

U.S. Army Trial Defense Service Standard Operating Procedures

	Page
Table of Contents	ii-iv
List of Appendices	v
Glossary of Acronyms.....	vi-vii
List of Cited References.....	viii-ix

Office of the Chief
 United States Army Trial Defense Service
 United States Army Legal Services Agency
 Arlington, VA 22203

TABLE OF CONTENTS

	<u>Paragraph</u>	<u>Page</u>
 <i>Chapter 1. GENERAL PROVISIONS</i>		
Purpose and Scope.....	1-1	1
Authority	1-2	1
Mission	1-3	1
Organization	1-4	1
Duties of USATDS Counsel.....	1-5	4
Administrative and Logistical Support.....	1-6	7
Emergency Notification	1-7	8
Incident Notification.....	1-8	8
Release of Information	1-9	9
Professional Standards	1-10	10
Handling of Clients' Funds and Property	1-11	10
Defense Counsel Experts.....	1-12	10
Defense Property Evidence	1-13	10
Classified Case	1-14	10
Physical Restraints for Pre-Trial Clients	1-15	11
 <i>Chapter 2. PERSONNEL</i>		
Personnel Selection and Assignment	2-1	12
Newly Assigned Counsel	2-2	12
Addresses.....	2-3	13
Officer and Noncommissioned Officer		
Evaluation Reports	2-4	13
Absences from Duty.....	2-5	14
Temporary Duty	2-6	16
Personal Standards	2-7	20
Local-Administrative and Personnel Policies	2-8	20
Training Records	2-9	21
Military Awards	2-10	21
Deployment	2-11	23
Requests for Relief from Active Duty and Resignations ...	2-12	24
Allegations of Counsel Misconduct	2-13	24

	<u>Paragraph</u>	<u>Page</u>
Chapter 3. OFFICE MANAGEMENT		
Duties of the Senior Defense Counsel.....	3-1	25
Establishment of Attorney-Client Relationship	3-2	26
Multiple Accused Situations	3-3	26
Conflict of Interest Situations.....	3-4	28
Maintaining Work Product Confidentiality.....	3-5	28
Married JAGC Couples	3-6	29
Detail of Defense Counsel.....	3-7	29
Requests for Individual Military Counsel (IMC).....	3-8	30
Post-Trial & Appellate Advice after Trial.....	3-9	32
Office Staffing/Duty Rosters.....	3-10	33
Requests for Information from OTJAG	3-11	33
Mutual Support Responsibilities	3-12	34
Defense Services at Installations without USATDS Counsel.....	3-13	34
Support for TDY Counsel	3-14	34
Staff Relations	3-15	35
Petitions for Extraordinary Relief	3-16	35
Appellate Remedies Ordered	3-17	35
Chapter 4. MANAGEMENT REPORTS		
Purpose	4-1	36
Report Period.....	4-2	36
Collecting and Compiling Data for the Management Report.....	4-3	36
Preparing the Management Report.....	4-4	36
Activity Reports	4-5	39
Significant Results Reports	4-6	40
Chapter 5. DEFENSE COUNSEL ASSISTANCE PROGRAM & TRAINING		
Purpose	5-1	41
Mission.....	5-2	41
Organization.....	5-3	41
Training.....	5-4	41
Technical Assistance.....	5-5	42
Policy & Strategic Initiatives.....	5-6	42
Goals.....	5-7	42
Elements	5-8	43
Responsibilities	5-9	44
Regional and Installation Workshops.....	5-10	45

	<u>Paragraph</u>	<u>Page</u>
TJAGSA and Civilian CLE Courses	5-11	47
Non-USATDS Military CLE.....	5-12	48
On-the-Job Training	5-13	48
Individual Responsibility	5-14	48

Chapter 6. DEFENSE COUNSEL SERVICES FOR RESERVE COMPONENT PERSONNEL

Purpose.....	6-1	49
UCMJ Jurisdiction over RC Personnel	6-2	49
Army Reserve Trial Defense Service Legal Support Organizations	6-3	50
TDSLSO Services	6-4	50
Training of TDSLSO Personnel.....	6-5	51

LIST OF APPENDICES

APPENDIX A. REGIONS OF U.S. ARMY TRIAL DEFENSE SERVICE	A
Map of CONUS and OCONUS Regions	A-1
APPENDIX B. BIOGRAPHICAL INFORMATION.....	B
APPENDIX C. DELEGATION OF AUTHORITY FOR SISTER SERVICES COURTS-MARTIAL	Pending
Assignment of Counsel for Pretrial Confinement Proceedings	C-1
APPENDIX D. MOU BETWEEN USATDS AND DEFENSE APPELLATE DIVISION ON PROCEDURES FOR DUBAY HEARINGS, RETRIALS, AND SENTENCE REHEARINGS	Pending
APPENDIX E. MOU BETWEEN USATDS AND TDSLSES	Pending
Reserve Component METL	E-1
Regional Defense Groups of 154 th LSO with TDS counterpart	E-2
Regional Defense Groups of 22d LSO with TDS counterpart	E-3
MOU between 22d LSO & California Army National Guard	E-4
APPENDIX F. DEFENSE COUNSEL MISSION ESSENTIAL TASK LIST	F

***APPENDIX G. RESERVE TRAINING RELATIONSHIPS
LSO DEFENSE COUNSEL STATISTICS..... G***

Map of Defense Team Regional Alignments..... G-1

APPENDIX H. 154TH LSO PERMANENT ORDERS..... H

APPENDIX I. 22ND LSO PERMANENT ORDERS..... I

APPENDIX J. TDS AUTHORIZED AIRPORTS FOR TDY TRAVEL..... J

APPENDIX K. USATDS MANAGEMENT REPORT..... K

GLOSSARY OF ACRONYMS

AAM	Army Achievement Medal
ABCMR	Army Board for Correction of Military Records
AC	Active Component
AD	Active Duty
ADT	Active Duty for Training
ADRB	Army Discharge Review Board
AGR	Active Guard and Reserve
AJAG	Assistant Judge Advocate General
APFT	Army Physical Fitness Test
ARNGUS	Army National Guard of the United States
AR	Army Regulation
ARCOM	Army Commendation Medal
ARNG	Army Reserve & National Guard
AT	Annual Training
BCD	Bad Conduct Discharge
CLE	Continuing Legal Education
CMDT	Court-Martial Defense Team
CONUS	Continental United States
DA	Department of the Army
DAD	Defense Appellate Division
DASEB	Department of the Army Suitability Evaluation Board
DOJ	Department of Justice
FAO	Finance and Accounting Office
FORSCOM	Forces Command
GCM	General Court-Martial
GCMCA	General Court-Martial Convening Authority
IAW	In Accordance With
IDT	Inactive Duty for Training
IMA	Individual Mobilization Augmentee
IMC	Individual Military Counsel
IO	Investigating Officer
JA	Judge Advocate
JAGC	Judge Advocate General's Corps
JFTR	Joint Federal Travel Regulations
LSO	Legal Service Organization

MCM	Manual for Courts-Martial, United States (1995)
METL	Mission Essential Task List
MILPO	Military Personnel Office
MS	Meritorious Service Medal
NJP	Nonjudicial punishment
OCONUS	Outside the Continental United States
OER	Officer Evaluation Report
OSJA	Office of the Staff Judge Advocate
OJT	On-the-Job Training
OTC	Office of the Chief
OTJAG	Office of the Judge Advocate General
PAC	Personnel Administration Center
PAO	Public Affairs Officer
POV	Privately Owned Vehicle
PPTO	Personnel, Plans, and Training Office
RC	Reserve Component
R.C.M.	Rule for Court-Martial
RDC	Regional Defense Counsel
SCM	Summary Court-Martial
SDC	Senior Defense Counsel
SDO	Staff Duty Officer
SJA	Staff Judge Advocate
SOP	Standard Operating Procedures
SPCM	Special Court-Martial
TC	Trial Counsel
TDA	Table of Distribution and Allowances
TDC	Trial Defense Counsel
TDY	Temporary Duty
TJAG	The Judge Advocate General
TJAGSA	The Judge Advocate General's School
TOE	Table of Organization & Equipment
TR	Transportation Request
UCMJ	Uniform Code of Military Justice
USALSA	United States Army Legal Services Agency
USAR	United States Army Reserve
USAREUR	United States Army Europe
USATDS	United States Army Trial Defense Service

LIST OF CITED REFERENCES

Statutes

Title 10, United States Code (Including the UCMJ)
Title 32, United States Code

Executive Order

Manual for Courts-Martial, 1995 Edition

Federal Regulations

Joint Federal Travel Regulations (Chapter 3, paragraph U3505)

Army Regulations

AR 1-211	Attendance of Military and Civilian Personnel at Private Organization Meetings
AR 5-9	Intraservice Support Installation Area Coordination
AR 15-6	Boards, Commission, Committees
AR 27-1	Judge Advocate Legal Services
AR 27-3	Army Legal Assistance Program
AR 27-10	Military Justice
AR 27-26	Rules of Professional Conduct for Lawyers
AR 190-47	The Army Corrections System
AR 350-15	Army Physical Fitness Program
AR 350-41	Training in Units
AR 360-5	Public Information
AR 380-5	Department of the Army Information Security Program
AR 600-8-10	Leaves and Passes
AR 600-8-24	Officer Transfers and Discharges
AR 600-8-19	Enlisted Personnel Management System

AR 600-8-105	Military Orders
AR 600-9	Army Weight Control Program
AR 601-1	Assignment of Enlisted Personnel to the US Army Recruiting Command
AR 623-105	Officer Evaluation Reporting System
AR 635-200	Enlisted Personnel

Department of the Army Pamphlet

DA Pam 600-8 Management and Administrative Procedures

FORSCOM/ARNG Regulation

Supp 1 to AR 27-1 Judge Advocate Training (Training Association Program)

Other Publications

JAGC Personnel Policies

TDS Travel Preparation Guide

Joint Federal Travel Regulation

CHAPTER 1. GENERAL PROVISIONS

1-1. PURPOSE AND SCOPE.

A. This Standing Operating Procedure (SOP) provides guidance and direction in the daily operation of the U.S. Army Trial Defense Service (USATDS). This SOP does not create any private rights or causes of action. USATDS personnel, including personnel providing administrative support, will comply with the policies and procedures set forth in this directive in the performance of their duties.

B. Gender pronouns. Any masculine pronouns appearing in this SOP refer to both genders unless the context indicates another use.

C. Each counsel will be issued a personal copy of this SOP upon assignment to USATDS. Each counsel will read this SOP as soon as practicable and refer to the SOP when necessary for guidance. When departing USATDS, each counsel will leave his copy of the USATDS SOP with the field office.

E. Suggestions for revision. USATDS personnel, Staff Judge Advocates (SJAs), and others charged with the responsibility for the administration of military justice are encouraged to submit suggestions for changes or additions to this SOP. These should be forwarded through USATDS channels to the Operations Officer, USATDS.

1-2. AUTHORITY. USATDS is authorized and governed by Chapter 6, Army Regulation (AR) 27-10, Military Justice.

1-3. MISSION. The mission of USATDS is to provide specified defense counsel services for Army personnel, whenever required by law or regulation and authorized by The Judge Advocate General (TJAG) or TJAG's designee. USATDS will also develop programs and policies to promote the effective and efficient use of defense counsel resources and enhance the professional qualifications of all personnel providing defense services.

1-4. ORGANIZATION. USALSA, a field operating agency of TJAG provides manpower, budgetary and administrative support to USATDS. USATDS may also receive manpower support from sustainment brigades, defense legal support organizations, the Office of the Staff Judge Advocate (OSJA), command judge advocate offices and other applicable support units. The Commander and Commandant, The Judge Advocate General's Legal Center and School (TJAGLCS) provides professional control and supervision of USATDS and its counsel, including UCMJ authority. The Commander, USALSA, exercises other command functions for USATDS counsel. All USATDS counsel are either assigned to the USALSA TDA, with duty stations at specified installations and organizations or to TOE organizations. USATDS counsel assigned to TOE organizations will be supervised and rated within USATDS in the same manner as counsel assigned to USALSA. All officers assigned to USATDS must be certified in accordance with Article 27(b), Uniform Code of Military Justice (UCMJ).

A. Geographical Organization.

1. Office of the Chief (OTC). OTC is located at 901 N. Stuart Street, Arlington, Virginia 22203 and is ultimately responsible for ensuring that the USATDS mission is accomplished worldwide.

2. Region. The region is the major subordinate supervisory and control element of USATDS. It encompasses a geographical area as shown in Appendix A. In areas other than those designated in Appendix A, responsibility for the provision of defense services will be as directed by the Chief, USATDS.

3. Field Office. A field office is a subordinate operating element of a region. A field office provides defense counsel services for specified organizations and/or geographical areas.

4. Branch Office. A branch office is subordinate to a field office and is the smallest USATDS operational element.

B. Supervisory and Personnel Organization.

1. Chief, USATDS. The Chief, USATDS, is a judge advocate (JA), designated by TJAG, who exercises supervision, control, and direction of defense counsel services in the Army. In the absence of the Chief, the Deputy Chief (Dep Chief), USATDS, will exercise the functions of the Chief.

2. Regional Defense Counsel (RDC).

a. A RDC is a JA designated by TJAG and certified in accordance with Article 27(b), UCMJ, and is responsible for the performance of the USATDS mission within a region and is the supervisor of all senior defense counsel (SDC) within the region.

b. The RDC:

(1) Provides training in military justice, trial tactics, and professional responsibility as directed by the Chief, USATDS;

(2) Maintains continuing liaison with SJAs, military judges, commanders, and convening authorities;

(3) Makes periodic visits to all field and branch offices within the region (each office should be visited at least quarterly);

(4) Monitors workload and directs counsel travel as required;

(5) Recommends replacements for departing counsel;

(6) Represents clients in exceptional cases as determined by the Chief, USATDS; and

(7) May detail counsel to represent clients in any case, except the detail of counsel to represent members of sister services. See paragraph 3-7a of this SOP.

c. RDCs are denominated by the initials "RDC" followed by their region number in roman numerals (e.g., RDC I, RDC VII).

3. Acting RDC. The RDC or higher authority will designate a senior defense counsel (SDC) to serve as acting RDC during absences of the assigned RDC. The acting RDC will perform the duties of the RDC when, and to the extent, directed by the RDC or higher authority. The acting RDC may be junior in date of rank to other USATDS counsel within the region.

4. SDC.

a. An SDC is a JA, designated by the Chief, USATDS, and certified in accordance with Article 27(b), UCMJ. The SDC is responsible for the performance of the USATDS mission within the area and for organizations serviced by a field office. An SDC is the direct supervisor of all trial defense counsel (TDC) within a field office and its subordinate branch offices.

b. The SDC:

(1) Details TDC except in those cases where death is a possible authorized punishment, a general officer is the client, or when conflicts or multiple accused dictate the necessity of assigning outside counsel. The SDC should contact the RDC immediately so that the RDC can detail counsel in those exceptional cases (see paragraphs 3-4, and 3-7a, USATDS SOP);

(2) Provides technical advice to trial defense counsel;

(3) Acts as the primary USATDS liaison with SJAs, commanders, and convening authorities of organizations served by the field office;

(4) Represents Soldiers in courts-martial, administrative boards, and other proceedings; and

(5) Acts as consulting counsel as prescribed by the RDC or Chief, USATDS.

5. Acting SDC. The acting SDC is the TDC next senior to the SDC in rank, unless otherwise directed by the RDC. In the absence of the SDC, the acting SDC will assume the duties of the SDC without further action by the RDC or the Chief, USATDS.

6. TDC. A TDC is a JA, certified in accordance with Article 27(b), UCMJ, who performs duties in accordance with (IAW) paragraph 1-5 USATDS SOP. TDCs perform other defense-related duties as prescribed by the Chief, USATDS.

7. Paralegal. Although not assigned to TDS, enlisted personnel attached to and performing duties in TDS (see para 1-6d) will be considered as full members of the TDS office. They will provide administrative and logistical support and perform paralegal duties as appropriate and their conduct will conform to the requirements of AR 27-26, Army Rules of Professional Conduct for Lawyers.

1-5. DUTIES OF USATDS COUNSEL. USATDS counsel will perform the following functions in order of priority.

A. Priority I Duties. Duties that must be performed by USATDS counsel are Priority I duties, unless otherwise directed by the Chief, USATDS.

1. General court-martial (GCM) representation;
2. Special court-martial (SPCM) representation;
3. Article 32, UCMJ, representation; and
4. Counseling of pretrial confinees.

B. Priority II Duties. The following duties are primarily the responsibility of USATDS counsel. If the field office has insufficient counsel or other resources to perform these duties, the supported SJA must provide non-USATDS counsel to perform these duties under the supervision of the SDC IAW paragraph 6-8(c), AR 27-10.

1. Counseling IAW Article 31/Miranda/Tempia requirements;
2. Representation and/or counseling in line-up situations;
3. Counseling suspects on criminal matters when the exercise of military jurisdiction is possible (even though jurisdiction has not been exercised);
4. Counseling with regard to Summary Courts-Martial (SCM); and
5. Formal Article 15, UCMJ, counseling;
6. Representation and counseling of officers recommended for elimination under the provisions of (UP) AR 600-8-24, Officer Transfers and Discharges;
7. Counseling of officers desiring to submit a resignation in lieu of administrative elimination or Resignation for the Good of the Service Pending General

Court-Martial UP AR 600-8-24, Officer Transfers and Discharges (since resignations for the good of the service require preferred charges, they begin as Priority I Duties);

8. Representation and counseling of enlisted Soldiers recommended for separation UP Chapters 5 (involuntary separations), 7, 9, 10, 11, 13, 14, 15, and 18, AR 635-200, Enlisted Personnel (since Chapter 10 discharges require preferred charges they begin as Priority I Duties);

9. Representation and counseling of inmates at sentence vacation hearings pursuant to Article 72, UCMJ;

10. Representation and counseling of inmates at disciplinary and adjustment boards pursuant to AR 190-47;

11. Grade reduction boards where proposed reduction is based on misconduct.

12. Additionally, IAW paragraph 3-6g(2), AR 27-3, Legal Assistance, USATDS counsel should ordinarily assist Soldiers on military administrative actions not listed in paragraphs 1 through 8 above when such actions are:

(a) Initiated on the basis of alleged violations of the UCMJ; or

(b) Related to impending, pending, or recently completed UCMJ proceedings.

c. Priority III Duties. Priority III duties are all duties not listed as Priority I or II duties. Priority III duties are the primary responsibility of the supported SJA. Pursuant to paragraph 6-8, AR 27-10, SDCs may agree upon the extent, if any, to which local USATDS counsel will perform Priority III duties. Proposed memorandums of agreement should be coordinated with the RDC.

d. Limitations.

