

# American Bar Association Standing Committee on Legal Assistance for Military Personnel

by BG David C. Hague, U.S.M.C. (Ret), and Jane A. Phinney, RP

---

**W**

hat kinds of legal services do military personnel need?

Imagine you are a young service member in the reserves who has been called up to go to the Middle East. You do not know when (or if) you will return, and you are uncertain about your rights regarding your civilian employment. Further, imagine that during the time you are gone, your wife gives birth to your first child. Who advises you as to your legal rights? Who provides legal assistance to your spouse? Do you both have wills and powers of attorney? You met your wife in Montana, and your finances are set up there. Her family is from South Dakota. You two lived a year together on the east coast, and you need legal matters settled between North Carolina, South Dakota, and Montana.

Now imagine you are the spouse of a service member who has been stationed for three years in a foreign country. You and your two children live there in military housing. Your husband says that he wants a separation. You need legal help with a separation/property settlement agreement, relocation to the U.S., and child and spousal support during the time you are separated. You cannot get the help you need from a civilian attorney in the foreign country, so what do you do?

Military personnel and their families need every kind of civil legal assistance that civilians need, and more. With modest pay and frequent changes in job location, military personnel — especially those in the lower ranks, and their families — rely heavily on military legal assistance with its worldwide network of active duty, reserve, and civilian attorneys and paralegals.

## How Military Personnel and Their Families Obtain Legal Help

The American Bar Association (ABA) Standing Committee on Legal Assistance for Military Personnel (LAMP, or the Committee) works to ensure that active duty, reserve, and retired members of the Armed Forces and their families receive the most timely and professional legal advice and other services possible for their civil legal requirements. LAMP works closely with the military to fashion and implement favorable policies and legislation in the area of legal assistance and works directly with military and civilian legal assistance attorneys and paralegals to provide the highest possible quality of legal service. The Committee's work affects the delivery of legal services to a potential clientele of more than 9,000,000 people.

This client base of active duty, reserve, and retired military personnel and their families has many legal needs that are not generally understood by practitioners in the civilian sector. Frequent relocations, family separations as a result of remote and wartime assignments, federal statutory entitlements and protections, and a host of other factors unique to military life must all be carefully considered when providing legal services to this population. The majority of those persons receiving civil legal assistance from military attorneys fall within the low- to moderate-income range. They do not have the financial ability to pay the legal fees for representation from the civilian sector with respect to any matter of significance. Although many qualify financially for assistance under Legal Services Corporation guidelines, they often do not fall within the limited case priorities established within that overburdened and underfunded system. Without the legal services provided by military attorneys and paralegals, many in the military community would be unable to obtain legal assistance for their personal legal needs.

## Meeting the Legal Needs of Military Personnel

Military legal assistance is provided in accordance with 10 U.S.C. § 1044 "subject to the availability of legal staff resources." Consequently, military legal assistance offices must prioritize client services. Clients seeking assistance with readiness-related issues such as family law concerns, wills, consumer fraud problems, and powers of attorney are given first priority.

Traditionally, military service members were young, single males. Today's typical military service member, however, is an older, married head of household with several dependents. Almost 70% of the active force is married, and a significant and increasing percentage of the force is female. As the demographic profile of the military population continues to shift, the types and complexity of legal problems experienced by this new and changing population will increase. Military attorneys and paralegals providing civil legal counsel must, therefore, develop increased expertise in civil law.

Assignment policies make continuing legal education (CLE) in the Armed Forces especially important and challenging. Military attorneys are frequently rotated from other areas of their practice, such as military justice and administrative law, into legal assistance duties, often without the benefit of adequate preparation. To help military legal assistance providers with CLE, LAMP created a web site located at [www.abanet.org/legalservices/helpreservists.html](http://www.abanet.org/legalservices/helpreservists.html). The web site contains extensive resources, including information on key military-specific statutes: Soldiers' and Sailors' Civil Relief Act (SSCRA), the Uniformed Services Employment and Reemployment Rights Act (USERRA), and the Servicemen's Group Life Insurance (SGLI). A three-hour CLE package focusing on SSCRA, USERRA, SGLI, and survivor benefits was produced in both video and audio formats and distributed to state and local bar associations. A pamphlet on reservists' rights under SSCRA and USERRA was also prepared and distributed in coordination with the Reserve Officer Association.

LAMP has produced a web-based distance-learning CLE program on the

improved capabilities of DL Wills Version 6.01 designed to educate attorneys and paralegals on the complexities of estate planning for the blended families that are common in the military. CD-ROM versions of the program were distributed to overseas installations and for military bases whose Internet connectivity prevents effective online participation. A second web-based distance-learning program featuring advanced SSCRA issues was recently released.

**LAMP coordinates its activities with liaisons who are appointed by the Judge Advocate Generals of the Navy, Army, and Air Force, Staff Judge Advocate to the Commandant of the Marine Corps, and Chief Counsel of the Coast Guard, in order to assist each service's legal assistance program to stay informed and current.**

LAMP coordinates its activities with liaisons who are appointed by the Judge Advocate Generals of the Navy, Army, and Air Force, Staff Judge Advocate to the Commandant of the Marine Corps, and Chief Counsel of the Coast Guard, in order to assist each service's legal assistance program to stay informed and current. The Department of Defense, several state bar associations, and various ABA entities and NFPA provide liaisons to the Committee.

These liaisons are necessary because the scope and nature of each service's legal assistance programs vary from service to service and even from installation to installation within each service. The differences in the programs are the result of the particular service's or the installation's priorities and policies, and local requirements and resources.

