



OUR "WELCOME TO GERMANY" EDITION!

KAISERSLAUTERN LEGAL SERVICES CENTER



KAISERSLAUTERN LEGAL INFORMER

LEGAL SERVICES CENTER GETS A MAKEOVER



Kaiserslautern Claims Examiners Karin Jordan and Martina Berndt are ready to assist you with filing your claim in their freshly-renovated private offices.

by Steve Smith

In an effort to make optimal use of office space, provide better services to the community, and house new positions that moved here, the Kaiserslautern Legal Services Center in Building 3210 on Kleber Kaserne underwent a major renovation this summer.

Six of our offices, which were originally designed as barracks rooms large enough to accommodate six Soldiers, were subdivided into 12 smaller offices to better serve our customers. In addition to redesigning our claims offices (see CPT Dan O'Connor's article on page 3), the "makeover" created dedicated offices for Reservists on Overseas Deployment Training who see legal assistance clients. Instead of borrowing someone else's office they finally have a place of their own.

Now that Kaiserslautern has a resident Military Judge, we needed an extra office for visiting Military Judges who hold hearings and preside over trials in our courtroom. We also needed an office where visiting Trial Counsel could work, and a special waiting area for the witnesses they call, separate and apart from the waiting area for defense witnesses.

The makeover also resulted in new offices for the Officer-in-Charge and NCOIC of the Legal Services Center and an additional office for the Senior Defense Counsel whose office transitioned from Heidelberg this summer.

All these changes should dramatically improve the way the busiest law office in USAREUR functions. Legal assistance clients, claimants, and all those who are involved in the military justice process will notice a change for the better.

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- And much more!



*United States Army
Judge Advocate
General's Corps -
America's Oldest
Law Firm*

Improving Our Foxhole:

A new canopy over the entrance to the Kaiserslautern Legal Services Center (right) provides customers shelter from inclement weather. As the pictures below illustrate, our summer makeover was a major construction project, involving a lot of back-breaking effort. Our thanks go out to all who made this possible, especially to the contractors who installed new radiators, put up drywall, rewired the new offices, painted and carpeted them, hung new doors, and moved our furniture back in.

Temporary inconvenience; permanent improvement!



New Claims Examiner offices (left) under construction, in the room adjacent to our Claims Judge Advocate’s office. Contractors installed soundproof double-thick drywall and tore up and replaced the 10-year old carpet.



New offices for two Trial Defense Counsel (right) after the drywall construction was plastered and painted, and new “JAG blue” carpet was installed. The door above leads into the new Senior Defense Counsel’s office.



Existing three-panel windows had to be converted to one-panel, with the center panel replaced to accommodate the dividing wall. Radiators that ran the length of the windows were also replaced with smaller individual ones.



The common areas in front of the subdivided offices provide ideal locations for copiers, digital senders, and our new claims kiosk. For more on how our customers can use the kiosk to file their claims on-line, see page 3.

New Claims Kiosk Facilitates Filing Claims On-Line

by CPT Dan O'Connor

As noted in our cover story, the makeover of the Kaiserslautern Legal Services Center this summer has resulted in a lot of improvements. One of the most important is the creation of a special "claims kiosk," which should make it a lot easier for claimants to file their DPS claims on-line.

DPS is not user-friendly; we have received a lot of complaints from claimants who experienced difficulties accessing the system and entering data from their home or office. If you are having trouble with the www.move.mil website on your computer or do not have a computer to use to file your claim, we now have a special workstation in our redesigned claims office in Room 112 of the Kaiserslautern Legal Services Center where claimants can sit down and enter their claims with the help of our experienced Claims Examiners, Martina Berndt and Karin Jordan.

The kiosk is located in the waiting area just outside the Claims Examiners' offices, so they are close at hand whenever you need assistance with filing. They can answer your questions and help you if you get stuck. Although CAC card users can log in with their ID, our kiosk computer does not require a CAC card, so dependent spouses will be able to file on behalf of their sponsors if the sponsor is unable to visit the claims office. The kiosk will also enable claimants to check on the status of DPS claims they already filed.

For those who moved to Kaiserslautern this summer, ***COME TO CLAIMS!*** We can help ensure that you meet the all-important notice and filing deadlines. Claimants are required to give notice to the carrier of loss or damage within 75 days of receiving delivery of an unaccompanied baggage or household goods shipment. We can help ensure that your notice document is properly dispatched to the carrier, and thereby preserve your right to file a claim with the carrier for full replacement value within 9 months of delivery. If you decide to file your claim against the Government instead of the carrier, you have two years from the date of delivery to do so. Either way, it pays to come see the claims experts. ***WE'RE HERE TO HELP!***

For more information on claims, contact the Kaiserslautern Claims Office at DSN 483-8855/8856 or Civilian 0631-411-8855/8856, and ask to speak to one of our award-winning Claims Examiners.



