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Marine Corps**

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**MARINE CORPS MANUAL  
FOR LEGAL ADMINISTRATION  
(SHORT TITLE: LEGADMINMAN)**

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LEGADMINMAN

CHAPTER 14

LEGAL ASSISTANCE PROGRAM

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### CHAPTER 14

#### LEGAL ASSISTANCE PROGRAM

14000. SCOPE. To promulgate policy, prescribe procedures, and assign responsibilities for the Marine Corps Legal Assistance Program. This chapter provides supplemental guidance to the Department of the Navy policy contained in JAGINST 5800.7C, Manual of the Judge Advocate General (JAGMAN), and JAGINST 5801.2, Navy-Marine Corps Legal Assistance Program. Activities and personnel providing services under this program shall comply with these directives. The Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC) is responsible for the overall supervision and administration of the Marine Corps Legal Assistance Program. The activity responsible for this chapter is the Legal Assistance Branch, Judge Advocate Division, Headquarters, U.S. Marine Corps (JAL) (703) 614-1266 / DSN 224-1266.

#### 14001. BACKGROUND AND POLICY STATEMENT

1. Legal assistance has been provided to Marines, members of the armed forces, and their families, since 1943. Congress officially recognized the military services' legal assistance programs in 1984 by enacting 10 U.S.C. § 1044, which authorizes provision of legal assistance to eligible clients, and mandates, *inter alia*, that the Service Secretaries supervise their respective legal assistance programs. Paragraph 0702(a) of the JAGMAN directs the Commandant of the Marine Corps to supervise and control the Marine Corps Legal Assistance Program. Worldwide and deployable legal assistance is now regarded as a significant benefit of military service and a major quality of life program that enhances duty performance and retention of personnel. The specialized expertise gained by Marine Corps judge advocates in legal assistance billets constitutes a core capability that must be retained by the Marine Corps judge advocate community to fulfill its mission.

2. The focus of the legal assistance program is to assist those eligible for legal assistance with their personal legal affairs in a timely and professional manner by providing clients legal counsel, support, and representation to the maximum extent

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possible.

14002. LEGAL ASSISTANCE BRANCH (JAL)

1. Mission. The mission of JAL is to implement and supervise the Marine Corps Legal Assistance Program, to provide continuous supervision and guidance to Marine Corps legal assistance attorneys (LAAs) and staff in the field, to disseminate legal assistance policies and procedures, to foster communication and inspect the effectiveness of legal assistance programs, and to assist and advise the SJA to CMC on all legal assistance policies, procedures, and related matters.

2. Functions. JAL will accomplish its mission by performing the following tasks:

a. Provide advice regarding legal assistance policies, issues, and procedures;

b. Standardize legal assistance software programs and their related equipment (in conjunction with CMC (JAI));

c. Recommend and implement both mandatory and discretionary legal assistance and preventive law policies, programs, and procedures;

d. Communicate with legal assistance offices on developments, changes and trends in the law via site visits, video teleconferences, continuing legal education seminars, newsletters, e-mail, the legal assistance web page, and other available communication resources;

e. Support legal assistance providers with resources to enhance their practices;

f. Coordinate the Marine Corps Legal Assistance Program with the Legal Assistance programs of the other uniformed services to achieve maximum standardization and compatibility of programs, policies and resources;

g. Coordinate with the other uniformed services to identify the best ways to deliver legal services to clients and to identify trends and potential problems requiring preventive measures;

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h. Coordinate with the Armed Forces Tax Council, Department of Defense working groups, and various other entities (e.g., Internal Revenue Service, Immigration and Naturalization Service, Federal Trade Commission, Defense Finance and Accounting Service, The Judge Advocate General's School of the Army, and Naval Justice School) to obtain the most current legal information of value to legal assistance practitioners;

i. Coordinate with the American Bar Association's (ABA) Standing Committee on Legal Assistance for Military Personnel (LAMP) to ensure ABA recognition and support for current issues of military importance, as well as to obtain LAMP recognition of outstanding Marine Corps LAAs and offices;

j. Coordinate and oversee the Regional Legal Assistance Councils (RLACs) and their programs and policies; and

k. Annually visit and evaluate Marine Corps legal assistance programs and providers to ensure quality and compliance with binding policy guidance.

### 14003. REGIONAL LEGAL ASSISTANCE COUNCILS

1. The delivery of quality legal assistance services is enhanced when all LAAs, active and reserve, communicate with one another regarding trends and developments in law and procedure. This can best be accomplished in a periodic series of meetings that bring together active duty attorneys and Reserve judge advocates that specialize in areas of the law relevant to the delivery of legal assistance.

2. In furtherance of this concept, two Regional Legal Assistance Councils (RLACs) are established and will function as set forth in the following paragraphs.

3. The RLAC, East, shall consist of all LAAs from the legal assistance offices located east of the Mississippi River and shall be chaired by the senior active duty LAA in the region.

4. The RLAC, WestPac, shall consist of all LAAs from the legal assistance offices located west of the Mississippi River and shall be chaired by the senior active duty LAA in the region.

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5. Marine Corps Reserve LAAs within the region may participate in activities of the RLAC.

6. Each RLAC shall be co-chaired by a reserve liaison. Each reserve liaison shall:

a. Present seminars at RLAC meetings, as requested by the RLAC.

b. Assist in the development of program improvements.

c. Arrange and schedule regular CLE for legal assistance attorneys located in CONUS.

d. Visit each legal assistance office annually with the Head of JAL, and review the manner in which each office delivers legal assistance to its clients, including:

(1) The nature, extent and types of legal assistance provided;

(2) The condition and adequacy of building and office facilities;

(3) Computer hardware and software;

(4) Library and automated research programs;

(5) Referrals to civilian attorneys;

(6) Difficulties the legal assistance office has in providing quality legal assistance, if any;

(7) Requests or suggestions the legal assistance office has for improving the quality of legal assistance it provides; and

(8) Any other matters or issues the LAAs or the visiting Reservists want to discuss or address, with a view toward improving the delivery of legal assistance to clients.

e. Mentor active duty and Reserve LAAs.

7. The RLACs shall function as follows:

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a. The RLACs shall meet, in person if possible, at least every 6 months, to address, at minimum, the following:

(1) Recent trends, developments and problem areas in legal assistance;

(2) Current and planned preventive law programs with recommendations, if any, for action to be taken; and

(3) Recently concluded (and planned) continuing legal education (CLE) programs attended by LAAs, including an objective evaluation of each course attended. Any LAA who has attended a special CLE or training program will brief the other LAAs on the course, summarize its content, and provide copies of pertinent materials. Copies of the summary and materials should be forwarded to JAL.

b. The RLAC chairman shall submit a semi-annual report to JAL, no later than the 30<sup>th</sup> day after the conclusion of the RLAC meeting.

c. Each RLAC will invite representatives from legal assistance offices from other uniformed services in the region to participate in the RLAC's activities.

