The Legal Assistance Chief's Handbook

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I. Introduction

The job of a legal assistance (LA) chief can be surprising, frustrating, inspiring, and overwhelming—all at the same time. The job becomes particularly challenging when a chief does not have formal training for the position before assuming it. Often, chiefs merely receive on-the-job training and must grow into the position during their tenure. This article's purpose is to help the new chief to: (1) step into the job with no prior instruction; (2) organize and improve the office; and (3) deliver superior service to LA clients. Although anchored in Army LA rules and doctrine, this article focuses not on what the regulations say, but on what a legal assistance attorney (LAA) will eventually learn from experience—three decades of experience. The author has thirty years of experience serving or supervising in division, corps, theater, and Army-level LA offices (LAOs).[1]

II. Starting Out—A Reading List

Each chief must be thoroughly familiar with the LA regulation and should have a well-worn, tabbed copy of it on his or her desktop at all times. *Army Regulation* (*AR*) *27-3*[2]—which is currently under revision—provides a detailed explanation of who may be a client as well as the following guidance: (1) providing LA services; (2) training for LA providers; and (3) automating the office and maintaining files.[3] It also explains who is responsible for providing LA at installations, and who is eligible to receive it.[4] Chapter Three, "Legal Assistance Services," is particularly important, because it details the types of LA services,[5] client services,[6] and preventive law services[7] which LAOs may or must provide. Appendix A is exceptionally helpful, because it lists all Army regulations that relate to LA. It is a "gold mine" of information to determine what regulation covers such issues as reports of survey, identification cards, Army Community Service, or notary services.[8]

Legal assistance attorneys should also become familiar with all The Judge Advocate General's Legal Center and School (TJAGLCS) guides in the *JA-200* series. Each chief should read *JA 271*, *Legal Assistance Office Administration*.[9] It thoroughly explains *AR 27-3* and has a wealth of practical management guidance.[10] Additionally, it provides specific tips and suggestions to identify the reason for the visit, develop the facts, counsel the client, and terminate the interview.[11] It also contains a sample client satisfaction survey and a model Standing Operating Procedure (SOP) for the LAO.[12]

The following *JA* guides are also extremely helpful: (1) *JA 274*,[13] provides excellent coverage of the Uniformed Services Former Spouses' Protection Act (USFSPA); (2) *JA 270*[14] covers the Uniformed Services Employment Rights and Responsibilities Act (USERRA); (3) *JA 265*[15] covers consumer protection; and (4) *JA 260*[16] covers the Servicemembers' Civil Relief Act (SCRA).[17] The LAO should have the full series available in hard copy or on electrons.[18]

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[2] U.S. DEP'T. OF ARMY, REG. 27-3, THE ARMY LEGAL ASSISTANCE PROGRAM (21 Feb. 1996) [hereinafter AR 27-3].

[3] *Id*.

[4] *Id*. para. 2-5.

[5] *Id*. para. 3-2.

[6] *Id*. paras. 3-5, 3-7.

[7] *Id*. paras. 3-3 - 3-4.

[8] *Id.* app. A. Appendix B contains instructions for completing the two data forms for LA. Appendix C contains instructions for completing the beneficiary designation form for Servicemen's Group Life Insurance. A glossary of abbreviations and terms that the LAO commonly uses, and an index to the regulation, follow Appendix C. *Id.* apps. A, B.

[9] ADMINISTRATIVE & CIVIL LAW DEP'T, LEGAL ASSISTANCE BRANCH, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, JA 271, LEGAL ASSISTANCE OFFICE ADMINISTRATION (Aug. 1997) [hereinafter JA 271].

[10] *Id.* ch. 1

[11] *Id.* ch.2.

[12] *Id.* ch. 3.

[13] ADMINISTRATIVE & CIVIL LAW DEP'T, LEGAL ASSISTANCE BRANCH, THE JUDGE ADVOCATE GENERAL'S SCHOOL AND LEGAL CENTER, U.S. ARMY, JA 274, UNIFORMED SERVICES FORMER SPOUSES' PROTECTION ACT (Aug. 2002).

[14] ADMINISTRATIVE & CIVIL LAW DEP'T, LEGAL ASSISTANCE BRANCH, THE JUDGE ADVOCATE GENERAL'S SCHOOL AND LEGAL CENTER, U.S. ARMY, JA 270, THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (USAERRA) GUIDE (June 1998).

[15] ADMINISTRATIVE & CIVIL LAW DEP'T, LEGAL ASSISTANCE BRANCH, THE JUDGE ADVOCATE GENERAL'S SCHOOL AND LEGAL CENTER, U.S. ARMY, JA 265, CONSUMER LAW DESKBOOK (Sept. 2000).

The chief also should review existing LAO SOPs. If there is no SOP, he should make its creation a priority, not only for his sake, but also for the benefit of his successor. The TJAGLCS model mentioned above is useful as a template if an SOP does not already exist.[19]

All LAAs should read the *For Counsel* messages from the Office of The Judge Advocate General Legal Assistance Policy Division which are on JAGCNET in the *Legal Assistance Database*.[20] *For Counsel* contains useful information on LA policies and practices. Past postings are also valuable references for LAAs.

Finally, chiefs should read existing literature on LA administration, clients, preventive law, and office management which *The Army Lawyer*[21] and the *Military Law Review* contain.[22] Each article can provide new insights into how to manage problems, improve efficiency, treat clients fairly, obtain feedback on how the office works, and train the office attorneys and staff for their assignments.

III. Legal Assistance Office Assessment

Each new chief should assess the office. This includes examining the personnel, equipment, policies, furnishings, resources, and the LA mission.

A. Meeting with the Staff Judge Advocate (SJA)

The chief's first meeting should be with the SJA to determine the latter's vision for LA. The new chief should ask about specific areas in which the LAO can make a difference. For example, commanders and first sergeants may need more routine education about the client problems that occur, how to recognize them, and how to refer them to the LAO. Legal assistance issues may merit incorporation into field exercises. The LAO could benefit from asking commanders to provide feedback about the post's LA delivery. The pre-command course and the noncommissioned officer (NCO) academy may lack an LA component that addresses preventive law, consumer protection, recognition of legal problems, and prompt referral to the LAO.

Before meeting with the SJA, the new chief should critically assess the LAO's personnel issues. The new chief should know what level of support he can expect in terms of personnel strength and intra-office assignments. He should also learn whether the SJA would support his request for a replacement if a member of the existing clerical support staff lacks the skills, intelligence, or responsibility needed for his position. Finally, the chief should understand the circumstances in which the SJA would support him if the chief decides that a request for legal services is beyond the competence of office LAAs and refers the client to civilian counsel.

The chief should also learn how involved the SJA will be with the local civilian community. Staff judge advocates vary in the degree of the civilian involvement they seek, by virtue of such venues as attendance at local bar luncheons and meetings with key court or agency officials who play important roles in LA issues. Although some SJAs relish this sort of involvement, others prefer to delegate it to the chief.

The chief should use this meeting to learn what the SJA believes are strengths and weaknesses in the way the office

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[16] ADMINISTRATIVE & CIVIL LAW DEP'T, LEGAL ASSISTANCE BRANCH, THE JUDGE ADVOCATE GENERAL'S SCHOOL AND LEGAL CENTER, U.S. ARMY, JA 260, SOLDIERS' & SAILORS' CIVIL RELIEF ACT GUIDE (July 2000).

[17] Servicemembers Civil Relief Act, Pub. L. No. 108-189, 117 Stat. 2835 (2003).

[18] *See* JAGCNET, *available at* http://www.jagcnet.army.mil (last visited May 18, 2004).

[19] JA 271, *supra* note 10, ch. 3; *see also* Major Mark E. Sullivan, *Developing a Legal Assistance SOP,* 112 MIL. L. REV. 249 (1986). Other SOPs are available at JAGCNET databases. *See* JAGCNET, *supra* note 18.

20 *See id.*

[21] The LAO administration articles from *The Army Lawyer* include the following: Colonel Alfred F. Arquilla, *Army Legal Assistance: Update, Initiatives, and Future Challenges*, ARMY LAW., Dec. 1995, at 3; Colonel Alfred F. Arquilla, *The New Army Legal Assistance Regulation,* ARMY LAW., May 1993, at 3; Edward H. Bonekemper, III, *Ethical Issues in Military Legal Assistance*, ARMY LAW., June 1978, at 18; Captain Mack Borgen, *The Management and Administration of Military Legal Assistance Offices*, ARMY LAW., Apr. 1975, at 1; Louis M. Brown, *Your Client's First Contact With a Lawyer*, ARMY LAW., Sept. 1973, at 17; Major John J. Copelan, *Mobilization of Reserve Forces and Legal Assistance*, ARMY LAW., Apr. 1987, at 6; Captain Jan Horbaly, *The Role of the Paraprofessional in Providing Legal Services*, ARMY LAW., Mar. 1974, at 9; Captain James F. Nagle, *Education of Legal Assistance Clients*, ARMY LAW., Oct. 1979, at 1; Major Chuck R. Pardue, *Ten Steps to a More Successful Legal Assistance Practice*, ARMY LAW., Oct. 1985, at 3; Stephen W. Smith, *Running an Effective Tax Assistance Program*, ARMY LAW., Sept. 1991, at 14; Lieutenant Colonel Robert B. Smith, *Know Thy Client*, ARMY LAW., May 1975, at 11; Lieutenant Colonel Mark E. Sullivan, *Domestic Counseling and Legal Assistance: A Systematic Approach*, ARMY LAW., Nov. 1992, at 11; Major Mark E. Sullivan, *Lawyer Referral . . . Do's and Taboos*, ARMY LAW., June 1988, at 18; Major Mark E. Sullivan, *Preventive Law: The Speaker's Circuit*, ARMY LAW., Sept. 1985, at 44; Major Mark E. Sullivan, *Preventive Law: The Genuine Article*, ARMY LAW., Sept. 1984, at 35; Major Mark E. Sullivan, *Preventive Law by Handout*, ARMY LAW., May 1984, at 29.

[22] The *Military Law Review* has dedicated four issues to Legal Assistance; they are extremely helpful. *See A Legal Assistance Symposium*, 102 MIL. L. REV. 1 (1983); *The Second Legal Assistance Symposium*, 112 MIL. L. REV. 1 (1986); *The Third Legal Assistance Symposium*, 132 MIL. L. REV. 1 (1991); *The Fourth Legal Assistance Symposium*, 177 MIL. L. REV. 1 (2003).

operates and how the office should function when the SJA's term is over. Conversely, if he is a civilian chief without "term limits" for the job, he still should prepare a "two-year plan" for his office administration goals.

B. Office Personnel Survey

The new chief should survey the office to assess the number of assigned personnel and their job descriptions. Regarding civilian employees, the chief should scrutinize their job descriptions, find out their pay grades, and examine the relative seniority of these employees in the office. He should determine the extent of their training and identify additional required training. Next, he should assess whether the functional tasks of his personnel correlate with their job descriptions. The chief also should examine the attorneys' hours and assess the effectiveness of existing training plans for the enlisted personnel.

While interviewing the office staff, the chief should discern their comments, complaints, and suggestions regarding their own jobs and the way that the office operates. The chief should also interface with his predecessor to find out what areas or personnel were strong, and which ones need attention. Another method might involve interviewing a former chief who is no longer assigned to the same installation in order to obtain truly independent information on how the office operates.

In addition to asking questions and reviewing job descriptions, the chief should employ the technique of "management by walking around." This means spending a few minutes each day in every section of the office to observe how the staff answers phone calls, how LAAs interview clients, and how personnel prepare wills or separation agreements. He also should consider sitting in on initial client interviews with newly-assigned LAAs. This helps to measure their strengths and weaknesses, gauge what training they individually require, and understand the types of LA problems.

The chief should also review the office tax program and identify who is responsible for it. Not only should the office provide information on federal and state income tax problems but, depending on available expertise, equipment, and personnel, the office should assist in the electronic filing of income tax returns and appealing tax rulings.[23] The program supervisor should be fully trained and able to brief the chief on the appointment of unit tax advisors and the recruitment of volunteers to assist in completing forms and electronic filing. He must have a current copy of *JA 275, The Tax Assistance Program Management Guide*.[24]

To maximize productivity, the chief should explore the option of using summer interns if an intern program is not already in place. Interns can contact local offices and officials, state agencies, and federal offices to update LAO information papers and current contact information.

Finally, the chief should also ensure that each attorney and paralegal uses JAGCNET daily. JAGCNET permits document retrieval, research, and communication on the LA Forum. It is important to encourage frequent postings and exchanges on the Forum to improve the knowledge and skills of the professional staff.

C. Assessment of Office Layout and Equipment

The chief should assess the physical layout of the office to ensure that it is professional and represents the LAO mission. It also helps to determine how he can improve the privacy and security of LA delivery.

The inspection should include the office equipment. While the office does not need the newest equipment, the chief should examine it with an expert (such as the information technology specialist or an LAA who is computer-savvy) to determine the need for hardware or software upgrades. The chief should also examine access to and the sufficiency of the photocopier and the fax machine, as well as attorney office furniture.

Communication—the office telephone system—is a key component to mission accomplishment. A recorded message should direct incoming calls to several available options. The initial message on an automated system can save time for the front desk staff by answering common questions about available services, providing substantive legal answers and information, stating what services are not provided, and providing access to the front desk for scheduling appointments.

The chief also should assess the appropriateness of waiting room furniture and furnishings. Sometimes, clients spend a lot of time in the waiting room. It may be possible to arrange through the company mailroom to obtain magazines that cannot be forwarded, in order to supplement the waiting room publications. The chief also should ensure that there is sufficient lighting. The waiting room should feature a bulletin board that attracts and informs the clientele who sit near it. This is a good place to list common telephone numbers which clients may need: lawyer referral services; public defenders;

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[23] AR 27-3, *supra* note 2, para. 3-6i.

[24] ADMINISTRATIVE & CIVIL LAW DEP'T, LEGAL ASSISTANCE BRANCH, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, JA 275, TAX ASSISTANCE PROGRAM MANAGEMENT GUIDE (June 1997).

legal aid; the Internal Revenue Service; the Immigration and Naturalization Service; and other relevant agencies. Use clip art, illustrations, and other graphic effects to "spice up" the bulletin board.

Finally, each attorney's office should be clean and professional. The chief should compare his office's facilities to other offices on base, such as those of the inspector general (IG), the deputy installation commander or the medical treatment facility. It helps to look at the office through the eyes of a battalion commander or a civilian lawyer in determining whether the facilities measure up.

D. Mission and Responsibilities

It is vital to determine the LAO's areas of responsibility. First, examine the relative sizes and missions of the military units which the LAO serves. Are there any unique characteristics which might have an impact on the office? For example, personnel assigned to a unit which deploys frequently will need regular assistance with wills and powers of attorney. Units with rigorous training schedules or dangerous missions will require additional expertise in the areas of estate planning and probate. Such units may contain an unusually large number of separation and divorce cases. A garrison unit may have more consumer problems. To better explain the LAA's services as well as the office's constraints, the chief should visit the commanders on post after first coordinating with the SJA.

Next, the chief should examine the LAO's geographic parameters. For example, if the installation is in *East* Virginia, is it responsible for all eligible clients within the state, or does another installation share that responsibility? Is there a memorandum of understanding (MOU) as to which office handles specific clients or types of problems? This is especially important when different branches of service are involved. In this situation, one office may perceive that the other is not "pulling its weight" regarding clients when a disproportionate number of Office A's jurisdictional clients go to Office B. If there are shared responsibilities, the chief should consider preparing an MOU or a mutual support agreement to clearly delineate the responsibilities of each office.

It is also important to learn as much as possible about the client population that the office serves. How many family members or retirees are there? What about recruiting offices and the Reserve Officer Training Corps units? Answering such questions assists in estimating the staffing needed to provide adequate LA services for this potential client population.

E. Time Management

Next, the chief should decide how to manage his time. Will he take on clients, or will he operate solely as a supervisor? If he sees clients, how many should he see per day? He should consider the types of cases he will handle, as well as the wisdom of his personal involvement in complicated, time-intensive matters.

