

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

AIR FORCE INSTRUCTION 51-304

22 AUGUST 2018



Law

**LEGAL ASSISTANCE, NOTARY,
PREVENTIVE LAW, AND TAX
PROGRAMS**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

ACCESSIBILITY: Publications and forms are available on the e-Publishing website at www.e-Publishing.af.mil for downloading or ordering.

RELEASABILITY: There are no releasability restrictions on this publication.

OPR: AFLOA/CLS

Certified by: AFLOA/CLS
(Col Thomas A. Rogers, Jr.)

Supersedes: AFI51-504, 27 October 2003

Pages: 24

This publication implements Air Force Policy Directive (AFPD) 51-5, *Military Legal Affairs*. It describes the Air Force Legal Assistance, Notary, Preventive Law, and Tax Programs. It applies to Regular Air Force units at all levels and Air Force Reserve (AFR) and Air National Guard (ANG) units, except where otherwise noted. This Air Force Instruction (AFI) may be supplemented at any level, but all supplements that directly implement this instruction must be routed to the Air Force Legal Operations Agency Community Legal Services Directorate (AFLOA/CLS) for coordination prior to certification and approval. Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the AF Form 847, *Recommendation for Change of Publication*; route AF Form 847 from the field through the appropriate functional chain of command. This Instruction requires the collection and or maintenance of information protected by the Privacy Act of 1974 authorized by 10 U.S.C. § 8013, *Secretary of the Air Force*, 10 U.S.C. § 8037; *Judge Advocate General, Deputy Judge Advocate General, Appointment and Duties*; Executive Order 9397, *Numbering System for Federal Accounts Relating to Individual Persons*, as amended. The applicable SORN F051 AFJA G, *Legal Assistance Administration Records*, is available at: <http://dpcld.defense.gov/Privacy/SORNS/>. The authorities to waive wing/unit level requirements in this publication are identified with a Tier (“T-0, T-1, T-2, T-3”) number following the compliance statement. See AFI 33-360, *Publications and Forms Management*, for a description of the authorities associated with the Tier numbers. Submit requests for waivers through the chain of command to the appropriate Tier waiver approval authority, or alternately, to the requester’s commander for non-tiered compliance items. Ensure that all records created as a result of processes prescribed in this publication are maintained IAW Air Force Manual

(AFMAN) 33-363, *Management of Records*, and disposed of IAW the Air Force Records Disposition Schedule (RDS) in the Air Force Records Information Management System (AFRIMS).

SUMMARY OF CHANGES

This document has been substantially revised and must be completely reviewed. Major changes include: renumbering the instruction to align with the newly controlling AFPD 51-3, *Civil Law, Acquisition Law, and Litigation*; removing substantive legal assistance guidance to be placed on The Judge Advocate General's Corps Legal Assistance Knowledge Management site; moving the revised/reduced Military Continuing Legal Education requirements for legal assistance to AFI 51-110, *Air Force Rules of Professional Conduct*; removing guidance on the Special Victims' Counsel and Office of Airmen's Counsel programs previously contained in Air Force Guidance Memoranda to AFI 51-504 because guidance on these programs has been transferred to instructions under AFPD 51-2, *Military Justice*; eliminating the requirement for Advanced Core Training courses; clarifying installation tax assistance program requirements; and incorporating Air Force Inspection tiering requirements.

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Chapter 1

LEGAL ASSISTANCE PROGRAM

1.1. Overview. This publication contains authority, policy, and procedures and defines responsibilities for the Air Force Legal Assistance Program. The Air Force provides legal assistance concerning personal, civil legal affairs to eligible beneficiaries under 10 U.S.C. § 1044. This legal assistance is contingent upon the availability of legal staff resources and expertise. The purpose of the legal assistance program is to support and sustain command effectiveness and readiness. Additionally, the Air Force is authorized to provide certain notarial services to eligible members under 10 U.S.C. § 1044a. Air Force preventive law programs focus on education. These programs recommend preventive measures in legal areas where the Air Force has a direct interest in the outcome, as well as in legal areas likely to impact base readiness and morale. Air Force Tax Assistance Programs are command programs, separate and distinct from the Legal Assistance Program, designed to provide free tax assistance and filing services for eligible beneficiaries. The Air Force utilizes several web-based systems in the legal assistance, notary, and tax programs. These systems include, but are not limited to, the Web-based Legal Information Online System (WebLIONS), software for drafting wills and powers of attorney, the Air Force's Federal Legal Information Through Electronics Knowledge Management (FLITE KM) Legal Assistance Learning Center, the Air Force Legal Assistance Website (LAWS), and the Tax Program Reporting System.

1.2. Roles and Responsibilities.

1.2.1. The Judge Advocate General:

1.2.1.1. Establishes and supervises the Air Force Legal Assistance, Notary, Preventive Law, and Tax Programs.

1.2.1.2. Delegates authority to operate and manage these programs to AFLOA/CLS and its subordinate divisions.

1.2.2. AFLOA/CLSL:

1.2.2.1. Monitors and administers the Air Force Legal Assistance, Notary, Preventive Law, and Tax Programs.

1.2.2.2. Provides advice to field legal offices on Legal Assistance, Notary, Preventive Law, and Tax Program matters that affect Air Force personnel worldwide.

1.2.2.3. Oversees all current and future web-based systems that further Air Force Legal Assistance, Notary, Preventive Law, and Tax Programs, including but not limited to the Web-based Legal Information Online System (WebLIONS), software for drafting wills and powers of attorney, the Air Force's Federal Legal Information Through Electronics Knowledge Management (FLITE KM) Legal Assistance Learning Center, the Air Force Legal Assistance Website (LAWS), and the Tax Program Reporting System.

1.2.2.4. Facilitates service of legal process in coordination with the appropriate installation legal office in cases involving paternity and child support (see Title 5, Code of Federal Regulations Part 581, Appendix B, *List of Agents Designated to Facilitate Service of Legal Process on Federal Employees*).

