith, the Chief of Client Services for the 21st TSC for the past fifteen years, is retiring at the end of May. A legend in the legal community, he served in a variety of positions of increasing responsibility during a career that spanned over three decades. He will be sorely missed by the Soldiers and civilians in the 21st TSC and the legal community.



He began his career in 1983 as a Captain in the Judge Advocate General's Corps in Bad Kreuznach, Germany, where he served as a legal assistance attorney and the chief of the claims section and the international affairs section for the 8th Infantry Division (Mechanized). In 1986 he left active duty to take a job as a civilian attorney with the 3rd Infantry Division in Wuerzburg, Germany, building the largest tax assistance program in the Army. The unit he served was subsequently reflagged as the 1st Infantry Division. In 2001 he was promoted and moved to the 21st TSC in Kaiserslautern to assume duties as Chief of Client Services and Special Assistant to the Staff Judge Advocate. In his new position he supervised the 21st TSC legal assistance, tax assistance, claims and preventive law programs in Germany, Belgium and the Netherlands. He also took over as the editor of this newsletter in 2007. Under his leadership, the office received over 80 awards for excellence in legal assistance and claims from the Department of the Army and the American Bar Association. He also continued his service in the Judge Advocate General's Corps in the reserve component, retiring as a Colonel in 2011.

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Chief of Client Services Retires (Continued)

Mr. Smith earned a reputation as one of the pre-eminent legal experts in Europe. One of his bosses in Wuerzburg, Colonel (Retired) Jim Coyne, praised him as “a master in ensuring Soldiers, Family Members and civilians received the best possible legal assistance.” Another supervisor in Wuerzburg, Colonel (Retired) Mark Cremin, explained “Steve is a zealot for client services. He built the legal assistance and tax programs in 3ID and 1ID from rudimentary into the best programs in the Army. Countless Soldiers, Family Members and DA civilians benefited from his tireless efforts. He also took great care of his people. He has my enduring thanks and respect.” One of his prior bosses in Kaiserslautern, Colonel Claes Lewenhaupt, stated, “I loved his demand for perfection. A stalwart of the Legal Assistance program in Germany, nobody did it better.” Another former boss, Colonel Corey Bradley, said “Steve was the embodiment of the 21st TSC's motto ‘First in Support.’ No one cared more about taking care of Soldiers and their families and no one did it better.” Yet another boss, Colonel (Retired) Kevan Jacobson, stated “I never met an officer or civilian attorney who manifested greater passion and determination to serve Soldiers, Family Members, and other clients. Steve always had their best interests at heart. He is a singularly talented attorney and officer who served the 21st team exceptionally well during my tenure there. He cares - even when no one else will. That has always made a huge difference.”

Mr. Smith's many military and civilian awards and decorations include the Legion of Merit, the Meritorious Civilian Service Award, and the IRS Commissioner's Certificate of Meritorious Community Service. He and his wife, Anne-Marie, are the proud parents of Pierre and Julia, and a grandson, Roman Thompson. Mr. Smith will retire from the civil service on May 31, 2016, and return to his hometown of Hershey, PA, “the sweetest place on Earth.”

Timely Advice on PCS Gifts

by Robert Vedra

As the freezing temperatures and bitter winds of a Palatinate winter give way to the pleasant sunshine and milder temperatures of spring, many Soldiers' thoughts turn to their next assignment. When that happens, their fellow Soldiers' thoughts often turn to farewell gifts. In this article, I would like to discuss the rules governing PCS gifts in the hopes of keeping Soldiers and civilian employees out of trouble and preventing awkward situations.

As a general rule, Soldiers and civilian employees may not accept gifts from other Soldiers and civilian employees who receive less pay. Additionally, they may not give a gift to an official superior, make a donation to a gift for an official superior, or solicit a contribution for a gift to an official superior. An official superior is anyone in his or her chain of command or supervision.

There are exceptions to this rule, however. The biggest exception is for gifts on “special, infrequent occasions,” including those, such as PCS moves and transfers, that end of the superior-subordinate relationship. On such occasions, the Code of Federal Regulations (CFR) allows a gift “appropriate to the occasion” to be presented to the superior by one or more subordinates or people receiving less pay. It also allows Soldiers and civilian employees to solicit voluntary contributions from other Soldiers and employees for such gifts.

