

**BY ORDER OF THE
CHIEF, NATIONAL GUARD BUREAU**

**AIR NATIONAL GUARD INSTRUCTION
51-504**



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Law

**AIR NATIONAL GUARD LEGAL
ASSISTANCE PROGRAM**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction describes the scope and authority for legal assistance which shall be provided by ANG Judge Advocates and paralegals. Legal assistance is a matter within the inherent authority of the commander to ensure mission readiness. Eligibility of ANG members for legal assistance from Active Air Force Legal Assistance Offices is governed by AFI 51-504, Legal Assistance, Notary, and Preventive Law Programs. 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.

1. Legal Services and Purpose.

1.1. Services. ANG judge advocates and paralegals shall provide legal assistance while performing in a duty status under Title 10 or Title 32, including while telecommuting, in accordance with applicable instructions. (T-0) When providing legal assistance, including Special Victim's Counsel (SVC) Services, to eligible beneficiaries as required by this instruction, ANG JAs and paralegals are protected from liability in accordance with 10 U.S.C. § 1054 and the Federal Tort Claims Act, 28 U.S.C. § 1346 (b) 2nd 2671 et seq. (FTCA). Individual states may also have statutes which provide additional protections.

1.2. Purpose. In order to ensure mission readiness, it is essential that legal assistance is available to eligible beneficiaries. Additionally, post-mobilization legal assistance (MLA) is a statutorily available to assist members of the reserve components who have been mobilized by authorizing them to receive legal assistance for a period of time after his/her release from active duty.

2. Scope.

2.1. Legal Assistance. ANG judge advocates and paralegals (under the professional supervision of a judge advocate) shall provide legal assistance with respect to the following legal matters to eligible beneficiaries. (T-3)

2.1.1. Wills.

2.1.2. Powers of Attorney.

2.1.3. Living wills and health care directives.

2.1.4. Notary services.

2.1.5. Dependent care plans.

2.1.6. Casualty affairs (death incident to the performance of military duty).

2.1.7. Employment problems arising from the performance of military duty and subject to the Uniformed Services Employment and Reemployment Rights Act (USERRA) or a similar state statute.

2.1.8. Landlord-tenant problems specifically related to performance of military duty.

2.1.9. Tax problems specifically related to performance of military duty.

2.1.10. Matters arising from the performance of military duty and subject to the Servicemembers Civil Relief Act (SCRA) or a similar state statute. NOTE: The SCRA applies only to duty performed in a Title 10 status.

2.1.11. Providing Special Victim's Counsel (SVC) Services. SVC will be appointed and certified in accordance with Section 2.4 below.

2.2. Other legal assistance. Other legal assistance is authorized as approved by the National Guard Bureau and the Air Force, or by the State Headquarters (HQ) Staff Judge Advocate (SJA), the Wing Commander (CC), or other appropriate commander (CC), or the unit SJA.

2.3. Post-MLA. For purposes of this instruction, mobilization includes (1) an order to active duty (Title 10) other than for training for more than 30 days pursuant to full mobilization (10 U.S.C. § 12301 (a)), partial mobilization (10 U.S.C. § 12302), Presidential Reserve Call-Up (10 U.S.C. § 12304), or volunteerism (10 U.S.C. 12301(d)) involving deployment when one of the above authorities is in effect, (2) a call into Federal service for more than 30 days under 10 U.S.C. § 12406 or Chapter 15 of Title 10, U.S.C. or under orders to perform duty under the provisions of 32 U.S.C. § 502(f). Post-MLA will be provided to eligible beneficiaries during the period of mobilization and after the member's release from active duty for a period twice the length of time served on active duty under that order to active duty or call into Federal service. Post-MLA is also available from Active Air Force legal assistance offices.

2.4. Special Victim's Counsel (SVC) Services.

2.4.1. Purpose. To ensure mission readiness, it is in the best interests of the National Guard to provide all eligible victims of sexual assault with the legal assistance of a SVC.

2.4.2. SVC Eligibility Criteria.

2.4.2.1. Air National Guard airmen and their dependents, who report they are a victim of a sexual assault under the UCMJ or state statutes of military justice, are eligible to receive SVC services to the extent authorized by U.S.Code, DoD directives, National Guard and Air Force policy and instructions.

2.4.2.2. Title 10 SVCs. ANG Judge Advocates who are serving in Title 10 status and are appointed by the Chief Counsel, National Guard Bureau and certified as an SVC by the Service TJAG (or his /her designee) may provide SVC Services to eligible victims as authorized by U.S.Code, DoD directives, National Guard and Air Force policy and instructions.

2.4.2.3. Title 32 SVCs. ANG Judge Advocates who are serving in Title 32 status and are appointed and certified as SVC by the ANG Assistant to The Judge Advocate General of the Air Force (or his/her designee) may provide SVC Services to eligible victims as authorized by U.S. Code, DoD directives, National Guard and Air Force policy and instructions.

2.5. Beneficiaries. Members of the ANG, spouses of members, and family members entitled to a military identification card are eligible for legal assistance, but not necessarily SVC Services. The ANG member must be in a duty status under Title 10 or Title 32 in order for his/her spouse and family members to receive legal assistance. (T-3) As resources and expertise permit, legal assistance may also be provided to Active Component members, other Reserve Component members, and retirees of any military service.