### 14004. ACCEPTANCE AND USE OF VOLUNTARY SERVICES

1. Legal Assistance Offices may recruit and accept services from volunteers. The acceptance and use of such voluntary services must be in accordance with DoD Directive 1100.21, "Voluntary Services in the Department of Defense", March 11, 2002, and any other implementing regulations and procedures established by the Secretary of the Navy.

2. All volunteers shall sign the appropriate part of DD Form 2793, "Volunteer Agreement for Appropriate Activities or Nonappropriated Fund Instrumentalities." The acceptance of volunteer services shall be acknowledged on this document before an individual is allowed to provide volunteer services. A copy of the signed volunteer agreement should be given to the volunteer prior to commencing volunteer services. Part IV shall be completed at the end of the volunteer's service in order to document the dates of the volunteer service. A copy of the completed volunteer agreement shall be given to the volunteer

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upon termination of service. Volunteer records shall be retained for 3 years following the termination of volunteer service.

14005. FACILITIES AND RESOURCES

1. LAAs should be provided with individual private offices with full floor-to-ceiling walls to safeguard confidentiality of consultations with clients.
2. Adequate measures and procedures will be established to ensure the security of clients, confidential records, and office personnel and equipment.
3. Client records shall be maintained for the period of time set forth in JAGINST 5801.2.
4. All Marine Corps legal assistance offices shall be provided software from JAL in such areas as estate planning, time and document management, and legal document creation. Upon receipt, legal assistance offices shall fully employ said software.

14006. SERVICES. Marine Corps legal assistance offices will provide, subject to ethical considerations, the services set forth in Section 708 of the JAGMAN, and JAGINST 5801.2, and will abide by the following:

a. Estate Planning

(1) Paralegals and support staff may assist LAAs in the drafting of wills and related instruments; however, absent unusual circumstance, no will should be executed until it is reviewed by the LAA with the client.

(2) Marine Corps legal assistance attorneys are strongly encouraged to draft wills using the Military Testamentary Instruments (MTI) provisions specified in Department of Defense Directive 1350.4 ("Legal Assistance Matters"), whenever possible. Legal Assistance Attorneys should use the SOP in Figure 14-3 when executing wills.

(3) Every effort should be made to advise primary next of kin (PNOK) on probating wills and settling estates of service

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members who die while in an active duty status.

(4) In order to minimize hasty preparation and mass will executions, commanders should direct servicemembers to the local legal assistance office during the check-in process to assess their estate planning needs. Mass will executions are discouraged.

(5) Although members of a command may be required to attend estate-planning briefs, and be given the opportunity to obtain a will, commanders should not require personnel to draft or execute a will.

### b. Domestic Relations and Family Law

(1) Paralegals and support staff may assist LAAs in the drafting of court pleadings, separation agreements, and related instruments; however, no separation agreement may be executed until it is reviewed by the LAA with the client.

(2) LAAs may "ghost write" *pro se* pleadings if such practices are permissible under local law and applicable ethical rules. If professional rules prevent an LAA from providing specific *pro se* assistance, the LAA may do any of the following: (1) refer the client to an Expanded Legal Assistance Program (ELAP) attorney; (2) seek *pro hac vice* admission into the appropriate court; (3) refer the matter to a locally-licensed LAA or Reserve judge advocate; or (4) contact JAL for further guidance and assistance.

(3) Under no circumstances will a Marine Corps legal assistance office conduct divorce-counseling classes in which clients are grouped together, unless the individual is first advised that the same preliminary information regarding the divorce process may be provided through an alternate private and confidential method, such as include video tapes, CD ROMs, written publications, and other methods.

(4) Separation agreement worksheets that require a client's signature or initials shall not be used.

### c. Taxes

(1) Legal assistance offices will staff and manage a local program that provides seasonal tax preparation and

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electronic filing services to eligible clients. Advice will be provided on income, real and personal property tax issues and LAAs will assist with the preparation of Federal and State income tax returns. Advice may be provided on estate, inheritance and gift tax matters, and on appealing tax rulings and other findings based on availability of expertise and resources. Legal assistance offices may refer to the Navy ELF Manual for guidance concerning the establishing and maintaining of electronic filing programs.

(2) LAAs with special tax expertise may be authorized to assist clients with tax audits and filing of petitions with the U.S. Tax Court. The LAA must submit a request, endorsed by the Staff Judge Advocate, to JAL, explaining his/her special expertise and the actions which the LAA seeks to perform. Supplemental requests must be submitted for authorization to perform additional representational acts.

(3) Each legal assistance office will submit a final tax report not later than 1 July in a format prescribed by JAL.

d. Economic and Consumer Affairs. Each legal assistance office will designate a point of contact (POC) to the Federal Trade Commission (FTC). Each POC will forward a completed Application for Access to the Consumer/Military Sentinel Website to JAL, which will forward the application to the FTC. After receiving permission from the FTC, the POC will review this database on a regular basis and disseminate information on current consumer fraud activities to other LAAs and judge advocate personnel. The POC will add to the database any information on consumer fraud activities that occur on or around the local installation.

2. Citizenship and Immigration Services. LAAs shall provide counsel and assistance to Marines in matters regarding applications for naturalization based upon qualifying military service, as set out in 8 U.S.C. §§ 1439-1440, and the U.S. Marine Corps Legal Assistance Guide to Naturalization Applications Based on Qualifying Military Service. The guide is provided at Figure 14-1.

14007. EXTENDED LEGAL ASSISTANCE PROGRAM (ELAP). Supervisory attorneys may start or continue ELAP within their command areas. Supervisory attorneys can restrict ELAP by types of cases or

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limit assistance to personnel of specific grades, status or other criteria. Permission to initiate or continue ELAP programs must be requested from CMC (JAL) per the provisions of JAGINST 5801.2, paragraph 8-1.

### 14008. LEGAL ASSISTANCE OUTREACH SERVICES

1. Independent duty Marines, such as recruiters and those serving on embassy guard duty, often serve at locations without access to legal assistance offices. Because their service is often performed at places far from Marine Corps installations, the need to maintain their morale is of great significance. Every effort will be made to provide these Marines and their dependents quality and timely assistance.
2. When an independent duty Marine or that Marine's dependent requests legal assistance, the LAA will verify eligibility by obtaining the requester's duty assignment, social security number and date of birth. The LAA may presume the independent duty Marine is authorized assistance. If there is a question of eligibility, the LAA may ask for a facsimile copy of the military or dependent identification card or call the Marine's parent command.
3. Typically, legal assistance is not provided over the telephone. However, the special circumstances and conditions of independent duty Marines require a different approach. LAAs may provide legal assistance to independent duty Marines by telephone and, resources permitting, will make use of facsimile, electronic mail and video teleconferencing to expedite the provision of legal services.
4. SJAs at the Marine Corps Recruit Depots should be proactive in making legal assistance available to independent duty Marines by:
  - a. Providing regular TAD visits to the Recruiting Stations; and
  - b. Providing classes and written material to recruiters at Recruiting School.