1.2.2.5. In consultation with the Air Force Judge Advocate General's School, provides education and training on the Air Force Legal Assistance, Notary, Preventive Law, and Tax Programs.

1.2.3. Air Force Judge Advocate Legal Information Services:

1.2.3.1. Provides software and technical support for WebLIONS, LAWS, FLITE KM legal assistance related materials, and programs necessary to carry out annual legal assistance training certification.

1.2.3.2. Provides technical support for the Tax Program Reporting System, will-drafting software, and any other computer system or software pertaining to the Air Force Legal Assistance, Notary, Preventive Law, and Tax Programs.

1.2.4. The Air Force Judge Advocate General's School:

1.2.4.1. In consultation with AFLOA/CLSL, provides entry-level legal assistance training for students.

1.2.4.2. In consultation with AFLOA/CLSL, develops a comprehensive program to meet the continuing legal assistance training needs of The Judge Advocate General's Corps.

1.2.5. Major Command, Field Operating Agency, and Direct Reporting Unit Staff Judge Advocates:

1.2.5.1. Supervise functional program staffs within their commands.

1.2.5.2. Perform necessary inspection over functional program staffs within their commands to ensure compliance with this instruction.

1.2.5.3. May add requirements for mobilization- and deployment-related legal assistance and impose limits on non-mobilization- and non-deployment-related legal assistance.

1.2.6. Numbered Air Force Staff Judge Advocates: May add requirements for mobilization- or deployment-related legal assistance to ensure mission readiness. For purposes of this instruction, Numbered Air Force Staff Judge Advocates include joint base and similarly-situated legal offices which function as a Numbered Air Force.

1.2.7. Wing/Group/Base Staff Judge Advocates:

1.2.7.1. Manage the personnel, training, and operation of the Legal Assistance, Notary, Preventive Law, and Tax Programs at their offices consistent with this instruction.

1.2.7.2. Brief their office staff, including reservists and any volunteers, on the purposes of legal assistance, the base Legal Assistance and Preventive Law Programs, and this instruction. Conduct this briefing as frequently as necessary, but at least annually, to ensure the quality of the Legal Assistance Program.

1.2.7.3. Review, at least bi-annually, LAWS client feedback and WebLIONS data to evaluate the Legal Assistance, Notary, and Preventive Law Programs; training needs for the office; process efficiency and responsiveness to the needs of the base community; statistical indicators and trends; and problem areas.

1.2.7.4. At joint bases or other installations with multiple Staff Judge Advocates providing legal assistance, as allowable under the installation's DoD joint basing

agreements concerning legal assistance, the installation commander's Staff Judge Advocate may consolidate functions and administration to gain efficiencies and unity of effort to ensure consistent services across the installation.

Chapter 2

LEGAL ASSISTANCE SERVICES: SCOPE AND ELIGIBILITY

2.1. Overview. This chapter describes limitations on the scope of the Air Force legal assistance program, eligibility of persons for legal assistance, and a description of legal assistance services that may be provided by legal offices, subject to the availability of legal staff, resources, and expertise. This chapter also describes legal office compliance requirements associated with the provision of authorized legal assistance services.

2.2. Limitations on Scope of Attorney-Client Relationship. Air Force attorneys establish an attorney-client relationship when providing advice on personal, civil legal affairs to eligible beneficiaries, to include victims of crimes. For guidance pertaining to beneficiary eligibility requirements, see paragraph 2.3. Air Force attorneys do not enter into attorney-client relationships for other legal affairs for which the Air Force remains the client. Air Force attorneys, acting in an official capacity, shall not enter into an attorney-client relationship in the following areas:

2.2.1. Official matters in which the United States Government has an interest, or is involved in the final resolution, unless advising a victim as authorized under paragraph 2.6.6. of this instruction or acting as a Military Defense Counsel, Special Victims' Counsel, or a Disability Counsel with the Office of Airmen's Counsel. **(T-0)**.

2.2.2. Legal issues or concerns raised on behalf of third parties, even if the third party is eligible for legal assistance. **(T-0)**.

2.2.3. Criminal issues under the Uniform Code of Military Justice (UCMJ), any local or state criminal or quasi-criminal law (as identified by state law), or federal criminal law, unless advising a victim as authorized under Chapter 2 of this instruction or acting as a Military Defense Counsel or as a Special Victims' Counsel. **(T-0)**.

2.2.4. Issues related to standards of ethical conduct. **(T-0)**.

2.2.5. Issues related to the Law of Armed Conflict. **(T-0)**.

2.2.6. Issues involving personal commercial enterprises (unless such advice is related to Title 50 United States Code Sections 3901-4903, *Servicemembers Civil Relief Act (SCRA)*). **(T-0)**. This includes legal matters for a landlord regarding property leased as part of a commercial enterprise.

2.2.7. Issues involving Private Organizations (e.g., spouses clubs and squadron booster clubs) that have been chartered by appropriate authority to function on Air Force installations. **(T-0)**. **Exception:** Air Force attorneys may provide legal guidance and advice through the appropriate office within the Force Support Squadron to ensure private organizations are legally chartered and in legal compliance.

2.2.8. Drafting or reviewing for legal sufficiency real estate sale or closing documents, separation agreements or divorce decrees, and inter vivos (living) trusts. **Exception:** This limitation does not exclude a general review to identify potential problems in order to explain the need to make a referral or to protect a client from signing an unconscionable agreement. Additionally, if the Staff Judge Advocate determines that a legal assistance attorney in the

office, whether Regular Air Force, civilian, ANG, or AFR, has the expertise to draft, review, or edit these documents, then the Staff Judge Advocate may authorize that attorney to do so. Due to Staff Judge Advocate discretion, this provision is not tiered. For guidance pertaining to notarizing the above-referenced documents, see Chapter 4, Notarial Acts and Oaths.