(1) USATDS counsel will not provide defense services for non-active duty personnel, including ROTC cadets, except in the following circumstances:

a. USATDS counsel will provide representation to Article 2(a)(10) personnel against whom charges have been preferred to the same extent as any other persons subject to the UCMJ jurisdiction.

b. USATDS counsel may continue to assist clients who are presently in an involuntary excess leave status insofar as such assistance relates to the court-martial for which the original representation was undertaken;

c. USATDS counsel may assist former clients in applications to the Army Discharge Review Board (ADRB) and the Army Board for Correction of Military Records (ABCMR);

d. If the active Army is investigating a member of the Army Reserve Component (RC) (in active or inactive duty status) with a view toward taking disciplinary action, USATDS counsel may assist that soldier. If the RC is conducting the investigation with a view toward taking disciplinary action, the RC defense counsel has primary responsibility for assisting the RC member. When an RC soldier requests assistance from USATDS for a matter that is primarily the responsibility of RC defense counsel, USATDS counsel will ensure that the RC member makes timely contact with the RC JA (see also paragraph 6-4, USATDS SOP).

e. The Chief, USATDS, may grant further exceptions on a case-by-case basis as deemed appropriate.

(2) USATDS counsel will provide representation or counseling only when authorized by Army Regulation or directed by the Chief, USATDS. USATDS counsel and their support personnel will not normally provide counseling for summarized Article 15 proceedings that are pending nor appear at formal Article 15 proceedings and Summary Courts-Martial except under the following conditions:

(a) SDCs, or any higher authority, may, on a case-by-case basis, authorize USATDS counsel to counsel Soldiers pending summarized Article 15 proceedings.

(b) SDCs, or any higher authority, may, on a case-by-case basis, authorize USATDS counsel to act as spokespersons for Soldiers at formal Article 15 proceedings if the imposing commander concurs in the TDC acting as the spokesperson.

(c) RDCs, or any higher authority, may, on a case-by-case basis, authorize USATDS counsel to represent Soldiers at Summary Court-Martial hearings. For example, it may be appropriate to authorize such representation when the case was referred to a higher level court-martial and then subsequently withdrawn and re-referred to the Summary Court-Martial.

(3) USATDS counsel will not represent clients before any civilian courts including Magistrate's Court, foreign courts, or grand juries. Military personnel who are charged or indicted by civilian authorities are not normally entitled to USATDS representation except for advice or representation for administrative separations under AR 600-8-24 or AR 635-200, or other administrative actions based upon the conviction by a civilian court. However, USATDS counsel may provide counseling IAW paragraph 1-5b(3), USATDS SOP.

(a) USATDS counsel will not provide advice to clients under investigation by the Department of Justice (DOJ) unless DOJ and the Department of the Army (DA) have concurrent jurisdiction. If DA has no jurisdiction, no representation or advice is authorized. In cases of possible concurrent DOJ/DA jurisdiction, USATDS counsel may provide representation and advice to protect the client from pending or potential judicial, nonjudicial, or adverse administrative actions within DA. USATDS counsel will not

provide advice to clients concerning any concurrent civilian court or grand jury proceedings.

(b) Exceptions to this policy can only be granted by TJAG. Requests for exception will be sent, in writing, through the Chief, USATDS, to TJAG.

1-6. ADMINISTRATION AND LOGISTICAL SUPPORT.

a. USATDS Duty Stations. Paragraph 6-4, AR 27-10, requires commanders of organizations and installations, including OSJAs and Sustainment Brigades/Commands, selected as duty stations for USATDS counsel to provide administrative and logistical support for USATDS personnel including but not limited to:

(1) Permanent quarters for USATDS officers and family members to the same degree as are provided regularly assigned officers of similar grade, rank, and responsibility;

(2) Maintenance of financial records, preparation of pay vouchers, and payment of all USATDS personnel;

(3) Maintenance of military personnel records, officer qualification records, leave records, Standard Installation/Division Personnel System (SIDPERS) responsibilities, and similar personnel requirements;

(4) Completion of officer personnel entries and forwarding of officer evaluation reports (OERs) to the appropriate USATDS rating official;

(5) Issuance of temporary duty (TDY) orders, at the request of the USATDS counsel concerned, as may be necessary in the exercise of their duties;

(6) Army transportation, (government vehicles to support the mission), including aircraft, when practicable;

(7) Private office space, office furniture, equipment, supplies, world-wide commercial and DSN telephone service, and library and reference material automation support (e-mail, facsimile, ISDN lines, etc);

(8) Clerical, administrative, and logistical assistance as required; and

(9) CTA-50 equipment and other equipment required to provide deployment support.

b. Consultation with SJA. RDCs and SDCs will also consult with SJAs to provide the best available automated data processing (ADP) support, including computers, (laptops for travel), blackberries/cellular telephones, electronic mail, facsimile machines,

and Internet connectivity and any other materials and/or services needed to accomplish their mission.

c. Installations Without USATDS Duty Stations. At installations where no USATDS offices are located, the post or activity JA will provide appropriate administrative and logistical support to USATDS counsel present on the installation in a TDY status. This support should include private office space, office furniture, supplies, worldwide commercial and DSN telephone service, clerical support, and ADP equipment.

d. Support Personnel. All personnel supporting the USATDS defense function will be assigned to the OSJA or a 27D position on the Sustainment Brigade/Command MTOE. Having been designated by the SJA to support the USATDS function, support personnel will be detailed to the SDC for duty performance. The SJA or the command may task support personnel, from time to time, to perform routine, roster-type duties. These duties should not interfere with the USATDS mission, should not entail the soldier's acting as an agent or representative for the commander and should be carefully tailored to assure that the duties do not have the potential to create an appearance of conflict with TDS duty performance. The SDC and SJA will jointly determine the rating scheme for support personnel. Consistent with sound personnel procedures, their immediate supervisor will normally rate support personnel.

e. Funding Responsibilities. All USATDS counsel should be familiar with the funding responsibilities of paragraph 6-5, AR 27-10. In many instances mission travel is required to be funded by the convening authority (boards, movement of the accused/proceedings, etc.) The RDC, or Acting RDC, must authorize all TDY travel for USATDS counsel in the region, including travel funded by the command. If the RDC is unavailable, the Office of the Chief (OTC) USATDS must authorize such travel. The RDC may delegate authority to an SDC to authorize travel of less than 12 hours (SEE paragraph 2-6 b(5)).

1-7. EMERGENCY NOTIFICATION. All SDCs and TDCs will maintain up-to-date telephone numbers and e-mail addresses of their RDC and SDC at all times. These rosters will also be forwarded to the Chief Paralegal at OTC, USATDS at least on a monthly basis. If the RDC is not available, SDCs will contact the Deputy Chief at the OTC, USATDS, for guidance. Duty and home telephone numbers of OTC, USATDS personnel are contained in the USATDS Personnel Roster.

1-8. INCIDENT NOTIFICATION. OTC will be notified immediately of any incidents of personal or professional misconduct by USATDS counsel or support personnel that could be considered sensitive or serious in nature, or could have a significant impact on the operation of USATDS. Incidents that, by their nature, may receive publicity or cause embarrassment should be reported immediately to the Deputy Chief, OTC. For example, death, serious accident, or apprehension or other activity directed at or involving a USATDS counsel and MP, MPI, CID or any other police or investigative agency, should be immediately reported.

1-9. RELEASE OF INFORMATION.

a. General Policy. RDCs and SDCs are encouraged to engage the media to tell the USATDS story. They should seek out opportunities in print, audio and video media to publish organizational enhancing information about USATDS' mission, structure, independence, history and services provided.

b. The release of information to the public, to include the media or installation Public Affairs Office (PAO), by TDS personnel concerning past, present or future criminal or administrative proceedings, however, is generally inappropriate but may be proper in unusual circumstances where it is in the client's best interest and where the release complies with applicable regulations, rules of professional responsibility, the Privacy Act and other pertinent statutes. In those unusual circumstances, TDCs and/or SDCs will consult with their RDC to discuss the advisability of releasing information to the public. Individual counsel will obtain the approval of their RDC prior to releasing any information even if it appears to be in the client's best interest. The RDC may contact OTC, USATDS to discuss the release and to receive advice regarding whether the release appears to be in the client's best interest.

c. No member of USATDS will, under any circumstances, prepare a written statement for publication, provide information for publication, or permit himself to be quoted on such proceedings without first discussing the matter with the RDC and OTC. If a decision is made to release information to the public, the TDS counsel will consult with PAO regarding the release or request that personnel from PAO be designated to assist them with the case.

d. PAO Contact. If the PAO contacts a member of USATDS for information or comments about official or legal matters, USATDS counsel should normally direct the PAO to the Office of the Staff Judge Advocate (OSJA) as the appropriate office to supply information on such matters. If the PAO persists in requesting information or comments from a member of USATDS, the USATDS counsel should ask the PAO to submit the request in writing.

e. References. In releasing information, USATDS personnel will adhere to the policies of AR 360-5, Public Information, paragraph 3-6, AR 27-26, Rules of Professional Conduct for Lawyers, their state bar ethics rules, and this SOP.

d. Congressional Inquiries. Generally, the release of information in response to Congressional, White House, or other state or federal agency inquiries concerning military justice issues, is the responsibility of the local OSJA. Any requests by the OSJA for USATDS counsel to assist in that responsibility will first be discussed with the RDC and OTC.

e. Congressional Correspondence for a Client. Infrequently in the representation of a client, it may be appropriate for the TDC to assist the client to communicate with his elected counsel. As a general rule, correspondence to a client's elected representative will be prepared for the client's signature. In those exceptional cases where defense

counsel believes Congressional correspondence over counsel signature to be in the client's best interest, the correspondence will begin with the following disclaimer ("I am writing on behalf of X in my capacity as his Trial Defense Attorney. X requests your assistance...") and will be reviewed in advance by the RDC.

1-10. PROFESSIONAL STANDARDS. All USATDS counsel will conduct themselves professionally and ethically. AR 27-26 sets forth the ethical requirements of all Army lawyers. USATDS counsel will review this regulation thoroughly before beginning practice as a USATDS counsel, and will consult it, as well as their USATDS supervisory chain of command, as needed. TDS counsel will assure that TDS enlisted support maintain appropriate standards under AR 27-26.

1-11. HANDLING OF CLIENT FUNDS AND PROPERTY. USATDS counsel will never take possession or control of a client's money or other property. Clients should request assistance from their unit or make other arrangements if they need assistance with their money or property. It is also the client's responsibility to directly pay all bills associated with his defense, make restitution for stolen or misappropriated funds, and directly pay expert witnesses or contracted members of the defense team.

1-12. DEFENSE COUNSEL EXPERTS. USATDS counsel will not enter into contracts to engage the services of experts to assist the defense (either as an expert member of the defense team or an expert witness). Further, USATDS counsel will not obligate the Army, the command prosecuting the client, or USATDS to pay for the services of an expert. Before USATDS counsel interview prospective experts to determine their potential as a team-member or witness for the defense, the counsel will inform the expert of this policy and R.C.M. 703 concerning production of witnesses. During the initial interview with the prospective expert, or immediately thereafter, the USATDS counsel should memorialize this information in writing and provide the writing to the prospective expert. In circumstances where a client wishes to contract an expert to assist the defense, such contracts should be executed between the client and the expert.

1-13. DEFENSE PROPERTY EVIDENCE. , USATDS counsel may be advised of the existence of physical evidence which may be exculpatory or inculpatory to their client's case. In rare circumstances, USATDS counsel may be asked to receive the physical evidence that may be helpful or harmful to the client. Actual receipt of the evidence should be avoided in most instances. USATDS counsel will contact superiors for ethical guidance before receiving physical evidence from any source.

1-14. CLASSIFIED CASES.

a. General Policy. USATDS counsel will notify their SDC and RDC immediately upon forming an attorney-client relationship in a potential classified case. Government classification levels include Confidential, Secret, and Top Secret. Special Access Programs (SAP) may further restrict access to information. USATDS counsel should be familiar with paragraph 1-333, AR 380-5. USATDS counsel will need to be

“read on” and probably complete a DA Form 5479, Request for Access to Special Program (RFA) if the counsel needs access to information in a SAP.

b. Guidance. USATDS counsel may want to maintain two files when working on a classified case – a non-classified working papers file and a file containing classified documents. The counsel will ensure that the OSJA provides sufficient facilities or equipment to store classified documents IAW security procedures. USATDS counsel will comply with M.R.E. 505(h)(1) by notifying the trial counsel in writing if they intend to disclose classified material at a court-martial.

c. Further Guidance. The guidance provided above is not all-inclusive. USATDS counsel involved in a specific case will need to contact the appropriate command security personnel to determine the requirements for obtaining, transporting, holding and disposing of classified documents and classified information.

1-15. PHYSICAL RESTRAINTS FOR CLIENTS IN PRE-TRIAL OR POST-TRIAL CONFINEMENT. USATDS counsel must comply with rules and orders concerning prisoner security issued by military judges and confinement facility commanders. When prisoners are outside the confinement facility, confinement facility commanders may require hand and/or leg restraints on the prisoners. USATDS counsel may request the confinement facility commander to remove hand restraints during confidential consultations so that the client can adequately assist with his defense. USATDS counsel will not, as a condition for granting such a request or for any other reason, accept responsibility for prisoner security. If such a request is approved, however, the USATDS counsel must take reasonable precautions to minimize opportunities for the client to escape or injure someone. This may include stationing guards from the unit close at hand during the consultation.

Chapter 2. PERSONNEL

2-1. PERSONNEL SELECTION AND ASSIGNMENT.

a. OTC and RDC Responsibilities. The Chief, USATDS, in coordination with the RDC concerned, approves the assignment of new SDCs. The Dep Chief, USATDS, maintains liaison with the Personnel, Plans and Training Office (PP&TO), Office of The Judge Advocate General (OTJAG), concerning all personnel requirements of USATDS. RDCs maintain liaison with PP&TO and SJAs concerning incoming and departing TDCs.

b. Stationing. Stationing of counsel, including transfer within USATDS, is made by PP&TO after coordination with USATDS. RDCs outside of the continental United States (OCONUS) will provide the OTC with language for inclusion in orders which will ensure correct stationing (e.g., "Assigned to U.S. Army Trial Defense Service, U.S. Army Legal Services Agency, 901 N. Stuart Street, Arlington, VA 22203, w/duty at Vilseck Law Center, U.S. Army Trial Defense Service, Europe Region, APO AE 09112, and attached for administrative and logistic support (less UCMJ) to HHC, 1st Infantry Division, APO AE 09036"). Special care and consideration should be used for TDS assignments to Sustainment Brigades and Commands.

c. Tour Lengths. The normal tour for TDCs is 18-24 months, except in short tour areas. The normal tour for SDCs and RDCs is two years. USATDS officers requesting relief as defense counsel and reassignment will submit the request, with appropriate justification, through USATDS channels to the Chief, USATDS, for appropriate action. The normal tour for enlisted Soldiers will be 12 months.

d. UCMJ Authority. The Commander, TJAGLCS, exercises jurisdiction under Article 15, UCMJ, and SPCM jurisdiction over all USATDS personnel. The Commander, Military District of Washington, exercises GCM jurisdiction over all USATDS personnel.

2-2. NEWLY ASSIGNED COUNSEL and FAMILIES. RDCs will ensure that a sponsor is appointed for each newly assigned USATDS counsel. Upon arrival at an initial or new duty station, all USATDS personnel will process their finance records with the local servicing Finance and Accounting Office (FAO). The local Military Personnel Office (MILPO) maintains military personnel records of USATDS. Medical and Dental Records of USATDS counsel will be maintained IAW local installation policy. Upon arrival at a duty station, newly assigned USATDS counsel will complete the biographical information report at Appendix B and forward a copy to OTC. Incoming counsel must contact USATDS OTC prior to or immediately upon their arrival to ensure they have been properly registered in the Defense Travel System (DTS) and have an active government travel card. RDCs will make every effort to ensure that family members are connected with a family readiness group (FRG) (either an informal TDS group or the local command FRG).

2-3. ADDRESSES. Each USATDS counsel will have an official duty station address. To prevent delay of mail, USATDS personnel should ensure that locators and correspondents are informed that, although assigned to 901 N. Stuart Street, Arlington, Virginia, their address is at the local station. USATDS counsel should check with local installation mail personnel regarding exact mailing addresses for TDS offices to ensure mail is properly routed.

2-4. OFFICER AND NONCOMMISSIONED OFFICER EVALUATION REPORTS.

a. Policy.

(1) Each USATDS field office will maintain a current copy (to include all changes) of AR 623-3, and DA Pam 623-3 Evaluation Reporting System. USATDS personnel will become familiar with their respective responsibilities under these regulations to ensure the orderly processing of OERs and NCOERs.

(2) RDCs will establish OER and NCOER suspense and control systems to ensure timely completion and submission of OERs and NCOERs, and ensure that personnel are aware of individual evaluation responsibilities, suspense dates, and the purpose and principles of the evaluation process. RDCs will forward a regularly updated copy of the published rating chain to OTC. OTC will assist RDCs in meeting the suspenses for any evaluations that must be processed at OTC and TJAGLCS.

(3) Proper functioning of the OER and NCOER process requires the combined efforts of all USATDS personnel. The rated soldier and rater must communicate.

b. Evaluation Process.

(1) Initial Counseling. For OERs, initial counseling (within 30 days of the beginning of the rating period) including a review of the front side of the OER Support Form (DA 67-9-1). The rated Soldier (NCO and Officer) should complete and process their support forms in MYFORMS on the Army Knowledge Online (AKO) portal/website. Thereafter, continued discussion of performance and objectives as well as the mandatory counseling required by AR 623-3, are vitally important to this process. For NCOERs, initial counseling (within 30 days of each rating period) and continued counseling (at a minimum, quarterly counseling IAW AR 623-3, para 1-8e) must be conducted.

(2) Initiation of Support Forms -- NCOERs & OERs. The rated Soldier (NCO and Officer) must prepare and process their support forms in MYFORMS on the Army Knowledge Online (AKO) portal/website. The completed support forms must be forwarded to the rater within 30 days of the end of the rating period. TDS personnel must ensure that all forms are initiated in a timely fashion (paragraph 2-4d, USATDS SOP) and that all OERs, authorized or required by regulation, comply with local procedures.

All completed and signed (by the rating chain and ratee) evaluations must be sent to HRC via the MYFORMS portal on AKO by the Deputy Chief or Legal Administrator at OTC.