### 14009. ALTERNATIVE DISPUTE RESOLUTION. Alternative dispute

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resolution (including mediation, arbitration, and other alternative dispute resolution services) is a method of settling disputes outside a court setting by using a neutral third party to act as a link between the parties. A neutral third party, by definition, can never have advised or represented either party to the dispute on any matter. Based on the availability of expertise and resources, a SJA may authorize alternative dispute resolution services as part of the command's legal assistance program. Attorneys and other individuals who serve as mediators, arbitrators, or in similar roles, will comply with the ethical standards of the Marine Corps and will use the American Arbitration Association rules as a guideline for arbitration matters.

### 14010. QUARTERLY REPORTS.

1. Statistical Report: Legal assistance offices shall provide JAL with quarterly reports in the format provided in Figure 14-2. Such reports are due the 15<sup>th</sup> day after the conclusion of the quarter being reported.

2. Quarterly Briefing Memo: Each legal assistance office should make quarterly report to JAL, due on the date of the Legal Assistance quarterly statistical report. Such reports will be in memorandum format and will summarize legal assistance office challenges, notable legal assistance office successes, and local developments that relate to legal assistance matters and effect service members. Also include copies of articles published in local and national publications, and recommended changes of law.

3. Legal assistance offices will provide prompt written notification to JAL of any of the following:

- A detailed description of substantiated violations by any individual or organization of any applicable law or regulation regarding commercial solicitations aboard Marine Corps installations;

- The basis for and terms of withdrawal of solicitation privileges by installation commanders against any individual or organization for violating such laws or regulations;

- A summary of any matters referred to the regional Armed Forces Disciplinary Control Board, and action taken thereon;

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14011. THE COMMANDANT'S AWARD FOR EXCELLENCE IN LEGAL ASSISTANCE (CAELA)

1. The delivery of quality legal assistance services is an essential element of readiness and morale. The purpose of the CAELA is to promote the delivery of quality legal assistance services by recognizing outstanding achievement, effort and innovation in legal assistance. It will serve as the basis for nominations to the ABA LAMP Committee for the Legal Assistance Distinguished Service Award.
2. Award criteria are as follows:
  - a. A superior legal assistance program worthy of emulation by other legal assistance offices;
  - b. Exceptional service in the provision of legal assistance services; and
  - c. Major legal assistance innovation.
3. Nominations for the CAELA shall be submitted no later than 1 December of each year in a format prescribed by JAL.
4. The selection committee chaired by the Deputy SJA to CMC will evaluate each office on the basis of the information contained in the nomination form, the results of site visits, the quality and timeliness of required reports and other submissions, and other relevant information. The report of the selection committee will be forwarded to the SJA to CMC for final approval. Those offices selected to receive the CAELA will be notified not later than 15 February.
5. The nomination forms from the highest-ranking Marine Corps legal assistance offices will be forwarded to the ABA LAMP Committee as the Marine Corps candidates for the Legal Assistance Distinguished Service Award.

14012. Standardized Judge Advocate Resources. Each legal assistance office should forward to JAL a list of internet website addresses useful to legal assistance offices, as well as

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resources that will be useful for inclusion in the Legal Assistance Toolkit. JAL compiles, updates and distributes the following resources to Marine Corps Judge Advocate at least once yearly:

1. JAL Bookmarks: Law internet browser bookmarks, including links to Federal, State, and military laws and regulations;
2. USMC Legal Assistance Toolkit: an electronic compilation of files, primers, presentations, templates, forms, and other documents indispensable and helpful for legal assistance and legal awareness judge advocates. Among areas of law that should be included are consumer, family, immigration, tax, pre-deployment, and property law.

14013. LEGAL AWARENESS PROGRAM. Each legal assistance office shall create and maintain an installation "Legal Awareness Program", headed by a designated "Preventive Law Officer", that offers timely, concise, and educational information to the military community regarding consumer and legal issues relevant to the local active duty community. Topics should include identity theft, unfair and deceptive trade practices, life insurance designations, and other significant legal issues unique to military life.

1. Mission. Each Legal Awareness Program shall be designed to educate the local Marine Corps community on methods of avoiding legal problems. The eligible clientele and covered topics of a program shall correspond to that of a legal assistance program, per JAGINST 5801.2 and this Chapter.

### 2. Legal Awareness Program Functions.

a. Outreach. Legal Awareness Programs shall distribute to as many eligible legal assistance clients as possible information about legal rights and issues. Legal Awareness Programs shall take steps to promote the existence and location of legal assistance offices and the scope of free legal assistance services. Legal Awareness Programs should also accomplish the following:

- i. Legal Advisories: Post advisories on widely available media regarding important legal issues that affect eligible legal assistance clients. Examples of appropriate topics include family,

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consumer, estate planning, and insurance law. JAL Advisories shall be widely and immediately publicized to eligible legal assistance clients.

- ii. Website: Maintain legal assistance and/or Legal Awareness websites publicly available to eligible legal assistance clients and containing up-to-date and useful legal information.
- iii. Education:
  1. Law Day: Advance the Legal Awareness Program on "Law Day" which is normally recognized on the first day of May each year. Law Day was established in Public Law 87-20 on April 7, 1961. Program representatives should organize appropriate activities and events for Marines and their families. Other government and private organizations should be sought to participate in events.
  2. Command Representatives: Ensure unit commanders, legal officers and Sergeants Major maintain awareness of available legal assistance and Legal Awareness Program services and the current status of such services. Advise commanders of judge advocate availability to present educational/informational briefs to commanders and Sergeants Major meetings, staff meetings, welcome aboard briefs, and other occasions. Ensure unit commanders understand DoD policy under DoDD 1350.4, *Legal Assistance Matters*, that commanders should urge military personnel to seek legal counsel regarding wills, living wills, advance medical directives, and powers of attorney well before mobilization, deployment, or similar activities.
- iv. Pre-Deployment Program: Legal assistance offices shall establish comprehensive programs that prepare eligible legal assistance clients to deploy or mobilize.
  1. Pre-Deployment programs should educate on,

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among other topics:

- a. Servicemembers Civil Relief Act (SCRA);
- b. Uniformed Services Employment and Reemployment Rights Act (USERRA);
- c. Life insurance (including SGLI) designations;
- d. Child and dependent support (including modification prior to deployment);
- e. Estate planning;
- f. Consumer Law.

v. Articles: Legal Awareness Programs should publish writings on important legal issues on a broad variety of topics, and in a variety of publications. Organizations that normally welcome articles include reserve, retired, family associations or organizations. The following themes should be stressed in every article:

1. The existence of legal issues that affect eligible legal assistance clients;
2. The existence of additional rights or benefits for eligible legal assistance clients;
3. The importance of advance planning of legal matters, particularly with regard to deployment or PCS;
4. The importance of seeking legal advice prior to signing documents or executing waivers;
5. Location, telephone numbers, free services, and office hours of local legal assistance offices.

b. Liaison: Legal assistance offices shall maintain points of contact within their AOR and liaise with, the following organizations in order to further the legal

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assistance and Legal Awareness Program's mission:

- i. Public Affairs;
  - ii. Financial Management offices;
  - iii. Family Services offices;
  - iv. Armed Forces Disciplinary Control Boards;
  - v. Base or unit officials responsible for monitoring businesses or services, including insurance agents;
  - vi. Base and unit commanders;
  - vii. Military housing/housing referral offices;
  - viii. Voting Officers;
  - ix. Federal Trade Commission (at minimum the Division for Planning and Information and the Consumer Sentinel/Military Sentinel);
  - x. American Bar Association, local, and state bar associations, including the ABA's Legal Assistance for Military Personnel (LAMP) Committee, military law committees and discussion groups;
  - xi. State Attorneys General;
  - xii. The National Association of Attorneys General;
  - xiii. Local courts and administrative hearing departments;
  - xiv. United States Citizenship and Immigration Services (USCIS) (regional and lower offices only; the Marine Corps Preventive Law Officer maintains the national liaison);
  - xv. Internal Revenue Service (IRS).
- c. Changes of Law. Legal assistance offices shall study the current state of Federal, military, state, and local laws and regulations, shall seek input from legal assistance attorneys in their AOR, and shall identify changes of law

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that may benefit eligible legal assistance clients consistent with the provisions of JAGINST 5801.2 and this Chapter.

- d. Continuing Legal Education. Preventive Law Officers shall encourage office activities promoting currency of all legal assistance Office judge advocates in recent legal developments pertaining to legal assistance matters.

3. Legal Awareness Program Resources:

- a. Legal Assistance Toolkit CD (available through JAL);
- b. JAL Advisories (<http://www.usmc.mil>);
- c. TJAGSA CLAMO CD (available through TJAGSA);
- d. FTC's Military Sentinel;  
(<http://www.consumer.gov/military>)
- e. FTC's Consumer Sentinel;  
<http://www.consumer.gov/sentinel>)

4. Legal Awareness Program Forms:

- a. CMCJAL 1000 SCRA Real Property Lease Termination;
- b. CMCJAL 1001 SCRA Power of Attorney;
- c. CMCJAL 1003 SCRA Auto Lease Termination;
- d. CMCJAL 3001 Legal Readiness Checklist: Deployment and Mobilization.

# U.S. MARINE CORPS LEGAL ASSISTANCE

## Guide to Military Citizenship Applications Based upon Qualifying Military Service and Posthumous Citizenship Applications

**I. Introduction.** This Guide outlines the Marine Corps procedures for processing naturalization applications for active duty Marines who submit applications for naturalization based upon qualifying military service, and is intended to supplement the Citizenship and Immigration Service's (CIS) "A Guide to Naturalization" (Form M-476). This document also provides information regarding the Posthumous Citizenship application process. Information and certain forms regarding the citizenship process may be obtained from the CIS website at <http://uscis.gov>. This Guide does not apply to applications for naturalization that are not based upon qualifying military service.

1. The local Marine Corps Legal Assistance Office (LAO) is the primary source of assistance for Marines who intend to submit citizenship (also known as "naturalization") applications. Accordingly, the LAO should provide Marines with counsel regarding naturalization law and the application process. In addition, the LAO shall provide the applicant with CIS forms, and access to other appropriate resources necessary to complete the application process. With the aid of the CONAD/ADMIN offices, and the Naval Criminal Investigative Service (NCIS), the applicant will complete the application for naturalization and the LAO will forward it to CIS for processing.

2. Comments regarding this Guide should be directed to the Legal Assistance Branch, Judge Advocate Division, Headquarters, U.S. Marine Corps (Code JAL), 3000 Marine Corps Pentagon, Washington, DC 20350-3000. DSN 224-1266, commercial (703) 614-1266.

**II. Military Citizenship Application Overview.** There are a number of categories of persons who are eligible to apply for United States citizenship. However, the matters discussed this section only apply to the following two categories of applicants:

1. Service in the Armed Forces for 1 year (8 U.S.C. §1439) (section 328 of the INA). This category permits naturalization for persons who have served honorably in the Armed Forces of the United States for 1 year. Such applicants may be naturalized without having to fulfill the continuous residency requirements that apply to other application categories, provided that such applications are filed while the applicant is still in the military service or within six months after termination of such service. The applicant must also be a lawful permanent resident of the United States at the time of the examination, of good moral character, and attached to the principles of the Constitution of the United States. (See 8 U.S.C. § 1439(a) et seq.)

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2. Service in the Armed Forces during military hostilities (8 U.S.C. §1440) (section 329 of the INA). This category authorizes naturalization of persons who have honorably served in an active duty status in the Armed Forces of the United States during periods of military hostilities (including any period as may be designated by the President in an Executive Order pursuant to 8 CFR 329(a) (1994)). In such cases, the applicant must satisfy the permanent residence requirement by either: (1) lawful admission to the United States after enlistment or induction into the Armed Forces of the United States; or (2) at the time of enlistment or reenlistment, the applicant was physically present in the geographical territory of the United States, or other areas as set forth in the statute. (See 8 U.S.C. § 1440(a) et seq.)

3. In both instances, the applicant must submit a completed "Application for Naturalization" (Form N-400), two photographs, a completed "Request for Certification of Military or Naval Service" (Form N-426), and a completed "Biographic Information" (Form G-325B). Once the application and allied documents are mailed and processed, the applicant must have fingerprints taken by CIS, submit to an interview, and pass an English and civics test. Afterwards, if the application for naturalization is granted, the applicant will be scheduled to take the Oath of Allegiance to the United States, and will be given a Certificate of Naturalization.

**A. Obtaining the Forms.** The LAO should provide the applicant with all of the forms necessary to complete the application process. These forms include Form M-476, which provides information helpful to the applicant in understanding the process. The primary application form is the "Application for Naturalization" (Form N-400). The applicant will also need the "Request for Certification of Military or Naval Service" (Form N-426), and the "Biographic Information" (Form G-325B). These forms should be stocked at the LAO and are available by calling the CIS Forms Line (1-800-870-3676) and requesting the "Military Naturalization Packet". Several forms are available at the CIS website at <http://uscis.gov>.

**B. Completing the Forms.** It is vital that all forms be thoroughly completed before submission. Incomplete forms are returned by the CIS, causing substantial delays in the application process.

1. "Application for Naturalization" (Form N-400). Check box "c" in Part 2 of the Form N-400, indicating that the application is on the basis of qualifying military service. Adjacent to box c, the applicant should indicate whether the application is based upon section 328 or 329 of the INA. Note that the answers provided on this application will be reviewed during the applicant's interview.