In making these decisions, he should remember his job is no longer that of a LAA with a full caseload. He is now the office chief, and he is also the "eyes and ears" of the SJA for LA matters—he will need sufficient time to accomplish supervisory tasks. He must be able to professionally run the office, meet with commanders and the SJA, and meet with his counterparts and colleagues. He will also need uninterrupted time to plan for changes and improvements, and to implement those changes within the office. Finally, he must allocate time to respond to crises.

IV. Local Liaisons

Community involvement is essential. Second only to the SJA, the chief should be responsible for establishing and maintaining contacts with offices, agencies, and individuals in the local community. The chief should prepare a summary of his findings on these items and place it in the office desk book for all attorneys to read.

The LA leader must develop an intelligence network just like a brigade commander's, so as to know "what's over the next hill," legally speaking. For instance, who are the local judges? What are they like on the bench? How does the magistrate's office operate? How is civil process served at the installation? It is helpful for the chief to keep his ears to the ground to find out who are the soldiers' best friends (or worst enemies) downtown and in the surrounding community.

A. State Bar Military Committee

Some states such as Texas, Florida, Illinois, Washington Virginia, New York, and North Carolina have active military committees that meet on a regular basis, invite attendance by Office of the Staff Judge Advocate (OSJA) personnel, and

assist the clients and the military attorneys located in their jurisdictions.[25] The new chief should check on the existence of a state bar military committee and schedule his attendance (and that of the SJA) at the next meeting. If the state committee is non-existent or non-functional, he should determine what he can do to create a military advocacy body that will assist military attorneys and their clients. Once connected with an active committee, the chief should coordinate with the committee chair and members about projects, initiatives, and programs that would help the LAO and its clients.

Can the committee, for example, help in preparing client information brochures on such subjects as living wills, enforcement of child support, powers of attorney, traffic offenses, and property division? While the state bar association often has some generic handouts that address these subjects, the chief should attempt to energize the committee to produce a product that is tailored to the unique problems of LA clients and that provides specific guidance.[26]

Also, LAAs need information and guidance on the laws and procedures of the state where they practice, because they usually are not licensed there. The chief should determine whether the committee will prepare information papers to use as lawyer-to-lawyer resources that can explain common and legal topics in a succinct way for the LAA to use in preparing to counsel clients.[27] Using such a product, the LAA who confronts an unfamiliar matter, such as a lawsuit for alimony, can consult the information paper on alimony. The LAA can conduct a client interview, armed with the information needed to advise the client.

The chief should determine whether the committee can assist the LAAs by hosting an annual CLE program to train new LAAs on common LA issues. The North Carolina State Bar, for example, has a military law body called the Standing Committee on Legal Assistance for Military Personnel (LAMP). Every year, the NC LAMP Committee prepares and produces a two-day CLE program for all military attorneys in the state, covering a variety of consumer, property, and family law matters. The speakers, all unpaid volunteers, are comprised of members of the State Bar, the Attorney General's Office, and Legal Aid of North Carolina, as well as local Reservists. The military committees of the Florida and Texas Bar Associations have similar military CLE programs each year.[28]

Legal assistance supervisors should determine whether the committee can help establish a "hotline" for attorneys to use for questions, problems, and lawyer referral in the state. One such program, established and operating on a national basis, is "Operation Stand-By." The Military Committee of the American Bar Association's Section of Family Law sponsors it. Operation Stand-By provides the names of almost 200 family law attorneys nationwide for consultations, problems, questions, answers, and referrals in the family law area.[29] The chief also might consider the usefulness of such a program regarding consumer and property law issues.

Finally, the chief should ask whether the committee can include his LAO on the mailing list for essential legal publications, such as state bar journals, publications featuring current decisions and rulings on ethics and professional responsibility, and other topics of import. The lawyers of the State Bar or Bar Association are usually pretty patriotic, and are usually more than willing to help military attorneys.

B. A Brief Word on "Meeting the Local Bar"

Each LAA should regularly get out of the office to meet and socialize with members of the local bar. These members are his civilian colleagues who just happen to practice beyond the gates of the installation. They can benefit from his friendship, and he from theirs. More importantly, their knowledge and contacts may be very useful for his clients.[30]

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[25] *See, e.g.*, North Carolina State Bar Legal Assistance for Military Personnel (LAMP), *Standing Committee on LAMP*, *available at* http://www.ncbar.com/home/lamp.htm (the web site of the North Carolina State Bar's LAMP Committee) (last visited May 18, 2004) [hereinafter LAMP]; *see also* American Bar Assocation, *Military Committee*, *available at* http://www.abanet.org/family/military/ (the web site of the Military Committee of the American Bar Association's Section of Family Law) (last visited May 18, 2004) [hereinafter ABA].

[26] *See id*. (containing good examples of what handouts should cover in the "TAKE-1" series of handouts); *see also* Mark E. Sullivan, *A Handout Strategy for the General Practitioner (with Sample)*, PRACTICAL LAW., June 1997, at 63; Sullivan, *Preventive Law by Handout*, *supra* note 21, at 29 (providing information on how to write effective handouts).

[27] An illustration of such an information paper, the "Co-Counsel Bulletin" series which the North Carolina State Bar's LAMP Committee developed, is available at JAGCNET databases or the North Carolina LAMP web sites. *See* JAGCNET, *supra* note 18; *see also* ABA, *supra* note 25; LAMP, *supra* note 24.

[28] *See* FLA Bar Online, *Military Affairs Committee*, *at* http://www.flabar.org/tfb/TFBComm.nsf?0/0397fl05bce7a42b85256b2f006c6476?OpenDocument&-SITEMAP (last visited May 18, 2004) (explaining that purpose of the Military Affairs Committee is to "gather and disseminate information, share expertise and advise the members of the Bar on all matters relating to the practice of military law in Florida, and . . . to have general jurisdiction regarding any problem . . . for, or by members of the military establishment."); *see* Texas Military Law Section State Bar of Texas, *available at* http://www.texasmilitarylawsection.com/ (last visited May 18, 2004) ("Founded in 1958, the Military Law Section of the State Bar of Texas provides academic and networking support to its members and to those active duty judge advocates of the Armed Forces of the United States who are stationed in Texas.").

[29] A copy of the Operation Stand-By List is available at JAGCNET Databases and also at the website of the Military Committee of the American Bar Association's Section of Family Law. *See* JAGCNET, *supra* note 18; *see also* ABA, *supra* note 25; LAMP, *supra* note 24.
In addition, the author has obtained and posted at JAGCNET Databases the entire directory of members of the ABA Family Law Section, consisting of about 9000 attorneys, for use by LAAs handling family law cases. *See* JAGCNET, *supra* note 18.

[30] *See* Borgen, *supra* note 20, at 5 (citation omitted).

The chief should determine if he and his LAAs can become members of the local bar association. Sometimes a simple rule change can make eligible those out-of-state bar members who practice in the military. He should set aside time to meet his local colleagues, such as at a local bar association lunch or young lawyers' committee gathering. Legal assistance attorneys cannot hope to know the attorneys to whom they may refer clients if they do not meet them.[31] Additionally, they may not have the open access they need to these lawyers for referrals and for questions on state law or local procedure.

Sometimes there is an annual program, such as on Law Day, when judge advocates (JAs) and local practitioners get together. If not, the chief should obtain the SJA's approval to organize one. What better way to make professional friendships and to keep tabs on happenings in the local bar, the local courts, and the local agencies that might affect the office's clients?

Whenever possible, LAAs should attend the new lawyer orientation of the bar association; this is a great way to learn one's way around the courthouse, the clerk's office, the registrar of deeds, and the sheriff's office. The chief may offer to teach a program which would help local attorneys understand some of the military matters which arise in civilian practice, such as SCRA[32] stay requests, family support, or military pension division.

The chief should not limit offers to teach only to the local bar association. The state or local child support enforcement agency could probably use this help as well. He can offer classes to the annual trial judges' conference or the magistrates' meeting within the state, and should consider trading speeches and speakers with the local legal aid society, as well.

C. "Let's Go to Court"

The chief should visit the courthouse when cases of interest to LA clients are docketed. A call to the clerk, the courtroom administrator or the chief judge's secretary may help to determine the date and time to appear. Visiting the courthouse assists in finding out where to go to file for divorces and how "consumer-friendly" that office is. Other important venues are traffic and the small claims courts. The small claims court is one of the main resources for the wronged consumer or tenant. Interviewing the magistrate is a good way to examine this process. The chief should ask questions about how soldiers and their families can benefit from use of the court and what common problems the military member or dependent faces there.

A local attorney (or a reserve component JA who practices in the area) can lead a tour. Since LAAs probably will provide preliminary consultations to some clients who are charged criminally by the state, it is important to understand how they are handled. Is there a public defender system for the accused? Are local bar members appointed to assist indigent defendants on a rotating basis? How does one qualify for appointed counsel? Must one provide an affidavit of indigency? While at the courthouse, the chief should consider picking up some printed information on the appointment of counsel, victim advocacy, sentencing guidelines, probation services, and pretrial diversion programs to distribute in the LAO.

Finally, the chief should visit the court clerk's office. "Making friends" in the local clerk's office is one of the best ways of helping LA clients and understanding court procedures. This typically is where one may obtain information on how to file a lawsuit and how to serve papers on the other side. There may be available copies of brochures on child support, small claims court procedures, wage garnishments, and changes of name. Sometimes this is where to obtain a copy of the state's child support guidelines to take back to the office. It is useful to find out whether LA clients really need an attorney to handle an uncontested divorce or adoption; perhaps LA clients can file *pro se* if they have accurate instructions on how to do so.

D. Child Support Enforcement Agency

The staff at the Child Support Enforcement Agency (CSEA) can help clients who are custodial parents to obtain court-

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> The development of such relationships should be encouraged; they enhance the reputation, image, spirit, and professionalism of the Corps. Most importantly, involvement in local seminars and programs will improve the familiarity of the "foreign"… [LAAs] with local law and practice. A spirit of comity should be reflected in constructive and affirmative actions by JAGC officers to open lines of communication with their civilian colleagues.

Id.

[31] On one occasion, in 1984 the author attempted to provide local attorney speakers on family law by asking the chief at a base in the Washington, D.C. area for suggestions. When asked whom the local lawyers were that might be able to speak on child support, she replied, "Oh, sir, I wouldn't know. I haven't actually met any local lawyers; I've only been here a year!"

[32] Servicemembers Civil Relief Act, Pub. L. No. 108-189, 117 Stat. 2835 (2003).

ordered child support and garnishment orders that DFAS will honor.[33] Child support workers can explain to LAAs how the child support guidelines work. They can also help out-of-state fathers obtain paternity testing and move for modification of child support in Uniform Interstate Family Support Act (UIFSA) cases.[34] In addition, the CSEA staff will also need LAO input in training their new caseworkers to understand military terminology, interpret a service member's Leave and Earnings Statement (LES), comply with the SCRA,[35] and obtain cooperation from soldiers by using the chain of command. They will need assistance from time-to-time in locating service members and understanding how to serve them with civil process.

E. Alternative Dispute Resolution (ADR)

Many cities, judicial districts, and counties now offer ADR services that include mediation and arbitration.[36] These options can be useful in such cases as those involving used car complaints, visitation disputes, and tenant security deposits. Mediation means using a neutral facilitator to attempt to help the parties reach agreement. Arbitration means employing a trained decision maker who can impose a decision on the parties after hearing from both sides. In some courts, ADR is not available unless both parties agree to the procedure. In others, the mediation process is mandatory; a court hearing cannot occur without attempting mediation first, and the parties either bear the cost, or the court budget pays for it. The chief should determine where these offices are located and how they operate.

F. Domestic Violence

A strong program to treat and prevent family violence can play a major role in strengthening families and helping them survive in a stressful military environment. Is there such a program at the courthouse, or at a county agency or community project located elsewhere? Some courts or state statutes provide for a safe, secure, and simple procedure for the family violence victim to file papers, obtain a protective order, and request a hearing, all without hiring a lawyer. This can be useful in some family violence cases, but the absence of legal advice and assistance for the victim can lead to unjust results when a well-prepared attorney represents the defendant. Once again, LAAs can make a difference in this area, but only if they know what is going on, how a victim files a complaint or petition, what is involved in obtaining a preliminary injunction or temporary restraining order, how the follow-up hearing is handled, and what resources are available for victim representation. Checking with the chief judge, clerk of court or social services agency can help in discovering what resources are available and how the program operates.

G. Better Business Bureau (Bureau) and Chamber of Commerce (Chamber)

Currently, many of these offices have effective consumer protection programs that can be an effective weapon in the LAO arsenal. The LAO should have copies of their complaint forms and dispute adjustment procedures available for interested clients.[37]

H. Debt Management Program

Throughout the years there has always been a contingent of soldiers—mostly young and inexperienced in managing money—whose problem is debt management. The mission of the LAO includes help for all sorts of debt matters.[38] On the prevention side, these clients and potential clients need to know how to read a leave and earnings statement, how to set up a budget, how to plan for large expenditures, how to count the cost of credit, and how to control "binge spending." On the relief side, they often need help with debt collectors, and LAAs should learn the skills they need to handle these difficult cases. Start with "the 4 C's," an easy-to-remember template for consumer credit problems: collect all the client's bills; count up the monthly payments; compare the total to the client's monthly net pay; and contact the creditors to work out a realistic payment plan.

The chief should determine if there is a consumer credit counseling agency or debt management program to help. If not, perhaps the LAO can energize one through the local community (starting with the Bureau or local social services agency), or

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[33] *See, e.g.*, U.S. Dep't. of Health & Human Serv., *Office of Child Support Enforcement*, *available at* http://www.acf.hhs.gov/programs/cse/ (last visited May 18, 2004); *see also* Defense Finance and Accounting Service, *Child Support and Alimony*, *available at* http://www.dfas.mil/money/garnish/supp-qa.htm (last visited May 18, 2004).

[34] *See* Uniform Interstate Family Support Act; 42 U.S.C. § 666 (2000); *see also* Full Faith and Credit for Child Support Orders Act (FFCCSOA) in 1994, 28 U.S.C. § 1738B (requiring all courts in the United States to accord full faith and credit to child support orders issued by other states).

[35] Pub. L. No. 108-189, 117 Stat. 2835 (2003).

[36] *See, e.g.*, Maryland Mediation & Conflict Resolution Office, *available at* http://www.courts.state.md.us/macro/ (last visited May 18, 2004).

[37] *See generally* Better Business Bureau, *available at* http://www.bbb.org/ (last visited May 18, 2004); U.S. Chamber of Commerce, *available at* http://www.uschamber.com/default (last visited May 18, 2004).

[38] *See* AR 27-3, *supra* note 2, para. 3-6e(1) (discussing LA services to clients on such debt matters as lending agreements, bankruptcy, and garnishments).

through Army Community Services (ACS).

I. Legal Aid and Public Defender

The chief should also visit the public defender and the local civilian legal services office.[39] Legal aid is the closest civilian counterpart to the LAO in many areas. For instance, legal aid services deal with evictions and credit problems, help people who are attempting to cancel contracts, and provide bankruptcy and domestic law services. Meeting with the legal aid office supervisor can yield a useful exchange of resources and ideas. For instance, the local legal aid office may have materials on such matters as defending against evictions or repossessions, the small claims process, or protecting clients in post-judgment proceedings for unpaid debts. Moreover, if there is a partnership between legal aid and the bar association's *pro bono* program, the chief should place the latter on his visitation list.

The public defender is a vital resource for soldiers and spouses. When a soldier is charged with a crime, the court will usually inquire as to his or her ability to hire an attorney at the initial hearing if there is a possibility of incarceration. If the defendant qualifies as indigent under the local or state guidelines, the judge will either appoint a public defender or assign a lawyer from the local indigent appointment list. It is critical that the LAO obtain information regarding the criminal defense system. Meeting with the head of the program is a good starting point to obtain a list of appointed attorneys to refer to LA clients.