(3) Early Preparation of NCOER & OER Forms. All OERs and NCOERs, **will** be forwarded to the rater NLT the 30th day following the conclusion of the rating period. Raters should forward their draft form to the senior rater within 60 days after the close of the rating period. For any evaluations that have a rating chain member at OTC or above (TJAGLCS/OTJAG, etc.), they must be received at OTC NLT 25 days after the thru date. Finally, the completed rating should be provided to the rated officer and processed to HRC within 90 days following the end of the rating period.

(4) RDCs and SDCs are expected to be as familiar with the career aspirations, potential and criteria and promotion and selection boards of all TDS personnel—officer and enlisted within their regions. Draft NCOERs should be coordinated with the senior JAGC enlisted at each location.

c. Rating Scheme.

(1) RDCs will publish a rating chain for all personnel whose rating chain is within the region.

(2) The Legal Administrator/Chief Warrant Officer, USATDS with the approval of the Chief, USATDS will publish the rating chain for all TDS personnel rated or senior rated by OTC personnel and will maintain a copy of all published rating chains within each region and Legal Service Organization (LSO).

(3) As a general rule for (Active Component and mobilized counsel)TDCs will be rated by their SDC and senior rated by their RDC; SDCs will be rated by the RDC and senior rated by the Dep Chief, USATDS (for company grade SDCs) or the Chief, USATDS (for field grade SDCs); RDCs are rated by the Chief, USATDS and senior rated by the Commander, TJAGLCS.

2-5. ABSENCES FROM DUTY.

a. Policy. AR 600-8-10, Leaves and Passes, prescribes the basic procedures and policies for leaves and passes. All USATDS personnel must be familiar with the regulation requirements prior to requesting leave or a pass. All personnel will be encouraged to take leave throughout the year whenever possible to prevent the accumulation of use or lose leave. Normally, personnel should not take more than 14 days of consecutive leave. Supervisors will ensure that no personnel lose leave at the end of a fiscal year. Only the Chief, USATDS, can approve leave in excess of 30 days, except in the case of maternity or other medical leave.

b. Leave. DA Form 31 will be used to request and authorize all leave. The DA Form 31 is used by the servicing FAO to maintain individual leave accounts.

(1) Approval of Leave. The RDC will approve all leave requests (up to 30 days) within the region. The RDC may authorize SDCs to sign the leave requests of USATDS counsel. Prior to approving leave, the SDC and RDC will ensure that the absence of the USATDS counsel will not impair the orderly performance of the field office's mission.

(2) Processing of DA Form 31. Each SDC will determine the policies for processing the DA Form 31 with the supporting command/MILPO and the FAO. Prior to commencing leave and upon returning from leave, counsel will notify the SDC or RDC. Counsel will complete applicable portions of DA Form 3. To assure that counsel are using leave appropriately, supervisors may review counsel's LES. DA Forms 31 will be submitted to the appropriate office(local or within TDS) for processing prior to the starting date of the leave. IAW AR 27-10, the local command (MILPO/FAO) will provide maintenance support for DA Form 31 to assure leave is properly deducted from counsel's leave balances. Commanders to whom USATDS personnel are attached will not usually be leave approval authorities, however, RDCs are authorized to negotiate local variations as necessary.

(3) Ordinary Leave Procedure for RDCs. The Chief or the Dep Chief, USATDS approves all leave requests of RDCs. RDCs, however, are authorized to sign for the Chief, USATDS in Blocks 12 and 13 for periods that do not exceed 14 days. RDCs may authenticate their date and time of departure and date and time of return from leave on copies 1 and 4, DA Form 31. They will notify OTC of any scheduled or unscheduled leave and the name and contact information for the acting RDC during their absence.

(4) Emergency Leave. TDCs may obtain approval by telephone for emergency leave from their SDC prior to commencing leave. SDCs will immediately notify the RDC and process the DA Form 31. RDCs needing to go on emergency leave may obtain approval by telephone from the Dep Chief or the Chief, USATDS. When an approving authority is unavailable, the requesting counsel will notify the Legal Administrator, USATDS regarding the emergency leave situation.

(5) Terminal leave. Terminal leave periods must be approved by the Chief, USATDS.

(6) All Other Leave. Other periods of leave, including permissive TDY, will be processed IAW AR 600-8-10.

c. Passes and Administrative Absences. SDCs may approve special passes and administrative absences not exceeding 1 duty day (plus allowable non-duty days). The RDC or higher authority must approve administrative absences exceeding one duty day. Other periods of absence, such as quarters or hospitalization of USATDS counsel, which exceed one day, will be reported to the RDC.

2-6. TEMPORARY DUTY.

a. Policy: It is the general policy of USATDS to use TDY only when necessary to accomplish an assigned defense related mission. DTS will be used to process all TDS travel. TDY costs will be kept to the minimum by observing the following specific policies:

(1) Government transportation and quarters will be used when available unless the order issuing authority (RDC if BTO is used) determines that such use adversely interferes with mission accomplishment.

(2) Privately owned vehicle (POV) travel generally will not be used other than for relatively short distances (up to 300 miles, one way). Government vehicles (GOV) will be requested for any travel involving driving.

(3) Care will be taken to ensure the most cost effective modes of travel are used, especially for airfare. Travel should be booked well in advance and made from major airports to incur additional savings.

(4) Rental vehicles can be authorized for travel if a GOV is not available and the rental cost is more cost effective than airfare. Rental vehicles will only be used in conjunction with air travel when they are considered mission essential. Use of public transportation is strongly encouraged.

(5) Off-post lodging/ hotel rooms will be booked for same gender, double occupancy by Soldiers in the rank of O-3/Captain and below when two or more are traveling to the same location. Soldiers in the rank of O-4 and above will have single occupancy accommodations, unless otherwise directed by the memorandum of instruction given for the temporary duty.

b. Responsibilities:

(1) The Program Analyst, USATDS:

(a) Reviews all TDY requests processed thru DTS.

(b) Monitors all TDY expenses; and

(e) Advises the Dep Chief and the Chief, USATDS, concerning all fiscal matters related to TDY, including requests for exceptions to policy.

(2) RDCs OCONUS (Regions VI, VII, and VIII, and CENTCOM):

(a) Authorize all TDY travel originating within their respective geographic areas of responsibility;

(b) Establish specific policies and procedures for evaluating TDY requests within their respective geographic areas of responsibility;

(c) Monitor the expenditure of TDY funds and report to the Program Analyst concerning all fiscal matters relating to TDY which originate within their regions;

(d) Coordinate all TDY requests involving travel between CONUS and OCONUS areas with the Operations Officer, Legal Administrator, or the Program Analyst USATDS; and

(e) Advise the Program Analyst of the arrival and departure of USATDS counsel in order to obtain and cancel blanket travel orders.

(f) Ensure that final settlement vouchers and actual airfare if not on the orders are processed within DTS in a timely manner (NTE 5 business days after return from travel) to the Program Analyst, USATDS thru DTS.

(3) RDCs, CONUS:

(a) Authorize all TDY travel originating within their respective geographic area of responsibility;

(b) Upon submission of a TDY request by an SDC, evaluate the request and determine whether it is mission essential;

(c) After evaluation of the request, approve the TDY request and its submission to the Program Analyst;

(d) After TDY travel has been processed, monitor expenditures until conclusion of the TDY; and

(e) Ensure that final settlement vouchers and actual airfare if not on the orders have been forwarded in a timely manner to the Program Analyst, USATDS.

(4) Requests for TDY authorization to attend Continuing Legal Education (CLE) courses will be submitted through the Chief, DCAP to the Dep Chief or Chief, USATDS (paragraph 5-3d USATDS SOP).

(5) SDCs:

(a) If delegated by the RDC, authorize travel of less than 12 hours (IAW Chapter 4 JTR) by USATDS counsel assigned to their field office;

(b) Coordinate all TDY requests with the RDC and submit the requests for RDC approval;

(c) After obtaining approval from the RDC, estimate all TDY related costs (including travel and per diem costs, nature and duration of the TDY) and transmit this information within DTS to the Program Analyst, USATDS; and

(d) Ensure that the TDY orders for counsel are prepared properly IAW paragraph 2-6c, USATDS SOP.

(6) USATDS TDCs:

(a) Ensure proper enrollment in DTS and maintenance of the administrative information in the DTS profile;

(b) Ensure maintenance and timely payment of individual government travel card;

(c) When government quarters are not used, obtain and submit a certificate of nonavailability with the DTS voucher; and

(d) Within 5 business days of travel completion, ensure DTS voucher is properly submitted

c. TDY Orders:

(1) All TDY orders must be prepared thru the Defense Travel System DD Form 1610 IAW AR 600-8-105, Military Orders.

(2) Each SDC is responsible to ensure all clearances for travel are properly obtained. Support personnel in each field office should be trained to carry out these duties.

(a) USATDS SOP for Orders and Vouchers;

(b) Authorized purposes for TDY;

(c) Samples of amendments to, and revocation of, DD Forms 1610;

(d) Excerpts from the Joint Federal Travel Regulation (JFTR) pertaining to use of POV for the TDY traveler's convenience, use of rental cars, and use of government quarters;

(e) The current fiscal year fund citation; and

(f) The lodging program for travel to the National Capital Region.

d. Local Travel In and Around the Permanent Duty Station (PDS): RDCs may authorize reimbursement for transportation expenses incurred by USATDS counsel who must travel in and around the PDS to provide defense services. RDCs may delegate this authority to SDCs. The Criteria for reimbursement is contained in the Joint Federal Travel Regulation (JFTR), Chapter 3, Section U3505. In accordance with that provision, mileage reimbursement for travel that begins or ends at the USATDS counsel's residence is only authorized if the travel exceeds the counsel's ordinary commuting distance, regardless of the transportation mode ordinarily used to commute to the PDS. Consequently, when completing such travel reimbursement requests, USATDS counsel will ensure ordinary commuting distance mileage is subtracted from the total mileage when the travel begins or ends at the counsel's residence. USATDS counsel will submit claims for reimbursement within DTS designating the appropriate funding source. In accordance with AR 27-10, paragraph 6-5, USATDS counsel will submit claims to USALSA for travel to courts-martial and Article 32 hearings and to the supported command for all other travel.

e. Country Clearance for OCONUS Travel. Clearance through APACS is mandatory for processing DoD sponsored foreign travel in all Combatant Commands effective 01 May 2008. APACS as the web-based tool used to create, submit, coordinate and approve personnel travel clearances (Special Area, Theater and Country) for DoD sponsored travel. In order to meet this requirement when travel OCONUS is necessary to accomplish the defense mission, the detailed TDC will contact the Operations Officer at USATDS HQ IMMEDIATELY upon notice of the required travel OCONUS. The Operations Officer will determine whether country clearance is required and submit the request for the traveler(s).

(1) Traveler's Responsibility: The traveling TDC will provide the following information to the Operations Officer at USATDS HQ:

(a) Name(s) of traveler(s) to include: Rank, organization, title, security clearance, date you last completed AT on-line training;

(b) Country(ies) to be visited, to include specific location (Camp Spiecher, Kabul, etc.);

(c) Dates of travel, to include arrival and departure times for each location to be visited (DTS authorization and flight itinerary is helpful);

(d) Purpose of mission (i.e., interviews/depositions of witnesses – include name and unit of witnesses);

(e) POC at location to be visited (usually SDC), to include name, rank, unit, phone, fax and email;

(f) Contact information for traveler (work phone, cell phone, email);

(g) Theater clearance must be requested at least 30 days prior to travel. If TDC is unable to meet this 30-day lead-time requirement, a thorough explanation must be provided);

(2) Additional Information Requirements: Theater Specific Information and Country Specific Information may also require additional information, to include (but not limited to): training documentation such as Training documentation such as: AT/FP Level 1 (DoD), Personnel Recovery, Sere 100 (EUCOM, PACOM), ISOPREP (SOUTHCOM, EUCOM, PACOM), Antiterrorism, Plan/Buddy-Rule (PACOM), Force Protection responsibility (EUCOM), Human Rights training (SOUTHCOM), Passport information for each traveler, Flight information (Name of airline, flight number), Social Security number, Mode of transportation between locations in the country of planned travel.

(3) HQ, USATDS Responsibility: The Operations Officer will request clearance through APACS, will monitor the progress of the request, and will maintain contact with the traveler(s) on the status of the request.

f. Authorized Airports for Temporary Duty Travel. Appendix J lists the default required airports for all TDS travel (mission and training) which requires travel by airplane. All AC TDS personnel and mobilized RC TDS personnel must use these airports unless authorized by the Deputy Chief, HQ, USATDS.

(1) If your travel requires air travel and you are requesting to fly in or out of an airport not listed, you must make a written request to the Deputy Chief, HQ, USATDS, via email and provide written documentation from your Government Commercial Travel Office (flight itinerary, etc.), or a DTS screen printout, to show the cost savings realized when you travel from an alternate airport. Once approved by the Deputy Chief, HQ, USATDS, attach the written request and CTO documentation to your DTS authorization.

(2) Remember to make every effort to schedule and book your travel plans early. The earlier you book your travel, the more savings you can generate for the organization which allows us to cover the costs of travel for everyone in USATDS during that fiscal year.

2-7. PERSONAL STANDARDS. Each USATDS personnel will maintain Army standards of weight, personal appearance and physical fitness. Supervisors will ensure that USATDS personnel are aware of the Army standards and have sufficient time and support to reach and maintain the standard.

2-8. LOCAL ADMINISTRATIVE AND PERSONNEL POLICIES.

a. USATDS Policy. USATDS personnel will normally comply with supporting unit administrative and personnel policies including, but not limited to, local duty hours, weapons qualification, physical and military training, the Army Physical Fitness Test (APFT), and similar requirements fulfilled by the local OSJA. The SDC is responsible for

ensuring that USATDS personnel receive timely notification of all scheduled training from unit officials or the local OSJA. In addition to the foregoing policies, TDS enlisted personnel will, to the maximum extent possible, participate in all soldier training programs and meet all soldier and unit requirements. Attendance and instruction at Officer Professional Development provided by the local OSJA is also encouraged.

b. Exceptions. The RDC may permanently excuse USATDS counsel from compliance with local administrative policies when the policies directly conflict with the USATDS mission. The SDC may temporarily excuse USATDS counsel from compliance. Excusals, on other than a limited or temporary basis, will be immediately reported to the Chief, USATDS.

2-9. TRAINING RECORDS.

a. OTC and RDC Responsibility. The RDC and OTC will review maintenance of physical fitness, weight standards, and soldier training in field offices during their periodic visits.

b. SDC Responsibility. The SDC is responsible for maintaining accurate and timely training records on each counsel's compliance with Army weight standards (AR 600-9, Army Weight Control Program), and the requirement for a semi-annual APFT. The SDC will weigh each USATDS counsel when the counsel initially joins a field office. Thereafter, the SDC will ensure that each USATDS counsel is weighed in conjunction with the semi-annual APFT, or more often, if necessary.

c. APFT Procedures. At a minimum, each USATDS counsel will take the APFT every six months. All USATDS counsel, except for those with a temporary or permanent profile that prohibits physical activity, are required to participate in physical training. If a counsel receives a profile which limits physical activity for a period greater than 30 days, the SDC will immediately forward copies of the DA 3349 to the RDC. SDCs will ensure that counsel with profiles comply with paragraph 8b, AR 350-15, Army Physical Fitness Program.

d. Military Training. USATDS counsel will conduct weapons qualification and NBC training consistent with paragraph 2-8a, USATDS SOP.

2-10. MILITARY AWARDS.

a. Policy. Military awards will be approved on an individual basis in recognition of, and as a reward for, extraordinary, outstanding, and meritorious acts, achievements, and services. The Army awards system does not presuppose that an individual is entitled to a merit, service, or achievement award upon departure from an organization, unless his achievements warrant the award. SDCs and RDCs may request awards from the local command or the Commander, TJAGLCS for their USATDS counsel. If an award is submitted to the Commander, TJAGLCS, the request must be submitted through the Chief, USATDS. While, in general, enlisted personnel will not receive an award based

solely on their time in TDS, in exceptional cases, supervisors may recommend enlisted personnel for impact awards to the local command.

(1) The Chief, USATDS will recommend approval or disapproval for an award submitted to the Commander TJAGLCS. The Chief, USATDS normally will not recommend approval of an award for a USATDS counsel who is PCSing to the local SJA, unless the SJA has a practice of routinely awarding officers who PCS to TDS. If the SDC does not recommend an end-of-tour award for a counsel PCSing to the local SJA office, the SDC will prepare a memorandum for the SJA that details the accomplishments of the USATDS counsel.

(2) SDCs will recommend USATDS counsel for impact awards immediately following the achievement to be recognized.

(3) Award recommendations will not be submitted for Soldiers who do not comply with the weight standards of AR 600-9 unless there are extraordinary circumstances.

b. Forms for Recommending Awards. DA Form 638 will be used to recommend awards and will be forwarded thru My Forms on AKO when submitted to OTC.

c. Preparation of DA Form 638 (Recommendation for Award). For the Army Achievement Medal (AAM) and the Army Commendation Medal (ARCOM), the immediate supervisor of the USATDS counsel will prepare and forward for approval the DA Form 638 through USATDS channels to the Commander, USALSA. For the Meritorious Service Medal (MSM), the recommendation is sent through USATDS channels and through the Commander TJAGLCS to The Judge Advocate General (OTJAG). RDCs may withhold from their SDCs the authority to submit award recommendations. USATDS counsel will follow local procedures to process awards approved by the local command. The following suggestions are provided for USATDS counsel preparing the DA Form 638:

(1) The proposed citation will be limited to no more than six lines. To leave more room for substantive comments, standardized lead-in and closing citation clauses may be omitted. The description of the USATDS counsel's performance must be concise and factual.

(2) It is important that all information contained in Part A be accurate. USATDS counsel should double-check to ensure that the previous awards (with oak leaf clusters) are correctly listed as well as whether the award is for achievement (impact), permanent change of station (PCS), or expiration of term of service (ETS).

(3) To avoid possible embarrassment in the event of the award's disapproval or downgrade, premature disclosure of information to the proposed recipient should be avoided.

d. Forwarding Awards to USALSA or OTJAG.

(1) The RDC will prepare a separate endorsement (if the RDC is not the originator of the recommendation) recommending approval, downgrade, or disapproval. The RDC will propose a desired presentation date and indicate whether the counsel complies with the weight standards contained in AR 600-9.

(2) Supervisors should submit all award recommendations in a timely manner. AAM or ARCOM recommendations submitted to TJAGLCS should be received at OTC, USATDS, NLT 45 days before the proposed presentation date. MSM recommendations must arrive at OTC, USATDS, NLT 60 days before the proposed presentation date. An untimely submission will not affect the OTC recommendation, but may preclude timely approval to meet the proposed presentation date.