KAISERSLAUTERN LEGAL SERVICES CENTER

**Building 3210
Kleber Kaserne**

Legal Assistance 483-8848

Tax Assistance 483-8848

Claims 483-8855/8856

International Affairs 483-8854

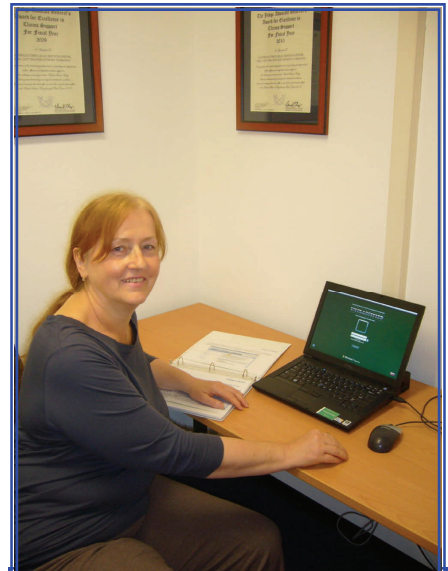
Trial Defense Service 483-8397

[Civilian: 0631-411-XXXX]

Administrative Law 484-8747

Criminal Law 484-7419

[Civilian: 0631-413-XXXX]



Claims Examiner Karin Jordan demonstrates how claimants can use the new claims kiosk that sits just outside her office. It's just one more reason to "COME TO CLAIMS!"

Farewell to a World-Class Court Reporter

by MAJ Brian Owens

“Don’t it always seem to go, that you don’t know what you’ve got ‘til it’s gone...”

— *Joni Mitchell*

In the highly-specialized world of court reporting in the Judge Advocate General’s Corps, one name is synonymous with excellence: 21st TSC’s Conchita Dunn.

It is no accident that Conchita was specially requested to serve as court reporter for the much-publicized multiple-murder case against MAJ Nidal Hasan, the so-called “Fort Hood shooter.” When so much is at stake, you naturally want to send your very best. [Note: the case has yet to go to trial.]

So it was a sad day for the Army JAG Corps, and for the 21st TSC Office of the Staff Judge Advocate, when we learned that Conchita will be leaving us in October for a court reporter position at Moody Air Force Base in Valdosta, Georgia. Induced to look elsewhere for work by the new “no exceptions” policy regarding the 5-year rule, Conchita saw the writing on the wall and reluctantly decided it was time to move on.



A retired Sergeant First Class with 21 years of paralegal and court-reporting experience in the Army JAG Corps and a reputation for improving everything she touched, Conchita was hired in a heartbeat by the 21st TSC Staff Judge Advocate in 2003 to serve as our Chief Court Reporter. Since then, she has expertly trained eight Soldiers fresh out of court-reporting school and mentored three outstanding Senior Court Reporters. The 21st TSC Court Reporter Team she led is widely considered to be the best in the business. Military judges and attorneys alike hail them as the gold standard. When it comes to generating flawless and timely records of trial, they have kept 21st TSC “First in Support!”

Generations of DODDS students have also benefitted greatly from Conchita’s annual Law Day moot court programs in Kaiserslautern’s schools. Her warm, nurturing personality and total commitment to professional excellence were an enormous inspiration to them.

We wish Conchita, her husband, Vernon, and their daughter, Alexcia, all the best as they head home to Georgia. The Army’s loss is the Air Force’s gain.

Editor’s Note: MAJ Owens serves as Chief of Military Justice for the 21st TSC Office of the Staff Judge Advocate.

Congratulations!

Private Shara Parker (right), who works in the Kaiserslautern Legal Services Center's Legal Assistance Office, successfully auditioned this summer for the US Army Europe Soldier's Chorus. On 1 October, she will report to Sembach Kaserne, new home of the Soldiers' Chorus, to become a vocalist. Congratulations are also in order for the rest of the KLSC's Legal Assistance Team. For the 12th consecutive year, they have won the Army Chief of Staff Award for Excellence in Legal Assistance, making the KLSC one of only two law offices in USAREUR to win DA-level awards in Legal Assistance and Claims this year.



US Army Chief Trial Judge COL Michael J. Hargis (left) presents Kaiserslautern-based Military Judge COL R. Peter Masterton with the Bronze Star Medal for his recent service in Kuwait, Iraq, & Afghanistan.



21st TSC Chief Paralegal NCO MSG Scott Haarer (right) congratulates Kaiserslautern's SPC Blair Berry on winning the 21st TSC Paralegal of the Quarter competition for the 3d Quarter of FY 2012.



Deputy SJA LTC Sean McMahon and Paralegal SPC Maya Bates from our Legal Assistance Office cut the birthday cake at a ceremony in July commemorating the 237th anniversary of the founding of the Army JAG Corps.



Newcomers: MAJ Karin Chelluri (left) is the new OIC of the Kaiserslautern Legal Services Center. Her husband, MAJ Nagesh Chelluri (right), is the new Chief of the 21st TSC OSJA Administrative & Civil Law Division.

Welcome to Germany! Watch Out For...

by Steve Smith

Many of our readers are newcomers to USAREUR. I'd like to offer them a few legal tips about living and working in Germany.

For starters, remember that you are a guest in this country, and comport yourself as a goodwill ambassador at all times. Stay out of trouble. Hanging out in bars and clubs is a good way to get in a fight and wind up seriously injured or worse. German beer is stronger than its American counterpart, and German wine packs a punch, too. If you drive, don't drink, and if you drink, don't drive. Many a career has ended prematurely because of alcohol-related incidents. The German Polizei routinely set up DUI checkpoints, and have the right to force you to submit to a blood-alcohol test. Don't argue with them. They will get their blood sample one way or the other; it's simply a question of how much blood you want to lose in the process.