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Timely Advice on PCS Gifts (Continued)

Because reasonable people can disagree about what gifts may be “appropriate to the occasion,” the Department of Defense has helpfully added its own guidance. According to the Joint Ethics Regulation (JER), if a group of Soldiers and/or civilian employees want to buy a group gift for a departing superior, the gift may have a value of no more than \$300. If a subordinate contributes to more than one group gift and the gift recipient knows or has reason to know of that fact, the value of the two gifts is combined. In other words, if the same employee or Soldier contributes to two different group gifts, and one group buys a \$200 gift while the other buys a \$150 gift, the superior will be considered to have received a \$350 gift if he or she knows or has reason to know that a subordinate contributed to both gifts. In that case, the recipient would be faced with the choice of giving one of the gifts back to the donors or paying for it, either of which would be awkward.

The JER also clarifies solicitation rules. The CFR permits solicitation of “nominal amounts.” The JER specifically limits such solicitations to \$10. While Soldiers and civilian employees may contribute more than \$10 if they wish, the solicitation may be for no more than \$10. Such contributions must be truly voluntary, which means that commanders and other leaders should not be the ones to solicit contributions. A separate contribution may be solicited for food, refreshments, and entertainment at an event held to mark the occasion for which the group gift is given, and this solicitation is not subject to the \$10 limit.

These rules do not mention gifts from superiors to subordinates, so they do not apply to such gifts. The intent of the gift rules is to prevent the purchase of influence or favors, of the perception of such, which is usually not an issue in the military when a gift is given by a superior to a subordinate. However, if any member of a gift-buying group is a subordinate or receives less pay, the rules come into play.

Soldiers and civilian employees need to be mindful of the rules as they plan gift presentations for their departing comrades, and for those who wish to do so, the JER rules can be found at <http://www.dtic.mil/whs/directives/corres/pdf/550007r.pdf> (see paragraph 2-203), while the CFR rules can be found at http://www.ecfr.gov/cgi-bin/text-idx?SID=3ea699f2a093e3c616e645339c5216ed&mc=true&node=pt5.3.2635&rgn=div5#se5.3.2635_1304 (see sections 2635.301 through 2635.304). Of course, if you have questions, contact an ethics counselor at your local legal office.



KAISERSLAUTERN LEGAL SERVICES CENTER

**Building 3210
Kleber Kaserne**

Legal Assistance 483-8848

Tax Assistance 483-8848

Claims 483-8855/8856

International Affairs 483-8854

Trial Defense Service 483-8397

[Civilian: 0631-411-XXXX]

Administrative Law 484-8043

Criminal Law 484-7419

[Civilian: 0631-413-XXXX]

Kaiserslautern Tax Assistance Program Results:

**Federal & State Income
Tax Returns Prepared:**

2,583

Tax Refunds Generated:

\$6,026,737

Savings to Taxpayers:

\$666,267

**THANKS FOR USING
OUR SERVICE!**

Overseas Tax Filing Deadline & 2016 Changes

By Captain Lauren Teel

The overseas filing deadline for those of you who have not filed your 2015 tax returns is quickly approaching. The final date to file a return without asking for an extension is June 15. The Kaiserslautern Tax Assistance Center at Kleber Kaserne is open to handle your tax needs. Additionally, if you have not timely filed or have other tax status issues with the IRS, the Kaiserslautern Tax Assistance Center at Kleber Kaserne will remain open to address your concerns in the “off” season.

For the next tax year we anticipate many significant changes to military tax assistance programs. TaxWise, the current software, is being replaced. The IRS has turned over the tax preparation program contract to TaxSlayer. It is not clear military tax offices will be able to transfer taxpayer information from one program to another. If you have complicated taxes or need a copy of a prior year return, the time is NOW to come to the tax office where your returns were prepared and get copies. Tax preparers frequently need to see a taxpayer’s prior year returns to answer questions about rental property, the Foreign Earned Income Exclusion, and other issues. The TaxWise database will be phased out by the end of October so do not wait! If you used Military OneSource for your taxes, you will not be affected.