Firsthand perspectives on the services' legal assistance programs are obtained when LAMP meets quarterly at major mili-

tary installations, where it provides CLE to military legal assistance attorneys and paralegals, civilian attorneys and paralegals with military clientele, and the liaisons and members of the Committee. The Committee members and liaison tour the installation's legal facilities and consult with the military installation's legal assistance providers and commanders and then provide LAMP with expert guidance and insight into the concerns and problems experienced by the field legal assistance offices and give command-level input to the Committee regarding the service's policy and funding for that legal assistance program.

## Major LAMP Activities

### *Operation Enduring LAMP*

Following the 9/11 terrorist attacks in New York and Washington, DC, active duty military personnel were widely deployed, and more than 80,000 reservists and National Guard personnel were mobilized. On Veterans Day 2001, ABA president Bob Hirshon called on America's legal community to help the nation's military reservists. At the request of the Armed Forces, through LAMP, the ABA assumed responsibility for helping state and local bar associations organize and educate their members so that pro

bono legal assistance would be ready to provide service members and their families when, and if, needed. State and local bar associations registered the availability of their pro bono services on the ABA web site so that the military could access pro bono resources without first needing to determine points of contact and assessing preparedness of the volunteers. Forty states are now represented in the consortium of state and local bar associations ready to assist military reservists and their family members. NFPA paralegals are among the volunteers.

### *LAMP Awards and Honors*

The Committee recognizes exemplary legal assistance achievement and projects through its yearly presentation of the LAMP Committee Distinguished Service Award. The Committee presents an Outstanding Legal Assistance Student Award to the top student in each of the ten basic lawyer courses held at the Army and Air Force Judge Advocate General Schools and the



**The Committee advocates federal legislation supporting legal assistance as an entitlement for military personnel in the lower pay grades and their family members.**

Naval Justice School. The Committee created an annual LAMP Essay Competition in 2002, receiving submissions from both military and civilian attorneys and paralegals that challenged the conventional wisdom about military legal assistance practice and policy. The topic in 2003 is the same as for 2002: "What Is the Greatest Challenge Facing Military Legal Assistance?" Cash prizes of \$1000 for first place and \$500 for second place are awarded.

## **LAMP's Goals: to Promote and Foster Military Legal Assistance**

The Committee advocates federal legislation supporting legal assistance as an entitlement for military personnel in the lower pay grades and their family members. ABA policy, which was developed by the Committee, supports legal assistance as an entitlement for active-duty military personnel in pay grades E-6 and below and their family members. Because of pay increases of recent years, most military personnel in pay grades E-5 and E-6 no longer are at income levels that correspond to the poverty guidelines followed by the Legal Services Corporation. Most enlisted personnel in pay grades E-4 and below do, however, fall within those guidelines. They are the ones for whom the Committee is urging a broad range of legal

services be provided as a legal entitlement. Service personnel of all ranks should be statutorily guaranteed readiness-related legal assistance such as wills, advance medical directives, powers of attorney and periodic consultations with an attorney.

The Committee provides national direction and coordination on issues impacting the delivery of legal assistance to service members and their immediate family members. The Committee has achieved the following:

- a campaign against proposed budget cuts in the funding and staffing of legal assistance billets;
- successful proposition of ABA policy in support of legal assistance as a statutory entitlement;
- changes effected in the SGLI forms and procedures to provide for the by-name designation of beneficiaries;
- commentary and revisions to the SSCRA provided at the request of the Congress and Department of Defense; and
- successful support of federal legislation to provide for a military advance medical directive and testamentary instrument.

ABA policy proposed jointly by LAMP and the ABA Standing Committee on Lawyers Professional Liability successfully urged the Secretary of Defense to specify lawyers within the designation of "other professionals" in the SSCRA and afford them the same protections afforded health

care professionals in active military duty. The Committee also co-sponsored a joint resolution with the ABA Government and Public Sector Lawyers Division urging courts to allow military attorneys to be admitted by motion in jurisdictions other than where they are licensed for the purpose of providing pro bono legal services.

At the ABA's 2001 annual meeting, the Committee obtained approval from the House of Delegates for policy that permits the utilization of volunteer legal services in military legal assistance offices. By changing 10 U.S.C. § 1588 to permit the Service Secretaries to accept volunteer services, the civilian and retired military legal community (including paralegals) can contribute to the number and scope of legal assistance services provided by military attorneys. A provision achieving this objective was included at Section 583 of the Defense Authorization Bill for fiscal year 2002.

Military legal assistance reaches and enriches the entire military community like few other benefits of military service. The problems solved and prevented by legal assistance attorneys and paralegals directly and significantly benefit individuals and the commands to which they belong. The need for legal readiness has never been greater now that our country is on the brink of war.

During Operations Desert Shield and Desert Storm in 1990-1991, the ABA, in a cooperative effort with the Armed Services, facilitated the delivery of pro bono legal services to many of the 250,000 reservists who were mobilized. Today, Operation Enduring LAMP is poised to provide vastly more comprehensive and far-reaching legal support. An array of new and enhanced technologies, including e-mail, conference calls, videoconferencing, and web-based audio and video streaming have vastly expanded the ABA's capability to reach lawyers directly, as well as through their state and local bar associations.

LAMP members, liaisons, and advisors, and organizations such as the NFPA are honored to be at the forefront of this noblest of endeavors, and proud to be part of the American Bar Association that unites in this time of crisis with the men and women in uniform dedicated to preserving our freedom.

*Brigadier General David C. Hague, U.S. Marine Corps, Retired, chairs LAMP.*

*Jane A. Phinney, RP, is a paralegal with the South Bend, IN, office of Barnes & Thornburg. A former military member and NFPA Armed Forces Coordinator, she is currently Region III Director.*

