



21ST TSC LEGAL INFORMER



SPRING 2020

Early Return of Dependents

By Captain Hartnett, Northern Law Center

An Early Return of Dependents (ERD) can be used in a number of situations when family members need to return from an overseas duty station to the United States before their sponsor. A multitude of circumstances precipitate an early return, but the most common is when a Soldier seeks separation from a spouse due to marital difficulties. The high cost of living, lack of extended family support overseas and inability to access U.S. state courts may cause a Soldier or a spouse to request an early return to facilitate the separation.

An ERD authorizes travel (usually a plane ticket) and transportation (including household goods shipment) at government expense for a Soldier's command sponsored dependents prior to a Soldier's Permanent Change of Station. A request for an ERD is made on DA Form 4187, and requires a sufficient justification. For example, a Soldier may be able to support an ERD request based on marital difficulty with a plan to file for divorce in a particular state after the returning spouse meets the state's residency requirement (typically six months). An Army in Europe (AE) Form 55-46C is also required, which demonstrates that the Soldier has sought assistance at all available garrison resources to resolve the problem. An Early Return of Dependents is viewed as a last resort.



An ERD request must also provide a location (city, state) where the returning spouse will reside. The location is paramount because it appears in the eventual orders, and both the transportation and finance offices utilize the location to process government funded travel, transportation, and housing allowances.

The Soldier's U.S. Army Garrison (USAG) Commander is normally the approval authority for the request. Prior to forwarding for the USAG Commander's approval, the request requires the company-level commander's approval and endorsement by the first commander who is lieutenant colonel or higher.

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The 21st TSC Legal Informer is the newsletter of the 21st Theater Sustainment Command (TSC) Office of the Staff Judge Advocate.

Our mission is to provide outstanding legal support to Soldiers, Civilian Employees and Family Members assigned to or supported by the 21st TSC. Our headquarters is located in Kaiserslautern, Germany. We have branch offices in Baumholder and Stuttgart, Germany, Mons, Belgium, Schinnen, the Netherlands and Camp Bondsteel, Kosovo.

Copies of this and previous newsletters may be found at: <https://intra-net.eur.army.mil/21tsc/sja/SitePages/Home.aspx>.

Early Return of Dependents (continued)

Along with the signed DA Form 4187 and the AE Form 55–46C, the packet also must contain a Memorandum for Record - Statement of Understanding (MFR-SOU), enlisted record brief (ERB) or officer record brief (ORB), the OCONUS PCS move orders with command-sponsorship approval annotated or an approval-letter attached, copies of passports, and the AE Form 55-46A with other applicable supporting documentation. The MFR-SOU explains the expectations and implications of an ERD. It is signed by the company-level commander, the Soldier, and the spouse. If a spouse refuses to sign, the commander should annotate the refusal and the date on the FMR-MOU adjacent to the signature block.

Your local legal office can assist commanders in addressing any potential hurdles in the process and legal assistance attorneys can assist Soldiers and their family members in meeting all of the requirements so packets can be processed expeditiously. Marital problems requiring separation typically do not get better with age and can be exacerbated overseas resulting in further problems such as domestic violence and financial strife. If a family member leaves at personal expense, before ERD orders are issued, the Soldier will normally not be reimbursed for travel, and can only be reimbursed upon approval of the USAG commander for an “after-the-fact” request.

At any point in the ERD process, Soldiers should be mindful of the financial support obligation upon physical separation from family members. A Soldier is obligated to pay the BAH Non-Locality rate for all family members located in the same residence or a share to each family member if family members live in multiple residences. A Soldier’s financial support obligation can be offset by an entitlement to BAH and Family Separation Housing (FSH). Upon arrival of all the Soldier’s dependents from the overseas duty station at government expense, the Soldier is entitled to BAH at the With-Dependents rate for the location of the dependents’ permanent residence in the U.S. starting from the date of their arrival. However, this is contingent on all family members returning to the U.S. If any dependents continue to reside with the Soldier overseas, there is no entitlement to BAH for the dependents who return to the U.S. early. For example, if a spouse returns to the U.S. but the children remain with the Soldier, there is no entitlement to BAH for the spouse’s location in the U.S.

The second major issue regarding BAH occurs when the Soldier is still in possession of Army Family Housing (AFH) when the dependents arrive back in the U.S. after an approved ERD. A January 2019 update to the JTR clarified the issue: such Soldiers residing in government family housing are still entitled to BAH for the dependents in the U.S. Notwithstanding, the Soldier should begin the process of relinquishing AFH for single quarters once all the dependents depart. Once AFH is relinquished, if single government quarters are not available, the Soldier will be entitled to an Overseas Housing Allowance at the Without Dependents rate and Family Separation Allowance.

