



## KAISERSLAUTERN LEGAL INFORMER

### ***K-TOWN LEGAL ASSISTANCE — BEST IN EUROPE!***



Brigadier General West presented the Army Chief of Staff Award for Excellence to CPT Jocelyn Stewart, the former Chief of Legal Assistance, at a special ceremony in the Warren J. Argue Courtroom at the Kaiserslautern Legal Services Center on Kleber Kaserne on August 7th, 2006. "K-town" was the only Legal Assistance Office in Europe to win the award for FY 2005.

The 21st TSC OSJA welcomes MAJs Kageliery and Stafford, CPT McCarthy, and CW2(P) Teeple and wishes the best to departing MAJs Cora, Frost, Rivera and Stratman, and CW3 Fangman.

by CPT Jonathan Hoag

For the sixth year in a row the Kaiserslautern Legal Services Center has been recognized as one of the finest Legal Assistance Offices in the US Army JAG Corps. Kaiserslautern was the only Legal Assistance Office in Europe to win the FY 2005 Army Chief of Staff Award for Excellence in Legal Assistance.

21st TSC Commanding General, BG Scott G. West, personally presented the award to CPT Jocelyn Stewart, former Chief of Legal Assistance, in a ceremony at the Kaiserslautern Legal Services Center on Monday, August 7th, 2006. Also on hand to receive some well-deserved recognition as part of the 2005 Legal Assistance Team were: Mr. Jim Wiley, the Chief of Client Services; Herr Joerg Moddelmog, the resident German Attorney; SFC Anthony Armbrister, the NCOIC of Client Services; and last but certainly not least, SPC James Higgins, who also was recently named the 21st TSC OSJA Paralegal Soldier of the Year.

Although often overshadowed by other high profile legal practice areas such as Criminal Law, the Legal Assistance Office has arguably the greatest impact on the military community. Here, service members, retirees, civilians, and family members alike can receive invaluable legal services free of charge in almost every area of the law, such as financial liability investigations, will preparation, family law advice, assistance with landlord-tenant issues, and electronic filing of federal and state tax returns.

In her acceptance remarks, CPT Stewart stressed the important role Legal Assistance plays in helping resolve clients' personal legal problems so they can keep their focus on the mission. In fiscal year 2005, K-town Legal Assistance Attorneys represented 997 clients with 1,461 total office visits, while Legal Assistance Paralegals such as SFC Armbrister and SPC Higgins performed nearly 7,000 ministerial functions, such as notarial services and powers of attorney, on a walk-in basis and at SRPs.



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

## Why do I need an International Driver's Permit if I travel outside Germany? by Joerg Modellmog

In March 1998, USAREUR stopped issuing POV licenses. The "U.S. Forces Certificate of License," often incorrectly still referred to as the "USAREUR Drivers License," is **NOT** a driver's license but merely a certificate confirming that the holder is in possession of a valid stateside license (Art. 9 SA).

Since the Supplementary Agreement (SA) to the Status of Forces Agreement (SOFA) is only a treaty binding Germany and the respective NATO SOFA Member State, that document is only valid in Germany. Most other European Countries, to include other NATO Member States, require an International Driving License to be legal to drive.

Austria and France in par-

ticular are strictly enforcing that requirement and are ticketing SOFA personal and their dependents who don't have an international driver's license. Note, even the International Driver's License is not a license but merely a permit, requiring an actual State Driver's License on which it will be based.

Obtaining an International Driver's Permit (IDP) is a two-step process. First, stop by the Driver Testing Office on Daenner Kaserne (Bldg. 3107, 2<sup>nd</sup> floor) or Ramstein Air Base (Bldg. 2106, Room 206). They will check your license in the USAREUR database and stamp a confirmation form, available either at their offices or your Legal Assistance Office.

The stamped form must then be taken within one

week to the German Driver's License Office of the county or city where you live along with a passport size photo and (currently) €15.30. If the German Driver's License Office refuses to process your application, you can always obtain an International Driver's License through your local American Automobile Association (AAA) office back home in the States.

Finally, the latest version of Army in Europe Regulation (AER) 27-9, dealing with Misconduct by Civilians, was issued on 18 April 2006. It confirms the strict sanctions of its previous version with respect to many vehicle-related incidents, *e.g.*, DUIs.