J. "Know Your Friends"

The chief should familiarize himself with the local former JAs. He might sponsor an informal get-together after work at the installation club, or sponsor a luncheon for former JAs, where he and his attorneys can brief the "old hands" on how the current crop of LAAs are helping service members and spouses. The meeting might feature invited guests who can relate stories about the SJA office in years past. These local attorneys can be valuable allies when the chief wants something done or needs a favor at the courthouse. They can often provide invaluable assistance and useful intelligence, usually with one or two strategically placed phone calls. It is wise to cultivate their friendship and to make them valued professional colleagues. Preparing a mailing list allows the LAO to regularly send them e-mail updates on issues and events of interest. This will consistently pay important dividends for the LAO.

V. Major Responsibilities for the Chief

A. Policy Input

The chief will need to reserve time to provide advice on policies and procedures affecting the LAO and its clients. He should examine, for instance, whether off-post businesses should be brought before the Armed Forces Disciplinary Control Board because of questionable business practices, and whether and how to advocate statutory or regulatory initiatives for the benefit of LAO clients.[40] Or, he might consider the need for, and benefit of, establishing a military consumer protection committee on post.[41]

B. Interservice Liaison

Liaison with other military LAOs and other installations is crucial. The LAO chief should determine the location of other nearby bases and LAOs. He should examine the frequency with which attorneys in the office coordinate with those from other LAOs to share knowledge, tips, problems, and solutions. If there are other LAOs in the area, a series of quarterly meetings, which each LAO might sponsor on a rotating basis, will allow LAAs to share their insights and answers to common problems.

C. Orientation for New LAAs

The chief should consider establishing a program to introduce new LAAs to the office. For instance, Reserve or National Guard attorneys could present an orientation program on videotape for the new arrivals. Moreover, setting up a "reading plan" would be helpful. The chief should require all new LAAs to read certain documents at the start of their LA

[39] *See* National Legal Aid & Defender Association, *available at* http://www.nlada.org/ (last visited May 18, 2004).
[40] *See* U.S. DEP'T OF ARMY, REG. 190-24, ARMED FORCES DISCIPLINARY CONTROL BOARDS AND OFF-INSTALLATION LIAISON AND OPERATIONS (30 June 1993).
[41] *See* Captain Bryant S. Banes, *Legal Assistance as Champion for the Soldier-Consumer,* ARMY LAW., May 1994, at 29.

duty. Such a plan should include state statutes on family law, consumer protection, and landlord-tenant matters. The LAO staff can download and print the "*Silent Partners*" from JAGCNET Databases on client counseling, lawyer resources and referral, separation agreements, child support, alimony, paternity, and custody.[42] The chief should determine the availability of law summaries which outline state law.[43] The chief must ensure that office policy letters and SOPs are part of the reading plan. Sometimes there are recent continuing legal education (CLE) texts in the library or in the possession of an LAA which are reproducible, so as to assist in the orientation process. The chief should consider downloading and printing the desk book from the most recent TJAGLCS LA course for new LAAs.

D. Reading File and Review of Letters from New LAAs

It is helpful to establish a file to monitor all outgoing and incoming correspondence.[44] This will allow the chief to find out what issues, concerns, and complaints the LAAs confront. It also will tell him whether the LAAs adhere to the rules of military correspondence; whether they send letters that purport to be on behalf of the United States;[45] and whether they demonstrate courtesy, professionalism and tact in their written communications. The chief should review LAAs' outgoing letters (*before* they are sent) for the first three months of their assignment in the office.

E. Staff Meetings within the LAO

Regular staff meetings are extremely important.[46] The chief should schedule weekly meetings and preserve this time. The front desk staff should avoid any interruptions except for true emergencies. During such meetings, the chief should explore such issues with the LAAs as: (1) What kind of a caseload are you carrying? (2) How many open, active matters are you handling at present? (3) How long did you stay in the office after closing each night last week? What's the longest you've stayed after hours this month? (4) What new legal issues are you seeing that I should be aware of (or that the SJA should know about)? (5) What cases are the most difficult for you? The most complicated? The most time-consuming? The most frustrating? (6) What resources do you need that we don't have? (7) How can the other LAAs help you out? How can I? (8) Do you have any ideas for managing the office better, helping our clients more effectively or training and using our personnel better? (9) What else should I know about that you're doing?

F. Staff Meetings within the SJA Office

When the weekly staff meeting convenes at the SJA's office, the chief must be prepared. He must know the LAO's statistics, including the number of cases the LAO opened in the previous week, of clients seen, of wills and powers of attorney prepared, and of closed cases.

A good supervisor does not just report on the numbers of clients and documents; he also reports on money saved. The Client Information System automatically provides this information when a report is generated—the chief just needs to take this information to the meeting. Alternatively, he might create a chart or slide show which demonstrates the numbers of documents created or interviews conducted, associating these numbers with the equivalent monetary savings for LA clients. Appendix C provides an example.

The chief's participation in these meetings should provide more than statistical regurgitations. His participation should provide a "snapshot" of client issues relevant to the SJA. For instance, the chief should describe popular schemes, scams, and trends. He also should notify the SJA of upcoming meetings of interest. A good chief candidly informs his superior of such matters and prepares periodic reports for the base commander that outline issues such as client caseload, services rendered, recurring legal problems that merit command attention, and developing legal issues.[47]

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[42] *See* JAGCNET, *supra* note 18.

[43] *See id.* A good example is the "Co-Counsel Bulletin" series in North Carolina, written largely by the author and made available to all military LAOs in the state, which are available at JAGCNET Databases. *Id.*

[44] It is the responsibility of the supervising attorney to provide guidance to attorneys and clerical support personnel as to which documents should be in the reading file and which should be left out. AR 27-3, *supra* note 2, para. 4-8c(2).

[45] *See id.* para. 4-6*a* (forbidding this practice).

[46] *See* Borgen, *supra* note 20, at 5.

> Despite the large and stead flow of clients, case pressures, and other responsibilities, it is recommended that periodically office meetings be held among those officers who render LA. The meetings can be invaluable in solving administrative and management problems, in giving the younger attorneys an opportunity to seek guidance, in discussing and evaluating certain frequently recurring legal problems, and in generally improving office cohesiveness and morale. This may be an excellent opportunity for briefings by an officer (assigned the responsibility on a rotating basis) regarding new developments which are of general interest to all the [LAAs].

Id.

[47] *Id.* at 6.

G. Very Important Person (VIP) Contacts

The LA manager should notify the SJA when a VIP, such as a brigade commander or deputy county prosecutor, arrives in the LAO. The SJA is the "mayor" of the OSJA, and he needs to know when special persons are in the OSJA so that he can personally greet them.

The chief should also make a special effort to provide LA services to the VIPs who are assigned to his military installation. The chief should consider establishing a Senior Officer Legal Affairs Review (SOLAR) program. First, visit the senior leaders on the installation to determine whether they are prepared, legally, for issues such as death or disability. This involves picking a time to meet with the leader and the spouse to assess their needs. The chief should ensure he can provide prompt follow-up on preparation of new wills, powers of attorney, medical powers of attorney (or advance care directives), and living wills. While he is meeting with the couple, he should inquire about other legal matters, such as the filing of their taxes, locations of important documents, and the sufficiency and currency of their life insurance.

H. Daily Administration and Office Duties

The chief must understand the office's daily administration. He must implement effective suspense systems, ensure that office security measures safeguard the LAO, and ensure a system for ordering and storing necessary supplies.

A matter to which the chief must pay special attention is the receipt, assignment, and monitoring of documents with suspense dates. Whether it is an officer or enlisted evaluation, a congressional inquiry or a letter from a state or federal official, the LAO staff must log and track these items. The chief must delegate them to his attorneys to provide answers, and he must review the final products before they are sent out. The LAO thus must employ a competent suspense system.

Regarding office security, the chief must familiarize himself completely with OSJA security concerns and rules. He should evaluate the effectiveness of current security measures and key control policies. The person responsible for property accountability should brief the chief to ensure that there are regular checks on the existence, location, and condition of property that is "on the books."

Finally, the chief should determine who is responsible for ordering supplies and what steps he or she takes to make sure that supplies are regularly checked. The chief ultimately must ensure a system is in place that will ensure that supplies are not depleted at a time when no refills or replacements are available.

I. Legal Resources

The chief also should examine the office's legal resources. Does the LAO have a current and well-stocked library? Is there an index of materials, an inventory of contents or what used to be called a "card catalogue"? How often is it updated and purged? Who has responsibility for maintaining the library? What new books or publications are needed? What is the checkout procedure? A local attorney or reservist might examine the LAO's resources and suggest what additional books, manuscripts, and materials are needed to keep the attorneys informed about the law in the many areas that LA covers.

The LAO should be on the mailing list for the state and local bar association newsletters, as well as other magazines and handbooks that would provide essential professional reading for assigned attorneys. The chief should monitor receipt of such publications as *The Army Lawyer* and *Military Law Review* to ensure that they are timely received and properly filed. He should check to see if the office is receiving the *Reporter* for the local jurisdictions to keep the LAAs abreast of current cases. He should also find out where statutory updates are kept—whether in hard copy or on computer disk.

J. Legal Assistance Publicity

The chief must employ every means available to publicize the LAO and its services. One publication method is to prepare a flyer, including illustrations, which describes the location of the LAO, the telephone number, the website location, and the types of services provided. The LAO staff can post such flyers on bulletin boards at the base library, retirement services office, chapel, housing office, hospital, IG office, and incoming personnel office.

The public affairs office also can suggest available means by which to publicize LA services and preventive law tips. For instance, the installation newspaper can post a notice each week showing the location and hours of the LAO. Legal assistance attorneys can take turns writing a weekly column for the paper to highlight common LA problems, how to prevent or solve them, and legal services which are available. The daily installation bulletin may have room for items on LA problems and services.

The chief should consider adding an LA desk to the incoming personnel center. The LAO also can prepare handouts to educate members of ACS, Army Emergency Relief, the local social services department, and the Red Cross, as well as social workers at the medical treatment facility regarding the LAO's available services and location. The post radio or television station may agree to provide spot announcements on LA services, or stories on common consumer hoaxes and legal issues.

A regular commander's call is a logical place for a presentation on LA problems and services of interest to these unit leaders. Focus on problems which take time and personnel away from unit training or mission performance or which take the leaders' time. The LA manager should consult the installation web page to see what the home page for LA looks like and to determine if it needs to be updated or improved.[48]

K. Down Time for the LAA

In most LAOs, the pace varies from busy to frantic. Offices schedule clients every fifteen to thirty minutes, complicated issues tumble into the lap of new JAs, and emergencies crop up at the worst possible time. With this kind of a schedule, the LA manager must ensure that the pace at the LAO does not take its toll on the LAAs. They will need some "down time" to catch up on their professional and personal needs.

He should reserve—or ensure that they reserve—time for professional reading and all the other routine types of reading that military lawyers need to do. They also should have time to write the letters and e-mails which are needed for their cases, do the necessary research, and place telephone calls, when appropriate. Very often, this kind of time will not be available during the normal business day. Consider setting aside one afternoon a week or one day every two weeks for each attorney to accomplish these needed tasks.

L. Screening for Conflicts

Conflicts of interest are much more likely in the Army community due both to the small size of many Army LAOs and because LA services are free. The supervisor must ensure that there are procedures in place for the screening of potential clients to detect possible conflicts of interest. *Army Regulation 27-3* places this responsibility on the chief.[49] It is advisable to check the office's policy with those at other Army LAOs to compare how they deal with this problem.

LAAs should pay particular attention to "cocktail clients" who may cause conflicts. These are individuals who recognize the judge advocate as a LAA at, for example, a reception or a cookout. They approach him or her to begin a conversation, and soon relate their life's stories to obtain legal advice. Especially when a domestic matter is involved, LAAs should steer clear of such conversations. They can inadvertently create a conflict for the entire office which could be avoided by an ounce or two of polite caution in responding to such informal entreaties for advice.

M. Records Management

Army Regulation 27-3 specifies that LAAs decide on the filing, disposition, and destruction of documents in connection with a client's representation,[50] but the supervising attorney is responsible for policies regarding disposition and destruction of temporary files.[51] Whenever there is the possibility of a complaint or a claim against the government, the supervisor should be sure to "red-flag" the entire record of data, including temporary files and computer data, and retain it. Whenever a client appears to concede a substantial right or benefit, the supervisor should ensure that the responsible attorney clearly documents the client's wishes and instructions. Attorneys should obtain a written release from the client, indicating that he knows the nature and significance of this decision. As an added precaution, the LAA should scan and save electronically the release so that the supervisor and the LAA involved can keep copies of it on their computers. After departure from that section or installation, the chief should keep his copy on a disk and carry it with him during a permanent change of station (or even into retirement).

N. Attorney Referral and Resources

Referral of clients to civilian bar members is a valuable service that LAAs perform; it is also a mandatory service under *AR 27-3*.[52] The supervisor must ensure that the LAO performs it properly.[53] The chief should check on how the civilian

[48] Many of these LAO web sites, containing excellent preventive law content, are at the public LA page at JAGCNET. *See* JAGCNET, *supra* note 18.
[49] AR 27-3, *supra* note 2, para. 4-9b.
[50] *Id.* para. 5-5b.
[51] *Id.* para. 5-1c.
[52] *Id.* para. 1-4f(1)(b).
[53] *See* Sullivan, *Lawyer Referral. . . Do's and Taboos*, *supra* note 20, at 18 (containing suggestions on how to handle attorney referral within the LAO).

attorney referral process is *supposed* to work, and then ensure it actually works that way in the LAO. For instance, how does the LAO refer clients to a local attorney? Does the front desk maintain a list? How are attorneys selected for the list? Is there a procedure in place for "de-listing" an attorney? Do current procedures guarantee the absence of both favoritism and the appearance of favoritism? Are procedures in writing?

Regarding referrals to civilian agencies, the chief should determine how to make a referral to state or federal officials for a matter regulated at that level. For example, attorneys should, in appropriate cases, report a client's custody complaint involving mistreatment of a child to the local social services officials. A client's complaint about health, sanitation or safety in rented quarters might also warrant a report to the housing inspector. Finally, LAAs could refer a consumer protection matter to the consumer protection division of the state attorney general's office.

O. Legal Assistance Desk Book

The chief should create a desk book and keep routinely used materials in it for each LAA's reference. This should be a top priority because the LAO will probably keep and use it long after the chief has left. To maximize its use, the chief should create a binder for each LAA.

The desk book should include tabs and dividers for different sections. One such section should cover substantive law issues. These would include, at a minimum, such topics as divorce, custody, child support guidelines, child support enforcement, SCRA,[54] military pension division, consumer protection, courts, landlord-tenant, immigration and naturalization, and taxes.

Another useful part of the book should include contact and referral information, showing phone numbers, addresses, e-mail addresses, websites, names of points of contact, and office hours. The desk book also should include examples of correspondence and a copy of the office SOP. It also should provide notification lists in the event of an emergency, as well as procedures relevant to the local courts.

Another key section should be for "lessons learned" to serve as the institutional memory of the LAO. In this section, the chief and the LAAs should list issues, problems, and points to remember regarding how to handle local concerns and to resolve issues based on office experience.[55] All members of the LAO have a role in updating this section of the desk book; everyone should make contributions.[56]

Each section should include the most useful material; survey the current LAAs regarding what they have found to be helpful in their daily work. This might include cases, sample letters,[57] worksheets, attorney general opinions, small claims court brochures, and local forms. The chief should keep a master volume in his office to use for updates and to ensure consistency. Computers should contain a master volume, as well, to be revised and re-generated at will if someone misplaces the hard copy of the master volume.

P. Use of Reservists[58]

Some LAOs have Army Reserve and National Guard attorneys available for LA counseling on weekends or during the attorneys' two-week annual training period. These JAs are often local civilian attorneys who work in private and public sectors and have skills and knowledge which can benefit LA clients and educate the LAAs. Their specialized knowledge and expertise in matters involving local law can materially contribute to the LAO.

It is advisable to meet in advance (or have a telephone conference) with the leader of the reserve component (RC) team before each weekend visit to ensure awareness of his team's logistical and scheduling needs. When will they arrive each day? When will they leave? Perhaps the chief and one or two of the LAAs can meet them for lunch to share information and solutions.