2.2.9. Representation of the client in a court or administrative proceeding. **(T-1).**
Exception: Representation of a client in court or an administrative proceeding is authorized when acting as Military Defense Counsel, Special Victims' Counsel, or Disability Counsel, or after receiving prior authorization. For guidance on obtaining authorization for expanded legal assistance, see paragraph 2.7.

2.3. Eligibility for Legal Assistance. Subject to the availability of legal staff, resources, and expertise, the categories of personnel listed below are eligible for legal assistance. Staff Judge Advocates shall not expand the scope of eligible beneficiaries beyond those listed in paragraphs 2.3.1. to 2.3.9. **(T-0).**

2.3.1. Members of the Armed Forces on Active Duty. This includes AFR and ANG members, United States Air Force Academy cadets, and contract Reserve Officer Training Corps (ROTC) cadets who are serving on federal active duty under Title 10, United States Code.

2.3.2. Members of the Air Reserve Components (ARC). The ARC is comprised of the AFR and the ANG.

2.3.2.1. ARC members performing Active Guard and Reserve tours, including those under 10 U.S.C. § 10211, 10 U.S.C. § 12310, or 32 U.S.C. § 502(f).

2.3.2.2. Active status reservists or National Guard members who are not in an inactive duty training status, not on active duty, or not currently in a duty status but subject to federal mobilization (National Guard, Ready Reserve, contract ROTC cadets) may receive mobilization- and deployment-related legal assistance. Subject areas include wills, advance medical directives, powers of attorney, protections and responsibilities under the SCRA and Uniformed Services Employment and Reemployment Rights Act (USERRA), and notary services. This list is not exhaustive; authority to provide legal assistance under this provision is a matter within the Secretary's inherent authority to organize, train, and equip Airmen for their military missions.

2.3.2.3. Members of reserve components no longer covered in paragraphs 2.3.1. and 2.3.2.1. following release from active duty where the member was serving under a call or order to active duty of more than 30 days issued under mobilization authority (as determined by the Secretary of Defense) are eligible for legal assistance. Eligibility for such legal assistance begins on the date of the release and continues for a period of time equal to twice the length of the period served on active duty under that call or order to active duty. Staff Judge Advocates may require reservists and National Guard members to present a copy of the pertinent orders at the legal office to verify eligibility for legal assistance under this provision.

2.3.3. Officers of the commissioned corps of the Public Health Service who are on active duty or entitled to retired or equivalent pay.

2.3.4. Members entitled to retired or retainer pay or equivalent pay and former members of reserve components entitled to retired pay under 10 U.S.C. § 12731 (formerly 10 U.S.C. § 1331). Persons eligible under this provision include members and former members receiving retired pay as a result of retirement due to permanent disability or placement on the temporary disability retired list. **Note:** Reservists who have retired but are not yet entitled to retirement pay under 10 U.S.C. § 12731 (also known as “Gray-Area” Reservists) are not eligible for legal assistance under these provisions.

2.3.5. Dependents.

2.3.5.1. Dependents of members as described in paragraphs 2.3.1., 2.3.2.1. and 2.3.3., and former members described in paragraphs 2.3.3. and 2.3.4.

2.3.5.2. Eligible former spouses of members and former spouses of former members listed in 2.3.1. and 2.3.4. who are entitled to a military identification card.

2.3.5.3. Dependents of ARC personnel are not authorized legal assistance except during the time the ARC member is on federal active duty under Title 10, United States Code, or for the period of time after release from active duty noted in paragraph 2.3.2.3.

2.3.6. Estate Representatives/Survivors.

2.3.6.1. The executor, personal representative, administrator, or legally-recognized estate representative of servicemembers who die on active duty or as a result of an injury or disability that resulted in retirement from active duty regarding matters relating to the settlement of estates, including tax assistance. When uncertainty exists about the status of the estate representatives listed in this paragraph, or when determined as appropriate by the Staff Judge Advocate, legal assistance shall be provided to the primary next-of-kin to the same degree as noted in this paragraph.

2.3.6.2. Survivors of a deceased member or former member described in paragraphs 2.3.1., 2.3.2.1., 2.3.2.2., and 2.3.4. who were dependents of the member or former member at the time of the death of the member or former member or otherwise entitled to a military identification card.

2.3.7. Civilian Employees of the Department of Defense.

2.3.7.1. Civilian employees deploying to or in a theater of operations are given assistance to prepare and execute wills and any necessary powers of attorney in accordance with DoDI 1400.32, *DoD Civilian Work Force Contingency and Emergency Planning Guidelines and Procedures*.

2.3.7.2. Civilian employees of the Department of Defense and the military departments, and their dependents residing with them, assigned outside the United States and its territories.

2.3.8. Foreign Military Personnel.

2.3.8.1. Foreign military personnel, and their dependents residing with them, assigned to the United States either permanently or temporarily under official orders for purposes of combined missions with United States personnel or for training in programs sponsored by the United States. This assistance does not extend to foreign military personnel present in the United States solely to carry out another nation’s unilateral mission, such as use of

ranges on a United States installation to test the foreign nation's weapons system without the participation of United States personnel in the training.

2.3.8.2. Assistance provided under this section should be limited in scope to matters involving the interpretation or application of United States domestic law only. Such matters involve issues pertinent to a person's relocation and requirement to be present in the United States to carry out official duties. Examples include but are not limited to landlord-tenant, consumer affairs, driver's licenses, customs, tax relief, and similar assistance. Assistance should not be provided for matters implicating the laws of the sending state, such as wills and domestic relations, nor should any legal assistance be provided on matters that would impact the person's status in the United States.

2.3.9. Unique Situations. When beneficial to the military services, Staff Judge Advocates may authorize legal assistance to persons not specifically identified above as an eligible beneficiary. These situations must involve people who have a future, present, or past military obligation relevant to the legal problem. Examples include reservists or National Guard members who have demobilized but do not strictly meet the time requirements of paragraph 2.3.2.3, ROTC cadets who must meet dependent care responsibilities, or Delayed Entry Program enlistees with landlord-tenant issues. This provision does not apply to contractor personnel, who are responsible for having their personal legal affairs in order (including preparing and completing powers of attorney, wills, etc.) before reporting to deployment centers. Unless another eligibility provision (e.g., paragraph 2.3.4.) applies or the individual is seeking notary services while accompanying Armed Forces outside the United States and outside the Commonwealth of Puerto Rico, Guam, and the Virgin Islands (paragraph 4.6.1.), contractor personnel are not entitled to military legal assistance either in-theater or at the deployment center.