*If you have further questions, you can pick up a detailed handout at your Legal Assistance Office or make an appointment by calling DSN 483-8848 or Civilian 0631-411-8848.*



*Business came to a screeching halt at the Kaiserslautern Legal Services Center on Thursday, 13 July, when Cher showed up to visit Soldiers at the 21st TSC Medical Transient Company, which occupies the two floors above the Legal Services Center. We've never seen our client waiting room empty out so fast! Everyone wanted to have their picture taken with a living legend. Cher is pictured here with one of her biggest fans, 21st TSC Legal Administrator CW3 Marybeth Fangman.*

**These handouts are available at the Legal Assistance Office front desk:**

- Banks & Bills
- Drinking & Driving Rules in Germany
- Illegitimate Paternity Rules in Germany
- Powers of Attorney
- Service of Process from the USA to Germany
- German Landlord-Tenant Law
- *Plus many others...*

## Advance Medical Directives, by Jim Wiley

One of the most frightening things that can occur in life is a loss of control due to health issues. Your legal assistance office offers planning that helps ensure your wishes regarding health care will be followed in most situations when you no longer can decide for yourself.

Creating documents referred to as advance medical directives and health care powers of attorney is now a

routine part of estate planning. At the same time you and your lawyer prepare a will to take care of your property, you can execute an advance medical directive and a health care power of attorney that direct how you want to be cared for when you no longer can decide for yourself.

In the absence of documents expressing your wishes regarding your health care,

many states do not allow anyone, not even your spouse, to make any kind of health decisions on your behalf. The only option left to them would be to attempt to file a court petition. These types of hearings can be expensive and emotionally draining. The best way to avoid this is to take advantage of the free legal assistance services available to you and generate an advance medical directive and health care power of

attorney.

Most states have common requirements for these directives to be valid. First, they must be in writing and be notarized. Second, the directive is only valid if you are competent. State laws about how these documents must be witnessed vary greatly. As such, it is always a good idea to get your lawyer's help to assure these directives meet the requirements of your state.

## Those Crazy JAGs, by CPT Jonathan Hoag

To the average soldier, commander, or civilian, JAGs and attorneys in general may appear at times, well, odd. There have been situations, for example, when I have seen someone in public and have had to pretend I don't know them, even though I may know more about them than their spouse. There have also been situations when I have had two clients in my office and, suddenly, I have had to tell them that I can no longer talk to them. This kind of behavior certainly seems odd, perhaps rude, or consistent with some sort of social abnormality. If you witness my actions or are on the receiving end you probably would just attribute it the fact that I am attorney, and based upon all that you have ever heard about attorneys, you expect me to be somewhat of an oddball. Believe it or not, there are valid reasons why JAGs do the things they do. To properly explain this, it is helpful to look at some of the most basic foundations of our legal profession.

If you took any JAG attorney and removed their rank and their uniform they would still be an attorney. How do I know this? Well, it's likely somewhere in the deep recesses of their wallet they would be able to pull out a card which says that they are licensed to practice law in one of the fifty states, the District of Columbia, or one of our territories. In my case, it's Massachusetts. Even if I couldn't find such a card, I know that by regulation every JAG attorney has to be licensed in at least one state. Car-

rying this card can have its privileges but it also brings great responsibility: responsibility to our clients, to the courts, and to the public in general. In fact, this area of the law is referred to as Professional Responsibility or Ethics and JAGs are tested on it during the Bar Exams they take in almost every state in order to be licensed.

And it doesn't end there. Once a JAG puts on the uniform and practices law as an Army Lawyer he or she is also guided by AR 27-26, entitled "Rules of Professional Conduct for Lawyers," which provides regulatory guidance very similar to what state licensing authorities put forth. And in typical Army fashion, JAGs may receive further guidance depending on what area of law they practice in. Legal Assistance Attorneys, for example, are guided by AR 27-3, entitled "The Army Legal Assistance Program."

To sum all this up, to be a JAG, I need to be licensed in at least one state; therefore I must abide by that state's Professional Conduct rules. To be a JAG I must also follow the Army's Rules of Professional Conduct for Lawyers. Finally, I must follow the regulatory guidance for my particular area of law. The reason I mention all this is to give you an idea of what goes on behind the scenes before you even get to my office. I have to make sure that all three levels are being complied with at all times.