(3) In unusual cases, where the award recipient has departed USATDS prior to presentation, OTC, USATDS, will forward the award to that counsel's new location. In cases where the recipient may be leaving the Army prior to the award's presentation, the supervisor should include a forwarding address for the recipient.

e. TDS Certificate of Appreciation. Where the RDC believes some form of recognition is appropriate but a military award is not appropriate at the time, e.g., when an enlisted soldier completes a 12 month tour in TDS and returns to OSJA without reassignment, an OTC TDS certificate may be requested.

2-11. DEPLOYMENT. SDCs will ascertain whether the supported SJA has deployment plans that require USATDS counsel to deploy with SJA personnel. The SDC will notify the RDC and the Chief, USATDS of any such plans. The Chief, USATDS, will evaluate any request from the SJA or commander for USATDS counsel to deploy with a unit and determine whether any USATDS counsel will deploy, and if so, when, the duration, which counsel, and the number of USATDS counsel that will deploy.

a. Training. To maintain readiness, USATDS counsel designated for possible deployment should, to the extent possible, train with the command that will deploy. USATDS counsel designated to support airborne units will maintain airborne status and comply with any special requirements for training, fitness, and readiness.

b. Deployment. Deployed USATDS counsel, unless otherwise directed, will normally be rated by the SDC in theater and senior rated by the RDC in theater. The RDC into whose region the counsel is deployed (receiving RDC) will provide technical and ethical advice to the counsel, assign cases to the counsel, and manage the workload of the counsel while deployed and ensure that their parent SDC/RDC is aware of their accomplishments and any other pertinent information. Prior to deployment, the RDC of the deploying counsel will coordinate thru OTC to the "receiving" RDC and provide the name of deploying counsel, the time and date of arrival, probable location, and the projected duration of the deployment. The receiving RDC will contact deploying counsel upon arrival and ensure that defense services are properly provided. The deployed

counsel will submit a monthly report of all their activities to their parent field office and the receiving RDC. The SDC of the parent field office will send this separate report to OTC along with the regular monthly management report.

c. Priority III Duties. When a supported command is preparing for, or engaged in, deployment operations, the deploying USATDS counsel is authorized to perform Priority III duties to the extent that these duties do not interfere with the performance of Priority I and II duties.

2-12. REQUESTS FOR RELIEF FROM ACTIVE DUTY AND

RESIGNATIONS. TJAG policy concerning requests for release from active duty and unqualified resignations is set forth in JAGC Personnel Policies. Such requests by USATDS counsel will be forwarded through USATDS channels and the Commander, USALSA, to OTJAG IAW the applicable regulations. The RDC will interview all counsel who are leaving active service to ascertain their interest in participating in the Reserve Component and the reason for their departure from active service. This information will be forwarded to OTC, USATDS.

2-13. ALLEGATIONS OF COUNSEL MISCONDUCT. Any complaint of mismanagement, ineffective assistance of counsel, misconduct, or ethical violations by USATDS counsel will be immediately reported to OTC by the supervisor of the counsel. All such complaints will be handled IAW AR 27-1, Judge Advocate Legal Services. USATDS counsel will notify their RDC (who will, in turn, notify OTC) prior to alleging mismanagement, ineffective assistance of counsel, misconduct or ethical violations against another attorney.

Chapter 3. OFFICE MANAGEMENT

3-1. DUTIES OF THE SENIOR DEFENSE COUNSEL (SDC).

a. General. The SDC, or in his absence the acting SDC, will supervise all USATDS activities and personnel in the field office, to include defense counsel on TDY and RC defense counsel.

b. Specific Duties. In addition to other duties set forth in this SOP, the SDC will:

- (1) Monitor the professional development of TDCs;
- (2) Detail USATDS IAW paragraphs 1-4b, 3-3, and 3-4 of this SOP;
- (3) Advise USATDS counsel in their preparation for trials, board actions, and other proceedings;
- (4) Conduct training with regard to trial tactics, ethics, procedures, counseling, and assist the RDC in regional workshops;
- (5) Perform duties as defense counsel;
- (6) Act as defense liaison with the SJA on matters of mutual interest;
- (7) Ensure the orderly provision of defense services in his jurisdiction, to include designation of an acting SDC in his absence;
- (8) Act as the initial contact to receive complaints concerning the defense function and take appropriate action where necessary;
- (9) Monitor the adequacy of administrative and logistical support and report deficiencies to the RDC;
- (10) Ensure that USATDS counsel comply with personal appearance standards, physical fitness, and soldier and training requirements;
- (11) Ensure that pretrial confinees are counseled by a USATDS counsel prior to or as soon after incarceration as possible, but in no event, later than 72 hours;
- (12) Coordinate with the SJA concerning mobilization and deployment planning and resource allocation;
- (13) Maintain a current copy of USATDS SOP and all OTC, USATDS, administrative mailings in the field office library;
- (14) Provide career guidance to subordinate personnel;

(15) Supervise and train enlisted and civilian clerical personnel; and

(16) Perform other duties in furtherance of the USATDS mission.

3-2. ESTABLISHMENT OF ATTORNEY-CLIENT RELATIONSHIP.

a. SDC Duties. The SDC will detail field and branch office counsel to represent Soldiers at courts-martial and administrative hearings.

b. Policy.

(1) Soldiers are entitled to USATDS services IAW law and regulation. The scope of USATDS services is defined in paragraphs 1-5 and 6-3, USATDS SOP and otherwise as specified by OTC. SDCs will ensure that support personnel who screen clients are aware of those acts that trigger the right to see USATDS counsel. No one should be denied counsel without the specific approval of the SDC.

(2) IAW United States v. King, 27 M.J. 664 (A.C.M.R. 1988), affirmed, 30 M.J. 59 (C.M.A. 1990), all suspects, who are entitled to counsel under Miranda/Tempia and who request assistance of a lawyer, are entitled to the expert assistance of counsel and the counsel's full representation. Full representation includes discussion of the facts of the case with the client and being present during any interrogation process. The counsel providing initial advice should inform suspects that the counsel may not be available to represent them in further proceedings, particularly if conducted at a distant installation. In such a case, the counsel providing initial advice should make clear to the suspects that another counsel will be detailed to represent them but that the counsel will continue to actively assist them until another counsel is detailed.

(3) Attorney-client relationships should be avoided during group counseling sessions (e.g., Article 15 briefings and military justice classes).

3-3. MULTIPLE ACCUSED SITUATIONS. USATDS counsel should not represent more than one client in conflict situations.

a. SDC Responsibilities. The SDC must ensure that all suspects or accused are promptly provided required counsel. Before forming an attorney-client relationship with any suspect or accused, the SDC should adhere to the following guidance:

(1) Make a Preliminary Assessment. The number of suspects initially involved may be greater than the number whose cases are eventually referred to trial. USATDS counsel will not be provided on a TDY basis in connection with administrative or nonjudicial actions at USATDS expense. For these reasons, the SDC must make a preliminary assessment of the situation to determine (a) the total number of clients potentially involved, and (b) the likelihood that individual cases will be referred to court-martial, as opposed to administrative or nonjudicial action. During the preliminary

assessment process, it may be appropriate to advise the suspects or accused on the USATDS organization and their rights to counsel. The SDC should consult the following sources to obtain information in order to make the preliminary assessment:

- (a) The SJA and staff;
- (b) Investigative police reports and witness statements; and
- (c) Other USATDS counsel who are representing co-accused (provided no privileged information is requested or received).

(2) **No Outside Counsel Requirements.** If the preliminary assessment indicates that the USATDS field office can provide representation to each suspect or accused, the SDC will then assign counsel to each suspect or accused.

(3) **Outside Counsel Requirements.** If the preliminary assessment indicates a likelihood that the USATDS field office cannot provide representation to each suspect or accused, the SDC will immediately advise the RDC of the results of the preliminary assessment. If necessary, the RDC or SDC may contact OTC, USATDS, directly regarding this matter. The SDC should explain to those suspects or accused needing detailed counsel from other installations the reasons for delay, actions being taken to secure counsel, and the time needed for a proper defense. The SDC should advise the suspects or accused to remain silent until the detailed counsel contacts them. The SDC will not form an attorney-client relationship with these suspects or accused during this advisement session.

b. **RDC Responsibilities.** Upon receipt of a multiple accused case report from a SDC, the RDC will assess the need for furnishing counsel on a TDY basis. The RDC will monitor TDY travel for counsel who are required to provide defense services at another field office within the region. The RDC will accomplish any necessary coordination with OTC, USATDS, and promptly advise the SDC of the identity of TDY counsel.

c. **Responsibilities of OTC, USATDS.** In conjunction with the concerned RDCs, the OTC USATDS will monitor TDY travel for counsel who are required to provide defense services at another field office in another region. This process will not be delayed because action is required after normal duty hours, on holidays, or on weekends. Direct communication, at all times, among the SDC, RDC, OTC, USATDS, and designated TDY counsel, is encouraged.

d. **Advice.** RDCs and members of OTC, USATDS are available at all times to give legal and tactical advice concerning representation of a client to TDCs and SDCs. TDCs and SDCs should avoid discussing cases with other TDCs and SDCs who may have actual or potential conflicts of interest. This policy is particularly crucial early in a case when it may not be clear whether multiple-accused are involved.

e. Role of SDC as counsel in multiple accused cases. AR 27-26, Rule 1.7 provides that a lawyer shall not represent a client where the representation may be materially limited by the lawyer's own interests. Since the SDC rates TDCs, where the SDC is representing a co-accused, a TDC's interest in having a favorable rating may constitute such a potentially conflicting interest. Accordingly, where the SDC is considering assigning himself as counsel to an accused in a multiple accused case, one of the following alternatives must be followed:

(1) Disclosure and consent. AR 27-26, Rule 1.7 indicates that the lawyer may represent a client where the lawyer's interests are involved if (1) he reasonably believes the representation will not be adversely affected and (2) the client consents after consultation. TDCs will review the specifics of the case and determine if they reasonably believe that their own interests will not adversely affect representation of the client. Where TDCs make this determination, they will advise the client of the situation and obtain the client's written consent. In such cases, the RDC will provide necessary guidance and assistance to the TDC, as circumstances require.

(2) Outside counsel. Where TDCs cannot make the determination of no adverse impact or where the client does not consent, the SDC will notify the RDC, who will assign counsel from outside the field office to assume the client representation that would otherwise have been undertaken by the SDC. Procedures outlined in para 3-3a(3), b, and c will be followed.

3-4. CONFLICT OF INTEREST SITUATIONS. If a USATDS counsel feels that he has inadvertently put himself in a conflict of interest situation, he should report his conclusion to the SDC. If the SDC is representing a client with conflicting interests, the TDC will not discuss the underlying facts and circumstances leading to the conflict. Upon determining that there is a conflict, or a strong potential for a conflict, the SDC will solve the conflict by assigning different counsel from within the field office. The SDC will inform the RDC as soon as possible of the situation and the resolution. If the SDC cannot resolve the conflict from within the field office, the RDC will resolve the conflict by assigning counsel from within the region. If the conflict cannot be resolved in the region, the RDC will ask OTC to resolve the conflict with USATDS counsel from outside the region.

3-5. MAINTAINING WORK PRODUCT CONFIDENTIALITY

a. Maintaining Confidentiality. The organization of the Judge Advocate General's Corp (JAGC) and USATDS requires that defense counsel working in the same office represent clients with conflicting interests. The SDC will establish policies and procedures to ensure that legal specialists, investigators, and other support personnel understand that work performed for an individual USATDS counsel is for that counsel alone.

b. Management of Client Files. Client files belong to the individual USATDS counsel while that counsel is assigned to the field or branch office. The USATDS

counsel will remove all personal case files when re-assigned from the field or branch office. Client files, privileged material, and individual work product will be safeguarded and protected in a manner similar to that prescribed for Army Legal Assistance Offices (see Chapter 5, AR 27-3) while those materials are maintained in the field or branch office. Counsel who have completed their assignments to TDS should retain files IAW any state bar requirements, or for the duration of any possible appellate processing or administrative relief actions, whichever is longer.

c. Client Access to Files. Clients are generally entitled to have access to materials contained in their files. If a counsel believes that there is justification for not releasing information to a client or former client when so requested, the counsel should contact his SDC for additional guidance.

3-6. MARRIED JAGC COUPLES. The assignment of JAGC married couples to the same installation may create the potential for conflicts of interest. The following situations are examples:

a. Spouse TC on the Same Installation. The spouse of a TDC is assigned to criminal law on the same installation (e.g., TDC in Fort Bragg Field Office, spouse assigned as trial counsel (TC) in OSJA, 82d ABN Division). The SDC will immediately report the assignment of a USATDS counsel's spouse to criminal law duties to the RDC. The RDC will inform OTC, USATDS. The SDC should not allow the TDC to defend Soldiers assigned to the Division where the TC spouse is assigned. This may require moving the TDC to another field office or out of TDS.

b. Spouse TDC on the Same Installation. The spouse of a TDC is assigned as another TDC in a different branch office on the same installation (e.g., both spouses assigned to the Fort Hood Field Office but one spouse works at the 1st Cavalry Branch Office and the other spouse works at the 4th ID Branch Office). The SDC will ensure that the spouses are not allowed to defend Soldiers with conflicting interests.

c. Spouse's Primary Duties Are Not Criminal Law. The spouse of a TDC is assigned to non-criminal law duties in same or different GCMCA. The SDC and TDC must ensure that no conflicts arise out of extra duties assigned to the non-TDS spouse (e.g., Article 32 Investigation Officer (IO), legal advisor to Article 32 IO, legal advisor to AR 15-6 board, advisor to discharge boards, or part-time military magistrate).

3-7. DETAIL OF DEFENSE COUNSEL.

a. Delegation of Authority. The Chief, USATDS, delegates the authority for the detail of defense counsel in courts-martial, Article 32 investigations, and in other judicial and administrative proceedings requiring such detail to all RDCs, SDCs, and to counsel assigned to OTC, USATDS, except for detailing counsel to represent military personnel from sister services (See paragraph 3-13c and APPENDIX C, USATDS SOP).

b. Announcement on Record. Detail of defense counsel will be reduced to writing or announced orally on the record at the proceeding for which the detail is required. In addition to the oral announcement, a copy of the writing detailing the assigned TDC will be included in the record of trial.

c. Assistant TDCs. One or more assistant TDC may be detailed to an individual case at the discretion of the detailing authority when warranted by the circumstances. Factors to be considered include, but are not limited to, the seriousness of the charges, the complexity of the case, the experience of the detailed TDC, the experience of the trial counsel, the availability and workload of other counsel, and the need to train other defense counsel. The detailing authority will detail assistant TDC in any case involving the death of a human being or involving a potential sentence to life imprisonment or death.

d. Detailing of Counsel Leaving TDS. TDCs who are PCSing or transferring to non-USATDS duties within 45 days will not be detailed to represent new courts-martial (pre- or post-trial) or administrative board clients.

3-8. REQUESTS FOR INDIVIDUAL MILITARY COUNSEL (IMC).

a. Responsibilities. The Chief, USATDS, is responsible for making determinations of availability of USATDS counsel under R.C.M. 506b(2), MCM. The Commander, TJAGLCS, acts upon appeals from determinations by the Chief, USATDS. The SDC is responsible for processing all requests for IMC initiated by his field office. If the request is for USATDS counsel not assigned to the field office, the request will be forwarded through the RDC to the Chief, USATDS IAW chapters 5 and 6 of AR 27-10. The procedures in R.C.M. 506b(2) will be followed. The RDC is responsible for monitoring such requests, and providing information and recommendations to the Chief, USATDS.

b. Policy Considerations. USATDS counsel will not solicit or encourage requests for their service as IMC. Prior to a determination of availability, USATDS counsel will not form an attorney-client relationship, either directly with a client or indirectly through his detailed counsel. This policy does not affect any duty or obligation a counsel may have due to an existing attorney-client relationship.

c. Advice to Client. When advising a client concerning his IMC request, detailed USATDS counsel should explain that a client is normally entitled to only one military lawyer, and that detailed counsel will ordinarily be excused once the IMC request has been approved. The client may request that detailed counsel remain as assistant TDC, but the request need not be granted. Counsel should memorialize the client's choice in writing, preferably signed by the client.

d. Responding to Requests for Information. USATDS counsel will not give prospective clients informal opinions, conclusions, or estimates as to their current or future availability to serve as an IMC. However, in responding to official requests for

information from the RDC or OTC, USATDS counsel will provide factual data concerning their current workload.

e. Requests for USATDS Counsel in Same Field Office. If a client requests another USATDS counsel in the same field office as the counsel initially assigned or detailed to represent the client, the SDC will make a preliminary assessment of availability of the requested counsel. The SDC will also immediately notify the RDC and make recommendations concerning the following:

(1) Whether to grant the request based on the preliminary assessment of availability;

(2) Whether to detail the requested counsel or process an IMC request (based on the likelihood of the client making another IMC request if the requested counsel is detailed);

(3) Whether to excuse the detailed counsel if the client desires that the detailed counsel remain on the case. This determination will be made based on the complexity of the case, the experience level of the detailed counsel, the experience level of the requested counsel, the case load of all counsel in the field office, and any other factors deemed relevant by the RDC.

f. Requests for non-USATDS Counsel. If the client requests a non-USATDS counsel as IMC, the SDC will refer the request to the convening authority (ATTN: SJA) for further action IAW the appropriate paragraphs in Chapter 5 and 6 of AR 27-10. The RDC will be advised prior to referral to the convening authority.

g. IMC Requests for Departing TDC. TDC PCSing or transferring to non-USATDS duties within 45 days will not be detailed to represent new courts-martial (pre- or post-trial) or administrative board clients. Unless the TDC has entered an appearance before a court-martial, counsel with an existing attorney client relationship is normally excused from further representation upon transfer from TDS. The responsible detailing authority will detail a TDC to represent the client. A client facing a court-martial must submit an IMC request if the client desires his original TDC to continue representing him. The new TDC should advise the client of these matters and assist the client in preparing any IMC request.

h. Communications to the Chief, USATDS. Except when informal communications are specifically authorized, IMC requests to the Chief, USATDS, will be in writing and sent by facsimile or e-mail transmission, to OTC, USATDS. At a minimum, the following information will be furnished:

(1) Name, grade, and station of the requested counsel;

(2) Name, grade, and station of the client and his detailed USATDS counsel;

(3) UCMJ Article(s) allegedly violated and a summary of the alleged offense(s) and a discussion of the known facts of the case;

(4) Date charges preferred and status of case (e.g., pending investigation IAW Article 32, UCMJ, referred for trial by GCM, bad-conduct discharge (BCD) SPCM, or regular SPCM);

(5) Date and nature of pretrial restraint, if any;

(6) Anticipated date and length of trial or hearing (if known);

(7) Existence of an attorney-client-relationship between requested counsel and the client, in this or any prior case; and

(8) Special circumstances or other factors relevant to an availability determination.

i. Duty To Client Pending IMC Determination. The TDC detailed to represent a client will continue to do whatever is necessary to protect the client's rights while an IMC request is pending. The detailed TDC must keep the client informed of changes in the case. The detailed TDC will brief the IMC about the case once the IMC is granted.