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[54] Servicemembers Civil Relief Act, Pub. L. No. 108-189, 117 Stat. 2835 (2003).

[55] AR 27-3, *supra* note 2, para. 1-4g(2)(e) (requiring SJAs to coordinate local LA policies, consider local sensitivities and concerns in establishing LA policies, and maintain updated records on past coordination regarding LA policies and practices and the resolution of past complaints and problems).

[56] *See* Pardue, *supra* note 20, at 5.

> Encourage all legal assistance personnel, including paralegals and clerks, to suggest improved solutions to the problems and tasks in the guide. These recommended solutions enhance the efficiency of the legal assistance office. The purpose of the guide is not to tie the hands of a creative attorney, but to save time by serving as a starting point for the solution of legal assistance problems.

Id.

[57] When using a sample letter, ensure that it contains no information that identifies the client involved. *See* AR 27-3, *supra* note 2, para. 5-5d (mandating this practice).

[58] *See generally* Copelan, *supra* note 20.

The LA manager might consider being there himself to welcome the RC team, or visiting them later in the day to ensure that everything is working properly and that the attorneys and staff have everything they need. This shows support and solidarity with the RC team, and it can help ensure smooth operations.

The chief should determine whether the RC team knows how to use the LAO separation agreement program or template, the wills program, the client tracking systems, and the other LAO programs and hardware. Perhaps the chief can assign an NCO to come in on a Saturday morning for initial training of the RC NCOs on these aspects of LA operations.

If the LAO uses laptops for most word-processing, it would be helpful to determine whether the RC JAs have their own laptops. Make no assumptions about the availability of automation equipment on the weekend. Check all computer equipment before the RC team arrives. Basic written instructions should describe procedures in the event a computer locks up or crashes during the RC team's visit.

The chief should develop a plan to follow-up on clients whom the RC team first advises. For instance, when a reply letter comes in regarding a weekend LA client, should it be handed over to an active duty LAA? Does the Reserve team take care of it? Perhaps there should be a limit to the types of cases that the RC team handles, such as ones which can be resolved with one office visit.

The chief should arrange with the RC team so the team members leave the office as they found it. He should not, however, lose sight of the help rendered because the office is messy on Monday morning. Remember, these are attorneys and clerks who are moving into a new environment to help out at the LAO. These attorneys and NCOs have worked for a full week before they even get to the LAO on Saturday morning.

To plan properly for a Reserve/Guard LA team, the LA manager should establish a comprehensive policy on the use of RC teams in the LAO, and include it in the LA SOP for all concerned personnel. The reserve attorney procedures guide should specify how appointments are scheduled, who will perform clerical duties on the weekend, how to inform reservists of their schedules in advance of the weekend, and what kind of cases to assign to the reservists. The instruction sheet also should describe correspondence preparation and mailing procedures, and procedures for replying to correspondence. Reserve or National Guard attorneys can also prepare local LA law outlines, memoranda regarding issues that LAAs frequently see, and research concerning specific cases. They can prepare "familiarization" programs for local substantive and procedural law.[59]

Local Reserve or National Guard members also can assist outside of monthly unit training assemblies or drill weekends. They can help to resolve conflicts which occur in the LAO when there is no other convenient alternative for the client. They can review established office programs, such as *pro se* adoption or separation agreement drafting, and recommend improvements. They also can create information papers, SOPs, and form documents to use in their own areas of practice. To ensure that these remain current, the chief should establish an annual review date for them so as to facilitate any changes that local procedures, appellate decisions or state or federal law necessitate. Most RC JAs are willing to perform such services for retirement points. The chief can offer to prepare and sign their documentation for points, and he should be sure to include a reasonable amount of time for travel and off-site preparation in calculating the hours involved.

Q. Use of Volunteers

The chief should also develop plans, or review the existing SOP, for the use of volunteers in the LAO. Those who volunteer their services in the LAO can be valuable additions to a staff stretched thin by transfers or deployments. *Army Regulation 27-3* contains specific guidance regarding issues such as volunteer qualifications, tort liability and claims against the government due to the conduct of a volunteer, and cautioning LAO volunteers regarding confidentiality in communications.[60]

R. Office Management and Contingency Plans: "*What If* . . . ?"

A good chief, like a good commander, should always maintain contingency plans in case the intended course of action fails to develop. During the first week on the job, he should sit down and map out what he would do if unanticipated problems occur. While it is impossible to define or limit the types of problems to anticipate, some examples will illustrate the concept.

For instance, what if the wife of the deputy installation commander walked in for an appointment about a domestic violence case she had just filed against her husband in court? Since the filing is a matter of public record, there is no issue of

[59] Borgen, *supra* note 20, at 4.
[60] AR 27-3, *supra* note 2, para. 4-3e.

confidentiality. Should the chief inform the SJA of this sensitive and important concern?

Or, what would the supervisor do if the state's child support guidelines were completely revised, leaving his attorneys with no current training in the use of the new guidelines? Alternatively, what should he do if he learned that one of the assigned attorneys had knowingly revealed client confidences outside the office?[61]

S. Personnel Management

Like the other division chiefs in the SJA office, the LAO chief must anticipate and deal with personnel issues and problems that the last question implicates. He needs to know the strengths and weaknesses of his office staff. He must be constantly alert to personnel issues that arise in the office and seek to resolve them firmly, fairly and, one hopes, amicably. He should develop and improve known strengths, either by granting more responsibility or by making available more training to the identified individual. If a weakness is present, the chief must monitor it.

A supervisor confronting a personnel problem should first determine whether the source is immaturity, lack of training, incompetence, lack of judgment, or a character flaw. After investigating, he should decide whether he can fix the problem and whether it is serious enough to report to his superiors. He should discuss a sexual harassment complaint or a serious ethical breach with the SJA or DSJA. He can handle a less serious matter, however, such as a careless comment, within the LAO. He *must* report promptly to the SJA what he perceives as serious misconduct. The SJA may override the chief's evaluation and downgrade it to a minor incident. If the SJA concurs with the chief's evaluation, then the chief has chosen the right course of action. The important point is to make a professional judgment, as a supervisor, and to bring it to the attention of the SJA for guidance or action.

T. Mentoring

Each chief, if he does not have one already, should find a role model. Perhaps this is someone he already knows and respects, or it could be someone whose name is always mentioned in reverent tones during LA courses at TJAGLCS or on the LA Forum on JAGCNET. In the LA community, there are many highly competent and helpful subject matter experts who have chosen LA as their career field. Ask around or watch the forum discussions on JAGCNET, and make contact with one. He can to be an invaluable short and long-term resource.

A good chief also will use the mentorship approach to introduce his new LAAs to the office by appointing a mentor from the current LAA staff for each newly arriving LAA. This applies whether the new LAA is from the basic course or reassigned from elsewhere. The mentor should introduce the new LAA to the members of the office staff; describe office procedures; sit in on the first several client-appointments to observe his style, demeanor and substance of these interviews; and do anything else to integrate the new LAA into the office.

VI. Intake and Appointment Procedures

Legal assistance starts with the pre-interview intake process. The front desk personnel *must* know how to screen potential clients. This section proposes a template for the intake and appointment process.

A. Who Is Eligible?

The front desk personnel first must determine whether a person is entitled to LA. Do they ask to see a current and valid military identification card from each potential client? Do they know where to find the list of eligible clients for LA? *Army Regulation 27-3*, paragraph 2-5, establishes the eligibility criteria.[62] The usual qualification for LA eligibility, but not the only one, is that the individual be on active duty (or a family member of an active duty service member). Less frequent (but fully eligible) visitors to the LAO include RC members of the U.S. armed forces who are serving on active duty for more than twenty-nine days, and those persons who are retired (or receiving disability pay) from active duty or RC service, as well as their family members.[63]

The front desk should post in a conspicuous place a copy of paragraph 2-5 of *AR 27-3*, for LAO personnel to consult. The supervisor might prepare a brief memorandum for the office, summarizing the eligibility requirements of the regulation.

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[61] *See id.* para. 4-10 (providing guidance on alleged violations on *AR 27-26*); U.S. DEP'T. OF ARMY, REG. 27-26, RULES OF PROFESSIONAL CONDUCT FOR LAWYERS (1 May 1992) [hereinafter AR 27-26].
[62] AR 27-3, *supra* note 2, para. 2-5.
[63] *Id.*

Better yet, prepare a table to post at the front desk that summarizes LA eligibility at a glance. An example is at Appendix A.

B. Eligible Cases

The next question is whether the potential client's inquiry is about a personal legal matter. *Army Regulation 27-3*, paragraph 3-6 lists the types of cases which the LAA may handle.[64] Paragraph 3-8 of the regulation addresses cases which are "off limits,"[65] although paragraph 3-6 also contains some miscellaneous prohibitions.[66]

It should come as no surprise that forbidden matters include private business activities (except for family child care providers who need help in reporting their income from this activity);[67] claims against the United States (except for general advice);[68] military justice matters;[69] and contingent fee cases, such as personal injury lawsuits (except for general advice).[70] All employment matters are outside the scope of LA services, except for issues involving enforcement of the Uniformed Services Employment and Reemployment Rights Act of 1994.[71] Once again, it will help the front desk staff greatly to have a checklist of those eligible problems so that they can make the judgments and schedule the appointments knowing that a LAA can address the specific case.

C. Is There a Conflict?

The chief must ensure that the LAO staff screens potential clients to avoid conflicts of interest within the office. For instance, does the clerical support staff know how to find out if a conflict of interest exists with some previous client of the office? If so, do they know how to make a polite referral to another office so that an LAA there can see this client?

The clerical support staff must avoid revealing the substance of the interview expressly or by inference. They must avoid revealing this, and yet comply with the requirement of *AR 27-3*, paragraph 4-9 (*b*) (2) that "[f]ull explanations are given to every client who cannot be assisted by attorneys in an Army legal office because of a conflict."[72]

D. How Long Is the Line?

The LAO staff constantly must monitor the waiting time it takes for a client to get an appointment. In practice, it is impossible to give same-day service to most clients, other than notarizations, will executions or other simple matters. Most clients, however, will not keep an appointment scheduled two or three weeks out. Based on the author's experience, this is as true in the civilian law office as it is in the military LAO. The clients are marked down as "no show," and the space for that client interview is consequently wasted. Appointments should be set in less than a week most of the time.[73]

If the LAO staff tells the chief that the appointment waiting time exceeds one week, the chief must make some decisions. The first step should be to examine the appointment log to see if the scheduled appointment issues appear typical of the questions and issues seen in the LAO, or whether the log reveals scheduled, but non-eligible cases. He should determine whether, if the LAO is located near another military LAO, there are an unusual number of clients coming in who would ordinarily be visiting the other office.

Then the chief must decide what to do to alleviate the delay. He should consider requesting additional support personnel or, alternatively, extending hours of operation. He might consider scheduling some weekend Reservist appointments to alleviate the backlog.

When the chief cannot resolve the problem by employing the aforementioned tactics, triage is necessary.[74] He might

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[64] *Id.* para 3-6.
[65] *Id*. para. 3-8.
[66] *See id*. para. 3-6i (proscribing, for instance, tax assistance on private business activities).
[67] *Id.* para. 3-8a(2).
[68] *Id.* paras. 3-8a(3) & 3-8b(1).
[69] *Id.* para. 3-8a(1).
[70] *Id.* para. 3-8b(2).
[71] *Id.* para. 3-8a(4); *see* 38 U.S.C. § 4301-33 (2000).
[72] *Id*. para. 4-9(b)(2).
[73] One author suggests trying to see emergency problems within one duty day and routine problems within four duty days. *See* Pardue, *supra* note 20, at 3.
[74] *See id*., at 3.

> The first method to save both the client and the attorney time is to see only those individuals with true LA problems. Legal assistance officers should borrow the concept of triage from the medical profession. Triage is the system which treats casualties in a priority based on the patient's physical condition. Separate those who need little immediate care from those who will benefit the most from immediate assistance. Also separate those who do not need LA from those who do.

need to establish priorities by the type of client (active-duty, family member, retiree) or the service required (eviction versus routine will), for example.

E. How the Staff Can Help

Clerical personnel must possess the skills to screen and refer during the initial contact with potential clients.[75] They must receive training on their "desk-side manner." Just as the best doctors have a great "bedside manner," good LA personnel are friendly, helpful, and professionally competent. They are able to detect a true LA problem, to differentiate between genuine LA cases and issues that belong in another office, to write up an accurate description for the appointment log or to seek out the appropriate LAA to handle the problem.

The LA staff must be able to handle emergencies. As every LAA knows, there are true emergencies and perceived emergencies. A true emergency is one that cannot wait for a regularly scheduled appointment and will lead to a severe consequence if not handled promptly. In an ideal world, a true emergency is also unforeseen, although sometimes the client clearly should have known the problem was coming but simply did nothing until the last minute. A perceived emergency, on the other hand, is a problem that the client thinks is urgent or thinks will lead to dire consequences, whereas in reality this is not the case. Too often it takes a senior NCO or a LAA to talk the client through enough facts, in person or on the telephone, to determine which of these types of emergencies the situation is.

The LAO should address true emergencies as soon as an attorney is available to see the client. Some offices even put an attorney on stand-by for emergencies, with each LAA rotating through one or more days of the week to handle these types of cases. The staff must obtain all the necessary documents before the emergency client sees the LAA. Moreover, regularly-scheduled clients cannot receive less attention; after all, they are the ones who have planned in advance and followed the requested procedure as to setting appointments and keeping them.

Sometimes there are legal or quasi-legal problems that potential clients think belong in the LAO.[76] The staff must know how to screen routine appointments, accepting those that belong in the LAO and referring others elsewhere.

F. "Got Docs?"

It is hard to overstate the importance of the next topic: obtaining all the documents for the attorney to review. The clerical staff should make this a top priority. How often, LAAs frequently lament, do they conduct an interview only to find out that critical papers are missing, having been left behind by the client?

The staff must ask the client what documents there are, where they are, and when they will all be available so the client can bring them to the attorney. The staff should encourage the client to take extra steps to be sure the attorney has all the documents at the initial meeting.

Id.

[75] *See id.*

> Because this contact is with clerks, training clerks to properly screen clients is a profitable use of attorney time. If there is considerable personnel turnover, as is true in most offices, provide detailed written guidance. Require that all legal assistance personnel read this guidance. . . . Detailed written guidance enables personnel to match the problem with the procedures to handle the problem. The procedures guide should contain phone numbers, office hours, and the name of the primary point of contact.

Id.

[76] *See* Banes, *supra* note 40, at 32.

> Unfortunately, lack of clear direction often results in a misuse of legal assistance resources because many on the installation improperly refer people to the legal assistance office for help not requiring legal skills. Moreover, many people simple come to legal assistance when they have a problem, regardless of whether their problem is actually a "legal" one. Ensuring that legal assistance office support personnel know where to send someone who incorrectly comes to the legal assistance office for help is as important as providing legal assistance.

Id.

G. Role of the Paralegal

A skilled paralegal can provide many services in the LAO. A good chief is always willing to expand a paralegal's horizons, based on that person's intelligence, initiative, and maturity. Examples of how to use paralegals include basic research, management of the appointment process, supervision of an attorney referral system, preliminary interviewing and screening, and case filing.[77] If the LAO office has a paralegal assigned, his duties should extend beyond mere clerical jobs to maximize relevant training and experience.

E-mail and the internet are good examples of methods by which to maximize paralegals' skills. Suppose, for example, that a client has an appointment next week to discuss a name change under North Carolina law. In advance of the appointment, the paralegal can assist in finding websites summarizing the name-change process in that state, and then send an e-mail message to the client with a link to that website. This would help the client to prepare the information needed for the petition (such as a certified copy of her birth certificate and the affidavits of two witnesses who would testify as to her good character).

Alternatively, suppose there is a local pyramid sales scheme operating in the LAO area. The paralegal could collect the names of all clients who have complained about this and wish to be informed of updates in stopping this practice, obtaining a restraining order or placing the business off limits. He could assemble them into an e-mail group and then, with their consent, send them any consumer advisories or progress reports that come from the state attorney general's office, the Federal Trade Commission, the district attorney's office, or the Armed Forces Disciplinary Control Board.