### *Attorney Client Relationship*

It is important to stress that JAGs are licensed in at least one state and

are bound by that state's professional responsibility requirements because service members may be apprehensive over our relationship. They may feel that just because I wear the uniform that they somehow don't have the same relationship with me as they would with a civilian attorney. This is not so. Just like a civilian attorney, as soon as you walk into my office and form an attorney-client relationship with me, I now owe you a special duty.

One caveat to this, however, is that for many JAGs the Army is their client and not individual Soldiers or commanders. The Claims Attorney assisting a Soldier filing a claim; the Trial Counsel advising a commander; or the Operational Law Attorney working downrange all represent the Army. Therefore, the Trial Counsel or Operation Law Attorney should always make it clear to commanders that they are not that commander's personal attorney—not to avoid work, but because it would be an ethical violation for the attorney to represent both the Army and the individual commander.

Legal Assistance Attorneys or Trial Defense Counsel are exceptions to this rule, however. We form an attorney-client relationship with the individual service member, and, just as government attorneys cannot represent individual clients, I, as a Legal Assistance attorney, cannot represent the government. Therefore if someone calls me, as they often do, asking me to interpret a regulation for an administrative issue, I cannot do so. The reason for this is that interpretation may ad-

versely affect one of my clients. If that were to occur, I would be in violation of the previously-mentioned codes of professional responsibility and likely be subject to disciplinary action by my State Bar Association.

#### *Client Confidentiality*

Client confidentiality is probably the most important area where all this comes together. The professional rules of conduct in all states and the Army require me to keep my relationship with my client strictly confidential, unless the client expressly states otherwise. There are some very limited exceptions to this rule. One exception would be if a client told me they were going to inflict serious bodily harm on someone in the immediate future. My duty to prevent that person from being seriously harmed overrides my duty to maintain the client's confidence. The other exception involves "fruits of a crime." If you walked into my office told me you had shot someone and placed a gun on my desk as you walked out, I would have a duty to turn that weapon over to CID. I could not, however, tell them how I came into possession of the gun or any information which would lead them to you. I stress the confidentiality of the attorney-client relationship because it is important that you feel comfortable to tell me everything that pertains to your case, so that I can correctly advise you on the law and recommend the best course of action.

This strict rule of client confidentiality can often create awkward situations for JAGs, especially in a small close community such as ours. If I see you in public, for example, I will not acknowledge that I know you unless you do so first. What if you had come into my office seeking advice on divorce and separation and then, several

days later, I see you with a woman at the Commissary? If I say "hey, SGT Doe, how's that separation paperwork coming?" — that would obviously violate client confidentiality and if your wife was unaware of this and is perhaps now holding a grapefruit — I may have just placed you danger. Even if I give you any other greeting, aside from the greeting of the day of course, your wife may put two and two together; she might know I'm JAG, or she might even know me in particular. While this example is the exceptional one used for emphasis here, there are many reasons why a client may not want people to know that they have seen an attorney, and we therefore have to give clients the full benefit of any doubt.

Unit commanders, 1SGs and Section SGTs should also understand what confidentiality truly requires. If a 1SG calls my office to confirm that a Soldier came in for an appointment, he won't get a confirmation from either me or my NCOs unless the client consents. Even the mere fact that a client has been to my office is confidential. These rules may seem restrictive, even foolish at times, but there is no "gray" area under our ethical guidelines.

#### *Client Conflicts*

An offshoot of the confidentiality relationship and an area which often creates the most difficulty for a JAG attorney is client conflicts. This relates to client confidentiality because it has to do with information that a client reveals to me in confidence that I or another attorney could use against them while representing another client. The obvious example of this is when I have seen a client regarding a divorce and his wife later wants to see me for the same issue. It would be a clear ethical violation for me to also represent the wife. The problem, however, is that I cannot

tell the wife why I can't see her because I would betray my duty of confidentiality to the husband. The only thing I can say is that "unfortunately, this office cannot represent you, however, I can refer you to an attorney in Mannheim or Baumholder." Sometimes the would-be client gets very upset and leaves angry. Hopefully, in those instances the clients have gone to another legal office where the rules regarding conflicts of interest were explained to them.