3-9. POST-TRIAL AND APPELLATE ADVICE AFTER TRIAL. IAW Chapter 13, AR 27-10, the following policies and procedures are prescribed concerning post-trial and appellate advice:

a. Timing. Apart from the advice a client will receive from the military judge pursuant to Rule for Court-Martial (R.C.M.) 1010, the TDC will explain to the client, as soon as possible, the post-trial (R.C.M. 1105 and 1106) and appellate rights that apply to the case.

b. Explanation of Post-Trial and Appellate Rights and Execution of Appellate Rights Form.

(1) Whenever possible, the TDC who represented the client at trial will provide post-trial and appellate rights advice to the client. If that counsel has been excused from further participation in the case pursuant to R.C.M. 505(d)(2)(B), or is not reasonably available for consultation with the client, a fully qualified counsel will be detailed to provide the advice. DCAP maintains current post-trial and appellate rights forms on the DCAP website.

(2) The original post-trial and appellate rights advisement form will be delivered as quickly as possible to the court reporter or TC for inclusion in the Record of Trial.

c. Waiver or Withdrawal of Appellate Rights. The TDC should rarely advise a client to waive post-trial or appellate rights. If the TDC believes that it may be in the best

interest of his client to waive post-trial or appellate rights, he will first discuss the matter with the SDC (unless the SDC has a conflict) and the RDC. The RDC will immediately notify OTC of any client who wishes to waive post-trial or appellate rights.

d. Means of Communication. The TDC who is detailed to represent the client for post-trial submissions (this may be a different counsel from the TDC who represented the client at trial) will consult with his client concerning matters to be submitted to the convening authority. The TDC will recommend what matters to submit but, ultimately, the client decides what matters to be submitted IAW United States v. Hood, 47 M.J. 95 (1998). Whenever possible, the TDC will communicate with the client in person. If the client has been transferred to another location and other means of communication (e.g., telephone, facsimile, teleconference) are inadequate, the TDC may request the command to fund TDY travel to meet with the client IAW paragraph 6-5, AR 27-10.

e. Maintenance of Records. The TDC should maintain copies of the post-trial and appellate rights forms with other files pertaining to the client. The TDC should note on all copies the destination, date, and means of transmittal of the forms.

3-10. OFFICE STAFFING/DUTY ROSTERS.

a. Policy. USATDS counsel will, within their capability, provide defense services at all times, including non-duty periods. Field and branch offices will maintain the same regular duty hours as the local SJA office. Field and branch offices will remain open during regular duty hours. The SDC will use answering machines and voice mail whenever counsel or clerical personnel are not available to answer telephones. Oral greetings on such machines will not make statements which could be taken as offering legal advice to the general public. In addition to administrative announcements, e.g., office hours, advice to potential clients should be as follows: "If you have been read your rights, you may wish to consider invoking them until you have an opportunity for a military defense counsel to explain your rights more fully and provide you with legal advice."

b. Duty Rosters. USATDS counsel will not perform duty as installation Staff Duty Officer or on-call officer for the supported SJA. The SDC will, in conjunction with the RDC, establish a written policy to provide defense services during non-duty hours commensurate with the number of USATDS counsel available in the field office. A copy of this policy will be provided to the SJA.

3-11. REQUESTS FOR INFORMATION FROM OTJAG. Requests for information, opinions, or guidance from divisions and offices within OTJAG shall be forwarded through the Chief, USATDS. This does not preclude direct communication with PP&TO regarding individual career matters (after consultation with your supervisor), nor does it preclude direct communication with appellate counsel.

3-12. MUTUAL SUPPORT RESPONSIBILITIES. As the mission requirements allow, the SDC may allow TDCs to perform Priority III duties for the supported SJA that are not inconsistent with the TDS mission.

3-13. DEFENSE SERVICES AT INSTALLATIONS WITHOUT USATDS COUNSEL.

a. USATDS Responsibilities. The RDC, after consulting with the SJA or JA at the installation without USATDS counsel, will devise a plan to provide defense services to Soldiers at that installation. USATDS will not provide counsel on a TDY basis at USATDS expense in matters that are nonjudicial or administrative in nature. The plan may include the command transporting the Soldiers to a field or branch office at another installation. The plan may also include counseling by video teleconference or telephone and facsimile funded by the command.

b. Assistance to staff judge advocates. If the defense workload at an installation temporarily exceeds the capability of the USATDS office to perform its mission, the SJA will, within the SJA's capability, provide non-USATDS counsel to assist in providing defense services. Non-USATDS counsel will not be detailed to a TDS office by an SJA without the approval of the Chief, USATDS, and when detailed will perform defense duties under the supervision of the SDC. Normally such duties will not involve representation at courts-martial or UCMJ, Art. 32, investigations. These duties may include providing USATDS information memoranda and video tape briefings pertaining to Article 15, UCMJ, administrative elimination actions, and adverse actions. This non-USATDS liaison will coordinate with the RDC and the SDC at the USATDS field office supporting the respective installation. As situations arise requiring the presence of USATDS counsel, the non-USATDS liaison will promptly notify the RDC or SDC, as appropriate. Non-USATDS lawyers providing any defense services will be trained and supervised by USATDS counsel. The Non-USATDS counsel may not be detailed to a matter in which a TDS counsel already has an ongoing attorney-client relationship.

c. Counseling By Other Services. Occasionally, USATDS counsel provide support to other services and JAs from other services provide defense counsel services to Soldiers. When it appears that this situation will occur more than occasionally in a particular geographic location, the SDC/RDC concerned should make a memorandum of understanding (MOU) with their JA counterparts from these other services to provide mutual support (R.C.M. 503(c)(3)). The Chief, USATDS has reserved authority to detail USATDS counsel to military personnel from sister services (paragraph 3-7a, USATDS SOP) and any proposed MOU must receive approval from the Chief, USATDS prior to implementation.

3-14. SUPPORT FOR TDY COUNSEL. Upon notification that defense counsel will be arriving at an installation in support of the USATDS mission, the SDC will immediately contact the counsel and make appropriate support arrangements for his visit.

3-15. STAFF RELATIONS.

a. SJA Relations. Requests or actions requiring the personal attention of the GCMCA or Chief of Staff should be routed through or coordinated with the SJA. Such matters should never be handled informally. USATDS counsel may, however, deal directly with other staff elements, unit legal sections, SPCM convening authorities, and subordinate commanders on routine judicial and administrative matters. SDCs will coordinate with SJAs in developing mutually acceptable local policies in this area.

b. Command Visits. All USATDS counsel are expected to visit commanders and staff elements routinely, attend officer calls, on and off duty social events and social functions when invited, volunteer their services, and otherwise take an active role in the military community.

3-16. PETITIONS FOR EXTRAORDINARY RELIEF.

a. Appointment of Defense Appellate Division (DAD) Counsel. To ensure experienced representation before the appellate court, each petition for extraordinary relief submitted by USATDS counsel to ACCA or CAAF should request the appointment of appellate defense counsel from DAD to represent the petitioner. The following provision should be included as a final paragraph in all such petitions:

"Petitioner further requests that pursuant to Article 70, UCMJ, The Judge Advocate General appoint appellate defense counsel to represent (her) (him) in any proceedings concerning this petition before this Honorable Court (CAAF or ACCA)"

If the USATDS counsel is not a member of CAAF or ACCA, the counsel should separately move to appear pro hac vice or apply for membership with the court with which the petition has been filed.

b. Procedures. TDCs should coordinate any petitions with an SDC, RDC, or OTC. USATDS counsel should coordinate the submission of motions, briefs, and other matters relating to the petition with appellate defense counsel. USATDS counsel will forward a copy of each petition for extraordinary relief and any supporting briefs or motions directly to the Chief, USATDS, at the time of their submission to the appellate court. For docketing, CAAF and ACCA will accept electronically submitted petitions. Counsel will assure compliance with appropriate rules of court (available on court website or through jagcnet: www.armfor.uscourts.gov (CAAF) or www.jagcnet.army.mil/acc (ACCA)).

3-17. APPELLATE REMEDIES ORDERED. An appellate court may order a variety of remedies, e.g., a DuBay hearing, or a rehearing on findings or on sentence. In such cases, TDS counsel will be appointed and will work with appellate defense counsel as outlined in the Memorandum of Understanding between TDS and DAD (Appendix D).

Chapter 4. MANAGEMENT REPORTS

4-1. PURPOSE. The web-based USATDS management reporting system provides data from each field office concerning workload, time spent in travel status, and work hours. The reports are designed to be management tools for the Chief, USATDS, RDCs, and SDCs. The RDC is “safety net” for the reliability of the report. The report is prepared, then reviewed by the SDC and certified as “final,” and then reviewed and approved by the RDC. Only after the RDC has “approved” the report will the information be considered final and the reporting requirement complied with. Requests for access will be submitted to OTC or thru the TDS management report website on JAGCNET.

4-2. REPORT PERIOD. SDCs will have the web-based management report prepared at the conclusion of each calendar month, reporting data for that month. After review to assure accuracy and completeness, the SDC will enter “final” on the report and notify the RDC telephonically or by email that the report is complete. The RDC will review reports on the web site and, after confirming accuracy and completeness, will certify the report as “approved.” The approval process will be complete no later than ten duty days following the last day of the month reported.

4-3. COLLECTING AND COMPILING DATA FOR THE MANAGEMENT REPORT. (Detailed instructions are contained in the Help menu tab at the web site for the reporting system.)

a. Calculating Hours.

(1) SDCs and TDCs will keep a daily log of HOURS ACTUALLY WORKED and record hours on a daily basis. At the month’s end, each TDC will report the hours to the SDC for inclusion in the management report. Each TDC will record hours worked on a daily basis. Time taken during the day for lunch will be subtracted from the hours worked. Hours worked on TDY status are recorded on the daily log as hours worked at the normal duty station. Physical training and TDY travel time are counted as hours spent working.

(2) Hours on the Management Report should be rounded to the nearest whole hour. Half-hours are rounded up.

b. Calculating Actions. SDCs will maintain records of clients counseled and court-martial completed for the field office as a whole. The SDC will ensure that the office records are accurate and up-to-date.

4-4. PREPARING THE MANAGEMENT REPORT. SDCs will use the following guidance in preparing the management report:

a. Field Office: Self-explanatory.

b. Region: Self-explanatory.

c. Counsel Strength: Record the number of certified, active duty USATDS counsel assigned at least half the month (10 or more duty days) to the field office.

(1) Counsel attending CAS3, other educational courses, deployed, or on extended field exercises away from the home installation for more than 10 duty days per month are not counted. Counsel on leave are counted in total counsel strength.

(2) Reserve officers and summer interns performing duty in a field office will not be counted in counsel strength. Their tours of duty should be noted and reported in the quarterly activity report (paragraph 4-5, below). Ensure, however, that any actions completed by these additional personnel are included in the office totals on page 1 of the management report.

d. Month and Year: This is the period reported, not the date prepared.

e. Description of Column Entries.

(1) COMPLETED JUDICIAL ACTIONS is the number of judicial actions that have been completed through an acquittal, conviction, or other disposition (see paragraph 4-5(e)(5), USATDS SOP, for the definition of "other disposition"). The number of COMPLETED GCMs, BCDs, and SPCMs for the month will be recorded in the appropriate box. Do not record "OTHER DISPOSITION" cases in the "TOTAL NUMBER OF COURTS-MARTIAL" boxes. Do not count courts-martial that continue past the end of the month without a finding of guilty or announcement of a sentence. The number of JUDGE ALONE and PANEL cases will be recorded in the appropriately marked box.

(2) A GUILTY PLEA occurs when the client pleads guilty to all of the charges and specifications (with or without a pretrial agreement). This also includes a case in which the government agrees to not contest any of the charges or specifications the client contests (by either not presenting evidence or withdrawing such charges or specifications).

(3) A MIXED PLEA occurs when the client pleads guilty to at least one of the specifications but contests another specification and the government presents evidence on those specifications the client contested.

(4) A CONTESTED CASE occurs when the client pleads not guilty to all specifications and charges.

(5) OTHER DISPOSITION occurs when the case is "disposed of" after preferral of charges by means other than trial by court-martial (e.g., discharge under the provision of Chapter 10, AR 635-200, charges withdrawn or dismissed by the convening authority). If

a case is withdrawn and referred to a lower (or higher) level court-martial, that particular case will be counted as an OTHER DISPOSITION and the new referral counted as a new action.

(6) NUMBER OF ARTICLE 15 ACTIONS is the number of nonjudicial punishment consultations conducted during the month. Clients who view a videotape and/or attend a briefing by counsel or support personnel, but do not stay for a private session with a counsel, are counted. Each consultation, including a telephone conversation or video-teleconference (VTC) meeting, is counted as an action. For example, if there are multiple consultation sessions with a client (e.g., if one client makes five visits for the same Article 15 in one or more months), each is counted as an action.

(7) ADMINISTRATIVE CONSULTATION ACTIONS are consultations not involving representation by a USATDS counsel, (e.g., where the soldier either is not entitled to a board, waives the board, or representation at a board does not occur; officer resignation in lieu of administrative elimination). If there are multiple consultation sessions, each session, including a telephone conversation or VTC meeting, is counted as an action.

(8) ADMINISTRATIVE BOARDS are the number of formal administrative boards, in which a USATDS counsel provided representation, completed during the month. All types of boards are recorded in this category (e.g., elimination, reduction, show cause, flight evaluation, physical evaluation).

(9) NUMBER OF SUMMARY COURT-MARTIAL CONSULTATIONS is the number of summary court-martial consultations conducted during the month. Just as with Article 15 actions, clients who view a videotape and/or attend a briefing by counsel or support personnel, but do not stay for a private session with a counsel, are counted. Each consultation, including a telephone conversation or VTC meeting, is counted as an action.

(10) NUMBER OF MILITARY JUSTICE CONSULTATION ACTIONS is the number of consultations with a suspect. This includes advice concerning Article 31/Miranda/Tempia and a discussion of the facts of a criminal matter when the exercise of military justice appears possible. This also includes counseling in line-up or show-up situations before charges are preferred. Each consultation, including a telephone conversation or VTC meeting is counted as an action.

(11) PRIORITY II and III DUTY ACTIONS is the number of Priority II and all Priority III actions, as defined in paragraph 1-5c, USATDS SOP.

f. Computation of Hours. SDCs will utilize the following guidance in computing hours:

(1) TOTAL AVAILABLE WORK HOURS is the total available work hours for your field office. Record the number of counsel assigned for the entire month. Multiply that number by the number of DUTY DAYS for your field office and multiply that number by eight hours. For each PCSing counsel, or counsel in transit to or from CAS3, record the number of days present for duty with your field office times eight hours. Use one line for each counsel. Add all counsel available work hours together. Subtract up to eight hours a day per attorney for SICK/LEAVE/PASS hours.

(a) DUTY DAYS is the number of non-holiday workdays. If the office is closed for a training holiday or an emergency (e.g., snow day), do not count that day as a duty day. If the office is closed for less than an entire duty day, that day is a duty day. However, subtract as pass hours the hours not worked.

(b) Time spent on field exercises, RDC workshops, trips to TJAGLCS, and other military continuing legal education (CLE) courses are to be counted as duty days. Time spent on TDY travel on other than normal duty days are not counted as duty days.

(2) HOURS ACTUALLY WORKED. TDCs provide these hours to the SDC at the end of the month (see paragraph 4-4a(1), USATDS SOP) from their daily log of hours actually worked. Hours spent traveling while in TDY status or "in and around" are counted as hours actually worked whether or not such travel occurred on a duty day.

(3) OVERTIME is computed by subtracting TOTAL AVAILABLE WORK HOURS from HOURS ACTUALLY WORKED; the difference is the amount of overtime hours.

(4) TRAVEL HOURS will be included in HOURS ACTUALLY WORKED and, in addition, separately recorded in the TRAVEL HOURS blocks.

4-5. ACTIVITY REPORTS.

a. General. SDCs will submit a quarterly activity report, in memorandum format, within 5 duty days of the end of each quarter to the RDC. The RDC will complete the regional quarterly report within 10 duty days of the end of each quarter and will attach the SDCs reports and submit the consolidated report to OTC, TDS.

b. Contents. This report will be a narrative discussion of significant activities within their region or field office. Topics may include management issues, personnel moves and requirements, litigation activity (e.g., cases, boards), site visits, training, logistical support, and SJA relationships.

4-6. SIGNIFICANT RESULTS REPORTS. As soon as practicable, counsel will submit to the RDC reports of significant results in a case which mark an outstanding performance by the counsel. Such results may include acquittals, “virtual” acquittals, non-capital referrals, pre-trial dismissals, disposition at an Article 15, or retention or favorable discharge at an administrative separation board. RDCs will forward by email to OTC, TDS, any results which in their opinion merit specific congratulations from OTC; the forwarding email will include the email address of the counsel to be congratulated

Chapter 5. DEFENSE COUNSEL ASSISTANCE PROGRAM & TRAINING

5-1. PURPOSE.

This chapter governs the operations of the Defense Counsel Assistance Program (DCAP). It sets forth information, policies, and procedures applicable to the support of defense counsel throughout the Army.

5-2. MISSION

The Defense Counsel Assistance Program (DCAP) provides training, resources, and assistance for Army defense counsel worldwide. DCAP assists the Chief of the Trial Defense Service (TDS) on the development of TDS policy and strategic initiatives. DCAP serves as the liaison between defense counsel and DAD concerning Extraordinary Writs.

5-3. ORGANIZATION

DCAP functions as part of TDS Headquarters and is an activity of USALSA, a field operating agency of TJAG. The office is composed of a chief and training officers, as necessary.

5-4. TRAINING.