Just because you are here on orders does not mean you could not wind up in German court or German jail. While German prosecutors usually release "concurrent jurisdiction" cases (those where the service member could be tried for the offense under either German law or the UCMJ) to military authorities for disposition, some German crimes, like negligent infliction of bodily injury, have no counterpart under the UCMJ and can only be tried by a German court. Civilian employees and family members are under exclusive German jurisdiction and wind up being tried in German courts because they normally cannot be court-martialed.

If you are tried in German court, don't expect a jury trial. Juries don't exist here. Civilians and family members who do the crime should be prepared to do the time, and do it in German jail. The good news is that, if you are tried by a German court, you can request that the Army pay for a bilingual German attorney to defend you. The Army will also send a JAG officer to observe your trial and visit you if you wind up in German prison, to monitor the quality of the care you receive there.

If you bring a lawsuit in German court and lose, you could wind up paying attorney's fees for both sides and the court costs, unless you have legal protection insurance (see the article on page 9).

Getting settled in Germany is no easy matter. There is not enough Government housing to go around, so the vast majority of our personnel wind up having to rent a home or apartment from a German landlord. Make sure you check out the premises thoroughly before you move in, and memorialize all pre-existing damage. Failure to do that up front will almost certainly result in your being charged for it when you move out. If your German landlord tries to evict you, refuses to make needed repairs, or fails to return your security deposit, we have German Attorney-Advisors on our staff who can assist you. They spend most of their time on landlord-tenant matters.

[continued on page 7...]

Welcome to Germany! (continued)

It is easy to sign a contract. It is not so easy to terminate one. German contracts for cell phones, landline phones, and internet service, and ADAC and BahnCard contracts usually have automatic renewal clauses that make it very tricky to cancel the contract. Our German attorneys can help explain the rules to you.

If you have a wireless local area network router, make sure you password it, change the password often, and disable the server set identifier to prevent the name of your network from being broadcast. If you don't protect yourself, others could tap into your router and download copyrighted material, which could result in your receiving a letter demanding monetary damages and attorney fees, or being sued for copyright infringement. This happens more often than you would imagine. See our German attorneys for more advice on this.

Buying and selling used cars in Germany is a tricky business. What you don't know can hurt you. If you sell a used car without any kind of contract or bill of sale indicating that the buyer accepts the car "as is," under German law you as the seller guarantee the car to be free from defects for a period of two years after the sale. If you are buying a used car from someone else, have it thoroughly checked out by an independent mechanic, and have the seller put any assurances or guarantees that are important to you in writing.

Make sure you have the right kind of tires on your vehicle. If you are caught with summer tires on your car in winter, or have insufficient tread, you can be fined by the Polizei. Even worse, if you are in an accident and had the wrong kind of tires on your vehicle your insurance coverage might be voided.

Watch your speed. While there are still portions of the German Autobahn where there is no speed limit, the areas where speed is limited are crawling with cameras. There is a well-oiled system in place for serving traffic tickets and related court documents, and assessing points against your license. Rack up too many points and you could lose your license. If you have an accident, do not flee the scene. If you must leave the scene, report the accident immediately to the closest Polizei or MP station, and to your insurance company.



Always keep a warning triangle, first aid kit, and fluorescent vest in your vehicle. If you drive into other countries, carry your passport and an International Driver's License with you, and if you are driving in France, make sure you have a breathalyzer kit on board. And don't think you can avoid having to pay traffic tickets from other EU countries; those tickets can now be enforced on those stationed in Germany.

If you receive a notice from the German tax authorities asking for a copy of your W-2 form or proposing to tax you on your military or DoD civilian pay, make an appointment to see our German attorney who specializes in tax matters, Mr. Modellmog.

If you shipped a vehicle to Germany, inspect it thoroughly and note any damage on the Vehicle Inspection & Shipping Form (VISF) before you leave the Vehicle Processing Center. When it comes to household goods and unaccompanied baggage shipments, note any obvious loss or damage at the time of delivery, and unpack your boxes promptly and report any additional loss or damage you discover to the transportation service provider within 75 days of delivery. For more information, call or visit your local claims office.

Germany is a great place to be stationed, as long as you take steps to avoid legal pitfalls. Enjoy your tour!

German Phone Contracts & Consumer Rights

by Joerg Modellmog

As part of the continuing transformation of USAREUR, many Americans who used to live and work in other military communities are moving to Kaiserslautern. While moving is never easy, canceling your German phone contract can be particularly difficult.

Generally speaking, consumers have been stuck with having to pay off their existing phone contracts. If they entered into a two-year contract for phone or internet services, and they moved after one year, they had to pay for the second year, even if they left the country or moved to a different address in Germany where the speed of the internet was slower or there was no internet service available. Those who attempted to challenge this in German court had little success.

German courts have held that the consumer is always in a better position than the phone/internet company to assess the likelihood of any move and the consumer can take precautions by switching to prepaid or short-term contracts. Even in situations where the consumer was forced to move because of a change in work location, the move has always been considered a personal decision of the consumer. The phone and internet companies were allowed to continue to charge the full monthly basic fees up to the next ordinary termination of the automatic renewal, even if they could not provide the same internet speed, or could not provide any internet service at all, at the customer's new residence.