What would happen, in the example above, if I had seen the husband for an NCOER appeal and not for divorce? In this instance it would still be an ethical violation to represent the wife but slightly less obvious. Even more difficult to spot is when I have represented a commander on a personal matter and one of his Soldiers sees me regarding adverse actions taken by his 1SG. My representation of the commander may prevent me from representing the Soldier. The commander is my client and I may have some information, anything, from my representation of the commander which could come to light in this present case. These issues are primarily addressed by AR 27-26, Rule 1.7 and Rule 1.9, but as always my state ethical requirements may be even more restrictive. In any event, it is certainly preferable to avoid conflicts than to form relationships with two clients and have a conflict arise. In that instance representation of both clients has to cease.

Another issue that materially affects the community is what is called "imputed disqualification," which means that if I am disqualified from seeing a client because of a situation described in the paragraph above, all the attorneys working in my office

**Those Crazy JAGs cont.**

are disqualified as well. The reasoning behind this rule is that attorneys are likely to talk and discuss cases with each other; therefore it is likely that another attorney may know information about your case which could help them represent someone on the “other side,” as we say. If a third party could perceive there to be an inappropriate relationship then the attorney should not represent the client, regardless of whether or not exchange of information between attorneys has actually occurred.

The practical effect of all this is that the Kaiserslautern Legal Services Center can see, at most, 50% of all divorce and separation clients. There

may be instances where we can't see either side in a divorce, further limiting our availability. This means we often have to send clients to our sister offices, either in Mannheim or Baumholder, for services — which can be a considerable inconvenience to the client.

Additionally, even though we are constantly improving our ability to detect client conflicts there will inevitably always be situations where a conflict goes undetected. With our unit structure and command chains, no matter how thoroughly we try, conflicts are unavoidable to some degree.

My purpose here has been to shed some light on an area that can

be very frustrating for attorneys and clients alike. Hopefully, if you ever find yourself in one of the situations above, you'll remember this article and not assume that I am just another crazy JAG.



*The Kaiserslautern Legal Services Center is located on the ground floor of Building 3210 on Kleber Kaserne (pictured above). The main entrance faces the Alteration Shop and Pick-Up Point. There is ample client parking near the building entrance.*

## THE KAISERSLAUTERN LEGAL SERVICES CENTER

by Jim Wiley

The Kaiserslautern Legal Services Center is located in Building 3210, Kleber Kaserne, Kaiserslautern, Germany. The center is home to the Legal Assistance Office, the Tax Assistance Center, the Claims Office, and International Law Office. Co-located in Building 3210 is the U.S. Army Trial Defense Service Office.

**The Legal Assistance Office:** The Legal Assistance Office (LAO) is in Room 104. The hours for walk-in services (notarizations, powers of attorney, certified copies of documents, etc.) are: Monday, Tuesday, Wednesday, and Friday 0900 to 1130 and 1300 to 1600 and Thursday 1300 to 1500. You must make an appointment in order to see an attorney on other legal matters. Call **DSN: 483-8848** for more information.

**The Tax Assistance Center:** From 1 February to 15 June, the Tax Assistance Center (TAC) is open. The TAC is located in Room 102. The TAC's hours are from 0900 – 1700 daily. The TAC is

open on a walk-in basis for individuals who want to pick up tax forms or file simple tax returns. Taxpayers with complicated returns should call first to make an appointment. From 16 June to 31 December the TAC is open on an appointment basis only. For more information call **DSN: 483-7688**.

*Note: We also operate a satellite tax assistance center on the ground floor of the Education Center in Building 3701 at Landstuhl Regional Medical Center. Call **DSN 483-7688** for more information.*

**Claims:** The Claims Office is in Room 110. The office accepts DD Forms 1840 and 1840-R on a **walk-in** basis during the following hours: Monday, Tuesday, Wednesday, Friday 0900 to 1130 and 1300 to 1500 and by appointment. Claims are processed by appointment only and you may make an appointment by calling or coming in during the walk-in hours. Wednesday and on Thursday's from 1300 to 1500, the

claims office is open for walk-ins on all matters. For more information or to schedule a claims appointment call **DSN: 483-8414**.