- a. The Chief, USATDS is responsible for developing programs and policies to enhance the professional qualifications of defense counsel. DCAP is an internally developed program that was developed to aid in this process.
- b. DCAP assists the RDCs with their regional training conferences (normally two per calendar year). RDCs, with the assistance of DCAP, are responsible for the content of these training conferences. DCAP also plans a Leadership Conference once a year that includes at a minimum all RDCs from CONUS and OCONUS regions. In addition, DCAP will facilitate defense counsel attending Non-Department of Defense training courses.
- c. In order to properly perform their duties, RDCs and SDCs, along with the support of the respective SJA, commands, and the Army Judiciary, should make every effort for defense counsel to attend TDS training opportunities.
- d. DCAP provides training through resources like DCAP Sends, a weekly one-page newsletter to defense counsel worldwide on current legal topics; Primers, a 20 to 30 page how-to guide on certain evidentiary topic; and the DCAP Website, a library on-line with motions, information papers, expert pages, and new developments in the law that are pertinent to the practice of a defense counsel.

5-5. TECHNICAL ASSISTANCE.

- a. Defense counsel may request technical assistance or guidance from DCAP. Such requests may be telephonic, by electronic means, or in writing.
- b. The Chief, USATDS is the approval authority for a defense counsel assigned to DCAP to be detailed as a defense counsel for any matter. DCAP's primary role is assistance to defense counsel with legal issues that may arise in their cases. This can be given by either researching case law, answering specific questions, giving examples of motions, expert request, and other trial documents that might be necessary.

5-6. POLICY AND STRATEGIC INITIATIVES.

Chief, USATDS, along with the assistance of DCAP ensures that TDS policies stay current and also that all areas of training are conducted in an efficient manner which might require developments in the way funding is sourced, etc. DCAP helps update legislation, Executive Orders, Army Regulations, Army Pamphlets, and policy and procedures that deal with TDS to include but not limited to the UCMJ, the MCM, AR 27-10, and the TDS SOP.

5-7. GOALS.

- a. Defense Goals. The principal goals of the USATDS training program are:

- (1) To enhance the professional qualifications of all assigned personnel providing defense services. USATDS has a special duty to the Army and to individual Soldiers to provide professional services of the highest quality. This responsibility also extends to the counsel themselves and requires the proper training of newly assigned JAs, especially those with no prior trial experience. Additionally, counsel from mandatory CLE states need adequate training opportunities in order to maintain their professional standing. USATDS must also provide suitable on-the-job training for RC JAs who will assume defense counsel duties in the event of mobilization.

- (2) To promote the effective and efficient utilization of defense counsel resources. USATDS is committed to providing defense services, mandated under the military justice system, through a separate organization that is competent, ethical, and efficient. To meet this responsibility successfully, USATDS must teach its counsel effective leadership and management techniques. This type of training is based on the theory that a defense counsel who is a good leader and manager will represent his clients more effectively. Consequently, SDCs will require guidance on the administrative aspects of managing a field office.

- b. Military Goals. TDS personnel must always be cognizant of the fact that they are Soldiers and must also develop their soldierly skills during their TDS tour. Junior TDS officers should complete the Criminal Law Advocacy Course (CLAC) , within 6

months of assignment to TDS, while more senior officers should participate in CGSC/ILE whenever eligible. TDS enlisted personnel will be expected to participate in Army recognition programs, such as Soldier of the Quarter and other potentially career enhancing credentials, such as combat lifesaver courses or other qualifications that will support "Excellence" on an NCOER. They are also encouraged to take advantage of formal as well as informal education opportunities, whether military (e.g., Warrior Leaders Course) or civilian (e.g., University of Maryland classes) and will be given maximum possible support in the furtherance of these activities. Supervisors must assure these military training goals are made a priority.

5-8. ELEMENTS. The training program consists of several key elements:

a. Centralized Coordination. The Chief of the Defense Counsel Assistance Program (DCAP) and will coordinate implementation of the program at all levels.

b. Decentralized Operation. RDCs implement the training program at the regional level. The program gives them discretion to address special circumstances in each region and encourages different training approaches within a broad framework.

c. Planned Approach to Training. RDCs will continually monitor the training status of each subordinate attorney. RDCs must ensure that each USATDS counsel fully participates in a systematic program of regular, mandatory training.

d. CLE Courses and Seminars. USATDS CLE training will consist primarily of internally developed USATDS programs and attendance at selected courses offered by TJAGLCS. These programs may be supplemented, at the discretion of the Deputy Chief or Chief, USATDS, by criminal defense seminars and courses sponsored by other military services or civilian organizations.

e. Regional and Installation USATDS Workshops. Internally developed USATDS programs will generally require the active participation of all counsel in small, group-training sessions. Workshops will focus on the improvement of basic advocacy skills, ethics training, and management techniques.

f. On-the-job training (OJT). RDCs and SDCs are responsible for effective OJT, including active assistance to newly assigned USATDS counsel. Constructive criticism and guidance is critical for all subordinate counsel.

g. Publication of Training Memorandum and Review of Articles for Publication. USATDS Counsel are encouraged to submit practice tips, case notes, administrative notes, and lessons learned from courts-martial to the Chief, DCAP. DCAP will in turn include these submissions, as appropriate, in either the weekly "DCAP Sends" electronic newsletter or some other USATDS training publication to be distributed to each RDC and each field office. DCAP will also review articles submitted by USATDS counsel for publication in The Army Lawyer or the Military Law Review. Counsel are encouraged

to submit articles for publication and regions may be periodically requested to provide submissions.

5-9. RESPONSIBILITIES.

a. The Chief, USATDS:

(1) Exercises responsibility for policy and management of the USATDS training program;

(2) Exercises approval authority for all requests submitted by USATDS counsel to attend TJAGLCS and other military CLE courses; and

(3) Recommends approval of requests submitted by USATDS counsel to attend civilian CLE courses at government expense.

b. The Chief, DCAP

(1) Formulates and recommends policy for the USATDS training programs to the Chief, USATDS;

(2) Monitors and coordinates implementation of the USATDS training program;

(3) Prepares periodic advisory and informational training memoranda designed to inform counsel at field locations of recent appellate decisions, trends, and other new developments in the law, and to advise counsel on trial techniques, ethical problems, and other matters deemed appropriate;

(4) Processes all requests from USATDS counsel to attend military and civilian CLE courses, and makes recommendations to the Chief, USATDS;

(5) Provides available research materials to USATDS counsel upon request, such as copies of appellate briefs, sample pleadings, opinions, decisions and law review articles;

(6) Maintains a database on expert witnesses and acts as a clearinghouse for networking litigation support;

(7) Provides legal advice to USATDS counsel by email or telephone, when requested;

(8) Assists the Chief and Deputy Chief, USATDS, in coordinating the scheduling of RDC workshops;

(9) Assists the RDC with regional workshops by providing materials, instruction and suggested workshop formats;

(10) Maintains and augments the DCAP online resource center and library; and

(11) Develops appropriate fiscal controls for the training program.

c. RDCs:

(1) Plan and implement the USATDS training program within their respective region;

(2) Present a regional workshop at least once each fiscal year;

(3) Encourage participation in non-USATDS military CLE resources within the region; and

(4) Recommend counsel within their region for attendance at military and civilian CLE courses.

d. SDCs:

(1) Supervise, monitor, and coordinate implementation of the USATDS training program within the field office;

(2) Plan and execute installation workshops;

(3) Recommend USATDS counsel for attendance at military and civilian CLE courses;

(4) Maintain and evaluate current information concerning the training status of each USATDS counsel in the field office;

(5) As necessary, initiate TDC training requests to ensure the maintenance of appropriate expertise; and

(6) Monitor the individual professional development of each USATDS counsel.

5-10. REGIONAL AND INSTALLATION WORKSHOPS.

a. Procedures. RDCs will ensure maximum participation in regional and installation legal workshops and mandatory military training. RDCs and SDCs should use resources within their regions as much as possible although limited assistance will be available from DCAP for outside training opportunities. RDCs should also call upon the expertise of counsel who have attended pertinent military or civilian CLE courses, and who have gained particular expertise through litigation experience.

b. Coordination with SJA. Each SDC will inform the SJA prior to any curtailment of normal field office activities caused by regional or installation training. The SDC will notify the RDC of pending installation workshops, instructional topics, schedules, and other relevant information.

c. Minimize Costs. RDCs and SDCs should plan workshops so as to limit TDY expenses to a reasonable level. Where separate USATDS field offices are in close proximity, as in Europe, SDCs should jointly conduct installation workshops. This will permit expanded participation and subject matter coverage for a greater number of counsel, while minimizing curtailment of defense services to local commanders. RDCs will check with DCAP to ensure that funds are available for any regional or installation workshop.

d. Instruction Method. Counsel learn skills and retain their expertise longer if they practice working through problems which involve practical application of that skill. The primary emphasis in workshops will be on experiential and "hands-on" training designed to improve basic advocacy skills. An excellent instructional tool is The Advocacy Trainer, a publication compiled by the Criminal Law Department, TJAGLCS.

(1) Preparation for instruction should begin with selection of a task, e.g., the cross-examination of a court-martial witness, and identification of the particular conditions under which the task must be performed, e.g., cross-examination of a chemist in a drug case. The counsel in charge of this particular phase of the workshop should demonstrate a proper cross-examination, after which each counsel will "solve the problem" by conducting a cross-examination. If desired, demonstration of the proper method of cross-examination may follow the counsel's efforts to complete the task; there is no required pattern. After completion of the task, each counsel will receive a critique from the RDC and/or the SDC and other counsel. Videotaping of counsel's efforts is encouraged for review after the critiques.

(2) In staging problems and demonstrations, the course manager should consider the use of local experts, videotapes and non-legal personnel. Videotape demonstrations on various subjects are available through TJAGLCS and DCAP. Due to copyright restrictions, counsel will not copy videotapes without permission from Chief, DCAP, coordinated as necessary with the Chief, USATDS.

(3) The most important goal of a workshop is to involve participating counsel in the effort to solve a problem designed to improve a specific advocacy skill. Counsel will also participate in the critique that follows any other counsel's efforts; the critique is designed to provide constructive criticism and suggestions for improvement.

(4) RDCs should not attempt to cover too many aspects of the criminal trial process at a single workshop. Instead, the workshop should focus on several important aspects of one or two advocacy skills.

(5) Although many subjects covered in a workshop will concern courts-martial practice, RDCs should also cover other aspects of defense work such as Article 15 counseling, adverse administrative actions, negotiations, and management problems. Each RDC will provide, at a minimum, two hours of ethics instruction per workshop.

(6) Not every subject will lend itself to use of the experiential method. Lectures or roundtable sessions are appropriate for updates on recent case law and administrative or management problems, as well as presentations of technical data by local experts.

(7) Determination of a workshop subject matter rests within the sound discretion of the RDC or SDC concerned, and should focus on advocacy skills or particular problems within the region or at the installation.

5-11. TJAGLCS AND CIVILIAN CLE COURSES. The RDCs, in coordination with DCAP will encourage maximum attendance by USATDS counsel at courses sponsored by TJAGLCS, other military organizations, and civilian CLE groups.

a. General Guidance. Attendance at government expense will be approved only for courses and seminars that are criminal law related. An exception may be made for USAR personnel pursuing advanced schooling through the TJAGLCS nonresident instruction program who wish to attend a non-criminal law short course in order to gain credits. Counsel can also utilize permissive TDY IAW AR 600-8-10, to attend any course or seminar for which TDY at government expense will not be approved.

b. Approval Requirement. USATDS counsel must obtain USATDS approval in order to receive government funding to attend civilian CLE courses. Prior to submitting such a training requesting such training, counsel should review the requirements of AR 1-211, Attendance of Military and/or Civilian Personnel at Private Organization Meetings. Requests will be forwarded through the Chief, DCAP to the Chief, USATDS. The request will include:

- (1) Requester's Name, Rank, and Social Security Number;
- (2) Requester's Address;
- (3) Requester's Telephone Number (Commercial & DSN);
- (4) Course Title and Dates;
- (5) Vendor's Address and Telephone Number;
- (6) Cost of Course (to include TDY costs (e.g. M&I costs, airfare, lodging, rental car expenses) and applicable registration and/or course material fees));
- (7) Location of Course;

(8) Information on how the course instruction relates to the counsel's position in USATDS and the anticipated benefits to be derived from attendance; and

(9) An endorsement of the RDC with a recommendation for approval or disapproval.

5-12. NON-USATDS MILITARY CLE. RDCs should encourage the use of non-USATDS military CLE resources within the region, especially OCONUS, and at installations with a small USATDS Field or Branch office. RDCs and SDCs should help organize and support CLE presentations in cooperation with the local Office of the Staff Judge Advocate.

5-13. ON-THE-JOB TRAINING (OJT) FOR NEW COUNSEL.

a. Policy. OJT will include active leadership from both RDCs and SDCs and frequent observation of counsel by their supervisors while counsel are performing defense functions.

b. RDC and SDC Responsibilities. RDCs will maintain liaison with SDCs, military judges, and SJAs concerning the performance of all counsel. RDCs will not only advise defense counsel on performance of everyday defense functions, but also guide SDCs in the proper application of leadership and managerial responsibilities. RDCs and SDCs will establish procedures and policies designed to ensure that counsel are thoroughly prepared before being assigned to perform defense functions alone. As a rule assignment of a new counsel initially as assistant TDC will help assure proper training in trial procedure and tactical handling of substantive criminal law issues. RDCs and SDCs must review records of trial to detect counsel strengths and weaknesses, and provide constructive criticism based on trial performance.

5-14. INDIVIDUAL RESPONSIBILITY. The ultimate responsibility for maintaining and improving professional skills rests upon the individual counsel. Although the training program creates opportunities for upgrading these standards, each counsel should remain alert for CLE courses that might prove beneficial, particularly local courses presented by state bar associations, and self-improvement efforts that can be shared with other counsel. Counsel should also suggest improvements to internal USATDS programs, especially when changes will help us to improve the training provided on basic trial advocacy skills. Suggestions will be made through the RDC to the Chief, DCAP.

Chapter 6. DEFENSE COUNSEL SERVICES FOR RESERVE COMPONENT PERSONNEL

6-1. PURPOSE. This chapter describes the procedure for providing defense counsel services to RC personnel. It further describes generally the training relationship between USATDS and the Reserve Component Trial Defense Service Legal Support Organizations (LSOs). (See MOU at Appendix E) In addition to the guidance provided below, RDCs and SDCs should conform to the general guidance that TDS will provide the most appropriate representation on a case-by-case basis. Generally, where the commander with decision making authority (e.g., separation authority) is in the Reserve Component, defense services should be provided by RC defense counsel. Where the decision making authority is the commander of an active duty unit or where the substantive regulation underlying the proposed adverse action is an Active Component regulation (e.g., AR 635-200), defense services should be provided by active duty TDS personnel. When the case involves both Active and Reserve Component features, both reserve and active duty TDS personnel should collaborate on the case. The lead in any case will be coordinated between the LSO commander and the RDC.

6-2. UCMJ JURISDICTION OVER RC PERSONNEL.

a. Authority. Article 2(a)(3), UCMJ, as amended, provides for the exercise of military justice jurisdiction over RC personnel. The Manual For Courts-Martial, United States, 1995, and AR 27-10 establish procedures for implementing Article 2(a)(3), UCMJ.

b. Reserve UCMJ Status. U.S. Army Reserve (USAR) personnel are subject to the UCMJ whenever they are in a Title 10, United States Code duty status, which includes Active Duty (AD), Active Duty for Training (ADT), Annual Training (AT), Active Guard and Reserve Duty (AGR) or Inactive Duty for Training (IDT) as defined in applicable regulations.

c. National Guard UCMJ Status. Army National Guard members are subject to the UCMJ only when in Federal service as Army National Guard of the United States (ARNGUS) under Title 10, United States Code and when otherwise called into Federal service. Army National Guard members are not subject to the UCMJ while in State service under Title 32, United States Code.

d. Definitions. As used in this chapter, the term "Reserve Component" or "RC" includes USAR and Army National Guard of the United States (ARNGUS) Soldiers in Title 10, U.S. Code, duty status. ("AC defense counsel" refers to Active Component defense counsel assigned to USATDS.)

e. Eligibility. Absent special arrangements with the applicable State National Guard, only personnel in a Title 10 duty status are eligible for USATDS/TDSLSO legal services.

6-3. ARMY RESERVE TRIAL DEFENSE SERVICE LEGAL SUPPORT ORGANIZATIONS.

a. Composition. TDSLSOs are MTOE units consisting of USAR judge advocates and supporting personnel, under the command of a senior Reserve judge advocate, and dedicated exclusively to the provision of defense counsel services. In Sep 00, two TDSLSOs were established: the 154th LSO, East of the Mississippi, and the 22d LSO, for the West. The 154th LSO also provides legal services to Soldiers in Germany.

b. USATDS Supervision. The Chief of U.S. Army Trial Defense Service exercises technical supervision of the performance of defense counsel services and oversight of the LSO's training and readiness. The Chief, USATDS, exercises technical supervision and oversight in part by promulgating administrative and training guidance on matters not relating to unit command and control or internal unit administration. That technical oversight includes acting on complaints that LSO judge advocates have violated the Army Rules of Professional Conduct for Lawyers UP AR 27-26.

c. TDSLSO Operations. TDSLSO personnel will follow the TDSLSO technical chain, to OTC, USATDS as necessary, for technical guidance or advice. TDSLSO commanders will maintain command and control of their LSOs and conduct their own internal operations, e.g., issue their own orders, arrange any independent training and arrange for LSO funding, enter into Intraservice Support Agreements at locations at which the LSOs maintain offices. TDSLSO Commanders will ensure that administrative, training and assignment policies of their TDSLSO are consistent with technical oversight of the Chief, USATDS.

6-4. TDSLSO SERVICES

a. TDSLSO Services. TDSLSO judge advocates represent Soldiers in connection with courts-martial, Article 15 nonjudicial punishment UP AR 27-10, administrative separation proceedings UP AR 135-178 (enlisted) and AR 135-175 (officer), and other administrative actions in which defense counsel legal representation is authorized by law or regulation.

(1) Under some circumstances, on a case by case determination, LSO counsel may provide defense counsel services to Active Army Soldiers and USATDS counsel may provide defense counsel services for members of the Reserve Components. In most cases, however, LSOs will not support Reserve Component personnel serving in a Title 32 status, i.e., not in federal service.

(2) Special consideration will be given to having counsel both by a TDSLSO and AC TDS judge advocate where adverse action meriting defense services is being considered against an Active Guard & Reserve soldier (AGR) soldier.

b. USATDS-TDSLSO coordination. USATDS RDCs and TDSLSOs will develop training relationships (see para 6-5 below) and defense coordination relationships. RDCs will ensure that TDSLSO personnel are contacted for defense services when adverse

action for which defense services are authorized is contemplated against USAR personnel. The TDSLSO will detail counsel and immediately notify the RDC and, under some circumstances, both an active and RC Defense counsel may represent an individual in the RC facing adverse action.