2.6. Limits on Legal Assistance. Legal assistance shall not be provided on the following issues:

2.6.1. Issues involving personal commercial enterprises, unless related to the SCRA or similar state law.

2.6.2. Criminal matters under the Uniform Code of Military Justice (UCMJ), the local state military code, or any other Federal or State criminal law, unless acting as SVC.

2.6.3. Standards of ethical conduct issues.

2.6.4. Law of Armed Conflict issues.

2.6.5. Official matters in which the Air Force (AF) or ANG has an interest or is involved in the final resolution, unless acting as SVC.

2.6.6. Legal issues raised on behalf of another individual, even if that other individual is eligible for legal assistance, unless acting as SVC.

2.6.7. Representation of the client in a court or administrative proceeding, unless acting as SVC.

3. Supervisory Responsibilities.

3.1. The ANG State Headquarters SJA is responsible for monitoring legal assistance programs at all ANG legal offices in the State, except for SVC Services, which shall be monitored in accordance with the guidelines and instructions issued by the Chief Counsel of the National Guard Bureau and the ANG Assistant to TJAG.

3.2. The unit SJA must ensure that the level of legal assistance services is consistent with those services specified in para 2.1, except for SVC Services in **paragraph 2.1.11**, which shall be monitored in accordance with the guidelines and instructions issued by the Chief Counsel of the National Guard Bureau and ANG Assistant to TJAG. (T-3)

4. Ethical Responsibilities and Rules.

4.1. SJAs must administer legal assistance programs in strict compliance with the Rules of Professional Responsibility for ANG JAs, local state rules of professional conduct, and to the extent that they apply, the AF Rules of Professional Conduct, and other ethics or professional responsibility rules, including rules applicable to paralegals. (T-0)

4.2. Only judge advocates shall provide legal advice. Paralegals shall only provide legal assistance under the professional supervision of a judge advocate. (T-0)

4.3. Information received from a client while providing legal assistance, attorney work products, and documents relating to the client are protected confidential communications. Information shall not be released without the client's express permission, pursuant to a court order, or as otherwise permitted by the Rules of Professional Responsibility for ANG JAs, local state rules of professional conduct, and to the extent they apply, the AF Rules of Professional Conduct, and other ethics or professional responsibility rules including rules applicable to paralegals.

4.4. Judge advocates providing legal assistance pursuant to this instruction must have private office space available. (T-1)

4.5. Judge advocates providing legal assistance pursuant to this instruction must avoid creating the impression that they represent the ANG's interests in resolving the client's concerns or that the ANG has an interest in the outcome of the matter. When writing letters on a client's behalf, judge advocates and paralegals should not use official letterhead and shall include a statement in the letter clarifying that the ANG does not represent the client in resolving the matter, unless acting as SVC.

4.6. Judge advocates providing legal assistance pursuant to this instruction shall not interfere with an existing attorney-client relationship.

5. Referrals. Requests for legal assistance which exceed the scope of this instruction shall be referred to qualified civilian counsel, or if available in the local area, to a bar referral service.

6. Office Administration. Offices may use the DL Wills program, WebLions program, State Bar materials or any other approved programs or forms in providing legal assistance.

7. Notary Services.

7.1. ANG judge advocates and paralegals while performing duty under Title 10 or Title 32 may perform notarial acts, pursuant to the provisions of 10 U.S.C. § 1044a or if qualified as a notary public under state law.

7.1.1. Pursuant to 10 U.S.C. § 1044a, ANG judge advocates (even when not in a duty status) have the general powers of a notary public in the performance of all notarial acts. (NOTE: In a duty status is advised.)

7.1.2. Pursuant 10 U.S.C. § 1044a(b)(4), ANG paralegals are hereby designated to have the general powers of a notary public in the performance of all notarial acts (even when in a non-duty status).

7.1.3. ANG JAs and paralegals may use a seal or stamp citing the authority under Title 10 U.S.C. 1044a when performing notarial acts under **paragraph 7.1**.

7.1.4. ANG commanders may name civilian employees to serve as notaries as part of his/her official duties provided they qualify under the laws of the state where they will serve.

7.2. Members of the ANG and beneficiaries eligible for legal assistance may receive notary services.

7.3. The cost of a state notary public commission for a technician employee may be reimbursed with Federal funds under 5 U.S.C. § 5945 in accordance with the procedures set forth in AFI 51-504.

7.4. Civilian Employee Notaries. These services may be provided within the limits of the commission under the rules and regulations for the jurisdiction. No fees may be charged for these notary services.

MICHAEL R. TAHERI, Brigadier General, USAF
Commander, ANGRC

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

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

10 U.S.C. § 1044, *Legal Assistance*

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

DoDD 1350.4, *Legal Assistance Matters*

DoDI 6400.07, 25 Nov 2013AFI 51-504, *Legal Assistance, Notary, and Preventive Law Programs*

AF Special Victims' Counsel Charter

NGB SVC ProgramP;/