2. "Request for Certification of Military or Naval Service" (Form N-426). Notwithstanding the notice at the top of the N-426, the applicant must complete page 1 of the N-426 and then must submit the Form N-426 to their S-1 office for completion. Once submitted, the S-1 office will complete page 2 and certify the form. It is essential that page 2 be completed in its entirety. **Note that block 5 of page 2 MUST indicate whether the applicant's service has been under honorable conditions.** The S-1 office will complete and certify the form with a raised seal. The certifying official will be identified as "Personnel Officer." When completed, the form will be

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delivered to a LAO representative who will verify the document's authenticity with the Personnel Officer, and will include the document in the application package.

3. **"Biographic Information" (Form G-325B).** Active duty Marines will complete page 1 of the G-325B, and then submit the form to their Legal Assistance support staff, who will contact the local NCIS office to obtain the background report (DCII report). The DCII report will be attached to the Form G-325B, and returned to the responsible Legal Assistance Attorney. The LAO will obtain any military records referenced in the DCII report, and attach them to the G-325B. In the event the LAO is unable to obtain a background report from the local NCIS office, the completed G-325B will be sent for processing to HQMC (Code JAL). Note, when obtaining the DCII report, you must first run the report under the applicant's name, and then again under the applicant's SSN. Attach both DCII reports to the G-325B.

**C. Obtain Two Photographs.** Every applicant is required to furnish two identical color photographs of him or herself. The photos must fully comply with the CIS specifications set forth in CIS Form M-378.

**D. Collect Necessary Documents.** The applicant will need to include copies of several documents with the application. Use the "Document Checklist" (Form M-477), which is contained in Form M-476, to ensure the correct documents are included. Send an English translation with any document that is not already in English. The translation must include a notarized statement from the translator that he or she is competent to translate and that the translation is correct. In the event that the applicant is divorced, a copy of the final divorce decree should also be included in the application package.

**E. Fingerprinting.** The LAO will schedule the applicant to have fingerprints completed at an Application Support Center (ASC). To do this, the LAO will refer to the CIS website at <http://www.ins.usdoj.gov/> <http://uscis.gov>. (under "forms, fees and fingerprints") for the complete list of ASCs and their hours of operation. The LAO is not required to call the ASC to schedule the appointment. However, the LAO should review the hours of operation listed on the spreadsheet and may schedule the member accordingly. The LAO will then complete the fingerprint notification form located at Enclosure (1) of this Guide. Once completed with the member's correct address, ASC location, and date/time of the appointment, the form will be delivered to the applicant. Note that a copy of the form must be included in the application package to indicate that the applicant was scheduled for fingerprinting. The applicant will take the fingerprint notification form, Permanent Resident Card, and another form of identification (drivers license, passport, state identification card) to the fingerprinting appointment. The second form of identification shall have the applicant's photograph on it.

1. If the applicant is stationed overseas, the military police may take the applicant's fingerprints. Send a completed Fingerprint Card (Form FD-258) with the initial application package to the CIS Lincoln Service Center at the address provided below. Note that the Nebraska Service Center can only accept the FD-258 form. The FD-258 and the cover letter should indicate where the prints were taken abroad. Note that only fingerprints that are taken at a U.S. Embassy,

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military installation or Naval Vessel that is underway, will be accepted. CIS recommends that two sets of prints be submitted with the application. The masthead of the FD-258 form must be completed with:

- a. All biographical data of the individual;
- b. Address data of both the person being printed and the person taking the prints;
- c. The A Number of the applicant in the "OCA" and "Miscellaneous MNU" blocks;
- d. Signatures of the applicant and the person taking the fingerprints; and
- e. "N-400 Military" in the "Reason Printed" block.

**F. Mailing the Application Package.** The LAO shall review the entire package with the applicant prior to mailing. The applicant should retain a copy of the entire completed package. The application package must also be accompanied by a cover letter from the applicant's Legal Assistance Attorney, indicating the CIS service center at which the applicant would like to be interviewed, and any periods of unavailability. (Note that applicants stationed overseas may have their interviews conducted at various overseas locations supported by CIS. The Department of Defense is preparing regulations that will grant a high priority for leave and transportation aboard DoD aircraft, for naturalization applicants. Check the Marine Corps legal assistance website for up-to-date information on overseas CIS support and new DoD regulations.) The letter will also authenticate the Forms N-426 and G-325B, and shall be personally signed by a representative from the legal assistance office. A sample cover letter is provided at Enclosure (2). **Note that applications that are mailed without the cover letter will not be expedited by CIS.** Regardless of the residence of the applicant, the original application package should be mailed by certified mail, return receipt requested, to:

U.S. Department of Homeland Security  
Citizenship and Immigration Services  
Nebraska Service Office  
P.O. Box 87426  
Lincoln, NE 68501-7426

1. If there are problems with any of the documents, CIS will contact the Legal Assistance Policy Branch (JAL), Headquarters, U.S. Marine Corps, to resolve any issues. Once the application is accepted and processed, CIS will send the applicant a letter scheduling the interview.

**G. The Interview.** CIS will schedule the applicant for an interview. Note that beginning in October 2004, CIS will conduct interviews, oaths and ceremonies at certain overseas locations, to include certain military installations, United States Embassies, and consulates. Information regarding overseas CIS support will be available on the CIS website. Note also that DODD 1327.5 (Leave and Liberty Regulations) allows for the granting of emergency leave, and priority on government transportation for persons applying for citizenship. CIS will send the applicant an interview notice that will tell the date, time, and place of the interview. Applicants will not receive a second notice. If the interview must be rescheduled, applicants should directly contact

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the office where the interview is scheduled, by mail, as soon as possible. The letter should explain the circumstances of the request, and ask to reschedule the interview, noting any periods of unavailability. When a new date is set, CIS will send the applicant a new interview notice. Rescheduling an interview may add several months to the naturalization process.

1. To make sure applicants receive the interview notice, CIS must be advised of any address changes. Mail Form AR-11, "Alien's Change of Address Card" to the Nebraska Service Office at the address provided above for this purpose.
2. Applicants should appear at the office where they are to be interviewed in advance of their interview. If applicants fail to appear at their interview without contacting CIS, their cases will be "administratively closed." If this happens and the applicant does not contact CIS within 1 year to reopen the case, the application will be denied.
3. In some cases, CIS may ask the applicant to bring additional documents to the interview. These documents will be listed on the applicant's appointment letter. If the applicant fails to bring the necessary documents, the case may be delayed or denied.
4. During the interview, the applicant's ability to read, write, and speak English will be tested. The applicant will also be given a civics test to test his knowledge and understanding of United States History and Government.
5. At the interview, an CIS officer will place the applicant under oath and then ask about:
  - a. The applicant's background;
  - b. Evidence supporting the applicant's case;
  - c. The applicant's place and length of residence;
  - d. The applicant's character;
  - e. The applicant's attachment to the Constitution; and
  - f. The applicant's willingness to take an Oath of Allegiance to the United States.
6. A representative may accompany the applicant to his interview if a "Notice of Entry of Appearance as Attorney or Representative" (Form G-28) has been mailed to CIS. Also, if the applicant is exempt from the English requirements, he may bring an interpreter to the interview. If the applicant has any disabilities, he may bring a family member or legal guardian with him at the discretion of the CIS officer.