The final major issue regarding BAH and ERD occurs when all of a Soldier’s dependents return early from the overseas duty station at personal expense prior to the ERD travel order. In this situation, the Service member is not authorized a second housing allowance. Without ERD orders, the Soldier is not entitled to BAH for the location of his or her dependents in the U.S. if those dependents were Command Sponsored or residing with the Soldier at an overseas duty station.

In summary, an ERD is a tool of last resort authorizing a Soldier travel, transportation, and housing allowances for their command sponsored dependents to travel and establish residence at an authorized location outside the Soldier’s overseas permanent duty station. An ERD requires a request with a sufficient justification, exhaustion of available resources on and off post, and a location where the dependents will reside while the Soldier continues his OCONUS tour of duty. If you have questions about ERDs, contact your local legal office.

Tips for a Successful Household Goods Move

By Captain Taylor Smith

One constant of working for the military is frequent moves. Whether you are just arriving in Europe or finishing your tour, you will have to deal with receiving or shipping household goods. These tips can help you keep belongings safe, preserve your ability to make claims for damage, and have professional interactions with your movers.

1. Prepare a detailed inventory before the movers arrive to pack.

If you experience property loss or damage during your move, a detailed inventory will help you make a claim for reimbursement. Take pictures of items to document their condition. While movers will need to verify the presence of items before you ship them, high value items will often be less conspicuous if you have already documented them and prepared the inventory in advance. To reduce the risk of theft it is best to avoid showing off high value items such as jewelry, watches, or electronics. Although original appliance boxes may be useful for packing appliances, the pictures on the outside of the box can make it easier for thieves to target items to steal once the shipment leaves your home. Consider covering pictures on the outside of boxes or using other containers instead of the original box.

2. When receiving a shipment, inconspicuously verify that high value items are present.

Before movers leave, you will need to verify that all your high value items are present and undamaged. If you have multiple adults in your household, it may be best for one person to stay with the movers, while the other person inspects the high value items in another room. Inspecting the items elsewhere will help keep a low profile and reduce the chance



that movers might share details about your possessions with others. If you cannot inspect the property outside of the movers' presence, inspect items as inconspicuously as you can.

3. Report any unprofessional or suspicious actions by your movers.

By necessity, movers know where you live and may have your contact information. If your movers act unprofessionally, contact you inappropriately after the move, or even commit sexual harassment, you should immediately report the incident. Contact the Military Police to make a report. The MPs can also help you make a report to the Polizei regarding any criminal acts or harassment. You should also report issues to the Transportation Office, who can address problems with the moving contractor.

4. Make a claim for damaged and missing items as soon as possible after delivery.

As soon as you notice missing or damaged items from your shipment, contact the moving company to give them notice of the loss and to make a claim. Generally, the deadline for giving notice of a loss is 75 days from the date of delivery, but the sooner you submit a claim, the better. Even if you miss the 75-day deadline, there may be circumstances in which a late claim would be accepted. For any claims questions, contact your local claims office.

Funded Legal Education Program

Every year the Army Office of The Judge Advocate General in Washington, D.C. accepts applications for the Army's Funded Legal Education Program. Under this program, the Army sends active duty commissioned officers to law school at government expense. Selected officers will remain on active duty while attending law school.

Interested officers should review the Chapter 10 of Army Regulation 27-1 to determine eligibility. Information on the program can be accessed through the Army Judge Advocate Recruiting Office web site at <https://www.jagcnet.army.mil/JARO#>.

The Army Funded Legal Education Program is open to commissioned officers in the rank of second lieutenant through captain.

Applicants must have at least two, but not more than six, years of total active Federal service at the time legal training begins. Eligibility is governed by statute (10 U.S.C. section 2004) and is non-waivable.

Application procedures are detailed each year through a MILPER message. Interested officers must complete an application and interview with a Staff Judge Advocate at their installation. Interested officers should have taken or be scheduled to take the Law School Admission Test at the time of application. The application deadline is normally in the fall.

Interested officers should contact their local Staff Judge Advocate for further information. The 21st Theater Sustainment Command Office of the Staff Judge Advocate is located in Building 3004 on Panzer Kaserne in Kaiserslautern. You can reach the office at DSN 523-0489 or civilian 0611-143-523-0489.