2.4. Priority . Of those eligible beneficiaries listed above, Staff Judge Advocates will give the highest priority to Air Force personnel needing mobilization- or deployment-related legal assistance in support of command readiness. **(T-3)**. Mobilization- and deployment-related legal assistance is not determined by the subject matter of legal assistance provided, but by the relationship between command readiness and the potential impact on the member's ability to perform duties if legal issues are not addressed prior to deployment. When the Air Force is the supporting component at joint installations, Staff Judge Advocates shall follow their installation's DoD joint basing agreements and should exercise discretion regarding prioritizing mobilization- or deployment-related legal assistance among Air Force and sister service components. **(T-3)**.

2.5. Legal Services Provided. Potential legal assistance subject areas include wills, advance medical directives, powers of attorney, protections and responsibilities under the SCRA and USERRA; family law, to include adoptions, dependent care issues, child custody, domestic relations, and financial responsibilities; landlord-tenant law (for both landlords and tenants, subject to the restriction in paragraph 2.2.6.); consumer law, to include bankruptcy, consumer fraud, identity theft, illegal lending practices, and vehicle leases; immigration/naturalization law; assistance for crime victims; and taxation. This list is not an exhaustive list of the subject matters for which clients may receive legal assistance. Legal assistance attorneys may provide advice on other issues that The Judge Advocate General, Major Command Staff Judge Advocates, Numbered Air Force Staff Judge Advocates, commanders, or base Staff Judge Advocates deem connected with personal, civil legal affairs.

2.6. Compliance Requirements. A determination by a Staff Judge Advocate to provide legal assistance services as outlined above may trigger various compliance requirements or limitations. These are tiered below.

2.6.1. Military powers of attorney, advance medical directives, and military testamentary instruments must be prepared in accordance with 10 U.S.C. §§ 1044b, 1044c, and 1044d. **(T-0).**

2.6.2. Dual Representation. Due to the potential for conflicts of interest during the representation, legal assistance attorneys must use a dual representation letter when providing advice on and drafting wills and related documents for married couples. **(T-0).** Legal offices must retain dual representation letters in a file dedicated to that purpose for a period of at least one year from the date the clients endorse the letter. **(T-0).** Additionally, attorneys must retain dual representation letters in accordance with their state licensing requirements. **(T-0).**

2.6.3. “Fill-in-the-blank” Wills. Legal assistance providers shall not participate in the preparation of or execution of preprinted “fill-in-the-blank” wills, wills prepared with an online service, or prepared by a civilian attorney (other than an Air Force civilian legal assistance attorney), as this service might imply Air Force legal assistance review, endorsement, or guarantee of the product. **(T-3).** Clients presenting such documents for execution shall be advised that free estate planning services are available at that legal assistance office. **(T-3).** If a Staff Judge Advocate believes that exigent circumstances require assistance with such products, they should contact AFLOA/CLSL for guidance. **(T-3).**

2.6.4. Interviews with ill, fragile, or elderly clients accompanied by a third party. These clients should be interviewed privately outside the presence of the third party to ensure competency and the true nature of the client’s intentions. After concluding the interview, the legal assistance attorney has sole discretion to determine whether the client is competent to participate in the attorney-client relationship, to include, when applicable, the estate plan drafting and execution process.

2.6.5. Privatized Military Housing. Legal offices may render assistance pertaining to landlord-tenant disputes arising out of privatized military family housing. However, before seeing legal assistance clients regarding privatized housing issues, Staff Judge Advocates must ensure the legal assistance attorney seeks a written waiver from the client after fully disclosing the Air Force’s interest in the privatized housing project. **(T-3).** The waiver should indicate that confidentiality will be waived, if necessary, to make reports to the Air Force Office of Special Investigations for instances of contract fraud or to the Air Force Civil Engineer Center Housing Branch for quality control issues. Waivers shall be maintained on file for at least one year from the date the waiver is signed or consistent with the legal assistance attorney’s state licensing requirements, whichever is longer. **(T-0).** If the client does not consent, refer the client to an alternate source of assistance as outlined in paragraph 3.4.

2.6.6. Victims of Crime.

2.6.6.1. Legal assistance services are available to victims of crime, to include advice and assistance addressing the standards prescribed in Directive-Type Memorandum (DTM)

14-003, *DoD Implementation of Special Victim Capability (SVC) Prosecution and Legal Support*, implementing 10 U.S.C. § 1565b and 10 U.S.C. 1044e.

2.6.6.2. The Staff Judge Advocate shall ensure that processes are established to create a “firewall” around legal office personnel working on or likely to work on criminal proceedings or adverse actions from entering attorney-client relationships with clients seeking advice as victims of crime. **(T-0)**. If resources limit the ability to provide legal assistance to a crime victim, the Staff Judge Advocate shall inform the next Staff Judge Advocate in the functional chain of command who will then seek appropriate legal support. **(T-3)**.

2.6.6.3. Legal assistance attorneys are not authorized to receive restricted reports of sexual assault. **(T-0)**. Legal assistance attorneys may facilitate a victim making a restricted report by helping the victim contact officials authorized to receive restricted reports. Legal assistance attorneys should make sexual assault victim clients aware of available Special Victims’ Counsel services and refer victims of sexual assault to their servicing Special Victims’ Counsel office. **Note:** Information a legal assistance attorney receives from any client remains subject to the attorney-client privilege unless a specific exception applies in AFI 51-110.