**H. Receive a Decision.** After the interview, the application for citizenship will be granted, denied, or continued.

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1. Granted. At the end of the interview, CIS may advise the applicant that citizenship will be granted. In some cases, the applicant may be able to complete the oath ceremony the same day as his interview (where available). Otherwise, the applicant will receive a notice advising him of the time and location of the ceremony.

2. Continued. The CIS officer may also “continue” the case. The most common reasons for continuation are: (1) failing the English and civics tests; or (2) failing to provide CIS with required documents. When a case is continued, the applicant will be asked to: (1) come to a second interview, usually within 60-90 days of the first interview; and/or (2) provide additional documents.

3. Denied. If CIS denies the application, the applicant will receive a written notice explaining the reasons therefor. There is an administrative review process for applicants who receive denials. The applicant may request a hearing with an CIS officer if he feels he has been unfairly denied naturalization. The denial letter will explain how to request a hearing and will include the necessary form. The form for filing an appeal is the “Request for Hearing Proceedings Under Section 336 of the Act” (Form N-336).

**I. Taking the Oath.** If CIS approves the application for naturalization, the applicant must attend a ceremony and take the Oath of Allegiance to the United States. The following are the steps in this process:

1. Establish a ceremony date. CIS will notify the applicant by mail of the time and date of the ceremony. The notice CIS sends is called the “Notice of Naturalization Oath Ceremony” (Form N-445). In some cases, CIS may give the applicant the option to take the Oath on the same day as the interview. If the applicant decides to take a “same day” oath, CIS will ask the applicant to come back to the office later that day. At this time, the applicant will take the Oath and receive a Certificate of Naturalization.

2. Check in at the ceremony. When the applicant arrives at the ceremony, he will be asked to check in with CIS. If the applicant cannot attend the ceremony on the day he is scheduled, he should return the CIS notice (Form N-445) to his local CIS office. The applicant should include a letter explaining why he cannot be at the ceremony and asking CIS to reschedule the ceremony. If more than a day has passed between the applicant’s interview and the ceremony, he will need to answer questions regarding his conduct since the interview. These questions will be located on the back of the notice CIS sends the applicant (Form N-445). Some of the questions include “Have you traveled outside the United States?” and “Have you claimed exemption from military service?” The applicant should read the questions carefully and mark his answers before he arrives at the ceremony.

3. Return the applicant’s Permanent Resident Card. Applicants are required to return their Permanent Resident Cards to CIS when they check in for their oath ceremony. Applicants will receive their Certificate of Naturalization at the ceremony.

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4. Take the Oath. The applicant is not a citizen until he has taken the Oath of Allegiance. The applicant will take the Oath during the ceremony. An official will read each part of the Oath slowly and ask the applicant to repeat his/her words. The Oath can be found in the section titled "Eligibility Requirements" in the Form M-476 "A Guide to Naturalization."

5. Receive Certificate of Naturalization. Once the applicant has taken the Oath, he will receive his Certificate of Naturalization. The applicant may use this document as proof that he is a United States citizen.

6. Applicants should takes steps to obtain a United States passport soon after their naturalization ceremony. A passport serves as evidence of citizenship and is easier to use than a Certificate of Naturalization. Applicants may obtain an application for a passport at their oath ceremony or at most post offices.

### III. Posthumous citizenship applications.

1. CIS is the agency responsible for the processing of post humous citizenship (PHC) applications for certain servicemembers. The current requirements for posthumous citizenship applications are set forth in 8 USC 1440, *et seq.*, (Section 329A of the INA), and generally provide that such applications may be approved for servicemembers who died of service-related activities, while on active duty during a period of hostilities. The request for citizenship may be made by the next of kin of the decedent, or by the Secretary of Defense, with the consent of the next of kin. Formerly, the conferral of citizenship through this process was honorary only, however, Public Law 108-136, the Military Citizenship Act of 2003, now certain allows non-citizen relatives to receive preferential treatment in adjustment and other immigration and naturalization applications.

2. CIS Form N-644 is used to apply for citizenship on behalf of a deceased servicemember. Although the form calls for the payment of an \$80.00 application fee, CIS has permanently waived the fee, without formal request for such a waiver. In addition, all PHC applications must be mailed to the CIS office in Laguna Niguel, California. The application mailing address is:

Citizenship and Immigration Services  
California Service Center  
P.O. Box 10360  
Laguna Niguel, CA 92607-1036

3. Note that section 1703(f) of PL 108-136 now extends the eligibility for naturalization under Section 319(d) to surviving spouses of aliens granted posthumous citizenship under Section 329A. In addition, the law now treats surviving spouses, children and parents of aliens granted posthumous citizenship like immediate relatives and / or adjustment applicants based on such classification. With the exception of benefits explicitly provided by Section 1703, such aliens must satisfy all of the other requirements for immediate relative adjustment of status

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applications. There is nothing in Section 1703 that exempts aliens who are applying for immigration benefits under section 1703 from any required background check or other procedural requirements.

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U.S. Department of Justice  
Immigration and Naturalization Service  
801 I Street, NW  
Suite 900  
Washington, DC 20536

Vinnell Corporation  
INS Project Office  
12900 Federal Systems Park Drive  
Mailstop: FP1 / 5133  
Fairfax, VA 22033-4411

ASC Communication FY:00-0013

DEC 10 1999

To: INS Regional Directors  
INS District Directors  
INS Officers in Charge  
INS ASC Managers

To: Vinnell Regional Managers  
Vinnell Site Supervisors

From: Kathy A. Redman  
Acting Associate Commissioner  
HQISD

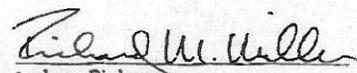
From: Andrew Finlayson  
Vinnell ASC Program  
Manager

Subject: Fingerprint Processing of Military Personnel for Naturalization

Special fingerprinting procedures have been developed to ensure processing of applications for naturalization filed by certain military personnel. Under these procedures, the applicant for naturalization because of military service will be given an appointment notice by the Department of Defense. The appointment notice will contain a specific date and time to appear at a designated ASC or Colo, with photo identification and/or the person's Alien Registration Receipt Card. No advance notice is given to the ASC or Colo. A copy of the Department of Defense Referral Fingerprint Notification to be used for this purpose is attached.