We anticipate another big change for next year with the closure of our Pulaski Tax Assistance Center due to the USAG relocation to Rhine Ordnance Barracks. If you are a loyal user of our program there, contact the Kaiserslautern Tax Assistance Center at Kleber Kaserne for up-to-date tax center information.

Finally, thank you to all who visited our Tax Assistance Centers during this tax season and to the Special



Duty Soldiers and civilian employees who helped make this year a success. We appreciate your loyalty to our free program and look forward to serving you for many years to come!

Foreign Bank Account Report (FBAR) Reminder

If you had over \$10,000 in a foreign bank account (or accounts, in the aggregate) at any time during 2015, you must file a FBAR for 2015 with the Department of the Treasury by June 30, 2016. This must be done online using FinCEN Form 114 (the old paper FBAR form is obsolete). On-post credit unions and the Community Bank are not considered foreign banks for FBAR purposes, but Postbank and Sparkasse accounts are. There are criminal penalties for not filing a FBAR. If you should have been filing FBARs in the past and failed to, you should make an appointment to see a tax attorney.

For an appointment to consult with a Legal Assistance Attorney, call the Kaiserslautern Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848.

Privately Owned Firearms in Germany

by **Pete Masterton**

Owning a firearm in Germany can be a challenge. Germany has special rules that make it difficult to own, ship and store privately owned firearms. This article is designed to provide a general introduction to the rules. Specific questions should be addressed to your local U.S. Forces Vehicle Registration Office (the military office responsible for registering both motor vehicles and firearms).

U.S. personnel who come to Germany are not permitted to bring privately owned firearms with them until they are properly registered with the U.S. Forces and German authorities. Unfortunately, this cannot be done prior to arrival. Once you arrive, you will have to overcome a number of hurdles before you can import or buy a firearm.

German law requires their citizens to demonstrate that they are reliable and pass certain tests before they can own a firearm. By agreement with the German Government, U.S. Forces personnel are required to meet these same requirements.

Before you can obtain a license to own a firearm, you have to establish your “need” for a firearm. This can be done in two ways: you can obtain a German hunting license (Jagdschein) or a German Certificate of Need (Bedurfnisnachweis) for sport shooters. The German hunting license can be obtained by passing a U.S. Forces Rod and Gun Club or Outdoor Recreation sponsored German hunting course. The German Certificate of Need for sport shooting can be obtained through membership in a German sport shooting club or a U.S. forces sporting shooting club (if available), active participation in shooting events for a period of 1 year or more (with a minimum of 18 visits to the range), maintenance of a shooting log book and obtaining insurance protection. Once you have obtained one of these documents, you may be issued a German Weapons Possession Card (Waffenbesitzkarte) listing your specific privately owned firearms. If the Weapons Possession Card is issued based on a German hunting license, you will only be authorized ownership of rifles and shotguns and up to two pistols. If the card is issued based on a German Certificate of Need, you will only be authorized to own the weapons you use for sport shooting.

To obtain a permit to own a privately owned firearm you must also request a background check from the Federal Bureau of Investigation (FBI) using an AE Form 190-6D Part A. The FBI background check is similar to the one required for firearm owners in the United States. Once the background check has been successfully completed, you should request a Statement of Reliability (an AE Form 190-6H(A) for military personnel and civilian employees or an AE Form 190-6H(B) for family members) from the first O-5 level commander in your chain of command. The forms to request the background check and statement of reliability can be found at the U.S. Army Europe Internet site, <https://aepubs.army.mil/ae/public>.

Once these requirements have been completed, you should submit an application for registration of your firearms, AE Form 190-6D, to your local U.S. Forces Vehicle Registration Office. After you have obtained your license, you may bring your firearms to Germany. If you plan to hand-carry your weapons, you will need to comply with airline firearms rules. Because of airline restrictions on weapon transport, prior planning is important.