2.6.6.4. Legal assistance attorneys cannot represent clients during investigative interviews, appear at hearings, or otherwise participate in the criminal justice process (military or civilian) on behalf of clients. **(T-0)**. **Exception:** This does not apply to Area Defense Counsel, Special Victims’ Counsel, or Disability Counsel providing legal assistance services during the scope of their representation.

2.7. Expanded Legal Assistance Program. Representation of clients in court through expanded legal assistance programs, which are coordinated through the functional chain of command with the Major Command Staff Judge Advocate and approved by the Community Legal Issues Division (AFLOA/CLSL), is permissible. Direct Reporting Unit Staff Judge Advocates may make a request directly to AFLOA/CLSL.

Chapter 3

ADMINISTRATION OF THE LEGAL ASSISTANCE PROGRAM AND TRAINING

3.1. Overview . This chapter outlines various legal office requirements in support of the administration of Air Force Legal Assistance Program.

3.2. Communications .

3.2.1. Within the professional responsibility boundaries of client confidentiality and privilege, legal assistance practitioners may communicate directly with other legal assistance attorneys, paralegals, or non-lawyer assistants within the JA functional community.

3.2.2. Staff Judge Advocates of offices with a legal assistance mission must ensure at least one member of the office is a member of the AFLOA/CLSL FLITE KM Cohort, or any future data sharing platform, to enable timely and mass distribution of general legal assistance-related information. **(T-3).**

3.3. Professional Responsibilities and Rules . Staff Judge Advocates must administer the Legal Assistance Program in strict compliance with the professional responsibilities outlined in AFI 51-110. **(T-1).** **Note:** In the event of conflicts or differences between the applicable provisions of AFI 51-110 and the equivalent state rules, the Air Force provisions will control. The Judge Advocate General's Professional Responsibility Administrator serves as the dedicated focal point for professional responsibility advice and counsel. The following paragraphs are tiered accordingly with due consideration for both Air Force Instructions and state rules.

3.3.1. Only attorneys give legal advice. Paralegals and non-lawyer assistants shall not provide any legal advice to a client, or render any other services to a client that constitute the practice of law unless under the direct supervision of an attorney. **(T-0).** Qualified legal office staff may provide legal assistance support as follows:

3.3.1.1. Paralegals and non-lawyer assistants may question prospective clients to determine the subject matter and whether it is within the scope of the Legal Assistance Program.

3.3.1.2. A paralegal may conduct an initial client interview, preliminary to an attorney-client meeting. During this interview, the paralegal should ascertain the general nature and pertinent facts of the client's legal problem or concern. Because of the likelihood that privileged information will be discussed, this interview should occur in a confidential setting. The paralegal may provide the client with handouts or references providing basic information about laws, regulations, rules, policies and procedures that may be relevant to the client's situation.

3.3.1.3. Paralegals and non-lawyer assistants may prepare and maintain legal documents under the direct supervision of an attorney and perform such acts as notarizations and the preparation of routine powers of attorney using approved legal office forms.

3.3.1.4. Trained paralegals may participate in the production of wills and advance medical directives under the supervision of a trained and competent licensed attorney. Attorneys will provide legal advice to clients regarding these documents and ensure they

are accurate, comply with applicable law, and meet the client's needs prior to execution. **(T-0)**.

3.3.1.5. Legal services volunteers may perform paralegal-type functions or provide other legal services, including advice and assistance to legal assistance clients, if acting under the direction, supervision, and control of an Air Force military or civilian attorney, in accordance with paragraph 3.5.

3.3.2. Staff Judge Advocates and their staff must ensure information received from a client during the course of providing legal assistance (this includes worksheets submitted via LAWS), attorney work-product, and documents relating to the client are confidential. **(T-0)**. Release them only with the client's express permission, pursuant to a court order, or as otherwise permitted by AFI 51-110. Such release should only be accomplished after contacting AFLOA/CLSL through the appropriate supervisory chain.

3.3.2.1. Conflict of interest screening. WebLIONS provides a mechanism to screen for potential conflicts of interest. Attorneys must enter their potential conflicts into WebLIONS prior to finishing a client visit for the system to effectively screen future legal office clients. **(T-3)**.

3.3.2.2. Staff Judge Advocates must ensure that judge advocates and civilian attorneys who perform legal assistance have private offices. **(T-0)**.

3.3.3. When contacting third parties, legal assistance attorneys must avoid creating the impression that they represent the Air Force's interests in resolving the client's concerns or that the Air Force has an interest in the outcome of the matter. **(T-0)**. When writing letters on a client's behalf, do not use Air Force letterhead. **(T-0)**. In any written correspondence, legal assistance attorneys should use language such as, "This letter is written by a legal assistance attorney on behalf of an individual client, and does not represent an official position of the Department of the Air Force or the United States Government."

3.3.4. Legal assistance attorneys will not interfere with an existing attorney-client relationship. **(T-0)**. In some situations, the legal assistance attorney may consult with the individual represented by counsel, provided the other counsel and the represented individual consent. Otherwise, advising a client already represented by an attorney (i.e., providing a "second opinion") is not permitted.

3.4. Referrals. The nature of a client's legal problem may exceed the competence of the initial attorney consulted or the scope of the Air Force Legal Assistance Program. In such cases, the legal assistance attorney should refer the client, as appropriate, to another Air Force attorney, another Armed Forces legal assistance office, an appropriate federal or state agency, or civilian lawyer referral services. When making referrals, the legal assistance attorney should consider any free or reduced fee services available. Additionally, it is essential that each office establish referral guidelines that are free from favoritism or other impropriety.

3.5. Legal Services Volunteers. Staff Judge Advocates may accept the services of a licensed attorney, paralegal, or other legal professional to provide legal assistance under 10 U.S.C. § 1044; 10 U.S.C. § 1588(a)(5); DoDI 1100.21, *Volunteer Services in the Department of Defense*; and AFI 51-110.