Some clients may need to be reminded that a paralegal is an extension of the attorney. Many clients do not want to be screened and are reluctant to divulge highly personal matters to a non-attorney. Those performing the screening must be sensitive to this initial reluctance. They should assure each client that what is said does not leave the office, that the screener is an assistant to the attorney, and that the attorney will need to know all this information to prepare for the appointment.

H. Managing Appointments

The chief should determine how long appointments last. Attorneys cannot really accomplish much in a fifteen minute interview if the problem is more complicated than a living will or a power of attorney. Most civilian attorneys will schedule an initial interview for a one-half of an hour up to two hours. At most installation LAOs, a one-half hour appointment is probably the happy medium between the ideal and the minimum. Some offices set appointments twenty minutes apart, but that does not really provide the LAA much opportunity to perform the minimum services that one can anticipate for a client interview.

When determining how much time to set aside for appointments, the chief must consider his personnel resources. In the final analysis, the SJA allocates these resources based on the needs of each division in the OSJA. If the LAO has too little time for appointments, the chief should look at other divisions in the office to compare. How much time, for example, does a trial counsel have for initial interviews in criminal matters? If LAAs do not have enough client consultation time, the chief should address this matter with the SJA or DSJA and suggest possible solutions.

One exception to the appointment policy, other than emergencies, is what might be called the "cancelable contract." This is an unsigned contract or one which a person can rescind within a specified period of time after signing. If LAAs can advise these clients immediately, an LAA can explain the advantages and disadvantages of the transaction, answer questions, and assist in canceling the agreement if that is in the client's interest. To do this, set up a policy to allow walk-in review of these documents. Bypassing the appointment process and expediting the assistance given to these clients will prevent problems that may arise after the client has had an opportunity to repent the unwise purchase he made.

VII. Preventive Law in the Legal Assistance Office

The legal profession can serve its clients better by investing time, money and resources in planning and counseling, not litigating, as a means of resolving legal problems, and by using foresight, attorneys can limit the frequency and scope of future legal problems for their clients.[78] Most LA practitioners know that avoiding legal difficulties through education and publicity can reduce the time, aggravation, and expense of such problems for the client.

Legal assistance attorneys prefer preventive law because it keeps the client caseload at a manageable level and reduces the incidence of schedule-crippling emergencies. Helping clients anticipate common problems can reduce the long-term

[77] Borgen, *supra* note 20, at 4.
[78] J. Kim Wright, *Transformational Lawyering: New Approaches to Expanding Our Choices in Law Practice*, N.C. ST. B.J. 33 (Winter 2002).

demand for legal services.[79] Because of the substantial savings in time, money, and anxiety, preventive law and client education are favorites with the client as well. The LAAs can educate clients efficiently by using articles, classes, fact sheets, handouts, and pamphlets.[80]

A. Preventive Law Overview

Sometimes it is difficult to create and sustain a client handout education program because the program's best advocates are also its worst enemies. The LAA who benefits tremendously from preventive law usually does not have the "down-time" to prepare pamphlets. Too often, LA practitioners have to run so hard to catch up with today's problems, both emergency and routine, that they have no time to plan and prepare for prevention and education tomorrow. With effective office supervision and management, however, these problems can be controlled, managed, and overcome.

With this in mind, here are some basic points on how to address preventive law issues. The first tip is to remember that a high percentage of the office workload is composed of a half dozen or so key subjects. The best examples are:

- Housing and real estate (evictions, security deposits, housing codes, leases and home purchases);
- Consumer protection (used cars and car repairs, frozen meat sales, interstate land contracts, door-to-door sales, mail-order offers, time-sharing agreements, and so called "free gifts," identity theft);
- Criminal and traffic offenses (trespass, assault, speeding, driving while impaired, lack of proper registration or inspection); and
- Family law (divorce, separation agreements, property division, custody and visitation, alimony, child support, adoption and paternity disputes).

Thorough knowledge of these key problem areas will inevitably expedite the intake and interview processes, as well as improve the ability of the attorney to render meaningful and effective aid to the client.

B. Common Questions

The second point to remember is that clients continue to ask certain key questions in each subject area, such as: (1) "How do I get a divorce?"; (2) "What do I have to pay when selling my house?"; (3) "How can I get my child support on time?"; (4) "Why can't I get back my rental security deposit?"; and (6) "What kind of insurance points will this ticket cost me?" The LAO's goal is to build preventive law efforts around these typical questions.

Third, the creation and avoidance of legal problems often depends on factors that the LAO can teach to clients as basic skills. These include, for example, how to read a contract, compare costs or exercise sales resistance. Clients who know how to read contracts will usually avoid problems with separation agreements, as well as with leases and used car contracts. Likewise, clients who can budget, plan ahead, and avoid impulse buying will usually avoid problems with repossessions and foreclosures, as well as complaints regarding child support.

C. Using Handouts

There are many ways to prepare handouts. The best is to assess the needs of the LA community, divide the topics into manageable subjects for a pamphlet, and then assign the writing to the LAAs (and available Reservists). At the end of this process, the chief should set aside time to supervise the result, making sure that it captures the reader's attention with clear, polished, professional writing.[81] Attorneys can find worthwhile examples by downloading from JAGCNET Databases the fact sheets known as *From Counsel*, *Legal Eagle*, and TAKE-1.

Only the LAA's imagination limits the use of handouts, pamphlets, fact sheets, and frequently asked question (FAQ) sheets. The traditional means of delivery is to provide handouts in a reading rack in the LA waiting room. But why limit their distribution to only the LAO? The LAO staff can distribute them at many different offices on post. The target is wherever a soldier or spouse would notice and pick up a pamphlet. Consider, for example, the base library, Red Cross, ACS, and the post exchange. If there is a handout on renting quarters off-post, reading a lease, and terminating a rental agreement, make copies available at the housing referral office. An office handout on family support belongs at the IG's office. There are probably a dozen other sites where these would be useful reading material for soldiers and spouses.

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[79] Borgen, *supra* note 20, at 6.

[80] AR 27-3, *supra* note 2, ch. 3. The source of preventive law instruction is *AR 27-3*, Chapter 3, Section II. There are three basic types of preventive law instruction for military personnel and their dependents: handouts, published articles, and classes. *Id.*

[81] *See* Sullivan, *Preventive Law by Handout*, *supra* note 20, at 29 (containing a detailed discussion of the preparation and use of handouts).

If a client wants to read a handout in advance of his appointment, why not offer to send it by mail or by e-mail? Consider posting questionnaires for wills and separation agreements as well as *From Counsel* handouts at the LAO website so clients can download as many as they need. The front desk personnel, when answering the telephone, can advise potential clients about the availability of handouts or questionnaires from the website as soon as they identify the problem involved.[82]

The LAO should also prepare LA handouts for commanders and first sergeants that help them recognize legal problems and refer eligible cases to the office. The chief should consider sending these by e-mail as a selective mailing on the installation server, which also is useful for regular distribution of brief notices, articles, and handouts on LA issues.

After preparing the handouts, the LAO staff can "bundle" them into a series of guides for targeted groups. These might include, for example, a legal guide for newly assigned personnel, covering local legal resources; common legal problems; tips on reading, negotiating and signing a lease; information on storing personal property during deployment; and rules for contract cancellation. Another legal guide could target deploying soldiers and mobilized RC soldiers. "Left behind" family members of a deployed service member comprise another potential targeted audience.

Within the LAO, a wise policy is to ask clients to read the applicable pamphlet before seeing an attorney. As soon as the client identifies the problem and "signs in" at the front desk, the front desk clerk should refer the client to the reading rack for any pamphlets applicable to the problem. This can save valuable time for the LAA, since a well-written fact sheet will anticipate, address, and answer many of the client's questions before the interview starts.

In some areas, instructional videotapes are helpful as handouts. The LAO can videotape basic information on powers of attorney, living wills, execution of a will, or medical care directives and show the tapes in a separate office to clients. The chief can even go a step further and make audiotapes for use with the telephone system. The LAAs can prepare tapes on the ten or twenty most common questions asked, and then make these available by telephonic touch-tone menu when clients call. These "audio pamphlets" can answer standard questions of clients and save clients the time spent in setting up and keeping an office appointment.

D. Preventive Law Articles

Helpful as they are, handouts have one significant drawback: the client has to go to a particular place to get them. Broad distribution of preventive law articles and messages[83] will undoubtedly reach a larger audience, rather than only those who have visited the LAO or the IG office. Often, the installation newspaper and the daily bulletin will offer the best opportunity for publication. The newspaper usually has a large military readership, and contains articles of general interest to the target population. The bulletin is an excellent place to put short notices that one can read in less than a minute.

When publishing these articles, the chief should try to establish the SJA personally as the source of some of the major points. Having the installation's senior attorney make a statement about a key fact or lesson in the article is the best way of highlighting the importance of it. When finished with the draft, the writer should provide a copy to the SJA so that he can approve or revise the material that has been drafted.

The LAO also should target off-post newspapers for preventive law features and articles. Most of these periodicals are daily publications, and they likely will circulate widely among service members, retirees, and their family members. Articles should relate to both the civilian and military readers, because space may be limited for features or articles that are not "hard news."

The article topics should vary, since publications may store some of them in reserve. Other articles, such as tax articles, will have time-value due to their topical interest during particular periods of the year. The LAO should submit them well in advance of any deadline, and note on the cover memo that they are time-sensitive.

E. Preventive Law Classes

The third part of a program to publicize prevention of legal problems is an effective presentation of speeches and presentations to deliver the message to the troops. It is an unfortunate fact of life that there are soldiers and spouses who will never read a handout at the LAO or pick up the post newspaper to find out how to avoid buying a "lemon" at the used car lot. These two preventive law strategies require some minimal action or involvement by the soldier. With this in mind, it is wise to add a third component, the adoption of a comprehensive post-wide program of speeches, lectures, panel discussions, and

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[82] *See* Fort Leavenworth Office of the Staff Judge Advocate, *Legal Assistance*, *at* www.leavenworth.army.mil/osja/legal_assistance.htm (last visited May 18, 2004) (providing an excellent example of this approach to LA, including powers of attorney, handouts on military pension division, and common LA issues, consult the Fort Leavenworth Legal Assistance home page).

[83] *See* AR 27-3, *supra* note 2, para. 3-4b (mandating the use of local print and electronic media to advise clients).

slide presentations, to alert the military client to the importance of practicing preventive law. The LAAs can present these to battalion-sized units, spouses' organizations, clubs, school classes, and other targeted groups.[84]

The LAAs also may provide such preventive law presentations to smaller groups, or even one-on-one at the entrance station or reception center for those service members who are just arriving on post. Why not set up a "newcomers' briefing" just for those individuals? It could address matters such as local schemes that prey upon service personnel and their family members, where to obtain help with debt and financial problems, and how to read the lease that they might have to sign.

Moreover, the chief should consider providing briefings to incoming or newly-assigned battalion and brigade commanders. Here, the presentation would not only outline the problems and issues which their soldiers and spouses are bringing to the LAO, but it would also summarize the offices, agencies, and resources available for soldiers and family members who have legal problems.

The chief also might arrange for the provision of preventive law classes at pre-deployment briefings, when an LAA is interviewing clients and preparing wills. If an installation program requires a regular review of personal affairs, this is a logical time to address preventive law concerns, as well.

F. "Captain Video to the Rescue"

Waiting around for an appointment in the reception area can be very boring. Why not apply the concept of preventive law here by creating some client education opportunities by means of television? Often, a television in the waiting room features regularly-scheduled network programs. Videotape can perform wonderfully as a training medium if it attracts attention and teaches clients. The LAO waiting room can feature several videos about common problems that soldiers and spouses are experiencing. When taught this way, clients will get the benefit of legal education and an inoculation against life's tricks and traps, instead of just watching soap operas.

VIII. Confidentiality

Confidentiality is essential to the LAO. Most communications between the LAA and the client are legally privileged and must be guarded to protect the confidentiality of the information, whether oral or written, that the client imparts to the LAA.[85] The source of the requirement is *AR 27-26*, "Rules of Professional Conduct for Lawyers."[86] In general, *Army Rule 1.6* states that an attorney shall not reveal any information regarding the representation of a client.[87] While this sounds very broad and sweeping, there are several exceptions. The three permissive exceptions are: (1) when a client consents to disclosure of information that otherwise would be confidential;[88] (2) when the disclosure is impliedly authorized to carry out the representation;[89] and (3) when the lawyer needs to disclose this information to establish a claim or defense in a controversy with a client.[90]

The single mandatory exception to the rule of confidentiality is when a client reveals information to the lawyer about a future crime.[91] Even here, however, the Rule is very specific about when such information must be revealed; such disclosure is only required in cases where the lawyer reasonably believes it necessary to prevent a client from committing a crime that is likely to result in imminent death or substantial bodily harm, or significantly impair the readiness or capability of a military unit, vessel, aircraft, or weapon system.[92] If the act does not fall within these parameters, then the lawyer may not reveal the intended crime.[93]

The chief must ensure that the non-lawyer staff understands the importance of keeping communications confidential.[94] If clients make telephonic appointments, it is important to find out who answers the phone and the standard greeting given. Are messages taken on a message pad or by means of an office intranet? In either situation, is confidentiality maintained? The chief should also check the front desk environment where the screening takes place. Are the incoming phone calls received at the reception window or farther back in the office? How much of the staff's conversations are audible to those in the waiting room?

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[84] Sullivan, *Preventive Law: The Speaker's Circuit*, *supra* note 20, at 44.
[85] AR 27-3, *supra* note 2, para. 4-8a.
[86] AR 27-26, *supra* note 60.
[87] *Id.* app. B; *see also* AR 27-3, *supra* note 2, para. 4-8a-c (containing rules on confidentiality for LA providers, those who assist LAAs and those who supervise LAAs).
[88] AR 27-26, *supra* note 60, app. B.
[89] *Id.*
[90] *Id.*
[91] *Id.*
[92] *Id.*
[93] *See generally* Major Gary J. Holland, *Confidentiality: The Evidentiary Rule versus the Ethical Rule*, ARMY LAW., May 1990, at 17, 19.
[94] *See* AR 27-26, *supra* note 60, R. 51.

IX. Unauthorized Practice of Law

A cardinal principle in any LAO is that only attorneys can give legal advice.[95] The rest of the office staff is strictly limited as to what information can be given to clients. Legal advice, strictly speaking, is information regarding the law, tailored to the individual client's situation.

A. Legal Resources and Information

The clerical staff can be useful in providing information to clients on resources that are available to them. The legal assistance NCOIC, for example, could give a competent and ethical referral to *Mrs. Gray* for the domestic violence program downtown, the Better Business Bureau or the toll-free hotline to the consumer protection division of the state attorney general's office. This kind of help, properly supervised, can be a real time-saver for the LAA.

What about factual information or straightforward and simple legal answers that do not apply to the individual situation of the client? For example, suppose *Sergeant (SGT) Smith* is overheard saying, "The law here in East Virginia requires a two-year separation before you can file for divorce" or "Guideline child support in this state is twenty-five percent of gross pay for two children." Is that forbidden legal advice? Or is it permissible to delegate this sort of information providing to the sergeant at the front desk?

B. How and Where to Draw the Line

Answering the aforementioned questions is a matter for each individual chief to decide after gaining sufficient experience with the current clerical staff and reviewing the current workload. He will have to evaluate the ability of the individual to understand questions, and to discern the difference between legal advice to the individual and general legal information that is printed in readily available client handouts. The chief may decide that "*SGT Smith*," for example, lacks the judgment and experience necessary to perform this type of delegated task. He might also decide that there is not a heavy enough workload to justify giving this responsibility to the front desk staff.

On the other hand, if he decides that such information is within the capabilities of one or two members of the office staff, then he should write and post a set of guidelines that each delegated staff member must follow in providing legal information. The rules should remain in a conspicuous place in the staff area of the front office. The LAO chief should revise and refine the rules regularly, and teach them to each arriving clerk, paralegal or enlisted person. The rules should emphasize that individual legal advice, tailored to the needs of a client, is solely the province of the LAA. They should also state that, when in doubt, the staff should refer the question to an attorney. Only if the question is clear and requests non-individualized information may the staff member give an answer, and then only by using printed guidelines. An example of Common Questions and Answers" that front desk personnel can provide for those inquiries that frequently arise over the phone or in person is at Appendix D.