Endless consumer complaints finally enticed the German legislature to act to "correct" the "user-unfriendly" case law. The new § 46 para. 8 TKG (*Telekommunikationsgesetz*, or German Telecommunication Act), which took effect on May 10, 2012, allows consumers to terminate any phone or internet contract if the service provider cannot provide the same service under the existing contract at the new residence. However, the statutory termination period is three months, which means the consumer could still end up having to pay for three more months of service, even if no internet service is available. The law requires the consumer to provide proof of the move. If the consumer leased equipment (such as a router) from the service provider, the leased equipment must either be purchased by the consumer or returned to the service provider.

If the same service happens to be available at the consumer's new address, the service provider may charge a set-up fee but has to continue the old contract with its automatic renewal periods. By law, switching over from the old address to the new address must not interrupt your phone and internet service for more than one business day (§ 46 para. 1 TKG).

Internet providers generally advertise the maximum possible internet speed for a particular area, but since there could be quite a difference between that speed and the actual speed available at your location, service providers are now required by law to also inform you of the lowest possible speed (§ 43a para. 2 No. 3 TKG).

Although the law does not distinguish between cell phone contracts and landline phone contracts, it will only have an impact on landline phone contracts, as nowadays cell phone contracts are generally available around the world and these contracts already address fees for different locations/countries.



If you have questions concerning your specific case, schedule an appointment to speak with one of our German Attorney-Advisors by calling DSN 483-8848 or Civilian 0631-411-8848.

German Legal Protection Insurance

by Holger Blug

Driving a car might be an essential part of your day-to-day routine, whether you're commuting to work or just going away for the weekend. Having an accident or getting a traffic ticket can be highly stressful and could have serious legal consequences. A small disagreement with your neighbor or landlord or any other contractual dispute can quickly turn into a full-blown lawsuit. One way or the other, you could easily find yourself in German court.

Contacting your local Legal Assistance Office for advice is a good place to start. Our German Legal Assistance Attorneys can assist you for free by explaining the situation, giving you their legal opinion, and helping you correspond with the adverse party. But our German attorneys are precluded by regulation from representing you in German court. So, what happens if the landlord is not willing to return your security deposit, the seller is not willing to honor the warranty, or a traffic ticket needs to be disputed in court? We will probably have to refer you to a civilian attorney on the German economy to represent you.

A civilian attorney will usually ask you to pay a retainer before he starts work on your case, and if he needs to take your case to court you'll have to advance the court fees, too. Under German law, if you lose your case you will not only be responsible for paying your own attorney's fees and the court costs but also for the fees of the adverse party's attorney. If the parties agree to settle the case, each party normally bears their own costs. And even if you win your case, you might not get reimbursed if the adverse party's income is under the protected earnings rate. The costs of the proceedings could be assessed against you if the defendant is judgment-proof.

Legal disputes can arise unexpectedly, and the costs of obtaining expert legal advice and representation can prove very expensive, whether you win or lose. Legal protection insurance (*Rechtsschutzversicherung*) helps you to enforce and protect your rights. It enables you to pursue your claim and enforce the law whenever needed, without incurring the risk of incalculable costs even if you win a lawsuit. Legal protection insurance covers attorney fees and court costs and other procedural fees, but does not cover the amount of the claim in dispute.

Insurance companies offer different policies for either particular fields of law or packages that cover several different fields. Although *Rechtsschutzversicherung* can provide protection in a wide variety of potential disputes, you need to pay attention to the provisions of your policy. Certain disputes, such as those involving construction of a house, divorce, or inheritance, are usually either not covered, or the policy only covers the costs of an initial legal consultation.

You cannot buy legal protection insurance to cover the costs of ongoing cases. When you purchase a legal protection insurance policy, there is usually a three-month waiting period before the coverage takes effect. The insurance company will usually verify that your legal issue did not originate before coverage became effective, before they pay you anything.

You can buy legal protection insurance with or without a deductible. If you elect to pay a deductible, the annual premiums will of course be less, but you might end up paying all the legal costs yourself if you have a relatively minor case.

Since there are various insurance companies which offer a variety of different tariffs for legal protection insurance at different prices, you should shop around to find out which one works best for you. You might conclude that you don't need this kind of insurance, but you should at least be aware of the financial risks associated with bringing lawsuits in Germany.



If you have questions about legal protection insurance, contact the Kaiserslautern Legal Services Center's Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848.

Recent QMP Changes Will Impact the Careers of Senior NCOs *How the process works...*

by CPT Jilliane Jaeger

The Qualitative Management Program (QMP) is a formal Army policy that was originally enacted in AR 635-200, Chapter 19, to enhance the quality of career enlisted Soldiers, retain the best qualified Soldiers, deny continued service to nonproductive Soldiers, and encourage Soldiers to maintain their eligibility for continued service. It instructs NCO Selection Boards and Qualitative Management Boards to consider involuntary separation for Soldiers who have certain types of documents in their OMPF.

In 2003, during the height of Operation Iraqi Freedom and Operation Enduring Freedom, the Army chose to suspend the QMP. By July 2009, as Operation Iraqi Freedom drew to a close, the Army announced that the QMP would be reinstated. While AR 635-200, Chapter 19, is the official source of the QMP policy, it is currently undergoing revisions and is now considered obsolete by U.S. Army Human Resources Command (HRC). As of June 28, 2012, the QMP policy and procedures can be found in HRC MILPER Message Number 12-198. This MILPER Message will expire no later than one year from the date of issue, but HRC could revise the QMP again before the expiration date.