3.6. Military Continuing Legal Education in Legal Assistance. Legal assistance attorneys must accomplish annual training to ensure they maintain the competence and currency to provide legal assistance in accordance with AFI 51-110. Legal Assistance specific requirements and definitions are detailed below for use in conjunction with AFI 51-110.

3.6.1. Annual Refresher Training Webcast. Annually, The Air Force Judge Advocate General's School posts a webcast to its e-learning website with updates and changes to the law impacting the provision of legal assistance.

3.6.2. Military Continuing Legal Education Definition. Military Continuing Legal Education is legal assistance training provided, sponsored, or co-sponsored by the judge advocate component of a military service. Legal assistance in-residence courses, annual refreshers, webcasts, the Air Force Judge Advocate General's School e-learning training modules, Staff Judge Advocate-approved office-wide training, and training seminars (e.g., Annual Survey of the Law, Dougherty-Nelson Continuing Legal Education, and American Bar Association Legal Assistance for Military Personnel Committee Continuing Legal Education) are examples of Military Continuing Legal Education. Staff Judge Advocates may authorize training not affiliated with the military, such as estate planning training offered by a state bar, as Military Continuing Legal Education. AFLOA/CLSL can help legal offices identify education and training to satisfy the AFI 51-110 requirements for Military Continuing Legal Education in Legal Assistance.

3.7. ARC Judge Advocate Proficiency. In addition to providing legal assistance to eligible beneficiaries during their course of their Reserve duty, Air Reserve Component judge advocates may provide legal assistance to members of the ARC consistent with this instruction and as needed to maintain proficiency (see paragraphs 2.3.1. and 2.3.2).

3.8. Records/Reports. The Staff Judge Advocate will ensure that legal assistance visits and workload are recorded in WeBLIONS. **(T-3)**. Statistical data of each office will be available to that office and its higher headquarters through WeBLIONS on demand. Offices are not permitted to employ alternative automated data management and workload tracking systems for legal assistance.

3.8.1. The Staff Judge Advocate will ensure that the office retains AF Form 1175, *Legal Assistance Record*, for temporary use in the event of interruption of WeBLIONS access or service. **(T-3)**. On these occasions, the legal assistance attorney or paralegal must enter the information recorded on the cards into WeBLIONS when service resumes and then properly destroy the cards. **(T-3)**.

3.9. Protection of Personally Identifying Information (PII).

3.9.1. Offices will not maintain copies of executed wills, advance medical directives, or powers of attorney. **(T-3)**. To better protect confidentiality, after clients execute these documents offices should periodically purge shared-drive folders of the unexecuted and executed documents developed during the course of representation. The prohibition in this paragraph does not include authorizations or waivers discussed in paragraphs 2.6.2. and 2.6.5.

3.9.2. Offices and/or attorneys will not keep formal files on legal assistance clients, except when required, such as keeping dual representation letters for one year. If necessary, the legal assistance attorney will copy only those documents needed during the course of active

representation and immediately return original documents to clients. **(T-3)**. Legal assistance attorneys should advise clients that copies will be properly destroyed upon resolution of the matter giving rise to legal assistance.

3.9.3. Software used to produce legal assistance documents containing Personally Identifying Information (PII) and the documents themselves may not be loaded or stored on personal laptops. **(T-1)**.

Chapter 4

NOTARIAL ACTS AND OATHS

4.1. Overview. This chapter covers policies and procedures for Air Force military and civilian personnel performing notarial acts as part of their official duties.

4.2. Notarial Acts.

4.2.1. Federal Authority. Notarial acts performed under 10 U.S.C. § 1044a are legally binding for federal and non-federal purposes. This authority is distinct from the notary authority created by each state's laws.

4.2.2. Role of Notary/Consul. A notary/consul acts as an official, unbiased witness to the identity and signature of the person who comes before the notary. A notary has the authority to administer oaths and affirmations. Every notary act affects the legal rights of others.

4.3. Persons with Notary Authority . In addition to the personnel authorized by 10 U.S.C. § 1044a(b), the following persons shall have the general powers of a notary and of a consul of the United States for notarial acts executed for eligible beneficiaries (see paragraph 4.6):

4.3.1. Enlisted paralegals on active duty or performing inactive duty training. **(T-0).**

4.3.2. Other Air Force members on active duty may exercise notary authority under 10 U.S.C. § 1044a(4) and this instruction if all three of the following criteria are met:

4.3.2.1. A commissioned officer or senior non-commissioned officer (holding the rank of Master Sergeant (E-7) or higher);

4.3.2.2. Stationed at a geographically separated unit or remote location without an assigned judge advocate or qualified paralegal notary; and

4.3.2.3. Appointed in writing by the unit's servicing Staff Judge Advocate. **(T-0).**

4.3.3. At locations outside the United States, civilian Air Force employees appointed by the Staff Judge Advocate servicing the base may serve as notaries under the authority of 10 U.S.C. § 1044a(b)(5). **(T-0).**

4.4. Civilian Employees as State Notaries (other than civilian legal assistance attorneys). Staff Judge Advocates may designate civilian employees to serve as notaries as part of their official duties in addition to the notary authorities granted in 10 U.S.C. § 1044a if necessary for the provision of legal assistance. A designated civilian employee must qualify as a notary under the laws of the state where he or she will perform notarial duties.

4.4.1. Designations of employees as state-licensed notaries must be in writing and state that reimbursement for expenses is authorized. **(T-0).** Title 5 U.S.C. § 5945 authorizes reimbursement of commission expenses. These expenses may not exceed the actual cost of any fees, bonds, seals, perforating devices, and any other expenses actually incurred. **(T-0).** Make reimbursements in accordance with local procedures.

4.4.2. Where an installation has multiple Staff Judge Advocates, each Staff Judge Advocate may make this designation for his or her respective command or agency.

4.4.3. As the notaries designated under this provision are reimbursed for commission expenses, they may only provide notary services for the eligible beneficiaries specified in paragraph 4.6.

4.5. Staff Judge Advocates must :

4.5.1. Ensure compliance with applicable laws and this instruction regarding the provision of all notarial services within their commands **(T-0)**.