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Owning a Private Firearm in Germany (Continued)

Getting your firearms back to the United States at the end of your tour of duty here can also be a challenge. If you purchased any firearms in Germany, you will have to get permission to import them into the United States from the Bureau of Alcohol, Tobacco and Firearms (ATF). Military personnel will need to fill out an ATF Form 6-Part 2; government civilian employees will need to complete an ATF Form 6-Part 1. The application should be submitted at least six months prior to your PCS, as the approval is only valid for a year and can take up to six months to process. If you have written documentation that you brought your firearms with you, you may return them without permission of the ATF.



Once you have received permission to bring your firearms to the United States, you should bring all of your paperwork to your local U.S. Forces Vehicle Registration Office to begin the de-registration process. Handguns and long guns may be returned in a government household goods shipment, hand carried with the permission of the Airline or shipped through an authorized German firearms dealer to an authorized U.S. firearms dealer. Military members can also send long guns to the U.S. through the U.S. postal service.

This article only provides an overview of the rules relating to privately owned firearms. More information can be found in Army in Europe Regulation 190-6 or from your local U.S. Forces Vehicle Registration Office.

For more information make an appointment to see a Legal Assistance Attorney by calling the Kaiserslautern Legal Services Center's Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848.

We're On the Web!

Current and back editions of this newsletter and articles we've published on legal assistance topics are posted on the 21st TSC OSJA website at: <http://www.eur.army.mil/21TSC/sja/LegalAssist/LegalAssistance.asp>

Claims articles, information papers, brochures, and related information is posted at: <http://www.eur.army.mil/21TSC/SJA/Claims/Claims.asp>

The "KLI" is also posted on JAGCNet and shared with legal assistance and claims practitioners Army-wide.

Drivers' License Suspensions

by Captain A.J. Browell

Most of us are aware of infractions that result in the mandatory suspension of a U.S. Forces Certificate of License: driving with a prohibited breath alcohol content, accumulation of traffic points, texting while driving, failure to wear a seatbelt, allowing passengers not to wear a seatbelt, failure to wear personal protective equipment while operating a motorcycle, etc. However, many commanders are unaware that they have the authority to suspend sponsor and family member licenses for a wide variety of reasons under Army in Europe Regulation 190-1. Commanders often find that suspensions are a useful tool for maintaining good order and discipline in their formations.

Army in Europe Regulation 190-1 defines a "suspending authority" as an officer or civilian immediately senior to the licensee in the chain of command, or an officer who has been designated by a commander to act as suspending authority for a unit or organization. Furthermore, the suspending authority of the sponsor is the same for the sponsor's family members. Reasons a suspending authority may suspend a license include, but are not limited to, questionable judgment in operating a privately owned vehicle (POV), misconduct, and failure to remove or cover prohibited material on a POV.

Questionable Judgment – Drivers who display a lack of good judgment about safe and prudent operation of a POV may have their license suspended for a maximum of 180 days. Some examples may include speeding near a school or occupied playground, allowing more occupants than can safely ride in a POV, driving while tired, and eating a meal while driving. Additionally, owning or operating an unregistered or uninsured POV may result in a one year suspension.

Misconduct – Drivers who commit misconduct that indicates poor qualifications as a driver may have their license suspended for a maximum of 180 days. Examples include abuse of alcohol or controlled substances, habitual acts of violence, three or more nonmoving violations, and transferring license plates to another POV without properly registering the plates to the POV. Accordingly, commanders are not limited to Article 15 or other standard adverse administrative action in addressing Soldier misconduct. Soldiers who test positive following a unit urinalysis, who are involved in repeated fights downtown, who are involved in repeated acts of domestic violence, or who are involved in alcohol abuse or other alcohol related incidents may have their license suspended.

Prohibited Material – Drivers who refuse to remove material (decals, stickers, signs, writing, graphic depictions) that is indecent, obscene, or shows a connection with the United States, may have their license suspended for a maximum of 180 days. Some examples may include profane or sexual bumper stickers or window decals, as well as collegiate or professional sports team decals, POW/MIA decals, etc.

Importantly, suspension of a Soldier's U.S. Forces certificate of license **does not** prevent the Soldier from operating tactical vehicles. Also, repeated violations may result in a license suspension for a maximum of one year.