The new QMP is arguably more straightforward than its predecessor and contains clear guidance on how the QMP will impact currently scheduled Senior NCO Selection Boards and Qualitative Management Boards for the 1st, 2nd, and 3rd quarters of FY13. The QMP applies to Soldiers in the rank of SFC thru CSM. The policy states that Senior NCOs up for consideration who have the following types of official documents in their OMPF are subject to denial of continued service:

1. General Officer Letter/Memorandum of Reprimand.
2. Conviction by Court-Martial or Punishment under Article 15, UCMJ.
3. Relief for Cause Noncommissioned Officer Evaluation Report (NCOER) (DA Form 2166-8).
4. Senior Rater rating of 4 (Fair) or 5 (Poor) in the Overall Performance or Potential blocks of an NCOER.
5. Annotation of "No" in Part IVA (Army Values) on an NCOER with an Ending Date of April 30, 2011, or later.
6. Academic Evaluation Report (DA Form 1059) indicating NCOES course failure.

The new policy also states that Soldiers in the rank of SFC through CSM (both RA and USAR AGR) who have at least 18, but less than 31 years of active federal service and have one of the documents listed above in their unrestricted OMPF will be informed through their chain of command by separate memorandum that they are "subject to consideration of denial of continued service by one of the upcoming FY13 Senior NCO Promotion Selection Boards and Qualitative Management Boards." Those in the rank of CSM/SGM will also have their restricted OMPF reviewed.

Soldiers notified of potential denial of continued service have the option to (1) submit a request for voluntary retirement in lieu of QMP consideration or (2) submit mitigating matters to the Board President for consideration. Instructions on how to request voluntary retirement or how to submit mitigating matters are detailed in MILPER Message Number 12-198, paragraph 6. Soldiers who go through the QMP will be informed of Board results by an individually-addressed memorandum prepared and dispatched by the Commander, HRC, routed through their chain of command.



[continued on page 11...]

Gabi Wilanowski to Retire this Fall

After More Than Four Decades of Service to the U.S. Forces...

by Joe Hall

Gabrielle Wilanowski will retire on 1 October after more than 40 years of service to the American military community in Kaiserslautern. She will be greatly missed.

Gabi was born in Kaiserslautern the year that American forces began their first permanent stationing here. She grew up seeing the sights and hearing the sounds and music of the ever-growing US military community in the Pfalz. So, when it came time for her to get a job, it was no surprise that she began her career in the Family Housing Office in Vogelweh. After serving in a variety of garrison clerical positions, she joined the staff of the 21st TSC OSJA in 1980 as a Claims Examiner. In 1988, she moved from Claims to become an OSJA International Affairs Legal Technician, responsible for serving traffic tickets and civil process documents. For more than 23 years she timely served Americans with German court documents such



as summons, payment orders, and writs of execution involving matters such as divorce, child support, and rental disputes. More important was the service Gabi provided in translating those documents into English, explaining how the German judicial system works, and referring those who received documents to our German Attorney-Advisors for legal assistance.

Among her many accomplishments, Gabi was instrumental in setting up a program that enables Americans to meet at the Kaiserslautern Legal Services Center with officials from the local German Youth Office to discuss child support and paternity matters. Her superb translation and negotiation skills always promoted mutual understanding between Germans and Americans, while protecting the rights of members of the force.

We wish Gabi and her husband, Jank, a long and happy retirement.

QMP Changes Will Impact Senior NCOs (continued)

Upon receipt of the Board results, the new QMP dictates specific actions that must take place. Soldiers who receive such a memorandum should review paragraph 7 to ensure they are well informed of the process. A Soldier selected for denial of continued service will be discharged. At this point, the only recourse the Soldier has is to (1) request voluntary retirement under any provision of law for which the Soldier is otherwise eligible in lieu of involuntary separation or (2) appeal and request retention on active duty on the basis of material error. This **must** be done within **7 days** of receiving the QMP notification memorandum. To view an unofficial copy of MILPER Message Number 12-198, click on <http://www.ncosupport.com/military-news/qmp-senior-nco.html>.

Soldiers subject to the QMP who wish to appeal their denial of continued service should contact the Kaiserslautern Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848 and set up an appointment as soon as they receive their QMP notification memorandum. Remind the person who schedules your appointment of the short suspense for responding!

What Legal Assistance Attorneys Can (and Cannot) Do For You...

by Mark Christensen

As the summer PCS season winds down, it's a good time to remind our readers that free legal services are available to military and civilian members of the Kaiserslautern Military Community, as well as to their family members. Military retirees are also entitled to our services. The services you can expect to receive depend on the nature of your legal issue. Our goal is to provide you with as much help as possible before you have to engage the services of a private attorney.



Since we are not located near a U.S. court, we cannot provide in-court representation. In some cases we help clients prepare legal documents for filing in U.S. courts, and occasionally we can help a client participate telephonically in a U.S. court proceeding. However, our lawyers are not able to represent you in a U.S. court, and they cannot be your attorney of record in a U.S. court case.

Legal assistance attorneys help their clients identify options and make informed decisions. The more you know about your rights and responsibilities, and the more you know about how the process works and how you will be affected, the better you can make decisions about what to do next. In most cases, our lawyers will provide information to a client and then the client will decide what to do, hopefully understanding the full range of consequences that may result from those choices.

For military administrative matters, our lawyers help clients assess their rights and options, and help put together a comprehensive and cogent packet of documents in support of their position. If you have been notified that you are to be held financially liable for lost or damaged military property, if you have received a negative OER or NCOER, or if you are seeking to correct your military records, our lawyers can make sure you properly respond to the action and fully articulate and document your position. Our experience and training, combined with your first-hand knowledge of your situation, help ensure that your response or request is best designed to protect your legal rights.