4.5.2. Not allow paralegals to perform notary duties under 10 U.S.C. § 1044a until they have received proper training. **(T-3)**. This limitation means that only those military paralegals who have been trained to perform notarial acts as specified by the Career Field Education and Training Plan will act as notaries.

4.5.3. Ensure that where a document requires signatures of multiple persons, only the signatures of those persons eligible for military notary services under 10 U.S.C. §1044a(a) and paragraph 4.6. of this instruction are notarized. **(T-0)**.

4.6. Individuals Eligible to Use Military Notary Services.

4.6.1. Personnel listed as eligible beneficiaries for notary services under 10 U.S.C. § 1044a(a). **(T-0)**.

4.6.2. Department of the Air Force personnel, to include civilian and non-appropriated fund employees, on matters related to their official duties. **(T-3)**.

4.7. Authenticity and Seals . When signing documents in their official capacity under 10 U.S.C. §1044a, notaries must specify the date and location and list their title and office. The use of a raised seal or inked stamp citing 10 U.S.C. § 1044a is desirable as it enhances the acceptability of the document notarized; however, it is not required. State notaries must follow the laws of the state for all notarial requirements. **(T-0)**.

4.8. Oaths and Affirmations. The United States Code authorizes military members to administer oaths and affirmations. Staff Judge Advocates will ensure that their staff members are familiar with the following:

4.8.1. The 10 U.S.C. § 936(a), which grants specific people the authority to administer oaths and affirmations for military administration, including military justice. **(T-3)**.

4.8.2. The 10 U.S.C. § 936(b), which authorizes specific people to administer oaths and affirmations when necessary to perform their duties. **(T-3)**.

4.8.3. The 10 U.S.C. §§ 502 and 1031, which authorize United States Armed Forces commissioned officers to administer oaths of enlistment (§ 502) and oaths of enlistment or appointment in the armed forces (§ 1031). **(T-3)**.

Chapter 5

PREVENTIVE LAW PROGRAM

5.1. Overview. This chapter describes guidelines for a legal office to run and maintain an effective preventive law program. Effective preventive law activities require full communication and cooperation among Air Force legal office staff members, commanders, and base personnel, both uniformed and civilian.

5.2. Purpose. No Legal Assistance Program can succeed without a vigorous preventive law program. Educating commanders, members, and their families on legal issues prevents legal problems and reduces the time and resources needed to resolve legal problems. Preventing legal problems enhances command effectiveness and readiness, especially during periods of mobilization and deployment of personnel.

5.3. Scope. Every base Staff Judge Advocate will ensure their office has an active preventive law program. **(T-3).** The Staff Judge Advocate implements the program for his or her installation or organization. At joint bases or other installations with multiple Staff Judge Advocates providing legal assistance, the installation commander's Staff Judge Advocate may combine resources to implement a consolidated Preventive Law Program. *See* paragraph 1.2.7.4.

5.3.1. All attorneys have a responsibility to integrate preventive efforts into legal assistance consultations and presentations to base audiences on legal programs. Legal Assistance attorneys should maintain vigilance to identify novel legal concerns, such as new consumer scams.

5.3.2. Preventive law programs focus on education and recommend preventive measures in legal areas where the Air Force has a direct interest in the outcome as well as areas likely to impact base readiness and morale. Example subject areas for education include:

5.3.2.1. Mobilization and Deployment Preparation. Staff Judge Advocates and their staff should work to educate members on their personal legal needs to ensure readiness for mobilization and deployment.

5.3.2.2. Commander and First Sergeant Awareness. Commanders and First Sergeants play a vital role in highlighting and emphasizing the importance of seeking legal assistance as part of readiness preparations. Staff Judge Advocates and their staff should educate Commanders, First Sergeants, and staff agency chiefs on the full range of legal services provided by the legal office (not just legal assistance matters) and the advantages to the Command or organization of timely use of these legal services.

5.3.2.3. Servicemember and Dependent Awareness. Staff Judge Advocates and their staff should work to identify common legal problems encountered by servicemembers and their families in order to develop materials providing information and guidance to minimize exposure to these legal problems.

Chapter 6

AIR FORCE TAX ASSISTANCE PROGRAM

6.1. Overview. Air Force Tax Assistance Programs are command programs, separate and distinct from the Legal Assistance Program, designed to provide free tax assistance and filing service for eligible beneficiaries. Although not required, a healthy Tax Assistance Program often involves base volunteers in addition to legal office personnel. Resourced and managed properly, an active, aggressive, well-publicized program can enhance morale and help beneficiaries address some of the unique income tax aspects associated with a military lifestyle.

6.2. Scope. Each installation is unique in many ways including its population, size, mission, and location, which directly impacts the availability and scope of installation Tax Assistance Programs. As such, installation commanders (or equivalent), in consultation with their servicing Staff Judge Advocate, shall determine what is best for their installation, including the possibility of not operating a Tax Assistance Program.

6.2.1. When making a determination about whether to have a Tax Assistance Program, and if so, the scope of the program, commanders and Staff Judge Advocates should consider factors such as:

6.2.1.1. Competing mission requirements;

6.2.1.2. Demand for tax services

6.2.1.3. Available volunteer support;

6.2.1.4. Negative impacts to program continuity (e.g., loss of future Internal Revenue Service (IRS) support, loss of future volunteer support, loss of institutional knowledge) should the installation want to continue the program at a later date;

6.2.1.5. Budgetary constraints;

6.2.1.6. Impact on base morale;

6.2.1.7. Availability of IRS software and training support;

6.2.1.8. Availability of free online filing services and other nearby Volunteer Income Tax Assistance Programs accessible for all beneficiaries; and

6.2.1.9. Availability of other professional filing services near the installation.

6.2.2. Commanders and Staff Judge Advocates for commands serving in a host or supporting role on joint bases are advised to review support agreements for any provisions regarding the tax program.