Before a suspending authority issues a discretionary suspension against a sponsor or family member, he or she should thoroughly review the provisions of Army in Europe Regulation 190-1, and consult with his or her servicing Judge Advocate.

Powers of Attorney

by Mark Christensen

Powers of attorney (POAs) continue to be the most commonly requested document for walk-in clients at the Kaiserslautern Legal Services Center. Legal personnel prepare on average 20-30 POAs every day, and prior to deployments sometimes prepare and notarize hundreds in a single day.

Although POA preparation is a large part of walk-in services, clients are often surprised to learn that legal personnel advise against making a POA. Why? Because in most cases the requested POA is too broad, is valid for too long, and is not being granted for a specific reason. A POA is a grant of authority to someone to do something in your name. If you grant a POA, anything the person does in your name is your responsibility.

Army Regulations require legal offices to ask specifically what a POA will be used for. Many clients are not sure. Others give an answer like, "just in case." Either answer suggests the POA is someone else's idea or done without forethought.

There are two types of POAs: a General POA and a Special POA. A Special POA is limited to a specific purpose; for example, it may authorize someone to sell your car for you. A General POA gives someone the power to complete nearly any legal act that you are authorized to do.

Our normal advice is never to give someone a General POA. If you do decide to sign a General POA, you should only give it to someone you fully trust. In addition, you should only give someone a POA, regardless of whether it is General or Special, for something you know is necessary. Always limit the POA with a realistic expiration date.

Misuse of a POA often involves a spouse or parent who uses the POA contrary to the intentions of the grantor (the person signing and giving the POA). Unfortunately, the misuse legally binds the grantor. There is often no legal recourse to undo what was done, and you are legally bound by the actions of the person you gave the POA to as if you conducted the transaction in person.

Although a POA is a valid legal instrument, there is nothing to require any person or agency to accept the authorization. For instance, even though you may possess a validly executed POA from someone else, a Government or commercial agency can refuse to accept the authorization, and require the physical presence and signature of the person who gave the POA. Always check to make sure a power of attorney will be accepted. Most transactions involving Army finances or real estate transfers require a special POA, or a POA provided by the company.

Giving a power of attorney to someone can be a very convenient legal tool. Your agent can transact your affairs in your absence and take care of matters on your behalf. But the power of attorney can be abused. Decide what you need, and talk to an attorney or paralegal specialist before signing a POA. The Kaiserslautern Legal Assistance Office on Kleber Kaserne, Building 3210, is open for walk-in services on all duty days from 0800-1200 (except for Thursday mornings) and from 1300-1600.

Privately Owned Vehicle Claims

by Captain H. Wayne Janoe

Whether you drive a shiny new car or rely on a trusty older model, theft or vandalism of your privately owned vehicle (POV) is always a remote possibility here in Europe. If the POV theft or vandalism occurs on a military installation or while parked outside your quarters, you may seek recovery by filing a claim against the Government for the loss or damage. In these instances, recovery may be possible under the Personnel Claims Act (PCA) because the location of your vehicle is likely to be considered “incident to service.”



You must first file a claim against your private insurer if you have coverage for POV theft or vandalism. Claimants with this coverage must give their insurer the first opportunity to pay for the loss or damage. After insurance settlement, a claim against the Government could possibly cover loss not paid by the insurer (*e.g.*, your deductible). The military claims office must consider the insurance settlement in determining the amount payable on your claim. If you only have liability insurance, your insurer will likely decline to pay for theft or vandalism. In that case, a claim with the Government may be your best option.

If you are the victim of POV theft or vandalism, you should take the following steps, as applicable, to facilitate adjudication and settlement of your claim. Failure to do so could result in denial on your claim.

- Contact the Military Police immediately.
- Identify any evidence of the theft or vandalism at the scene.
- Specifically point out any evidence to the Military Police at the scene. It is important that the police report include a description of relevant evidence (*e.g.*, shattered glass or paint flakes on the ground.)
 - If the Military Police are unable or unwilling to come to the scene, take pictures of evidence yourself.
 - Inform your insurer of the incident, and determine whether your private insurance policy covers the damage or loss. If it does, your first recourse is against your insurer as stated above.