We often receive non-legal inquiries that typically result in referrals to other agencies. Legal assistance attorneys normally have no ability to resolve pay disputes or interfere with command decisions. Our regulations do not permit us to provide advice concerning civilian employment matters such as pay, personnel, discipline, or civilian performance evaluations. We can only give general procedural information regarding claims or lawsuits against the U.S. Government. Sometimes we receive inquiries for which we have no prior experience, and we have to do some research in order to determine whether legal assistance is appropriate, and, if it is, what kind of assistance we can render.

In most cases, you can expect to receive information and advice that will help you assess your situation and decide what to do next. Whether your inquiry concerns estate planning, family law, tax issues, consumer rights, or military administrative issues, our lawyers are here to provide you free advice and help you make well-informed decisions.

To make an appointment to see a Legal Assistance Attorney, call the Kaiserslautern Legal Services Center's Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848.

The Perils and Pitfalls of "Internet Advocacy" *Beware of "information oversimplification..."*

by MAJ Karin Chelluri

If you Google "can the internet solve all your legal problems?" many sites will tell you "absolutely," and they will provide plenty of answers, but potentially not the ones you really need. Attempting to find timely, accurate legal advice on the internet is a tremendous challenge.

In today's increasingly plugged-in world with smart-phones and wireless hot-spots as plentiful as ice-cream trucks in July, it's very tempting to get information on everything from fantasy football picks to child support requirements on-line. The internet can indeed provide child support guidelines, regulatory guidance, and links to essential resources such as militaryonesource.com; what it can't do is tell you how to apply all this information to your particular situation.

Getting legal advice from "friends" on Facebook also has its pitfalls. While many blogs and "friends" in cyberspace intend to be helpful, often the information they provide does not take into account unique circumstances such as your particular jurisdiction, especially when dealing with the unique circumstance of being overseas. Even seemingly simple legal concerns such as child-support guidelines can be very complicated when navigating multiple jurisdictions or attempting to translate guidance from the German *Jugendamt*. Your internet research will definitely provide you with plenty of information, but little clear guidance. You may also face the peril of misinterpreting the law because a website oversimplifies the intricacies of a statute or misstates filing requirements or other essential information.

Another challenging area is looking for websites dealing with matters of military misconduct. A critical drawback to researching legal issues on the internet is that no website can tell you what a particular judge, jurisdiction, or command will do. Typically, a wide range of punitive options are available for a given offense, from administrative measures to courts-martial. While the internet can provide you with general information, nothing is as illuminating as a face-to-face discussion with an experienced trial defense attorney, someone who can provide real world insight into the likely outcome and best strategic action for your particular circumstances.

In short, the internet is a tremendous asset; it can arm you with a wealth of valuable information, recommend potential solutions and resources, and clarify your rights and obligations. It is important to remember, however, that when it comes to applying the general law to your particular facts the help of both German and US legal assistance attorneys is just a phone call away.

The Kaiserslautern Legal Services Center is located in Building 3210 on Kleber Kaserne, and is also home to the Kaiserslautern Trial Defense Team. Legal Assistance can be reached at DSN 483-8848 or Civilian 0631-411-8848, and TDS at DSN 483-8397 or Civilian 0631-411-8397.



Editor's Note: MAJ Chelluri is the new Officer-in-Charge of the Kaiserslautern Legal Services Center.



A Primer on Investigations: Help Us Help You...



Editor's Note: During a recent visit to Kaiserslautern, MG "Butch" Tate, the Deputy Judge Advocate General, mentioned that he spends 75% of his time reviewing investigations, and stressed the need to conduct them properly. CPT Courtney Cohen, an attorney in our Administrative & Civil Law Division who recently returned from a year's deployment in Afghanistan, has had a lot of experience advising commanders and investigators on how to do just that. Below, she shares some of the lessons she's learned along the way...

by CPT Courtney Cohen

Many of our Soldiers' actions that may have previously been dealt with "offline" are now the basis for a more formal command response. Commanders often use investigations to look into everything from allegations of misconduct, to poor judgment, to inefficiency. Well done investigations can benefit Commanders by insulating any potential adverse action from criticism. If done wrong, however, the investigation could have the exact opposite effect: Commanders' hands may be tied, preventing them from disciplining misconduct, because they overstepped and influenced an investigation. When both Commanders and Investigating Officers engage their legal advisors from the beginning of the process, both parties will be set up for success.

Advice for Commanders

Investigations are a great tool in Commanders' kit bags. They allow Commanders to take allegations of impropriety seriously and give them the attention they are due. They allow Commanders to maintain good order and discipline in their ranks without compromising their objectivity. They allow Commanders to delegate to subordinates and give Investigating Officers an opportunity to excel. That said, Commanders at all levels should maintain their situational awareness when it comes to overuse of investigations, their potential to hurt morale, and the perception that there is no room for error and growth. As is the case with so many aspects of command, a balanced and thoughtful approach is key.