6-5. TRAINING OF TDSLSO PERSONNEL.

a. Training Standard. Training will focus on developing proficiency in performing the mission-essential legal services and soldier skills set forth in the mission essential task list (METL) at Appendix F. Appropriate emphasis will be placed on teaching rules of professional conduct governing USAR defense counsel.

b. Training Relationship. RDCs are responsible for establishing and maintaining a training relationship with the TDSLSO operating within the geographical area of the USATDS Region. RDCs will:

- (1) Invite TDSLSO personnel to their biannual training workshops.
- (2) Coordinate the scheduling of AT with TDSLSO at one or more of the USATDS field offices.

APPENDIX A

REGIONS OF U.S. ARMY TRIAL DEFENSE SERVICE***for LSO regions, locations, and active equivalents, see Appendix E (et. all)*****REGION I - See Appendix A-1***

Connecticut	Delaware	District of Columbia
Indiana	Kentucky	Maine
Maryland	(east of Russellville-Owensboro line)	
Massachusetts	New Hampshire	New Jersey
New York	Ohio	Pennsylvania
Vermont	Virginia	West Virginia
Michigan		

REGION II - See Appendix A-1

Alabama	Florida	Georgia
Mississippi	North Carolina	Puerto Rico
South Carolina	Tennessee	Virgin Islands

REGION III - See Appendix A-1

Colorado	Illinois	Iowa
Kansas	Kentucky	Minnesota
Missouri	(west of Russelville-Owensboro line)	
Oklahoma	South Dakota	North Dakota
Wisconsin	Wyoming	Utah

REGION IV - See Appendix A-1

Arizona	Arkansas	Louisiana
New Mexico	Panama	Texas

REGION V - See Appendix A-1

Alaska	California	Hawaii
Idaho	Montana	Nevada
Oregon	Washington	

REGION VI - See Appendix A-2

Japan	Korea	Okinawa
Phillipines	Taiwan	

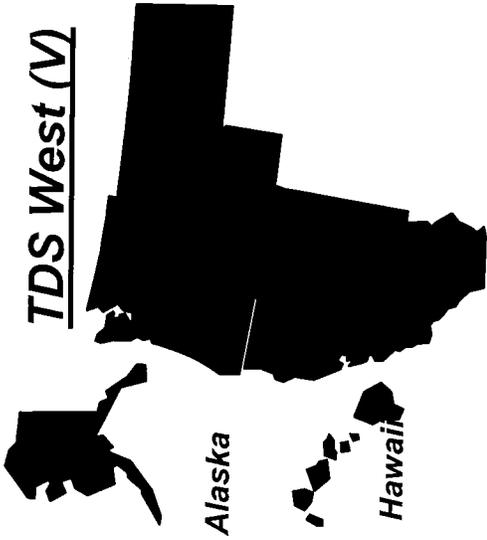
REGION VII - See Appendix A-3

Germany (less Bavaria)	The Netherlands
------------------------	-----------------

REGION VIII - See Appendix A-3

Bavaria, Germany	Italy	Southwest Asia
Turkey		

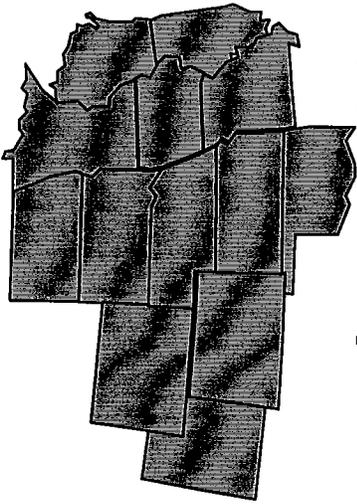
TDS West (V)



Alaska

Hawaii

TDS Great Plains (III)



TDS Atlantic (I)



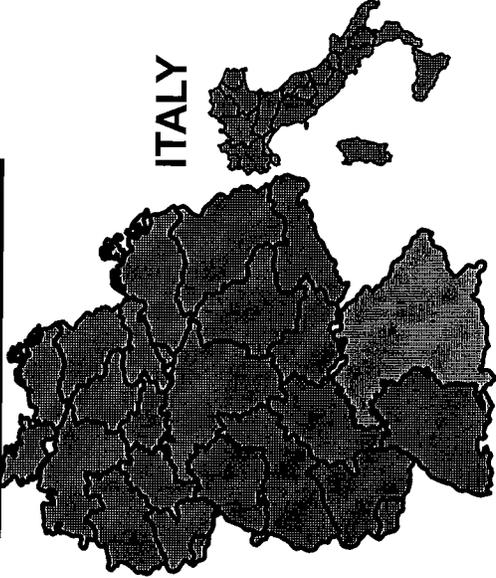
Appendix A-1

UNITED STATES ARMY TRIAL DEFENSE SERVICE
REGIONAL OFFICES

TDS Southwest (IV)



TDS Europe (VII)



GERMANY

ITALY

TDS Southeast (II)



TDS Mississippi Valley (VIII)



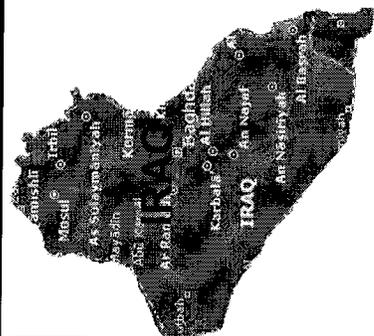
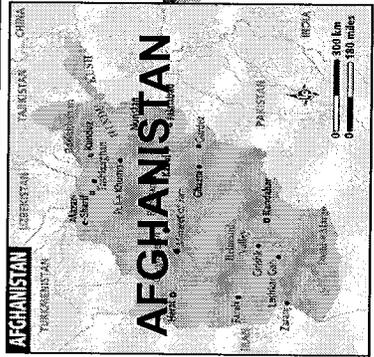
TDS Pacific Rim (VI)



JAPAN

KOREA

TDS CENTCOM AOR (IX)



APPENDIX B
US ARMY TRIAL DEFENSE SERVICE
(JALS-TD)
BIOGRAPHICAL INFORMATION

NAME: _____ SSN: _____

RANK: _____ DOR: _____ DEROS: _____

SOURCE OF COMMISSION: _____ CAREER STATUS: _____

USATDS ARRIVAL DATE: _____ FIELD OFFICE: _____

HEIGHT: _____ WEIGHT: _____ MAX WEIGHT: _____

TAPE TEST REQUIRED (Y(%) or N): _____ APFT: _____
(YMMSCORE i.e., 9405300)

WEAPONS QUALIFICATION: _____ SECURITY CLEARANCE: _____
(YYMM i.e. 9405)

THRU DATE OF LAST OER: _____

DOB: _____ MARITAL STATUS/SPOUSE NAME: _____

NAMES/AGES OF CHILDREN: _____

CIVILIAN EDUCATION: _____

BAR ADMISSIONS: _____

MILITARY EDUCATION: _____

PRIOR ASSIGNMENTS: _____

AWARDS AND DECORATIONS: _____

PUBLICATIONS: _____

HOBBIES/INTERESTS: _____

HOME/QUARTERS: _____

HOME TELEPHONE: _____

EMERGENCY NOTIFICATION: _____

APPENDIX C
PENDING UPDATE

Appendix C-1

**DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
1777 NORTH KENT STREET
ROSSLYN, VIRGINIA 22209-2194**

DAJA-CL

13 September 2000

MEMORANDUM FOR Chief, U.S. Army Trial Defense Service, U.S. Army Legal Services Agency, 901 North Stuart Street, Arlington, Virginia 22203-1837

SUBJECT: Request for Opinion

1. This is in response to your request for an opinion dated 31 August 2000 (encl.). The 23 February 1998 delegation signed by COL Brian X. Bush applies only to individual military counsel requests and would not apply to the assignment of counsel for pretrial confinement proceedings in accordance with Rules for Courts-Martial (RCM) 305f.
2. RCM 305f defines a prisoner's right to military counsel during pretrial confinement proceedings. Counsel may be assigned for the limited purpose of representing the accused during the pretrial confinement proceedings, and there is no right to individual military counsel at this stage of the proceedings. Since this duty constitutes an assignment of counsel rather than a detail of counsel, no specific delegation of authority is required.
3. Point of contact is COL Daniel F. McCallum, 703-588-6746.

// s //

Encl
as

DANIEL F. MCCALLUM
COL, JA
Chief, Criminal Law Division

APPENDIX D
&
APPENDIX E

PENDING UPDATES

APPENDIX E-1 [TO TDS/LSO MOU]

154TH LSO Mission Essential Task List (METL)

22ND LSO Mission Essential Task List (METL)

Develop a comprehensive understanding of the UCMJ, MCM, AR 27-10, AR 27-26, The Trial and Defense Counsel's Handbook, and the 154th LSO Standard Operating Procedure.

Counsel officers and enlisted soldiers facing adverse administrative elimination proceedings. Represent soldiers who are entitled to separation boards and grade reduction boards.

Counsel soldiers facing summary courts-martial and Article 15, UCMJ, punishment.

Counsel and assist soldiers responding to memoranda of reprimand and other adverse administrative action.

Advise pretrial confinees and represent accused at proceedings conducted under R.C.M. 305(l).

Represent accused at Article 32(b) hearings and courts-martial. Representation continues until final action by the convening authority.

Provide suspect counseling to soldiers under investigation who have requested counsel under Article 31, UCMJ and soldiers in line-up situations.

Appendix E-2 [TO TDS/LSO MOU]

**Regional Defense Groups (RDGs) of the 154th LSO with their counterpart
USATDS Regions**

Regional Defense Group A, Ft. Bragg, NC:

Team 7 - Decatur, GA.	- USATDS Region II
Team 16- Savannah, GA	- USATDS Region II
Team 18- Ft. Benning, GA	- USATDS Region II
Team 22 - Ft. Gordon, GA.	- USATDS Region II
Team 17- Ft. Bragg, NC.	- USATDS Region II

Regional Defense Group B, Ft. Snelling, MN

Team 11 - Louisville, KY	- USATDS Region I
Team 12 - Mobile, AL	- USATDS Region II
Team 13 - Chicago, IL	- USATDS Region III
Team 19 – Ft. Campbell, KY	- USATDS Region II [sic - should be Region III]

Regional Defense Group C, Ft. Totten, NY

Team 6 - Concord, NC.	- USATDS Region II
Team 8 - Oakdale, PA.	- USATDS Region I
Team 9 — Owings Mills, PA.	- USATDS Region I
Team 10 - Ft. Belvoir, VA.	- USATDS Region I
Team 15- Ft. Drum, NY.	- USATDS Region I

Regional Defense Group, Boston, MA

Team 14- St. Petersburg, FL.	- USATDS Region II
Team 20 - Norfolk, VA.	- USATDS Region I
Team 21 - St. Petersburg, FL	- USATDS Region II
Team 21 European detachment	- USATDS Region VII [sic – should include Regn VIII]
Team 23 - Ft. Lee, VA.	- USATDS Region I
Team 24 - Ft. Buchanan, PR	- USATDS Region II

**Appendix E-3 [TO TDS/LSO MOU]
Regional Defense Groups (RDGs) of The 22nd LSO with their counterpart
USATDS Regions**

Regional Defense Group A, San Diego, CA:

Team 4	Fort Sam Houston, TX	-USATDS Region IV
Team 5	Mesquite, TX	-USATDS Region IV
Team 12	Fort Hood, TX	-USATDS Region IV
Team 13	Fort Bliss, TX	-USATDS Region IV
Team 14	Baton Rouge, LA	-USATDS Region IV
Team 15	Fort Polk, LA	-USATDS Region IV
Team 16	Texarkana, TX	-USATDS Region IV

Regional Defense Group B, Salt Lake City, UT

Team 6	Seattle, WA	-USATDS Region V
Team 7	Oklahoma City, OK	-USATDS Region III
Team 8	Fort Leonard, Wood, MO	-USATDS Region III
Team 9	Salt Lake City, UT	-USATDS Region III
Team 10	Boulder, CO	-USATDS Region III
Team 11	Fort Riley, KS	-USATDS Region III
Team 17	Spokane, WA	-USATDS Region V
Team 18	Southfield, MI	-USATDS Region I

Appendix F
RESERVE COMPONENT MISSION ESSENTIAL TASK LIST

DEFENSE COUNSEL.

a. Priority I duties. Develop a comprehensive understanding of the UCMJ, MCM, AR 27-10, AR 27-26, The Trial and Defense Counsel's Handbook (identified in The Army Lawyer and available on BBS), and the Trial Defense Service Standard Operating Procedure. Supervisory defense counsel will also be familiar with the Regional Defense Counsel Handbook.

(1) Prior to interviewing the client, examine the charge sheet and allied papers and ensure there is no conflict of interest with regard to the client.

(2) Interview the accused. Explain counsel's role, the accused's counsel rights, and the charges. Ascertain the accused's response to the charges, whether he or she is under restraint, and any other special circumstances.

(3) Advise pretrial confinees pursuant to R.C.M. 304 & 305 and AR 27-10. Represent the accused at proceedings conducted under R.C.M. 305(I). Consider a motion for review of pretrial confinement by a military judge pursuant to R.C.M. 305(j).

(4) Assess possible legal or factual defenses, such as self-defense in an assault case, or sanity or competency issues.

(5) Review pretrial publicity. Consult with appropriate authority before speaking to new media. (*See* USATDS SOP, para. 1-9).

(6) Represent accused at Article 32(b) hearing. Explain all aspects of the investigation to the accused. Request the investigating officer (IO) to provide appropriate witnesses and documents. Request that all tapes of the investigation be preserved. Ensure that any objections to the IO's report be noted to the appointing authority within the time limits of R.C.M. 405.

(7) Represent the accused at trial. Interview all witnesses, and prepare cross examination of government witnesses and direct examination of defense witnesses. Obtain the accused's decision regarding pleas, forum, whether to testify, whether to stipulate to expected testimony, and whether to enter into a plea agreement.

(8) Prepare, research and present any appropriate motions. *See generally* R.C.M. 905-907. Represent accused during all phases of trial, including pleas, voir dire, evidence on the merits, arguments, presentation of extenuation and mitigation evidence (if a guilty finding ensues), and sentencing arguments.

(9) Continue representation to final action by convening authority. Request deferment of confinement if appropriate. Advise accused regarding appellate rights. Prepare post-trial matters pursuant to R.C.M. 1105 & 1106. Closely review SJA recommendations for errors or omissions. Obtain accused's consent regarding all submissions.

b. Adverse actions/nonjudicial actions (priority II duties).

(1) Provide suspect counseling to soldiers under investigation who have requested counsel under Article 31, UCMJ.

(2) Represent soldiers in line-up situations.

(3) Counsel officers and enlisted soldiers facing adverse administrative eliminations. Represent soldiers who are entitled to separation boards.

(4) Counsel soldiers facing summary courts-martial.

(5) Represent soldiers at grade reduction boards.

(6) Counsel soldiers facing Article 15, UCMJ, punishment.

(7) Counsel and assist soldiers responding to memoranda of reprimand when the reprimand in substance asserts wrongdoing under the UCMJ or when it appears further adverse action will follow the reprimand.

Appendix G
LSO DEFENSE COUNSEL STATISTICS

<u>Legal Support Organization</u>	<u>Location</u>	<u>Number of JAs Assigned</u>
1. <i>1st LSO</i>	San Antonio, TX	
Regional Defense Team	Austin, TX	3
Trial Defense Team	Austin, TX	5
2. <i>2nd MSO</i>	New Orleans, LA	
Trial Defense Team	Little Rock, AR	5
3. <i>3rd MSO</i>	Boston, MA	
Trial Defense Team	Boston, MA	5
4. <i>4th LSO</i>	Bronx, NY	
Trial Defense Team	Bronx, NY	5
5. <i>6th MSO</i>	Seattle, WA	
Regional Defense Team	Seattle, WA	3
Trial Defense Team	Seattle, WA	5
6. <i>7th MSO</i>	Albany, NY	
Trial Defense Team	Albany, NY	5
7. <i>8th MSO</i>	Independence, MO	
Regional Defense Team	Independence, MO	3
Trial Defense Team	Wichita, KS	5
8. <i>9th MSO</i>	Columbus, OH	
Trial Defense Team	Cleveland, OH	5
9. <i>10th MSO</i>	Washington, DC	
Trial Defense Team	Washington, DC	5

10. 12th LSO	Columbia, SC	
Regional Defense Team	Columbia, SC	5
Trial Defense Team	Greensboro, NC	5
11. 75th LSO	Moffet AFB, CA	
Trial Defense Team	Moffet, CA	5
12. 78th MSO	Los Alamitos, CA	
Trial Defense Team	Los Alamitos, CA	5
13. 87th MSO	Fort Douglas, UT	
Trial Defense Team	Aurora, CO	5
14. 91st LSO	Fort Sheridan, IL	
Trial Defense Team	Indianapolis, IN	5
15. 153rd LSO	Willow Grove NAS, PA	
Regional Defense Team	Oakdale, PA	3
Trial Defense Team	Willow Grove, PA	5
16. 174th LSO	Coral Gables, FL	
No Defense Teams		
17. 213th MSO	Chamblee, GA	
Regional Defense Team	Birmingham, MS	3
Trial Defense Team	Birmingham, MS	5
Trial Defense Team	Augusta, GA	5
Trial Defense Team	Louisville, KY	5
18. 214th LSO	St. Paul, MN	
Trial Defense Team	Fort Snelling, MN	5
TOTALS		
JAs assigned to Regional Defense Teams		15
JAs assigned to Trial Defense Teams		100

Corrected Copy
APPENDIX H

269-010-170

DEPARTMENT OF THE ARMY
 Headquarters, United States Army Reserve Command
 1401 Deshler Street SW
 Fort McPherson, Georgia 30330-2000

NO 211

PERMANENT ORDERS F-280-004

7 October 1999

154th Legal Support Organization, HR (WR31AA) SSG Isadore S.
 Jachman USAR Center, 12100 Greenspring Road, Owings Mills, MD
 21117-1699

Following organization/unit action directed.

*Beut
 Secret
 11-10*

Action: Unit is Activated

Assigned to: U.S. Army Reserve Command

Mission: As stated in Section I, TOE 27522LA

Effective date: 16 September 2000

Military structure strength: 88 Off; 1 WO; 26 Enl; 115 Aggr

Military authorized strength: 88 Off; 1 WO; 26 Enl; 115 Aggr

Accounting classification: Appropriate allotments will be obligated to the extent necessary.