6.3. Oversight. If the installation commander (or equivalent) decides to have a Tax Assistance Program, Staff Judge Advocates provide program oversight. Consistent with the installation commander's (or equivalent) intent, Staff Judge Advocates supervise and manage these programs at their bases, exercising discretion concerning the scope of assistance provided, eligible beneficiaries, and sources of support for training and electronic filing.

6.4. Eligible Beneficiaries. Tax Assistance Program beneficiaries are those entitled to full legal assistance services under Chapter 2 of this instruction. In consultation with, and consistent with

the installation commander's (or equivalent) intent, Staff Judge Advocates can further limit eligible beneficiaries for the tax program. Additionally, Staff Judge Advocates may authorize preparation and electronic filing of tax returns for federal civilian employees, to the extent permitted by the IRS Volunteer Income Tax Assistance Program. In making this determination, Staff Judge Advocates should consider whether the resources available and volunteer support is sufficient to support the increased demands such an extension of support would entail. When seeking tax assistance, federal civilian employees must adhere to applicable rules concerning use and accounting of their time.

6.5. Reporting. All base legal assistance offices must file an annual statistics report for their Tax Assistance Programs in the Tax Program Reporting System within FLITE, even if the base has elected not to sponsor a Tax Assistance Program. Do not use WebLIONS to input tax preparation client information or tax program workload. Staff Judge Advocates must ensure interim reports are submitted each year by 15 June for Continental United States activities and 15 July for programs based outside the Continental United States. **(T-3)**. Staff Judge Advocates must ensure final reports are submitted by 1 February of the next calendar year. **(T-3)**.

JEFFREY A. ROCKWELL
Lieutenant General, USAF
The Judge Advocate General

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

5 U.S.C. § 5945, *Notary Public Commission Expenses*

5 C.F.R. Part 581 Appendix B, *List of Agents Designated to Facilitate Service of Legal Process on Federal Employees*

10 U.S.C. § 502, *Enlistment Oath: Who May Administer*

10 U.S.C. § 936, *Art. 136. Authority to Administer Oaths*

10 U.S.C. § 1031, *Administration of Oath*

10 U.S.C. § 1044, *Legal Assistance*

10 U.S.C. § 1044a, *Authority to Act as Notary*

10 U.S.C. § 1044b, *Military Powers of Attorney: Requirement for Recognition by States*

10 U.S.C. § 1044c, *Advance Medical Directives of Members and Dependents: Requirement for Recognition by States*

10 U.S.C. § 1044d, *Military Testamentary Instruments: Requirement for Recognition by States*

10 U.S.C. § 1044e, *Special Victims' Counsel for victims of sex-related offenses*

10 U.S.C. § 1565b, *Victims of Sexual Assault: access to legal assistance and services of Sexual Assault Response Coordinators and Sexual Assault Victim Advocates*

10 U.S.C. § 1588, *Authority to Accept Certain Voluntary Service*

10 U.S.C. § 8013, *Secretary of the Air Force*

10 U.S.C. § 8037, *Judge Advocate General, Deputy Judge Advocate General: appointment, duties*

10 U.S.C. § 10211, *Policies and Regulations: Participation of Reserve Officers in Preparation and Administration*

10 U.S.C. § 12310, *Reserves; for Organizing, Administering, etc. Reserve Components*

10 U.S.C. § 12731, *Age and Service Requirements*

32 U.S.C. § 502, *Required Drills and Field Exercises*

50 U.S.C. §§ 3901-4903, *Servicemembers Civil Relief Act*

AFPD 51-2, *Military Justice*

AFPD 51-3, *Civil Law, Acquisition Law, and Litigation*

AFI 33-360, *Publications and Forms Management*, 1 December 2015

AFI 51-110, *Professional Responsibility Program*, 5 August 2014

AFMAN 33-363, *Management of Records*, 1 March 2008

DoDD 1350.4, *Legal Assistance Matters*, 28 April 2001

DoDI 1100.21, *Voluntary Services in the Department of Defense*, 11 March 2002

DoDI 1400.32, *DoD Civilian Workforce Contingency and Emergency Planning Guidelines and Procedures*, 24 April 1995

DTM 14-003, *DoD Implementation of Special Victim Capability (SVC) Prosecution and Legal Support*, 12 February 2014, Incorporating Change 4, 3 April 2017

Prescribed Forms

AF Form 1175, *Legal Assistance Record*

Adopted Forms

AF Form 847, *Recommendation for Change of Publication*

Abbreviations and Acronyms

AFI—Air Force Instruction

AFR—Air Force Reserve

AFPD—Air Force Policy Directive

ARC—Air Reserve Components

ANG—Air National Guard

DoD—Department of Defense

DTM—Directive-Type Memorandum

FLITE KM—Federal Legal Information Through Electronics Knowledge Management

IRS—Internal Revenue Service

LAWS—Legal Assistance Website

ROTC—Reserve Officer Training Corps

SCRA—Servicemembers Civil Relief Act

U.S.C.—United States Code

USERRA—Uniformed Services Employment and Reemployment Rights Act

WebLIONS—**Web**-based Legal Information Online System

Terms

Dual representation—Both parties consent to allow one attorney represent both parties. It is usually used for simple legal matters in which both parties share a common interest, such as a married couple creating a last will and testament.

Inter vivos— Legal term referring to a transfer or gift made during one's lifetime.

Preventive law— A branch of law that endeavors to minimize the risk of litigation or to secure more certainty as to legal rights and duties.

Quasi-criminal law— A civil proceeding that may result in a penalty akin to a criminal penalty.

Service of process— The procedure by which a party to a lawsuit gives an appropriate notice of initial legal action to another party (such as a defendant), in an effort to exercise jurisdiction over that person so as to enable that person to respond to the proceeding before the court. Notice is furnished by delivering a set of court documents (called “process”) to the person to be served.

Unconscionable agreement—Describes an agreement with terms that are so extremely unjust, or overwhelmingly one-sided, that they are contrary to good conscience.