**International Affairs Office:** The International Affairs Office is in Room 124. Service of civil process and administrative fines is done on a walk-in basis during the following hours: 0730 to 1130 and 1300 to 1600, Monday through Friday. Individuals are advised to call ahead to ensure that someone is present since the liaison clerks on occasion perform duties outside the office. For information or to make an appointment call **DSN: 483-8854**.

**Trial Defense Service:** The U.S. Army Trial Defense Service Office is located in Room 125. TDS provides Article 15 and chapter counseling, and suspect rights advice to service members suspected of having committed an offense under the UCMJ. For more information or to make an appointment call **DSN: 483-8165**.

**LEGAL ASSISTANCE :**

The Legal Assistance Office has both American and German attorneys and provides counseling and assistance with personal legal matters, to include:

- Wills, Powers of Attorney, Taxation, and Bill of Sale
- Landlord/Tenant Problems and Interpretation of Leases
- Domestic Relations (adoptions, divorce, separations and non-support)
- Consumer Problems (contracts, product injury, and product failure)
- Citizenship and Immigration
- Notarizations and Civil Rights
- Finances, Debt, Insurance, Personal Property, Autos
- Torts (a civilian wrong, such as willful or negligent injury to a plaintiff's person, property, or reputation)
- Referral to other agencies or to other lawyers when appropriate

Any documents that pertain to your legal issues should accompany you to your appointment. Will worksheets should be completed prior to your appointment and brought with you. Worksheets may be picked up at the Legal Assistance Office in Room 104.

**CLAIMS:**

We process claims involving:

- Damage to household goods during shipment
- Vandalism, theft, and unusual damage occurring on post
- Damage caused by government vehicles
- Damage caused by government employees in the course of their employment
- Personal injuries/Wrongful death
- Article 139, UCMJ (*e.g.*, when a soldier intentionally damages or wrongfully takes someone else's property).
- All claimants must turn in DD Form 1840 (*a.k.a.*, "the pink form") within 70 calendar days of delivery. Once you have done this, you may make an appointment to meet individually with a claims examiner or visit the office during walk-in hours on Wednesdays from 0900 to 1100, and from 1300 to 1500.

**POWERS OF ATTORNEY:**

The types of power of attorney typically available include, but are not limited to:

- General Power of Attorney: Authorizes your agent to conduct a wide variety of tasks which would otherwise require the grantor's presence.
- Special Power of Attorney: Authorizes your agent to accomplish a task specified in the document which would otherwise require the grantor's presence.
- Medical Power of Attorney: Authorizes a person other than yourself to obtain medical care for family members should you not be available. This is ideal for anyone who regularly cares for your children or for children going on field trips or to summer camp.
- Guardianship Power of Attorney: Allows a person you authorize to act upon your behalf to care for your child over an extended period of time. This is an important part of any family care plan.

## Suspension of USAREUR Driving Privileges, by Jim Wiley

No one wants it to happen, but sometimes bad choices or actions on the part of a driver can result in suspension or revocation of USAREUR driving privileges. Army in Europe Regulation (AER) 190-1, Chapter 2, governs suspension and revocation of driving privileges.

The following individuals are authorized to take action under the regulation:

—**Suspending Authority** – An officer or civilian equivalent immediately senior to the licensee in the chain of command or an officer who has been designated by the commander (O-4 or above, but normally the company commander) to act as suspending authority for a unit or organization.

—**Revoking Authority** – An officer (O4 or above) or GS-12 (or equivalent) civilian supervisor, next above the suspending authority in the chain of command of the licensee. If a commander has designated an O4 or GS-12 (or equivalent) to act as suspending authority for a unit, organization, or group of people, the commander will be the revoking authority. This is the individual with the authority to declare a person ineligible for a certificate of license. However, a civilian revoking authority generally will not revoke the privileges of service members or their family members.

Revocations are mandatory, take effect immediately, and remain in effect indefinitely. The period of revocation begins on the date the license is confiscated. Offenses requiring mandatory revocation are listed in AER 190-1, paragraphs 2-15a and 2-15b. Revocation is mandatory for, among other things, refusing to take or complete a chemical test under implied

consent provisions or driving a motor vehicle with a blood alcohol content in excess of those allowed under applicable law or regulation.