As soon as a Commander receives an allegation he wishes to investigate, and especially when it involves potentially punishable misconduct, he should notify his legal advisor. The Commander should request an appointment memorandum for either a Commander's Inquiry, conducted in accordance with Rule for Court-Martial 303, or a "15-6," conducted in accordance with guidance for informal investigations under AR 15-6. The type of inquiry or investigation depends on the severity of the allegations, among other things. A well-crafted appointment memorandum can help avoid many potential pitfalls, such as improperly wording offenses under the UCMJ because of a lack of subject matter expertise in the legal field. Another tactic of a squared away appointment memorandum is detailing the exact scope of the investigation, which will limit the chance of the Investigating Officer becoming distracted by irrelevant tangents or delving into areas which are out of the appointing authority's control. Avoiding these pitfalls at the outset will inevitably reduce confusion, distraction, and processing time.

After a 15-6 is underway, the Commander should rely mostly on his legal advisor for updates. If the Commander wants to expand the scope of the investigation, the legal advisor can relay this information to the Investigating Officer. If the Investigating Officer wants an extension, the legal advisor can relay this information to the Commander. Adding the legal advisor as a "middleman" between the Investigating Officer and the Commander may seem burdensome, but it shields the command from charges of bias, in the event that the investigation discovers punishable offenses. Every investigation should be assessed individually, though, and the strictness of the limited communication between the Investigating Officer and the Commander will depend heavily on the type and severity of the conduct under investigation.

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A Primer on Investigations (continued)

Advice for Investigating Officers

A Commander may reach down at any time and appoint a Senior NCO (for Commander's Inquiries only) or Officer to be an Investigating Officer. Officially, being an Investigating Officer is the primary duty until the investigation is complete; however, we know that every Soldier has a "day job" that demands his time and attention. A few key investigation and organizational strategies will facilitate a quick, thorough, and accurate investigation. If the Investigating Officer does it right the first time around, he will never have to hear the dreaded words "not legally sufficient."

As soon as an Investigating Officer receives his or her appointment memorandum, he or she should contact the legal advisor. The attorney will help compile the tools that will facilitate an efficient and productive investigation. The Investigating Officer should receive the relevant forms, regulatory authorities, templates, and investigatory advice. Talk with the legal advisor about the requirements for your particular investigation. For example, Investigating Officers for a Commander's Inquiry do not need to use the DA Form 1574, Report of Proceedings by Investigating Officer. Becoming aware of these intricacies at the outset may save the Investigating Officer valuable time and energy when drafting and formatting the final investigation file.

The number one piece of advice Investigating Officers should follow during the course of the investigation is to administer the DA Form 3881 Rights Advisement/Waiver Certificate when necessary. Whenever an Investigating Officer believes that a question he will ask a Soldier will result in the Soldier admitting his own misconduct, the Investigating Officer must advise the Soldier of his rights. If the Investigating Officer fails to do this and the Soldier admits misconduct, the command is bootstrapped. The Soldier made the statement without knowing that he could remain silent or request an attorney. The statement cannot be used against him. If an Investigating Officer is ever unsure about whether to advise a Soldier of his rights, he should call his legal advisor to discuss the situation.

The number one piece of advice after completion of the investigation is even simpler than remembering to advise Soldiers of their rights: answer the Commander's questions. Investigating Officers may even be able to paste the questions from the appointment memorandum into the Findings and Recommendations memorandum and provide findings in a question-and-answer format. Additionally, the Investigating Officer should focus on conveying the facts of the investigation in an objective, professional, even dry manner. The most important part of the Findings and Recommendations memorandum is the findings, not the recommendations. The Commander will ultimately decide how to handle the information the Investigating Officer has presented to him, but he needs to know and understand the full story in order to do so. Investigating Officers should work closely with their legal advisor during the drafting phase of the investigation. A productive back-and-forth before the Investigating Officer signs his name on the dotted line is more likely to result in a conclusion of "legally sufficient" when the investigation report is reviewed.

These "lessons learned" and recommendations should help both Commanders and Investigating Officers employ and complete investigations with fewer snags along the way. And when in doubt, CYA (Call Your Attorney)! After all, that's what we're here for.



Meet Our New "Victim-Witness Liaison"

by MAJ Brian Owens

Martina Berndt, Senior Claims Examiner at the Kaiserslautern Legal Services Center, recently took on additional duties as Victim-Witness Liaison (VWL) for the Kaiserslautern military community, ensuring victims and witnesses are aware of their rights and assisting commanders and trial counsel with victim and witness issues.

The victims she assists include those who have suffered direct physical, emotional, or pecuniary harm as a result of a crime committed in violation of the UCMJ. The witnesses she helps include those who provide information or evidence about a crime to a DoD component about an offense within the component's investigative jurisdiction. She also helps family members or legal guardians when the witness is a minor, but she does not assist defense witnesses or any individual involved in the crime as a perpetrator or accomplice.

Ms. Berndt ensures victims and witnesses understand their rights and benefits throughout the different phases of a criminal or administrative action. She acts as the point of contact through which victims and witnesses may obtain information concerning services and assistance in obtaining those services. She coordinates with law enforcement and military personnel to ensure appropriate communication is being provided to all parties. She keeps victims and witnesses apprised of significant events during the investigation, prosecution, and punishment of a crime, and assists trial counsel with courtroom preparation of victims and witnesses. Her fluency in both in German and English proves invaluable when working with German victims and witnesses.