The chief should ensure the staff knows that, as soon as the questioning goes beyond the permitted ones, they must say, "You will need to speak to a LAA about that, sir. Can I set you up an appointment?" In the alternative, the staff might suggest that, if the individual just wants some general questions answered, a couple of handouts, rather than an appointment, might solve the problem.

The chief must supervise this policy. For instance, he might require a daily list of questions asked or answers given. He then would check the list at the end of each day to ensure compliance with the policy. Another way of supervising this procedure is to circulate through the office and observe the quality of information the front desk personnel provide. This helps to ensure that the LAO staff makes appointments promptly and properly, provides competent and courteous referrals, and avoids providing legal advice.

X. Force Multipliers (Or How Your Staff Can Extend the Reach of the LAA)

A "force multiplier" is a way of extending the services provided or expanding the work done without increasing the personnel in the LAO. This is necessary when resources are stretched thin. Sometimes a deployment hits the office particularly hard, or personnel transfers to other installations or sections of the OSJA leave the LAO short-handed.

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[95] AR 27-3, *supra* note 2, para. 2-2a.

A. Staff Initiatives

Some staff personnel may be able to help by drafting basic letters for the attorneys. Of course, these are not going to be the complicated negotiation letters that LAAs send out from time to time. However, the right clerk, secretary, NCO or paralegal may be competent to draft a basic non-support letter or a standard SCRA[96] letter. The same is true for drafting forms or other documents, as well as placing phone calls or looking up information on the Internet. Giving staff members a chance to put their skills to use may yield surprising results.

The office staff can also supervise the accurate and complete preparation of client questionnaires. This includes questionnaires for wills and separation agreements, plus any other ones that the LAO develops.

Finally, the staff might also be competent to assist with child support calculations. Provided that they receive adequate supervision, there is no reason why competent paralegals, clerks, and secretaries cannot perform the basic computations on worksheets or computer software to determine what "guideline child support" would be in routine cases.[97]

B. Attorney Initiatives

The LAAs can help out also. There are several ways in which LAAs can expand the reach of LA services. One of the best ideas is to create subject matter experts within the LAO. Legal Assistance chiefs might permit each LAA to "specialize" in a particular area so that he or she can be the "resource center" for that particular subject.[98] A new LAA who questions what alimony involves or how joint custody works in East Virginia could consult with his colleague, who is the "family law expert," while an LAA who wants to know what is required to transfer a dependency exemption or how to claim a child care tax credit could seek out the "tax expert."

To implement this plan, the chief should provide training opportunities; these are available through local CLE programs and classes at TJAGLCS as well as through written resources (manuscripts and periodicals). With these aids to help educate the attorneys, they will be able to provide competent back-up in their fields of expertise and in-house training for the rest of the LAAs. Basic specialties in the LAO include family law, immigration and naturalization, consumer protection, debtor-creditor law, taxes, and landlord-tenant law. Once sufficiently trained in their subject areas, these LAAs can create information papers, prepare SOPs, write subject matter guides, and conduct training for other LAAs in their designated fields.

C. Office Initiatives

Another way to expand services without expanding personnel is through client legal briefings, especially in the area of separation and divorce.[99] Each LAA spends a great deal of time each month giving "basic training" briefings (in the form of office interviews) to clients about custody, separation agreements, child support, and divorce. Some offices have addressed the repetitive nature of the LAA's initial client briefing by utilizing a weekly briefing format for the education and training of clients.[100] While individual appointments are still available for initial domestic counseling, the LAO encourages clients to attend a comprehensive family law briefing. Once a week, a single LAA briefs a group of new clients about basic family law issues. He or she then answers general questions, and has the office staff schedule appointments for members of the group with individual LAAs and coordinate with other offices for spousal appointments.[101] Specific questions and individual advice are, of course, reserved for the client's office appointment.

The staff should be sensitive to clients' wishes for privacy. The LAO should not require "mandatory briefings." Some spouses might feel "exposed" sitting in a large room with a lot of other people, demonstrating that something is wrong with their marriages. The loan of videotapes of the briefing to clients may address these concerns and still impart the necessary information.

This approach significantly reduces the time attorneys expend each week to acquaint new clients with family law basics. It also standardizes the basic knowledge and information each client receives, so all clients with a separation or divorce problem can obtain the same fundamental legal guidance for dealing with their marriages, their spouses, and their children.

The best way to organize this approach to family law briefings is to set aside one time period each week, such as on

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[96] *See* Servicemembers Civil Relief Act, Pub. L. No. 108-189, 117 Stat. 2835 (2003).
[97] *See* Support Guidelines.com, *at* http://www.supportguidelines.com (last visited May 18, 2004) (containing child support guidelines for each state).
[98] Borgen, *supra* note 20, at 3.
[99] *See, e.g.*, Sullivan, *Domestic Counseling and Legal Assistance: A Systematic Approach*, *supra* note 20, at 11.
[100] *Dissolution Orientation Class*, LEGAL ASSISTANCE NEWSLETTER (AM. B. ASS'N STANDING COMMITTEE ON LEGAL ASSISTANCE FOR MIL. PERSONNEL) vol. 32, at 14 (Fall 1987) [hereinafter LEGAL ASSISTANCE NEWSLETTER VOL. 32].
[101] Army policy discourages LAAs from the same office from assisting both spouses in a domestic or other legal dispute. AR 27-3, *supra* note 2, para. 4-9c.

Fridays from 0800 to 0900, for the divorce and separation briefing. The LAO should use a classroom or courtroom. Office staff should attend to schedule appointments for clients after the presentation, to pass out brochures and pamphlets, and to otherwise assist the presenter of the briefing. Conducting the family law briefing once a week or more frequently will help ensure that separating spouses do not feel required to attend together. Set up appointments immediately afterward to save time for clients and achieve "one-stop service."

The LAO also may save time and resources by providing the briefing on videotape. This frees up an LAA for an hour each week to see clients, catch up on reading, write letters or respond to emergencies.

D. Questionnaires and Worksheets

Using questionnaires can save time and effort by transferring to the client the basic data entry, which includes gathering names, dates, income, expenses, and other data required before advising the client.[102] It usually takes but a few minutes to prepare a useful and effective worksheet or questionnaire, which will assist the LAA in helping clients. The LAO can use questionnaires in connection with virtually any area in which the collection of data should precede the advice given to the client. Questionnaires help to streamline many LA operations by making data entry swift, accurate, and independent of staff personnel. A sample child support enforcement questionnaire is at Appendix E.

Similarly, questionnaires can be useful for *pro se* divorces when these are available in the state where the military installation is located. A checklist might also help to determine whether the client is eligible for divorce. An example (with a different checklist format) is at Appendices F and G based on what a LAO in North Carolina might use to help clients with *pro se* divorces by preparing the pleadings, summons, and divorce judgments.

E. Checklists

The use of office checklists also may systematize the process of uncovering needs and delivering LA.[103] Checklists for clients and attorneys can save time and provide clear information and advice, if used properly. First, select the areas that lend themselves to the checklist. An LAA or a Reserve attorney can prepare the particular checklist that is needed. The attorney should be someone experienced enough to be able to analyze the legal aspects and the practical aspects of the problem before preparing the checklist. An example of a checklist to use for drafting a visitation clause in a separation agreement is at Appendix H.

When a military client wants an overview of the positive and negative aspects of asking a court for legal custody of the children, a military custody checklist would prove useful; Appendix I contains an example. When the issue is a modification of custody, a change-of-custody checklist, an example of which the reader can reference at Appendix J, is useful.

F. Telephonic Advice

Attorneys rarely should provide telephonic advice. In addition to their inability to determine whether a person is eligible for LA, there are usually too many facts that attorneys should gather before giving advice; an office interview is the proper place for such fact gathering. There are exceptions, however. When a known client calls for a telephonic case update, the attorney might provide it over the telephone to save the client from making an office appointment. When a soldier deployed to a distant location cannot visit an LAO (or is assigned to a remote location served by the LAO), telephonic advice may be appropriate, provided that the staff can confirm eligibility requirements. The chief must ensure that guidelines exist for rendering telephonic advice and for maintaining client confidentiality, especially if attorneys use video-teleconference facilities.

XI. Organizing Files and Directories

One basic principle at work in any law office is a variant of Murphy's Law—"If you file it properly, you'll surely never need it (but you'll be able to find it). If you don't file it, you'll surely need it (but won't be able to find it)." This also applies in the LAO. The best way to remedy this problem is to employ a sensible and straightforward system of organizing the LAO's files.[104]

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[102] Pardue, *supra* note 20, at 3.

[103] *See* AR 27-3, *supra* note 2, para. 5-1a (encouraging the inclusion of checklists and worksheets in the temporary folder set up for a client); *see also* LEGAL ASSISTANCE NEWSLETTER (AM. B. ASS'N STANDING COMMITTEE ON LEGAL ASSISTANCE FOR MIL. PERSONNEL) vol. 7, at 13 (1975).

[104] *See* AR 27-3, *supra* note 2, para. 5-1a (dividing data files into "temporary files" and computer records).

A. Computer Files

There are two types of files which attorneys use: computer files and paper files. When dealing with computer files, follow these guidelines in organizing the LAO's directories, either on the network drive or on the individual attorney's own hard drive.

The first directory is for clients. Although LAOs must use the Client Information System,[105] the chief may want to consider this additional method. Subdirectories should list the names of each of the LAA's clients. This allows the LAA to save the data there and easily retrieve it. Thus, the directory on the individual attorney's hard drive for *SGT Smith* might be found at c:\clients\smith, and the directory on the network drive for *Mrs. Gray* might be found at h:\clients\gray.

The LAAs will need other directories, as well. One directory should exist on the network drive for forms, so that LAO personnel can retain and retrieve all those valuable model documents, standard forms, and examples that the office routinely uses. Consider saving these as "read only" documents so LAAs will not "write over" them accidentally.

A third major directory is essential. This directory is entitled "Office," and is used for administrative files that are neither client or command related nor forms. This directory should include such administrative files as an office SOP, the LA handouts, a set of client hand-outs, or a list of important names and addresses.

A fourth directory to prepare is one for "Research." This will permit LAAs (or the entire LAO staff, if it is a network drive) to retain and retrieve statutes, cases, rules, regulations, articles, and annotations. This functions as a "sub-branch" of the office library.

B. Paper Files

The LAO must also deal with the "hard copies" of newspapers articles, court guidelines, and other general, non-client documents that are brought into the office. The best way is to make a list of the most common subject areas the LAO uses, and to organize the paper documents accordingly.

The author, for example, employs a "Common Subjects List" for all articles, cases, newspaper or magazine clippings, and sample forms that reference family law. The list is divided into major areas, such as child support, annulment, divorce or alimony, and then further subdivided into narrow and specific categories. The folders in each subject area have different-colored labels to help in their organization and to prevent the mis-filing of folders. The LAO should do this for each area of interest. Setting up a folder directory such as this for all the areas and cases the LAO handles will improve the organization of data in the office.

Now a colonel, Captain Henry Hogan describes another system, called "title filing," in his excellent article, "*Title Filing: A System of Maintaining the Military Lawyer's Professional Papers*."[106] In it, he describes a problem facing all JAs: how to organize previously acquired materials in a way that provides immediate access, mobility, protection, and simplicity of operation. Captain Hogan's solution is to set out a series of primary "Titles" and subordinate "Topics" which can be adapted to any LAO or, for that matter, any section of the SJA office. This organization of files allows the seamless transition from one LAA to another with minimal training on how the system operates, and from chief to chief as well. The titles and topics are clear, intuitive, and accurately related to the subjects of practice for the LAA. They are also flexible enough to allow additions: "The reader will find that it is possible to take most of the material on hand and file [it] into one of the available *topics*. If not, then simply add a topic."[107]

C. Client Outlines

Another step toward better organization—and the best way to retain client data—is a client outline for each individual who visits the LAO. A client outline can also be invaluable upon the transfer of the LAA who previously handled the case. Such an outline can provide automatic numbering or lettering for the busy attorney and also provide subcategories for each section down as many levels as are needed or useful. The use of a client outline can greatly assist in the organization of data such as client goals, identifying problems and issues, summarizing interview sessions or phone conversations, and brainstorming about solutions. An example of what such an outline might look like in a pending car repair case is at Appendix K.

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[105] *See* JAGCNET, *supra* note 18.
[106] Captain Henry J. Hogan, III, *Title Filing: A System of Maintaining the Military Lawyer's Professional Papers*, ARMY LAW., June 1975, at 17; *see also* Borgen, *supra* note 20, at 5 (discussing case and article files and developing an extra-office system by which to retrieve materials).
[107] Hogan, *supra* note 104, at 18.

XII. Client Counseling

New LAAs frequently need basic instructions on client counseling. Law schools seldom teach this skill, and yet it is an essential element for building a reputation as an excellent attorney and a competent legal advisor, whether the command or an individual is the client.[108] A LAA should provide that client what he, himself, would like to know before expending a major amount of time, worry, money, and effort. In order to find out if the office is doing this properly, consider using a client satisfaction survey, a sample of which is contained at Appendix L, to assess the success of the LAAs in meeting their clients' needs.

There are ten basic elements for counseling a client. The chief should ensure that newly-assigned LAAs receive instruction on these elements shortly after their arrival.

First, focus the interview. No attorney has unlimited time to meet with his clients. Try to organize the interview process at the start of the office visit. Tell the client at the outset what is to take place. Ask her to summarize the problem and state her questions and goals. Encourage the client to jot down any questions she has during the interview to facilitate a complete discussion of all aspects of the problem. Should the client start wandering off the subject, gently bring her back to the issue at hand.

Second, be patient. A good LAA is a good listener. Despite the LAA's desire to focus the interview, he should also remember that there must be a fine balance between "keeping it moving" and trying to be sympathetic, compassionate, and considerate regarding the needs of the client to vent her frustrations, explain her exasperation or just "tell her story." Especially with divorce cases, this is sometimes necessary for the client as part of the "grieving process."

Third, let the client finish. Wait until she has completed explaining the problem before providing advice. Do not interject and give an answer until the client has had a chance to explain everything. Perhaps she has not finished; do not base legal advice on partial facts. Wait until the client has finished and then ask, "Is there more?" Then, and only then, proceed with opinions and advice.

Fourth, advise fully after listening closely to what the client is asking or requesting. For example if, "Can I get child support?" is the question, answer it, and also address all the related legal issues that the client needs to know regarding the subject. Legal assistance attorneys should advise the client on all alternatives so the client can make a guided, informed decision.

Fifth, talk about time. How long will the case take? While a LAA cannot be exact in his time-line estimation, he should provide some estimate of the likely length of time involved in resolving this dispute. What could delay resolution? What will the opposition likely do that will resolve the problem quickly or prolong it? A client should appreciate receiving a realistic assessment and a description of the issues that factor into it.

Sixth, consider cost. What will the expenses be? Can the client afford the cost involved? On rare occasions, the cost may be nothing, as when the LAA performs the work, sends the letters or makes the phone calls. This could also be the situation when a legal aid attorney, a public defender, an assigned criminal defense attorney or a *pro bono* program attorney handles the case. Or perhaps the cost is, at most, a couple of postage stamps when the client writes the letter. At other times, the client simply has "too much case for the pocketbook," as when a dependent spouse has a contested custody case or a junior enlisted soldier wants to take on a landlord for violation of the local health and sanitation regulations.

Seventh, review reasonable results. Go over the benefits, as well as the drawbacks of the case, and do this at the beginning. When explaining about going to court against the landlord, for example, the LAA should discuss obtaining damages from him, reinstatement of the lease or other affirmative relief that the client might receive. The LAA also should discuss the downside (if there is one); how to collect the damages if the client wins (but the landlord refuses to pay the judgment); and the possibility that the client could lose and wind up paying court-awarded attorney's fees. Honest and open disclosure is crucial in this interview.