Suspensions are discretionary or mandatory and the length of the suspension varies with the cause. A discretionary suspension (AER 190-1, paragraph 2-14a) may be assessed to evaluate a person's driving skills, for numerous regulatory violations, for the display of a lack of good judgment with respect to operating a motor vehicle, or because of misconduct. A mandatory suspension (AER 190-1, paragraph 2-14b) will be assessed for incidents involving a failure to wear a seatbelt, reckless driving, failure to comply with regulatory requirements, accumulation of traffic points, or operating a motor vehicle while under the influence.

Notwithstanding the above, host nation civil authorities may likewise prohibit U.S. personnel from operating motor vehicles. Upon receipt of such a report, the USAREUR Registrar will suspend or revoke a person's driving privileges.

Commanders and supervisors will inform subordinates in writing of actions taken to declare them ineligible for a license or to suspend or revoke their driving privileges. Commander's should use AE Form 190-1L, Commander's Notice, to accomplish this. USAREUR Commanders and supervisors will use DA Form 4833 or AE Form 190-1K (Report of Administrative Action) to inform the USAREUR Registrar of actions taken with respect to an individual's license or driving privileges.

In addition to the *formal* requirements associated with the suspension or revocation of an individual's driving

privileges in USAREUR, a commander or other person in a position of authority may order a service member not to drive if he or she believes that an inherently unsafe act may be prevented by such an order. Any order issued must have a valid military purpose and must not otherwise be prohibited by law or regulation. An order not to drive, once issued, must be limited in scope and duration, *i.e.*, only until such time as the perceived threat to safety is abated. For example, a commander who believes that a soldier is too tired or otherwise physically incapable of driving, may order that soldier not to drive but only until the soldier has been sufficiently rested or until the physical incapacitation is resolved. Commanders may not use this authority as a form of punishment for an act unrelated to the prevention of an unsafe act.

Commanders who have questions on this subject should contact their Trial Counsel or the 21st TSC OSJA's Criminal Law Division at DSN 484-8311.

Individuals who are concerned about the possibility of losing driving privileges should contact the Kaiserslautern Legal Service Center's Legal Assistance Office at DSN 483-8848, and ask for an appointment to see a Legal Assistance Attorney.

*This article was based in part on an information paper posted on [www.jagcnet.army.mil](http://www.jagcnet.army.mil).*

**21ST TSC KAISERSLAUTERN  
LEGAL SERVICES CENTER**

**Building 3210, Kleber Kaserne  
PHONE NUMBERS:**

Legal Assistance 483-8848

Claims 483-8414

Tax Assistance 483-7688

International Affairs 483-8854

Trial Defense Service 483-8165

Administrative Law 484-7450

Criminal Law 484-8311

**WE'RE ON THE WEB**

[WWW.21TSC.ARMY.MIL/  
AERJA/DEFAULT.HTM](http://www.21tsc.army.mil/aerja/default.htm)

**DO YOU WANT TO KNOW MORE  
ABOUT THE JAG CORPS?**

[HTTP://WWW.21TSC.ARMY.MIL/  
AERJA/HISTORY/HISTORY2.HTM](http://www.21tsc.army.mil/aerja/history/history2.htm)

***Making the Most of Your Legal Assistance Appointment***

*by Jim Wiley*

**Please:**

- call for an appointment at DSN 483-8848.
- show up 10 minutes early.
- let our staff know if you have been here before.
- bring:
  - all legal documents you have sent or received
  - all correspondence you have sent or received
  - all e-mail traffic
  - all points of contact.
- call to cancel if you cannot make your appointment.
- pick up will worksheets prior to visiting us either in Building 3210, Room 104, or at our website <http://www.21tsc.army.mil/aerja/LegalAssist/Areas-Estate%20Planning/Areas-Estate%20Planning.htm>.
- ask lots of questions.
- file a comment card and let us know how we are doing.
- be diligent in following up.

**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 exit/Ausfahrt. 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 set of lights. Turn left and you will be in front of Kleber. Follow the perimeter until you find an open gate. Once you are on the post park in the Shoppette parking lot. Bldg. 3210 is directly across.