21st TSC Legal Offices

Kaiserslautern

Kleber Kaserne, Bldg. 3210

Legal Assistance: DSN 483-8848/6782

Tax Assistance: DSN 483-8848

Claims: DSN 483-8968

International Law: DSN 483-8854/8859

Trial Defense Service: DSN 483-8397

(Civilian: +49-631-411-XXXX)

Panzer Kaserne, Bldg. 3004

Administrative Law: DSN 523-0470

Criminal Law: DSN 523-0488

Special Victim Team: 523-0526

(Civilian: +49-0611-143-523-XXXX)

Baumholder Law Center

Smith Barracks, Bldg. 8680

Legal Assistance: DSN 531-2445

Trial Defense Service: DSN 531-2463

(Civilian: +49-611-143-531-XXXX)

Stuttgart Law Center

Kelley Barracks, Bldg. 3312

Legal Assistance: DSN 421-4152

(Civilian: +49-711-729-4152)

Northern Law Center

SHAPE (Mons, Belgium), Bldg. 318

Legal Assistance: DSN 423-4910 or

4868

(Civilian: +32-65-44-4910 or 4868)

Netherlands Law Center

USAG Benelux-Brunssum, Bldg 8

Legal Assistance: DSN 597-4182

(Civilian: +31-45-534-0182)

Kosovo Law Center

Camp Bondsteel, Bldg 1330C

Legal Assistance: DSN 781-4575

(Civilian: +383-49-774-628)



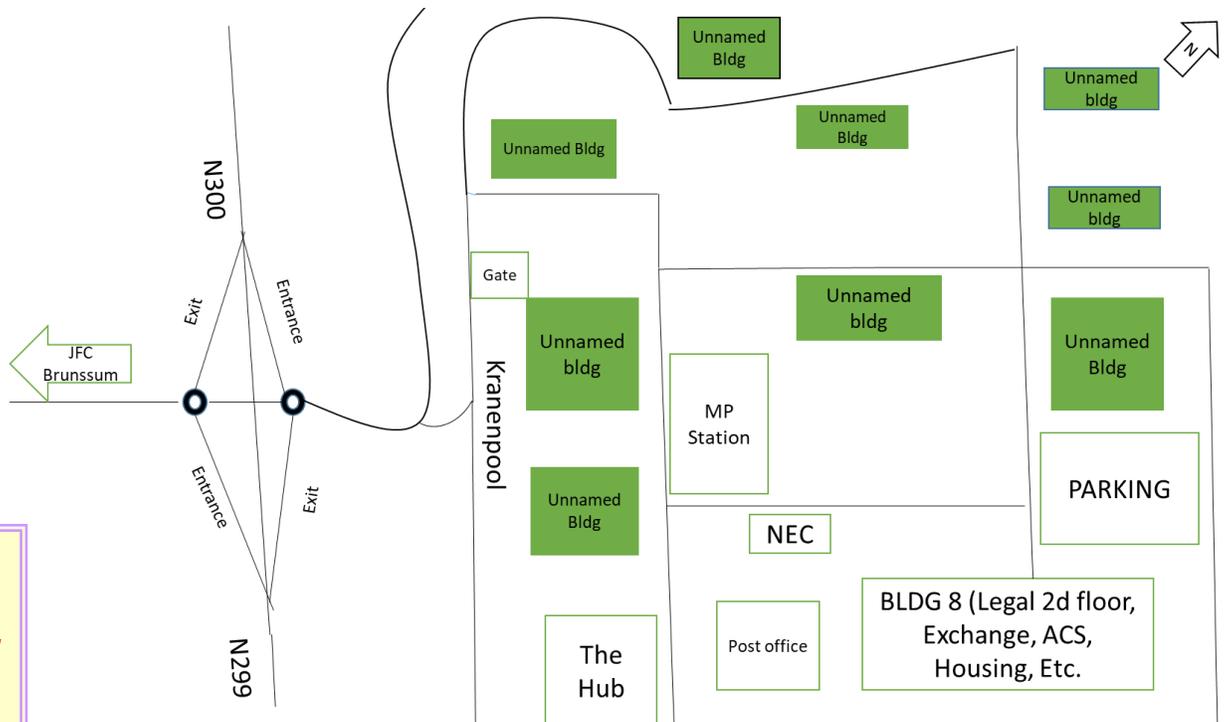
Legal Outreach



On 12 February the 21st TSC Office of the Staff Judge Advocate hosted a mock-trial for students at the University of Saarbrucken. MAJ Wagner (far right) served as the judge while Mr. Modellmog (background), MAJ Garry (far right) and CPT Teleky (not pictured) assisted the students with their arguments and examination of witnesses.

New Location for Netherlands Law Center

On 28 January the Netherlands Law Center moved from its former location in Schinnen to Building number 8 at USAG Benelux-Brunssum (formerly known as the NATO Industrial Complex or “NIC Site”) in Brunssum. The street address is Kranepool 3. A strip map to the new location is below.



GPS coordinates for NeLC:
N 50.944727 /
E 6.003896