When the person appears and presents his or her appointment notice, the ASC or Colo will take his or her fingerprints and forward them in the usual manner. Thus, the sole aspect of this process that is unusual is the ability of the applicant to appear for fingerprinting without advance notice to the ASC or Colo.

  
Kathy A. Redman  
Acting Associate Commissioner  
Immigration Services Division  
Field Services Operations

  
Andrew Finlayson  
Vinnell Program Manager  
INS Application Support Center  
Project

Attachment

Page 1

Fingerprint Notification			NOTICE DATE
CASE TYPE N400 Application for Naturalization			INS #
APPLICATION NUMBER Department of Defense Referral	RECEIVED DATE	PRIORITY DATE	PAGE 1 of 1
APPLICANT NAME AND MAILING ADDRESS			
<p>To process your application, INS must take your fingerprints and have them cleared by the FBI. PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED. If you are unable to do so, complete the bottom of this notice and return the entire original notice to the address below. RESCHEDULING YOUR APPOINTMENT WILL DELAY YOUR APPLICATION. IF YOU FAIL TO APPEAR AS SPECIFIED BELOW OR REQUEST RESCHEDULING, YOUR APPLICATION WILL BE CONSIDERED ABANDONED.</p> <p>APPLICATION SUPPORT CENTER _____ DATE AND TIME OF APPOINTMENT _____</p>			
<p>PLEASE DISREGARD THIS NOTICE IF:</p> <ol style="list-style-type: none"> <li>1. YOU HAVE BEEN FINGERPRINTED WITHIN THE LAST 90 DAYS,</li> <li>2. YOUR APPLICATION HAS ALREADY BEEN GRANTED, OR</li> <li>3. YOU WERE UNDER 14 YEARS OF AGE OR OVER 79 (75 FOR NATURALIZATION APPLICANTS) AT THE TIME YOUR APPLICATION WAS FILED.</li> </ol>			
<p>WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR FINGERPRINTS TAKEN, YOU MUST BRING:</p> <ol style="list-style-type: none"> <li>1. THIS APPOINTMENT NOTICE and</li> <li>2. PHOTO IDENTIFICATION. Naturalization applicants must bring their Alien Registration card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, you will not be fingerprinted.</li> </ol>			
<p><b>WARNING!</b></p> <p><i>Specific appointment time requests will not be guaranteed. Due to limited seating availability in our lobby areas, only persons who are necessary to assist with transportation or completing the fingerprint worksheet should accompany you.</i></p>			
<p><b>REQUEST FOR RESCHEDULING</b></p> <p>I am unable to appear because: _____</p> <p>Please reschedule my appointment for the next available: <input type="checkbox"/> Wednesday afternoon. <input type="checkbox"/> Saturday afternoon.</p> <p>INS cannot guarantee the day preferred, but will do so to the extent possible. If you have any questions regarding this notice, please call 1-888-557-5398.</p> <p>APPLICATION NUMBER</p> <p><b>Department of Defense Referral</b></p>			

Figure 14-1.--Guide to Naturalization Applications

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UNITED STATES MARINE CORPS  
Office of the Staff Judge Advocate  
Legal Assistance Office  
John Quick Road; Building 3025  
Marine Corps Base, Quantico, VA 22134

5811  
LAO  
January 1, 2004

Immigration and Naturalization Service  
Nebraska Service Office  
P.O. Box 87426  
Lincoln, NE 68501-7426

Dear Sir or Madam:

SUBJECT: FACILITATED MILITARY APPLICATION FOR NATURALIZATION FOR SERGEANT  
JOHN DOE, USMC, (A# 123 45 678)

I write as counsel for Sergeant John Doe, and hereby submit his completed application for naturalization with attachments. Sergeant Smith resides at 100 Main Street, Quantico, Virginia, 22134. His residential phone number is (555) 233-4567, and his e-mail address is doej@emailservice.net. Sergeant Doe prefers to have his interview conducted at the Alexandria CIS office. Please be advised that Sergeant Doe will not be available for this interview between the dates of January 15, 2004 and February 15, 2004.

I certify that the enclosed N-426 and G-325B Forms and any attachments thereto, are accurate and authentic records prepared in the regular course of business, by Department of Defense employees with knowledge or from information compiled by a person with knowledge of the matters set forth therein.

Sincerely,

A. FREHLEY  
Captain, U.S. Marine Corps  
Legal Assistance Attorney

Enclosures: 

1. Completed N-400 form
2. Completed N-426 form
3. Completed G-325B form
4. Two color photographs of Sgt. Smith
5. Completed Fingerprint Notification Form
6. Intentionally omitted
7. Photocopy of (or affidavit of lost) Resident Alien Card
8. (Any other documents required under Form M-477)

*A legal assistance attorney represents the interests of individual clients,  
and not those of the United States Government*

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<b>LEGAL ASSISTANCE QUARTERLY REPORT</b>					
Field Office:	1st QTR OCT-DEC	2nd QTR JAN-MAR	3rd QTR APR-JUN	4th QTR JUL-SEP	TOTAL
<b>SERVICES<sup>1</sup></b>					
Adoption/Name Change					0
Consumer Protection Law <sup>2</sup>					0
Domestic Relations <sup>3</sup>					0
Immigration <sup>4</sup>					0
Military Rights and Benefits <sup>5</sup>					0
Notarizations					0
Property/Landlord-Tenant					0
Tax <sup>7</sup> (Do not include VITA/ELF)					0
Wills/Estate Planning					0
Other Services <sup>8</sup>					0
<b>TOTAL # OF SERVICES</b>	0	0	0	0	0
<b>NEW CLIENTS<sup>9</sup></b>					
Active Duty					0
Family Members					0
Retirees					0
Reservist					0
DOD Civilians (Overseas Only)					0
<b>TOTAL # OF NEW CLIENTS</b>	0	0	0	0	0
<b>REPEAT CLIENT VISITS<sup>9</sup></b>					
Active Duty					0
Family Members					0
Retirees					0
Reservist					0
DOD Civilians (Overseas Only)					0
<b>TOTAL # OF REPEAT CLIENT VISITS</b>	0	0	0	0	0
<b>ELAP CLIENTS</b>					
# of ELAP Clients					0
<b>DOCUMENTS PREPARED<sup>10</sup></b>					
# of Wills <sup>11</sup>					0
# of Powers of Attorney <sup>5</sup>					0
# of Separation Agreements					0
# of INS Forms N-400 Sent to Lincoln NE					0
# of Other Documents					0
<b>TOTAL # OF DOCUMENTS PREPARED</b>	0	0	0	0	0
<b>PREVENTATIVE LAW</b>					
# of Preventative Law Briefs <sup>12</sup>					0
# of Personnel Briefed					0
# of Preventative Law Publications <sup>13</sup>					0