At the conclusion of the court-martial or administrative action, the VWL ensures victims and witnesses are provided with forms and information concerning post-trial procedures or the administrative separation process. Victims of a crime are entitled to the record of trial of a court-martial, should they request one. The VWL is also responsible for providing certain documents to other agencies at the conclusion of the trial, including an election of notification rights, which provides the confinement facility with contact information for victims and witnesses who testified and may feel threatened when a prisoner is released from confinement, so they can be notified of the release.

Transitional compensation is another area where Ms. Berndt proves her value as a VWL. Congress found that dependents frequently failed to report abuse because they feared the loss of the Soldier's pay and the impact that loss of the Soldier's support could have on their lives. As a result, federal law now permits transitional compensation to be awarded under certain circumstances. The compensation provides monthly payments and other benefits to family members of Soldiers convicted by court-martial or separated from the military for domestic violence and child abuse.

The same communication skills that have made Ms. Berndt one of the most respected claims examiners in USAREUR are making her a highly effective VWL. Many victims, witnesses, and their families have expressed gratitude for her empathy and concern while helping them through a difficult and confusing process.



The Ethics Corner...

by Rick Schwartz

**“CONTINUED SCRUTINY OF
CONFERENCES”*****Guidance from SECARMY...***

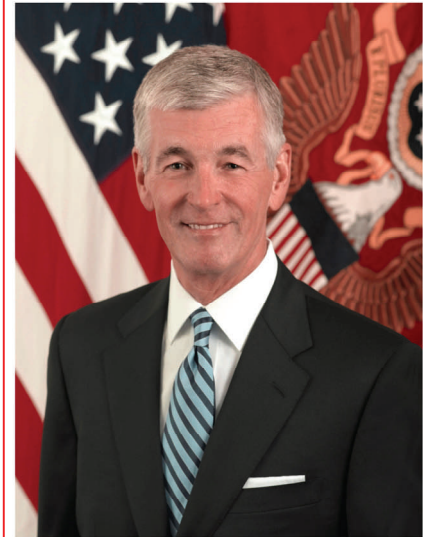
The Secretary of the Army, continuing his emphasis on an Army-wide effort to improve controls and reduce expenses associated with conference-related activities, released a memorandum on August 3, 2012. In it, he states that “we must do even more to reduce both the number and costs of conferences we host or attend” and “do even more to aggressively change the conference mindset and culture—appropriately pursuing events that are critical to mission accomplishment while simultaneously minimizing expenses to taxpayers.”

Across the command, our implementation of the Secretary’s guidance has led to a focus on strict fiscal responsibility in our planning of conferences to ensure that they comply with both the text and the spirit of Army Directive 2011-20. His latest message will require those who plan and carry out off-site events to apply even more scrutiny to their programs. It is important to remember that what the event is called is not the deciding factor in whether or not the conference guidance applies. Many of the events that we hold (retreats, symposiums, training events, off-sites) or attend don’t have the word ‘conference’ in the title and may be readily apparent to some planners as a conference-related activity, but nonetheless must comply or be subject to an exception. In short, if your event is going to involve attendee travel in a TDY status, you should seek legal advice as to whether the event must comply.

If the conference guidance does apply, the August memorandum makes clear that the need for each event must be “indisputable” and must “significantly further the mission” of the command holding it. “Discretionary and ‘nice to have’ events that engender networking, information sharing or professional development in a general sense normally will not meet this standard.” While recognizing that there is some value to organizations in holding each of these events, he is purposefully raising the bar on the deliberate assessments of cost-benefit that are to be made in order to expend taxpayer funds.

Also keep in mind that the guidance requires planners to limit attendance to the *minimum* number of people necessary to carry out the purpose of the event, to minimize travel of attendees, and to maximize the use of no-cost Government-owned facilities. Within this command, efforts to reduce the cost of obtaining venues have led to the identification of several no-cost facilities you might consider for your event, including: the Kisling NCO Academy on Vogelweh, the USAFE commander’s conference facilities on Ramstein Air Base, the LRMC Learning Annex, and the available meeting spaces on Sembach Kaserne.

If you are planning an event that the Directive might apply to, you should contact your local OSJA to obtain detailed advice early in the planning process. While the requirements are specific, the goal is consistent with our larger Government Ethics requirement to protect and conserve the taxpayers’ resources.



*The Honorable John McHugh
Secretary of the Army*



“Discipline is the Bridge Between Goals and Achievements...” Brooke Haarer, daughter of 21st TSC Chief Paralegal NCO MSG Scott Haarer, put the finishing touches to a “Paralegal History” mural in the hallway of the OSJA this summer. It includes portraits of notable paralegals, like our own CPL Krista Bullard, who fought off attacking insurgents with a 50-cal. in Iraq, earning a CAB in the process. Brooke, who is studying illustration at Ringling College of Art & Design, painted her dad’s beaming countenance into the mural. Airborne!

Directions to Kleber Kaserne: From Vogelweh, Ramstein, or Landstuhl take the A6 direction Mannheim. On your right you will see a large store called Möbel Martin. Make sure you are in the right lane as you take the Kaiserslautern Ost Ausfahrt (exit). Turn right as you leave the exit ramp and drive downhill until you reach the stop light. Turn right and proceed straight until the next stoplight. Turn left and you will be beside Kleber Kaserne. Follow the perimeter until you come to an open gate. Parking on Kleber Kaserne is difficult—allow a few extra minutes to circulate until you find an open spot. Bldg. 3210 is directly across from the former site of the Kleber Shoppette. Enter Bldg. 3210 from the door on the east end of the building.