If you are considering filing a claim against the Government, contact your local claims office *immediately* after you report the incident to the Military Police. If possible, delay repairs until the claims office has an opportunity to inspect your vehicle. Even if your vehicle will be repaired at the direction of your insurer, inspection of the damage by the claims office is essential to evaluating your claim.

Claims for theft or vandalism that occur off post, and away from a claimant’s assigned quarters, are generally not payable. Under the PCA, this type of claim would only be payable if the claimant could establish a clear connection between the incident and their duties here in Europe.

As always, contact your local claims office for more information. The Kaiserslautern Legal Services Center’s Claims Office is located in Building 3210 on Kleber Kaserne, and our claims examiners can be reached at DSN 483-8855/8856.

21st TSC Celebrates Law Day



Law Day Keynote Speakers, Dr. Hannes Kopf, Rheinland Pfalz Undersecretary for Justice and Consumer Protection, and Major General Duane Gamble, 21st TSC Commander

Over 70 German and American jurists celebrated Law Day at the Sembach Community Club on May 4th. The Commander of the 21st TSC, Major General Gamble, hailed the event as an important opportunity to build cooperation between German and American attorneys. These attorneys are required to work closely on many criminal and civil legal matters affecting both Germans and Americans. The German keynote speaker, Dr. Hannes Kopf, the Undersecretary for Justice and Consumer Protection for Rheinland Pfalz, stated that the event was “a superb opportunity to develop not only a professional, but also a personal exchange” between Americans and Germans. The event was organized by the 21st TSC Office of the Staff Judge Advocate.

PCS Claims Tips — Before You Move

Below are a few tips to consider before a Permanent Change of Station move:

- Document what you own by gathering receipts for valuable items. Hand-carry or mail these documents separately from your shipment.
- Consider obtaining insurance for exceptionally valuable items; the shipper’s liability and the recovery through the Army claims system is limited for certain items.
- Photograph or take a video of your personal property immediately before the packers arrive.
- Plan to hand-carry jewelry, cash and other valuable items; these should be locked away so the packers do not inadvertently place them in your shipment.
- Supervise the packers and ensure that the inventory properly lists all of the items you own. If you disagree with what is listed on the inventory, write a note directly on the document.
- When your goods arrive, ensure that you annotate all of your loss or damage. The best way to do this is at delivery by annotating the notice form the movers give you (this used to be called a DD Form 1840 or “pink” form). Any loss or damage not noted at delivery must be reported on the back of the notice and delivered to the carrier within 70 days. Contact your local military claims office for assistance with the notice procedure.

German-American Legal Conference

German lawyers from Rhineland-Palatinate and Saarland met with U.S. Army and Air Force lawyers in the Kaiserslautern German Justice Center on 10 May for a joint legal conference. The conference topics related to current issues in criminal law, to include German-American liaison on criminal cases, the reform of the German sexual assault code and the work of the German central office of cybercrime. The U.S. delegation was represented by personnel from the 21st TSC, the U.S. Army Europe and the U.S. Air Force Europe.



Conference Speakers (left to right): Dr. Udo Gehring, German Chief Prosecutor for Kaiserslautern, Dr. Harald Jenet (seated), German Court President for Kaiserslautern and Dr. Hannes Kopf, Rheinland Pfalz Undersecretary for Justice and Consumer Protection

Directions to Kleber Kaserne: From Vogelweh, Ramstein, or Landstuhl take the A6 direction Mannheim. On your right you will see a large store called Möbel Martin. Make sure you are in the right lane as you take the Kaiserslautern Ost Ausfahrt (exit). Turn right as you leave the exit ramp and drive downhill until you reach a stop light. Proceed straight ahead at the intersection and follow the priority road as it curves to the right behind the Real store. Enter Kleber Kaserne by the east gate. Turn right after passing the clinic. Drive north until you reach an intersection with 4 stop signs. Bldg. 3210 sits to the left of that intersection. Parking on Kleber Kaserne is difficult—allow a few extra minutes to circulate until you find an open spot. Enter Bldg. 3210 from the door on the east end of the building (see photo of Bldg. 3210 on page 3).