Figure 14-2.-Legal Assistance Quarterly Report

## LEGAL ASSISTANCE QUARTERLY REPORT INSTRUCTIONS

- 1 Referrals are not services, although they may be the logical conclusion to a consultation. Do not count a referral separately from the appointment. Services can be performed by an attorney or non-attorney. Non-attorney assistance such as performing notarizations, or answering basic legal questions under the supervision of an attorney will be counted under the appropriate service category. Scheduling appointments, taking messages, handing out tax forms and other clerical assistance will not be counted. Telephone calls do not count as services unless they are approved incidents of telephonic legal assistance to remote clients.
- 2 Consumer protection law includes assistance with respect to a broad range of matters, such as personal contracts, debtor-creditor matters, bankruptcy, automobile repairs, and other consumer protection/law matters.
- 3 Domestic relations includes divorce, separation, child custody, nonsupport, marital advice, and paternity matters.
- 4 Immigration includes naturalization and citizenship matters, residency permits, visas, employment eligibility, and other immigration-related matters.
- 5 Military rights and benefits includes issues not falling under personal representation such as SSCRA and USERRA.
- 6 Powers of Attorney includes generals, specials, and durable health care.
- 7 Tax includes tax advice, attorney preparation of tax returns outside of the VITA/ELF program and assistance with other tax matters, such as state tax residency disputes. Do not include VITA/ELF that are reported through the normal Legal Assistance Tax Program Report.
- 8 "Other services" include all legal assistance which does not fit into one of the delineated categories.
- 9 A service member/family member/retiree is listed only once as a "new client" per fiscal year by a particular legal assistance office. Once an individual is seen by a legal assistance office that fiscal year, when that individual returns for future services they will be listed as a "repeat client visit". "Repeat Client Visits" are only clients that come in for a scheduled appointment or to receive a listed service. The "service" category captures services provided to "new clients" and "repeat client visits". Remember, when a client comes back for a repeat visit and receives 3 services during that appointment they are only counted as one "repeat client visit" and their services are counted in accordance with the "services" section criteria. Each category of service provided to a client is counted separately. Thus if a client comes in for a POA, a will and divorce advice, count three services. However, for each client visit only one service may be counted in each "service category". Thus a visit for a living will and a will counts as only one service with 2 documents prepared.
- 10 "Documents Prepared" are final, smooth documents. Do not count drafts (of wills, POAs, etc.), copies, or internal documents (dual rep letters) as "documents prepared". Do not count tax returns done as part of the ELF/VITA program.
- 11 For each will prepared, there will be either one or two services counted. The first to encompass the entire process of the preparation of the will (intake to smooth will). The second service would be counted, if the legal assistance office executes the will. On the rare occasion when a will is prepared and executed by the LA Office on the same day, count one of the services in "wills/estate planning" and the execution service in "other service".
- 12 Preventative Law Briefs include general information presentations to educate personnel on personal legal affairs such as squadron or ship visits, predeployment briefs, etc.
- 13 Preventative Law Pubs include articles and newsletters.

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**STANDARD OPERATING PROCEDURE FOR EXECUTING WILLS**

1. The Testator/Testatrix should read the will and all related documents in their entirety prior to execution. The legal assistance attorney should discuss the will with the Testator/Testatrix, prior to execution, and ensure understanding by the Testator/Testatrix of the effect of each clause of the will. The following steps should be taken, in order, at the execution ceremony:
2. Ensure the presence of the following persons:
  - a. Presiding Attorney: the presence of a legal assistance attorney for the entire duration of the will execution is required under 10 U.S.C. §1044d for military testamentary instruments;
  - b. Testator/Testatrix;
  - c. 2 witnesses:
    - i. The witnesses should have no interest, whether vested or contingent, in any property disposed of in the will; they should not be related to the Testator/Testatrix, nor otherwise have any interest in the estate in the event of intestacy.
    - ii. The presiding attorney may not act as witness when using a Military Testamentary Document, which accounts for the majority of Legal Assistance wills. 10 U.S.C. §1044d(c)(3);
    - iii. Witnesses must be positioned to observe the Testator/Testatrix and his or her actions and signatures;
  - d. Notary:
    - i. May not be a witness to the will;
    - ii. Either a military or civilian notary may be used;
    - iii. Will notarize the witness' and Testator/Testatrix' signatures;
    - iv. Entries must be made by both Testator/Testatrix and witnesses in the military or civilian notary's notary logbook per the requirements of JAGMAN 0909;
3. The presiding attorney or notary should have the Testator/Testatrix and witnesses produce adequate identification cards for the execution and notarization;
4. The presiding attorney or notary should ask the Testator/Testatrix the questions below entitled "Will Execution Questions";
5. If appropriate responses are received to the questions, the Testator/Testatrix initials and dates all pages of the will in a consistent location on each page.
6. The presiding attorney or notary should ask the witnesses the appropriate questions below entitled "Will Execution Questions";
7. If appropriate responses are received to the questions, the witnesses then initial and date all pages of the will in a consistent location on each page;
8. The witnesses should read and declare aloud that the attestation clause is a true and correct statement;
9. The Testator/Testatrix and witnesses should all read and sign, under oath, the self-proving affidavit, notarized by the presiding attorney or notary. Ensure the witnesses print their name, rank, and duty address next to or below their signatures;
10. Will pages should have previously been numbered consecutively, and after signature all pages should be securely stapled along the top of the document. Once the document is signed and stapled, do not remove the staples.

### WILL EXECUTION QUESTIONS

The presiding attorney should follow the below procedure. When asking the Testator/Testatrix and witnesses questions, the presiding attorney should ensure all responses are audible and verbal, if possible.

1. Ensure the Testator/Testatrix and all witnesses are present, in the same room, during the entire will execution.
2. Administer the oath to the Testator/Testatrix and all witnesses.
3. Ask the Testator/Testatrix:
  - a. Are you 18 years of age or older?
  - b. Are you of sound and disposing mind and memory?
  - c. Do you publish and declare this document to be your last will and testament?
  - d. Have you read this will in its entirety, and do you understand its terms?
  - e. Do you have any additions or corrections to make to this will?
  - f. Does this will dispose of and distribute your property according to your intentions, in the event of your death?
  - g. Are you under any coercion, duress, or undue influence in either the preparation or signing of this will?
  - h. Are you executing this will voluntarily and of your own free will?
  - i. Do you wish these witnesses (state witness names) to witness your signature and execution of this will?
4. Ask the witnesses:
  - a. To the best of your knowledge, is the Testator/Testatrix 18 years of age or older?
  - b. To the best of your knowledge, is the Testator/Testatrix of sound and disposing mind and memory?
  - c. Does the Testator/Testatrix appear to understand the nature of his/her actions?
  - d. Does the Testator/Testatrix appear to be acting under duress, coercion, or undue influence?
  - e. At the Testator/Testatrix's request, did you in the Testator/Testatrix's presence subscribe your names to this will as attesting witnesses on the date of the will?