Authority: FY 00 Command Plan

Additional instructions:

a. MTOE: 27522LAR19 AR1000

b. SRC: 27522LA0000100

c. ALO: OFF/WO 1; ENL 1; EQUIP 1

d. TPSN: 32372

e. AMSCO: 113100000

f. Force Activity Designator: V

g. Equipment authorized and not on hand will be requisitioned in accordance with AR 710-2 and FORSCOM Suppl to AR 710-2.

h. Personnel as authorized in Section II of MTOE will be provided in accordance with existing directives.

i. The official authorization document for unit to cite as authority for requisitioning personnel and equipment is MTOE, EDATE.

j. Files/records will be established and continued in accordance with AR 25-400-2.

k. DODAAC will be obtained from the support installation in accordance with paragraph 9-12, AR 725-50. Unit must provide the support installation a copy of activating order and that information required per Table E-128.

l. Commander, U.S. Army Reserve Command will publish a Letter of Instruction (LOI) which will give additional guidance for the support of soldiers outside the parent headquarters supporting RSC boundaries.

APPENDIX I

DEPARTMENT OF THE ARMY
Headquarters, United States Army Reserve Command
1401 Deshler Street SW
Fort McPherson, Georgia 30330-2000

PERMANENT ORDERS F-206-005

24 July 2008

22d Judge Advocate General Detachment (LSO), AH (WR4HAA) GRAND PRAIRIE
RESERVE COMPLEX, 310 Armed Forces Dr, Grand Prairie, TX 75051

Following organization/unit action is directed.

Action:	Reassignment.
Assigned To:	90TH REGIONAL READINESS COMMAND (RRC).
Mission:	As stated in Section I 27520L000
Effective Date:	01 October 2008
Military Structured strength:	86 OFF; 1 WO; 26 ENL; 113 AGG
Military Authorized strength:	86 OFF; 1 WO; 26 ENL; 113 AGG
Accounting Classification:	Will be in accordance with current fiscal procedures.
Authority:	OPORD 06-001 - OPERATION MILLENNIUM TRANSFORMATION

Additional Instructions:

- a. MTOE: 27520LAR21 AR0108
- b. TPSN: 32703
- c. Personnel: As authorized by Section II of MTOE
- d. Equipment: As authorized by Section III of MTOE and applicable CTA
- e. Unit must complete transition to the 90th RRC not later than 1 October 2008, as per OPORD 06-001 - OPERATION MILLENNIUM TRANSFORMATION.
- f. Derivative UIC(s): WR4HU1, WR4HU2, WR4HU3, WR4HU4, WR4HU5, WR4HU6, WR4HU7, WR4HU8, WR4HU9, WR4HV1, WR4HV2, WR4HV3, WR4HV4, WR4HV5, WR4HV6, WR4HV7, WR4HV8, WR4HV9, WR4HW1, WR4HW2, WR4HW3, WR4HW4, WR4HW5, WR4HW6 will be reassigned upon EDATE of parent unit.
- g. The losing RRC is responsible to provide support as required.
- h. Facility Identification Code (FACID): See attachment

FORMAT : 745

PERMANENT ORDERS F-206-005, Headquarters, United States Army Reserve
Command, 1401 Deshler Street SW, Fort McPherson, Georgia 30330-2000,
24 July 2008

FOR THE COMMANDER:

* OFFICIAL *
* HEADQUARTERS *
* US ARMY RESERVE COMMAND *

James W. Carroll
Ch, Force Design Branch
Army Reserve Force Programs Directorate

PERMANENT ORDERS F-206-005, Headquarters, United States Army Reserve
Command, 1401 Deshler Street SW, Fort McPherson, Georgia 30330-2000,
24 July 2008

DISTRIBUTION:

HQ, U.S. ARMY RESERVE CMD (USARC) (1)

U.S. Army Center of Military History (DAMH-FPO), 103 Third Avenue, Fort McNair, DC
20319-5058 (2)

USAREC (RCPAE-MKT), 1307 Third Avenue, Fort Knox, KY 40121-2726 (1)

The Institute of Heraldry (TAPC-PDH), 9325 Gunston Road, Room S-112, Fort Belvoir,
VA 22060-5579 (1)

USACHRA Reserve Command CPAC (PECP-NCR-L-M), 2187 South J Street, Fort
McCoy, WI 54656-5150 (1)

Dir of Business Svcs (ARRC-FM-BSP-M), 1913 South B Street, Fort McCoy, WI 54656-
5100 (1)

Unit concerned (1)

HQ, USARC:

ARRC-MH (1)

ARRC-PRA-S (1)

ARRC-OPE-I (1)

PERMANENT ORDERS F-206-005, Headquarters, United States Army Reserve Command, 1401 Deshler Street SW, Fort
 McPherson, Georgia 30330-2000,
 24 July 2008

REASSIGNMENT OF USAR UNITS

STRUCTURED STRENGTH/
 AUTHORIZED STRENGTH

<u>DESIGNATION/UIC</u>	<u>LOCATION/FAC ID</u>	<u>SRC/MTOE PARA</u>	<u>OFF</u>	<u>WO</u>	<u>ENL</u>	<u>AGG</u>
22d Judge Advocate General Detachment (LSO) WR4HAA	GRAND PRAIRIE RESERVE COMPLEX 310 Armed Forces Dr Grand Prairie, TX 75051- TX114	27520L00000100	(86) (86)	(1) (1)	(26) (26)	(113) (113)
22d JAG Det (LSO), HQ, Team 1 WR4HU1	GRAND PRAIRIE RESERVE COMPLEX 310 Armed Forces Drive Grand Prairie, TX 75051-2473 TX114	27522LA0000100 Para 101 LN 01 - 1 LN 02 - 1 LN 03 - 1 LN 04 - 1 Para 102 LN 01 - 1 LN 02 - 1 LN 03 - 1 LN 04 - 1	4 4	1 1	3 3	8 8
22d JAG Det (LSO), Reg Trial Def, Team 2 WR4HU2	VAN DEMAN HALL USARC 2400 Admiral Baker Road San Diego, CA 92120-2379 CA065	27522LC0000101 Para 103 LN 01 - 1 LN 02 - 1 LN 03 - 1	2 2	0 0	1 1	3 3
22d JAG Det (LSO), Reg Trial Def, Team 3 WR4HU3	FRANKLIN L. MCKEAN HALL USARC Bldg 105 Douglas AFRC Salt Lake City, UT 84113-5007	27522LC0000101 Para 104 LN 01 - 1	2 2	0 0	1 1	3 3

PERMANENT ORDERS F-206-005, Headquarters, United States Army Reserve Command, 1401 Deshler Street SW, Fort
 McPherson, Georgia 30330-2000,
 24 July 2008

<u>DESIGNATION/JUC</u>	<u>LOCATION/FAC ID</u>	<u>SRC/MTOE PARA</u>	<u>OFF</u>	<u>WO</u>	<u>ENL</u>	<u>AGG</u>
	UT022	LN 02 - 1 LN 03 - 1				
22d JAG Det (LSO), Trial Def, Team 4 WR4HU4	LISCUM ROAD USARC 2010 Harry Wurzbach Highway San Antonio, TX 78209-6027 TX135	27522LD0000101 Para 105 LN 01 - 1 LN 02 - 3 LN 03 - 1	4 4	0 0	1 1	5 5
22d JAG Det (LSO), Trial Def, Team 5 WR4HU5	GRAND PRAIRIE RESERVE COMPLEX 310 Armed Forces Drive Grand Prairie, TX 75051-2473 TX114	27522LD0000101 Para 106 LN 01 - 1 LN 02 - 3 LN 03 - 1	4 4	0 0	1 1	5 5
22d JAG Det (LSO), Trial Def, Team 6 WR4HU6	2LT ROBERT R LEISY USARC/A#79 Ft. Lawton Seattle, WA 98119- WA030	27522LD0000101 Para 107 LN 01 - 1 LN 02 - 3 LN 03 - 1	4 4	0 0	1 1	5 5
22d JAG Det (LSO), Trial Def, Team 7 WR4HU7	MG HARRY TWADDLE AFRC 5316 S Douglas Blvd Oklahoma City, OK 73150-9704 OK017	27522LD0000101 Para 108 LN 01 - 1 LN 02 - 3 LN 03 - 1	4 4	0 0	1 1	5 5
22d JAG Det (LSO), Trial Def, Team 8 WR4HU8	ST. PETERS USARC 4178 North Service Road St. Peters, MO 63376-3943 MO071	27522LD0000101 Para 109 LN 01 - 1 LN 02 - 3 LN 03 - 1	4 4	0 0	1 1	5 5

PERMANENT ORDERS F-206-005, Headquarters, United States Army Reserve Command, 1401 Deshler Street SW, Fort
 McPherson, Georgia 30330-2000,
 24 July 2008

<u>DESIGNATION/UIC</u>	<u>LOCATION/FAC ID</u>	<u>SRC/MTOE/PARA</u>	<u>OFF</u>	<u>WO</u>	<u>ENL</u>	<u>AGG</u>
22d JAG Det (LSO), Trial Def, Team 9 WR4HU9	FRANKLIN L. MCKEAN HALL USARC Bldg 105 Douglas AFRC Salt Lake City, UT 84113-5007 UT022	27522LD0000101 Para 110 LN 01 - 1 LN 02 - 3 LN 03 - 1	4 4	0 0	1 1	5 5
22d JAG Det (LSO), Trial Def, Team 10 WR4HV1	MARK A. EVANS LAWTON AFRC Bldg 3450, 7335 Womack Street Fort Carson, CO 80913-5000 CO139	27522LD0000101 Para 111 LN 01 - 1 LN 02 - 3 LN 03 - 1	4 4	0 0	1 1	5 5
22d JAG Det (LSO), Trial Def, Team 11 WR4HV2	INDEPENDENCE USARC 11101 Independence Avenue Independence, MO 64054-1511 MO013	27522LD0000101 Para 112 LN 01 - 1 LN 02 - 3 LN 03 - 1	4 4	0 0	1 1	5 5
22d JAG Det (LSO), Trial Def, Team 12 WR4HV3	FORT HOOD USARC #2 Bldg 1001, 761 Tank Bn Ave Fort Hood, TX 79904-5638 TX146	27522LD0000101 Para 113 LN 01 - 1 LN 02 - 3 LN 03 - 1	4 4	0 0	1 1	5 5
22d JAG Det (LSO), Trial Def, Team 13 WR4HV4	ROY P BENAVIDEZ MEMORIAL USARC 6201 East Oak Street Phoenix, AZ 85008-3494 TX029	27522LD0000101 Para 114 LN 01 - 1 LN 02 - 3 LN 03 - 1	4 4	0 0	1 1	5 5
22d JAG Det (LSO), Trial Def, Team 14	CAMP PIKE AFRC 8001 Camp Robinson Road	27522LD0000101 Para 115	4 4	0 0	1 1	5 5

PERMANENT ORDERS F-206-005, Headquarters, United States Army Reserve Command, 1401 Deshler Street SW, Fort
 McPherson, Georgia 30330-2000,
 24 July 2008

<u>DESIGNATION/UIC</u>	<u>LOCATION/FAC ID</u>	<u>SRC/MTOE/PARA</u>	<u>OFF</u>	<u>WO</u>	<u>ENL</u>	<u>AGG</u>
WR4HV5	North Little Rock, AR 72118-2206 AR029	LN 01 - 1 LN 02 - 3 LN 03 - 1				
22d JAG Det (LSO), Trial Def, Team 15 WR4HV6	JAMES DIAMOND USARC 5010 Leroy Johnson Drive New Orleans, LA 70146-3601 LA019	27522LD0000101 Para 116 LN 01 - 1 LN 02 - 3 LN 03 - 1	4 4	0 0	1 1	5 5
22d JAG Det (LSO), Trial Def, Team 16 WR4HV7	WATTS-GUILLOT USARC 2800 West 15th Street Texarkana, TX 75501-4193 TX072	27522LD0000101 Para 117 LN 01 - 1 LN 02 - 3 LN 03 - 1	4 4	0 0	1 1	5 5
22d JAG Det (LSO), Trial Def, Team 17 WR4HV8	AUSTIN MEMORIAL AFRC 4601 Fairview Drive Austin, TX 78731-5398 TX006	27522LD0000101 Para 118 LN 01 - 1 LN 02 - 3 LN 03 - 1	4 4	0 0	1 1	5 5
22d JAG Det (LSO), Trial Def, Team 18 WR4HV9	1LT ROBERT L. POXON USAR CENTER 3130 George Washington Boulevard Wichita, KS 67210-1598 MI029	27522LD0000101 Para 119 LN 01 - 1 LN 02 - 3 LN 03 - 1	4 4	0 0	1 1	5 5
22d JAG Det (LSO), Trial Def, Team 19 WR4HW1	BT COLLINS USARC/OMS/AMSA 98(G) 6270 Midway Street, Bldg 640 Sacramento, CA 95828- CA062	27522LD0000101 Para 120 LN 01 - 1 LN 02 - 3	4 4	0 0	1 1	5 5

PERMANENT ORDERS F-206-005, Headquarters, United States Army Reserve Command, 1401 Deshler Street SW, Fort
 McPherson, Georgia 30330-2000,
 24 July 2008

<u>DESIGNATION/UIC</u>	<u>LOCATION/FAC ID</u>	<u>SRC/MTOE/PARA</u>	<u>OFF</u>	<u>WO</u>	<u>ENL</u>	<u>AGG</u>
22d JAG Det (LSO), Reg Trial Def, Team 20 WR4HW2	FORT LAWTON USAR COMPLEX 4585 Texas Way West Fort Lawton, WA 98199-5098 WA012	LN 03 - 1 27522LC0000101 Para 121 LN 01 - 1 LN 02 - 1 LN 03 - 1	2 2	0 0	1 1	3 3
22d JAG Det (LSO), Reg Trial Def, Team 21 WR4HW3	CALLE LEE USARC 10541 Calle Lee, Suite 101 Los Alamitos, CA 90720-0000 CA024	27522LC0000101 Para 122 LN 01 - 1 LN 02 - 1 LN 03 - 1	2 2	0 0	1 1	3 3
22d JAG Det (LSO), Reg Trial Def, Team 22 WR4HW4	FORT LAWTON USAR COMPLEX 4585 Texas Way West Fort Lawton, WA 98199-5098 WA012	27522LC0000101 Para 123 LN 01 - 1 LN 02 - 1 LN 03 - 1	2 2	0 0	1 1	3 3
22d JAG Det (LSO), Trial Def, Team 23 WR4HW5	MOFFETT FIELD USARC Moffett Field, Bldg 153 Mountain View, CA 94035- CA120	27522LD0000101 Para 124 LN 01 - 1 LN 02 - 3 LN 03 - 1	4 4	0 0	1 1	5 5
22d JAG Det (LSO), Trial Def, Team 24 WR4HW6	AUSTIN MEMORIAL AFRC 4601 Fairview Drive Austin, TX 78731-5398 TX006	27522LD0000101 Para 125 LN 01 - 1 LN 02 - 3 LN 03 - 1	4 4	0 0	1 1	5 5

PERMANENT ORDERS F-206-005, Headquarters, United States Army Reserve Command, 1401 Deshler Street SW, Fort
McPherson, Georgia 30330-2000,
24 July 2008

APPENDIX J

Installation	Airport		
Miss Valley			
Ft. Rucker, AL	Dothan		
Ft. Campbell, KY	Nashville		
Ft. Polk, LA	Alexandria		
Ft. Knox, KY	Louisville		
Ft. Benning, GA	Atlanta		
Southeast			
Ft. Gordon, GA	Augusta		
Ft. Bragg, NC	Raleigh		
Ft. Stewart, GA	Savannah		
Ft. Jackson, SC	Columbia		
HAAF	Savannah		
Great Plains			
Ft. Leavenworth, KS	Kansas City		
Ft. Carson, CO	Denver		
Ft. Riley, KS	Manhattan		
Ft. Sill, OK	Oklahoma City		
Ft. Leonard Wood, MO	St. Louis		
Southwest			
Ft. Huachuca, AZ	Tucson		
Ft. Bliss, TX	El Paso		
Ft. Sam Houston, TX	San Antonio		
Ft. Hood, TX	Austin		
West			
Ft. Lewis, WA	Seattle		
Ft. Richardson, AK	Anchorage		
Ft. Wainwright, AK	Fairbanks, AK - No Contract Carrier		
Schofield Brks, HI	Honolulu		
Ft Irwin, CA	Las Vegas, NV		
Pacific Rim			
Korea	Seoul - (Incheon)		
Okinawa	Okinawa Naha Airport - No Contract Carrier		
Atlantic			
Ft Belvoir & Ft Myer, VA	Reagan National Airport (Domestic) / Dulles (International)		
Ft Meade, MD	BWI		
Aberdeen Proving Ground, MD	BWI or Philidelphia ***conduct a cost comparison		
Ft. Drum, NY	Syracuse		
Ft. Eustis, VA	Norfolk Int. Airport (ORF) or Newport News (PHF) --> ***conduct a cost comparison		
Ft Lee, VA	Richmond Int. Airport		
West Point, NY	JFK / Laguardia		
Europe			
Wiesbaden GER	Frankfurt		
Mannheim GER	Frankfurt		
Bamberg GER	Frankfurt or Munich --> ***conduct a cost comparison		
Grafenwoehr/ Vilseck, GER	Frankfurt or Munich --> ***conduct a cost comparison		
Hanau, GER	Frankfurt		
Centcom			
	Kuwait		

COMPUTATION OF TOTAL AVAILABLE WORK HOURS

___ # OF COUNSEL ASSIGNED* X ___ # OF DUTY DAYS** X 8 HOURS = ___

___ # OF COUNSEL ASSIGNED* X ___ # OF DUTY DAYS** X 8 HOURS = ___

ADD

1 PCSing COUNSEL X ___ # OF DUTY DAYS X 8 HOURS + ___

1 PCSing COUNSEL X ___ # OF DUTY DAYS X 8 HOURS + ___

1 PCSing COUNSEL X ___ # OF DUTY DAYS X 8 HOURS + ___

1 PCSing COUNSEL X ___ # OF DUTY DAYS X 8 HOURS + ___

SUBTRACT SICK/PASS/LEAVE HOURS*** - ___

TOTAL AVAILABLE WORK HOURS = ___

TRAVEL HOURS:

TRAVEL HOURS IN SUPPORT OF YOUR FIELD OFFICE	
TRAVEL HOURS IN SUPPORT OF OTHER FIELD OFFICES	

* Counsel assigned for the entire month. (10 or more days) Reserve, IMAs, and summer interns are not counted in counsel strength.

** Duty days means non-holiday workdays. Emergency days off (ie. snow days) and training holidays are not duty days.

*** Up to 8 hours a day per counsel. (Hours should be rounded to nearest whole hours.)

SIGNATURE _____ DATE: _____
 TYPED NAME
 RANK, JA