Eighth, provide follow-up appointments. It sometimes is impossible to provide full advice in a short amount of time. If the LAO offers only twenty-minute appointments, use one or more follow-up appointment to get the details, provide full advice, ask additional questions or provide feedback on solving the problem. When trying to finish within the time limits of the initial office visit, always ask, "Am I doing justice to this case?" If the LAA cannot answer this question in the affirmative, then a follow-up appointment is needed.

Ninth, preserve the privilege. Take steps to safeguard confidentiality and avoid losing the attorney-client privilege. If a person other than the client is present during the interview, then the privilege is lost. There are many reasons why there

[108] In addition to the pointers given below, JA 271, chapter 2, contains an excellent outline of how to conduct client counseling. *See* JA 271, *supra* note 19, ch. 2.

might be another person in the LAA's office other than the client. The client might want to have her sister there for moral support. She might want her best friend there to better retain and remember the information the LAA gives. While a third party's presence might not matter in a consumer fraud case, it could be critical in a case involving a will or a divorce. The presence of a third party in the interview may be a good idea, but it will invariably destroy the confidentiality that comes from communication between an attorney and his client. This means that the LAA may be compelled to testify about what that client said in the interview. Be sure to inform the client of the privilege and how the client can waive it.

Tenth, retain records. Make an accurate record of actions taken and issues discussed. This includes memorializing each meeting with the client, what she said, what documents she presented, what advice the LAA provided, what course of action the LAA and client agreed on, who the LAA contacted, and, with each successive contact phone call or interview, the same or similar information until the LAA resolves the matter or otherwise closes the case.

XIII. Training Staff Attorneys

Supervising attorneys are required to ensure that their LAAs receive CLE regarding law, policies, and professional responsibility consistent with and relevant to their LA duties.[109] The chief has no control over what the LAAs were taught (and how well they learned it) at the Judge Advocate Officer Basic Course. But he can definitely make a difference in what they learn on the job as LAAs.

There are several reasons why the LA manager should train his staff attorneys constantly. These are the most important: professional responsibility; competence (including malpractice avoidance); and fulfilling the CLE requirements of an attorney's jurisdiction.

Training can take many forms. It can involve a formal course instruction at TJAGLCS or at a local or statewide CLE program. It can also involve "distance learning," such as using correspondence courses, videotapes, on-line training, or audiotapes. The installation commander must provide adequate funding for CLE programs for LAAs and for clerical support staff.[110]

A. In-House Training

One of the often-overlooked training techniques is the use of in-house seminars on topics of importance to the LAA, such as domestic relations, consumer protection, immigration and naturalization, landlord-tenant law, and legal ethics. Paragraph 2-4*a* of *AR 27-3* states that supervisory attorneys should conduct CLE training periodically for all those who provide (or would be called upon to provide) LA at the installation.[111] Local civilian attorneys and RC attorneys can assist.

The first task is to outline a course of training. The chief should compile a list of the most useful topics. Checking with prior LAAs in the SJA office to find out the most frequently encountered problems and issues in the LAO, and which ones need the most attorney instruction, is helpful. Alternatively, the Chief might distribute a "wish list" with blanks for the top five topics for instruction within the office, and then collate and compare the results.

The next step is described by the saying, "Don't reinvent the wheel." Determine whether this training has been done before, either in the LAO or elsewhere. If the LAO has already taped a speaker explaining the subject, it should be used; do not try to find a presenter who will volunteer his time to come to the office and "hug the podium" for an hour or two when a training resource already exists.

The same is true if one of the many videotapes that TJAGLCS provides covers the topic. Use of these resources will save the LAO both time and money. Top-quality instruction is available from TJAGLCS instructors and visiting instructors. Training can occur without spending money from the OSJA budget or losing an LAA for a week, were the LAA to travel to TJAGLCS for a course.

When this option is not available on the topic involved, it is necessary to solicit the names of possible speakers. Consider local lawyers, court officials, and RC attorneys. Also use those LAAs who have just taken a CLE program; consider instituting a policy in the office that each attorney who attends a CLE class will then teach the same class in the next month at the LAO.

The next step is to invite the speaker to the office to teach, set aside enough time to allow for a full presentation, and offer to provide as many copies of notes and handouts as the speaker wishes. Be sure to introduce the speaker as a

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[109] AR 27-3, *supra* note 2, para. 2-4a.
[110] *Id.* para. 1-4f(1)(a). This subsection is mis-numbered in the regulation; it properly should be enumerated as para. 1-4f(2)(a).
[111] *Id*. para. 2-4a.

distinguished and welcome guest and perhaps request that the SJA or DSJA do the honors.

The final task is to memorialize the major points of the presentation and save it in the computer directory for CLE presentations or for publications. This will let future LAAs use it when they have a related problem, even if they were not assigned to LAO at the time of the presentation. It will also help with future CLE programs as an outline or manuscript for the next speaker on that topic. This is part of creating an "institutional memory" for the LAO.

B. Ethics Training

One of the most important subjects for an in-office training program is professional responsibility. The starting point, from a doctrinal and regulatory point of view, is the set of ethical rules that governs each military lawyer. These are the *Rules of Professional Conduct for Lawyers.*[112]

From an historical viewpoint, the foundation for legal ethics in the LAO derives from *Formal Opinion 343* of the American Bar Association, approved in 1977.[113] The Opinion states that "the conduct of a military legal assistance officer is governed by the Code of Professional Responsibility to the same extent as that of other lawyers," and it answers twenty-seven questions about LA practice in the military.[114]

Ethics training in the LAO should be realistic and hard-hitting. It should focus on real-world examples from the LA practice that present tough choices for the LAA. For example, suppose an LAA who represents a soldier discovers his client has perpetrated a fraud on the local judge in a recent lawsuit that the soldier won. Must the LAA reveal it? Should he? Can he? What if the rules of the state bar where he is licensed allow the disclosure, even though the Army Rules prohibit it? Which one governs? What if his state bar does not allow disclosure but the Army Rules require it?[115]

The chief need not limit his survey of ethical problems to only those most likely to occur. Each attorney should have his or her own contingency plan to deal with the unlikely as well as the likely in the area of professional responsibility. Make up some "worst case" scenarios and tough hypothetical cases to challenge your attorneys into thinking long and hard about their ethical and professional duties.

C. State Legal Training

All states have organizations that provide CLE training, which is available to JAs. The chief should identify the providers and contact them to obtain their catalogs, ask to be placed on their mailing list for flyers or go on-line to see what resources the providers offer.

It is important to remember that each state is different. The usual place to start is the state bar or bar association. There often, also, are nearby law schools which may provide CLE programs for practicing lawyers as part of their curriculum. Finally, there may be other attorney associations, which can also provide needed training to the LAA.[116]

Reach out to the CLE providers to see what benefits they can provide to JAs. Some states, for example, allow military lawyers to attend CLE programs for the cost of the materials. Others allow a reduced fee for legal aid attorneys; the chief should determine whether they will expand this benefit to military attorneys, as well. These programs provide needed training to LAAs and offer an opportunity to develop comradeship and networking among the state's civilian, military, and government practitioners.

The chief should also provide training for the paralegals at the LAO. There may be local courses at a community college or technical institute that they can attend. If so, then find the money to send them; this is a powerful motivator to do their best job in the office and to stay in the Army. Another option involves using TJAGLCS courses for training paralegals, and a less expensive alternative is to schedule regular classes at the LAO, so paralegals can obtain training from the LAO staff attorneys.

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[112] *See* AR 27-26, *supra* note 60.
[113] *American Bar Association Formal Opinion on Military Legal Assistance,* ARMY LAW., June 1978, at 14.
[114] *Id*.
[115] Captain Donald L. Burnett, Jr., *The Proposed Rules of Professional Conduct: Critical Concerns for Military Lawyers,* ARMY LAW., Feb. 1987, at 23.
[116] In North Carolina, for example, the leading CLE provider is the North Carolina Bar Association. Wake Forest University Law School, much more than the other three law schools in the state, has also set up an excellent CLE curriculum for lawyers. Finally the North Carolina Academy of Trial Lawyers provides superior CLE courses that are also open to judge advocates.

XIV. Know Your Limits—Malpractice Avoidance

It is crucial to take the time to teach LAAs how to avoid grievances and malpractice traps. Civilian practitioners are not alone in their exposure to claims of legal negligence, also known as malpractice. Claims against the government can be, and have been, filed for negligence in the legal field in the drafting of wills and the preparation of separation agreements.[117] The target of the claim usually works in a LAO. Most often the problem is a LAA who is "in over his head" due to lack of experience, time, research or practical knowledge of state cases and laws. Whether the legal malpractice is the result of a well-intentioned LAA wanting to "go the extra mile" for a client or some other reason, it is not the way to practice law in the military.

A. Practicing Avoidance

Avoiding the problem of possible malpractice means knowing one's limits. It means training to prevent legal malpractice. It also means, on occasion, learning to say "*No*."

There are a certain number of areas where the problems of civilian attorneys carry a parallel into the world of military service. A civilian attorney's failure to refer to a specialist is a problem that an LAA may share, as is failure to associate competent co-counsel. The same is true of the failure to warn a client of the running of the statute of limitations (or other aspects of defenses and claims), and a failure to decline cases for which the attorney is not qualified.

B. Common Problems

Part of the malpractice problem is the nature of military practice. Legal assistance attorneys are often asked to give answers to every legal question of the client—a role that no attorney can fill. The military provides LA, with or without appointment, to all clients who meet the basic eligibility qualifications. Supervisors do not tell LAAs frequently enough that they may and, must, decline legal work that they are not competent to handle, even if the services requested fall within the permitted area of delivery.[118]

To handle a question properly, the LAA must first obtain full and accurate information from the client. Next, the LAA must be sufficiently well-trained that he is actually aware of the issues and of the choice that must be made. If the attorney is not sufficiently trained, perhaps some quick research or the advice of a friendly co-counsel in the civilian community (or a former LAA who has handled similar problems) will suffice. All this must be done in order to advise the client properly and to avoid malpractice.

C. Claims Against the Government

Army Regulation 27-3 specifically requires the supervisory attorney to maintain records "to protect the Government from liability from any claims that may arise."[119] Implicit in this directive is the idea that the LAA and the chief should take all reasonable and practical steps to avoid claims against the government. The reason is not just a selfish motive of protecting the government from liability. It is also to uphold the highest professional standards of competent practice, to protect clients from legal negligence, and to protect the LAA from avoidable complaints and grievances.

Claims against the government, as a practical matter, are more likely to occur in areas in which monetary damages are susceptible to calculation and are substantial. It is unlikely to find a legal malpractice claim filed over a visitation dispute, a late divorce, or a truck repair bill of fifty dollars. Yet, substantial claims have been filed against the government in the area of wills and estates and in the area of separation agreements and family law.[120] Failure to preserve a claim for division of military retired pay or to protect a client by maintaining survivor benefit plan coverage upon divorce are examples of potential claims. For these reasons, the chief should spend a comparatively greater amount of training time on how to practice competently in these areas.

In sum, the problem of legal malpractice is not unique to civilian practitioners. A responsible chief will set aside time to

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[117] *See* Mark E. Sullivan, *When to Say 'No*,' LEGAL ASSISTANCE NEWSLETTER (AM. B. ASS'N STANDING COMMITTEE ON LEGAL ASSISTANCE FOR MIL. PERSONNEL) vol. 19, at 22 (Apr. 1984) (outlining problems and solutions in malpractice avoidance, including specific examples of legal negligence claims against the government).

[118] Indeed, only one sentence in *AR 27-3* addresses the issue of what to do when an otherwise qualifying client or case involves legal expertise that is beyond the ability of the LA provider: "An attorney who provides legal assistance should refer a case to another lawyer (para. 3-7*h*) whenever the client's needs exceed either the attorney's competence or authority to render assistance." AR 27-3, *supra* note 2, para. 4-7b.

[119] *Id.* para. 5-1c (2).

[120] *See* Mark E. Sullivan, *When to Say "No,"* LEGAL ASSISTANCE NEWSLETTER (ABA Standing Committee on Legal Asisstance for Military Personnel (LAMP)), Apr. 1984, at 22, 28-29.

teach his LAAs to ask questions, think, and use the resources available to them to maintain and upgrade their legal expertise. Knowledge of one's limitations, use of the chain of command, and adherence to the applicable rules of professional conduct are the keys to preventing malpractice in the LAO.

XV. Office Management Checklist

A final element of superior LA service provision is to prepare a summary, in checklist form, of tasks for which the chief is responsible.[121] A worthwhile checklist will include tasks and projects for various members of the staff and reflect creative ideas for how the LAO should function. The example provided at Appendix B is not intended to be a comprehensive list of items to include, for that would take several pages just to list everything that is contained in this article. Rather, it is proposed as an illustration of how such a checklist might look.

XVI. Conclusion

This article has provided numerous leadership and office management techniques, which the author has developed during three decades of LA assignments and office visits. As another author notes, "Meeting these goals with limited legal resources is the crux of the legal assistance officer's challenge. Using creativity and resourcefulness will stretch limited resources far beyond perceived limitations."[122] While no chief can hope to accomplish all of these programs and initiatives, if he initiates *some*, he will have taken a substantial step towards effectively managing and improving the LAO.

[121] A checklist is attached at Appendix B.
[122] Pardue, *supra* note 20, at 3.

Appendix A

List of Eligible Legal Assistance Clients

Potential client is eligible if…	**Authority: *AR 27-3*,**	**Comments**
Active duty service member	Para. 2-5*a*(1)	
Family member of the above	Para. 2-5*a*(1)	
Reserve/Guard personnel	Para. 2-5*a*(2)	If on active duty for more than 29 days; otherwise, see para. 2-5*a*(2)*(b)* and *(c)*.
Family member of the above	Para. 2-5*a*(2)	If sponsor is on active duty for more than 29 days; otherwise, see para. 2-5*a*(2)*(b)* and *(c)*.
Retiree from active duty	Para. 2-5*a*(4)	
Family member of the above	Para. 2-5*a*(4)	
Reserve/Guard retiree	Para. 2-5*a*(4)	If receiving military retirement pay.
Family member of the above	Para. 2-5*a*(4)	If sponsor is receiving military retirement pay.
Recipient of disability pay	Para. 2-5*a*(4)	
Family member of the above	Para. 2-5*a*(4)	
Surviving family member of active duty or Reserve/Guard member, or retiree	Para. 2-5*a*(5)	If he or she would be eligible for LA if the sponsor were alive.
Department of Defense (including Army) civilian employees	Para. 2-5*a*(6)	Limited eligibility under five specific conditions; see paragraph at left. Consult with LAO chief if questions on providing services.
Civilian contractors and family members with them when accompanying the armed forces outside the US	Para. 2-5*a*(7)	Limited eligibility under specific conditions; see paragraph at left. Consult with LAO chief if questions on providing services.
Primary next-of-kin (PNOK) of deceased eligible personnel, including executors, personal representatives, administrators, attorneys and other estate representatives	Para. 2-5*a*(8)	Eligibility limited to matters relating to settlement of estate. "Eligible personnel" defined in para. 2-5*a*(8)(*a)* and *(b)*. PNOK defined in AR 600-8-1, para. 4-1*a*. Consult with LAO chief if questions on providing services.
Fiduciaries of eligible personnel who are serving in a combat zone or contingency operation (such as agent under a power of attorney)	Para. 2-5*a*(9)	Eligibility limited to matters that would otherwise be available is the member was present. Consult with LAO chief if questions on providing services.
Members of other military forces	Para. 2-5*a*(10)	If serving in the US.
Family members of the above	Para. 2-5*a*(10)	If sponsor serving in the US.
Prisoners in a US military confinement facility	Para. 2-5*a*(11)	

Appendix B

Legal Assistance Office Management Checklist

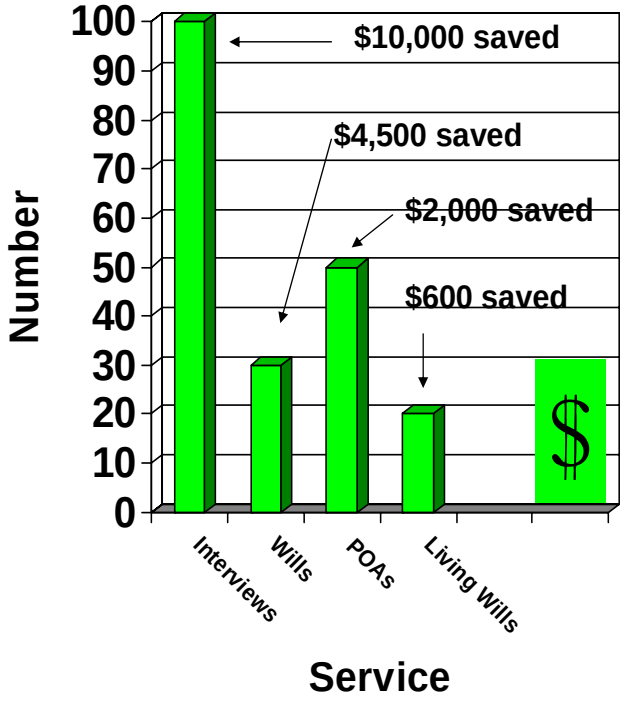
✔	**Task**
	STAFF TRAINING, DEVELOPMENT
	Send qualified or deserving individuals to CLE programs and training seminars
	Ask staff and attorneys for input on ways to improve office, solve problems
	Schedule staff meetings on a regular basis, have all personnel attend
	Establish, maintain an office manual
	Find incentives, rewards, recognitions for good performance
	TIME MANAGEMENT
	Lead and supervise – don't micro-manage
	Spend first three hours of each day getting "essentials" done
	When focusing on a task, limit interruptions
	When using voicemail, leave a time when you can be called back
	When recording your own voicemail message, tell when (and how) you can be reached
	Keep your office clean and your desktop neat
	Try to find a "lesson learned" in every problem, task or issue
	Take time to teach those lessons
	Prioritize
	Be brief – "less is more"
	PROFESSIONAL RESPONSIBILITY
	Always keep your clients updated
	Read the Rules regularly (*AR 27-26*)
	Brief all incoming staff on ethics and confidentiality issues
	Be sure that conflict prevention procedures work
	Teach your attorneys about legal ethics regularly
	Ditto for non-attorney office staff
	When a problem arises, find out the facts first
	When solving a problem, act promptly
	When you anticipate a problem, create a record
	When in doubt, meet with the deputy or SJA promptly to discuss issue
	CONFIDENTIALITY
	Keep doors closed while interviews are conducted
	Never use speakerphone when others can hear conversation
	Do not discuss client problems in common areas
	Don't leave client letters or other records in plain view overnight or in common areas
	Maintain password security on all computers
	When meeting with a client, avoid taking calls from other clients or about other cases
	Shred sensitive client documents instead of sending to wastebasket
	Forbid discussions about client matters outside office

Appendix C

Legal Assistance Chart for SJA Staff Meetings

Legal Assistance, Feb. 2004: Statistics and $avings

- 3 LAAs, 2 paralegals
- 100 initial interviews [est. cost @ $100]
- 30 wills @ $150
- 50 POAs @ $40
- 20 living wills @ $30
- Total saved = $17,100



Appendix D

Common Screening Questions and Answers

Question	Answer
How do you get a divorce here in East Virginia?	Our legal clerks cannot give you specific legal advice. In general, there are three requirements for a divorce in this state: First, the husband or wife must be a legal resident of the state. Second, the spouses must have lived apart for more than a year. Third, the separation must have been intended to be permanent. We can send you by mail or e-mail our client handout, "Divorce in East Virginia," or we can set you up for an appointment with one of our LAAs?
Do you have to have a separation agreement to get a divorce here?	I'm not a lawyer, ma'am, so I can't give you legal advice. East Virginia law, however, doesn't require a separation agreement in order to get a divorce. Would you like an appointment? Can we send you our client brochure on "Separation Agreements"?
I'm not getting along with my husband. We've been married only two months and it was a mistake. Can't I just get an annulment?	I can't give you legal advice, ma'am, since I'm not an attorney. You can set up an appointment with one of our LAAs as early as Thursday of this week. As to annulments, an annulment is not a divorce involving a short marriage. An annulment is granted if the marriage was not legal in the first place. All of this is explained in our office handout on "Annulment and Divorce." Would you like us to send you a copy by mail or by e-mail? You can also download it from our office website.
Why can't I talk to an attorney before I set up an appointment?	Our LAAs receive many phone calls each day. Due to the volume of clients we serve, our paralegals must screen our potential clients in order to ensure that our attorneys can devote their full attention to existing clients who have already come in for help. We can send you a client handout on any of the subjects that would be involved in your case, and we have more than twenty of these handouts.

Appendix E

Child Support Enforcement Questionnaire

Question	Answer
What are the full names and dates of birth of each child for whom support is owed?	
What is the full name of the parent who owes support?	
Give all location and identification information for that parent (e.g., address at work and home, phone numbers, employer or military unit, Social Security Number, etc.)	
Identify the source of the support obligation (e.g., date of court order, city and county of court, and case number)	
What did the court order or agreement require for child support payments (e.g., what amount is due, per week or per month, either on a per-child basis or for all of the children)?	
How much is past due? If possible, provide a list of when the payments were due and how much, if any, was actually paid by the other parent.	

Appendix F

Pro Se Divorce Checklist

Please answer each of these questions before you proceed to the questionnaire below. If your answer to any of these questions is "No," then you should stop – you cannot get a divorce in North Carolina.

1. Are you (or is your spouse) a legal resident of North Carolina? (Note: This means that you are eligible to vote here, you pay state income tax, and this is your home.) ___Yes___No
2. Has the one who is a legal resident of this state lived here for at least six months? ___Yes___No
3. Have you and your spouse been living separate and apart for more than one year? ___Yes___No
4. During that separation period, has either one of you intended that the separation be permanent? ___Yes___No

If the answers to all of the above questions were "Yes," then go ahead with the questionnaire below, and please complete each entry fully and legibly.

Appendix G

Pro Se Divorce Questionnaire

Question	**Answer**
What is your state of legal residence, or domicile?	
What is your spouse's state of legal residence?	
Has one of you been a legal resident of North Carolina for at least six months?	
What is your date of marriage?	
What is your date of separation, that is, the date that you and your spouse stopped living together?	
During the year's separation, did one of you have the intent that the separation be permanent?	
What are the names and ages of the minor children of the marriage?	
(for the wife) If you want to resume the use of your maiden name, what is that name?	

Appendix H

LAA's Visitation Checklist

✔	**Reasonable visitation**	
		Does client really want NO specified visitation times? Ask him or her what will happen if the parties disagree on when and how visitation will occur.
		If client decides that specified visitation might be better, or should be stated as a back-up in cases of distribution agreement, add the following terms:
✔	**Specified visitation**	
	Local schedule	
		Alternating weekends, from 6 p.m. Friday to 6 p.m. Sunday.
		One week each Christmas holiday period
		Four weeks in the summer, taken two weeks at a time [specify dates, such as "First two weeks in July and in August"]
		Every Father's Day with dad (and every Mother's Day with mom), regardless of other scheduled weekend visitation
		Alternating Thanksgivings and spring breaks [specify dates]
	Local logistics	
		Specify who provides transportation
		What happens if visiting parent is late? How long must custodial parent wait? Does lateness cancel visitation?
		How will child's illness during visitation be handled? Will visitation be canceled and make-up weekend scheduled? Will visitation be forfeited?
		What happens if visiting parent has conflict? Is there a make-up visitation, or is visitation canceled?
	Long-distance schedule	
		Christmas holiday period
		Summers
		Other
	Long-distance logistics	
		Usual arrangement: non-custodial parent gets round-trip plane tickets in advance, sends them to custodial parent
		Need for companion for the child if under a certain age? This means either mom or dad has to accompany child on the flight – at the cost of one more plane ticket! Have client check with specific airlines for rules; policies on this may vary.

Appendix I

Military Custody Checklist

LAA Checklist for Military Custody

✔	**Factors against obtaining custody:**	
		Irregular child-care schedules, weekend or night duty
		Mobilizations, alerts, deployments, frequent PCS moves
✔	**Factors favoring custody:**	
		Stationed in garrison, deployment unlikely
		Quality of schools on base
		Recreational and day-care facilities on base, dependent youth groups
		Travel to other states, countries—cultural enrichment

Appendix J

Change-of-Custody Checklist

LAA Checklist for Change of Custody

✔	**Legal Questions** (check state law to confirm, clarify)	
		Is there a prior court order (not just an oral agreement or an unincorporated separation agreement)?
		Since the date of the order has there been a change of circumstances?
		Is the change substantial or significant?
		Does it have an impact on the child/children?
		Is the impact adverse?
		Was the change unforeseeable when the order was entered?
		Is the change one that requires a change of custody, as opposed to some other, less drastic remedy (e.g., change in visitation, change in child support)? In other words, nothing but a custody change will resolve the problem that exists.
✔	**Practical Questions**	
		Will the other party agree to a change in custody? Can custody mediation be attempted?
		If not, can the client afford to hire a private attorney to take the case to court?
		If not, can the client secure representation at no cost (e.g., Volunteer Lawyer Program, legal aid, court-appointed attorney) or reduced cost?
		If not, can client employ a Guard/Reserve attorney for retirement points?
		[If there is no chance of securing private counsel to represent the client, discourage him or her from attempting to handle the case pro se. A "do-it-yourself" root canal would probably be simpler!]
		Does the client have the funds to go back to the original custody court for a trial? [Consider travel, lodging, etc.]
		Does the client have available leave time to accomplish this litigation?
		[If at all possible, contact the client's civilian attorney about requesting a peremptory or priority setting, so that the matter will be heard at the first call of the calendar and not continued or put off for any reason.]

Appendix K

Client (CL) Outline

CASE NAME: Smith, John -- SGT (E-5)
ASSIGNED ATTORNEY: Brown
TYPE OF CASE: Car Repair

I. SUMMARY OF CASE, ISSUES: CL's car has a noisy muffler that needs repairs. He took it to garage to get it fixed. They took his money and said that they had fixed it, but it's still noisy and they won't give his money back.

II. CASE LOG (ACTIONS TAKEN BY LAO):

A. 2 Dec 03 office visit with CL. He says that:

> 1. CL took his 1997 Subaru Foxfire into Sam's Garage (1700 Swampy Blvd., Anytown) on 18 Sep 03 for repairs to the muffler. He talked to Art Black, one of the mechanics, who told him that the car would need a new widget for the frammis filter. He told them to install one, and Black told him to return in about a week.
>
> 2. On 27 Sep 03 he picked up his car and they charged him $95 to install the widget, but the noise problem continues. He has been back there three times to get it fixed or get his money back. They are unresponsive, appear to be uninterested.

B. 4 Dec 03: called Sam's Garage, spoke to Sam, told him briefly about problem, he said to put complaint in writing and he'd take a look at it.

C. [continue here with next facts, actions, etc.]

III. CLIENT'S GOAL(S):

A. Get his muffler fixed, or

B. Get a refund of the $95 that he paid to Sam's Garage.

IV. SETTLEMENT PROSPECTS, PROPOSALS: None so far.

V. TO-DO LIST:

A. Write a letter to Sam's inquiring as to the status of the refund and explaining the facts clearly from CL's point of view.

B. Call Attorney General's Office, Consumer Protection Division, to find out about consumer dispute mediation program just advertised on radio.

Appendix L

Legal Assistance Client Survey

Client Survey

Thank you for visiting our legal assistance office. We hope that we were able to provide you with advice and assistance regarding the legal matter(s) which you brought to us. To improve the services we provide to our clients, we invite you to complete and return this questionnaire.

You need not sign the completed questionnaire. When you have completed the form, simply mail it back to our office at [address] or drop it by the office. Thank you for your help.

1. When did you first come to our office for help with a legal matter?

_____(approximate date)

2. Why did you choose to visit our legal assistance office?

_____

3. What was the issue, the need or the legal problem that you brought to us?

_____

4. Which attorney met with you?

_____

5. If you called our office, did we return your phone calls within a reasonable time?

☐YES ☐NO

6. Please describe the treatment you received from your attorney:

☐Excellent ☐Good ☐Fair ☐Poor

If you wish, please explain your answer:

_____

7. Please describe the treatment you received from our staff (receptionist, clerks, secretaries, paralegals):

☐Excellent ☐Good ☐Fair ☐Poor

If you wish, please explain your answer:

_____

8. How long did you wait in the reception area before seeing an attorney?

☐Under 10 minutes ☐10-15 minutes ☐15-20 minutes

☐20-30 minutes ☐Over 30 minutes

9. [If applicable] Did your attorney regularly inform you of the progress of your case?

YES NO

10. Would you recommend our services to others?

YES If yes, why? _____

NO If no, why? _____

11. Please rate the overall quality of the services provided by our legal assistance office.

Excellent Good Fair Poor

Thank you. Please feel free to add any comments you feel would be helpful to us.

_____

_____

* * *

Appendix M

A Template for Competent Practice

Training LAAs to avoid malpractice means teaching them questions to ask when confronting new problems (or new issues in a familiar problem area). Some of the general questions and concerns are:

1. *Review eligibility.* Be sure the client (and his legal problem) are eligible for LA.

2. *Ensure your office provides the specific service.* Even if the regulation does not specifically prohibit services in some areas, the installation OSJA may have developed guidelines on what matters the LAO cannot address due to lack of expertise or manpower constraints. It is a fairly common practice to prohibit the preparation of individual tax returns or lengthy trust agreements, for these reasons.

3. *Ask hard questions*. The LAA's inquiries should focus on whether he can undertake this particular task. Has he ever handled a similar problem? Can he get some "tutoring" from TJAGLCS or a civilian attorney? Perhaps a Reservist can act as co-counsel. Remember that a LAA should refer a case or client to another lawyer whenever the needs of the client exceed either the LAA's competence or the authority to render LA.[1]

4. Don't make waves. If the work can be done competently, sometimes it is better to provide the services, even if it means asking for a waiver of local guidelines, so long as it is done with the knowledge and consent of the SJA. If the SJA is directing that the work be performed, he will impact the rating or evaluation of that officer at the appropriate time. This is not to say that *any* work that the SJA requires LAAs to perform should be done without question, without expertise or without authority. A common example is during tax season when the installation commander wants someone to prepare his income tax return. The SOP in the SJA office may exclude the preparation of individual tax returns, but if the SJA waives this, then the Chief should proceed with the preparation of the necessary forms and schedules for the commander.

5. *Make a record*. When something significant occurs, ensure there is a detailed record of exactly what the client is requesting and how the response is handled. This may be necessary in the event of a future claim against the government. Obtain written releases whenever possible.

6. *Use the chain of command*. When *General Jones* asks to have a lengthy and complex trust agreement prepared, this almost invariably involves legal work far beyond the present expertise of the LAA, and it should be entrusted to a civilian legal practitioner with specialization in this area. The "chain of command" within the SJA office—the Chief, DSJA or SJA—is the best resource to resolve these problems. Often, a candid discussion with one's supervisor will put the issue in perspective and make the supervisor aware of a legal duty and one's own limitations as an LAA. In addition, provide the supervisor with some realistic proposed solutions to the problem. In the case of *General Jones*, for example, it probably would be unwise simply to refuse to help. A better solution would be to interview the *General*, obtain detailed information on the nature and extent of his assets as well as the primary goals of the estate plan, and review the law for possible tax problems. After a discussion with the supervisor, it may be possible to obtain the assistance of a local attorney (for referral or for association in resolving the problem). A Reserve or Guard attorney may have sufficient expertise to handle the trust. One or several of these proposed solutions may give the LAA enough leeway to avoid what would almost certainly develop into a case of legal malpractice. In any event, it will help develop a "record" in the case to show that the LAA identified a legal malpractice problem and took immediate steps to avoid it. As in all such cases, the taking and preserving of a complete set of notes and memoranda for the file will help both to serve the client and to protect the LAA.

[1] AR 27-3, *supra* note 2, para. 4-7b.