

to assure all military personnel, regardless of grade, rank, or position, that they may disclose frankly and completely all material facts of their problem to those rendering the service without fear that their confidence will be abused or used against them in any way. While case files are not subject to the control of the Department of the Navy and therefore do not constitute a "system of records" within the meaning of the Privacy Act of 1974 (5 U.S.C. 552a), no information which identifies an individual legal assistance client by name or any other particular, such as social security number, shall be extracted from the case files and incorporated into any file or index system aside from or in addition to the information contained on the legal assistance form (NAVJAG 5801/9) or locally used equivalent. Strict adherence to the foregoing will ensure compliance with the Privacy Act. Administrative and clerical personnel assigned to legal assistance offices shall maintain the confidential nature of matters handled.

[42 FR 35957, July 13, 1977]

§ 727.9 Referrals to civilian lawyers.

(a) *General.* If it is determined that the legal assistance requested is beyond the scope of this part, or if no available legal assistance officer is qualified to give the assistance requested, the client should be referred to a civilian lawyer. When the client does not know of a lawyer whom he wishes to represent him, his case may be referred to an appropriate bar organization, lawyer referral service, legal aid society, or other local organization for assistance in obtaining reliable, competent, and sympathetic counsel, or to a civilian lawyer designated by such organization.

(b) *Fees charged by civilian lawyers.* Legal assistance clients being referred to a civilian lawyer should be advised that, even when the fee to be charged is set by statute or subject to court approval, it should be one of the first items discussed to avoid later misunderstandings and eliminate uncertainty. Legal assistance officers should exercise caution in discussing possible fees to be charged by civilian lawyers so as to avoid embarrassment or mis-

understanding between the client and his civilian lawyer.

§ 727.10 Fees, compensation, solicitation, and representation in civilian courts.

(a) *General.* Active duty military personnel and civilian employees of the Navy and Marine Corps are prohibited from accepting or receiving, directly or indirectly, any fee or compensation of any nature, in cash or otherwise, for legal services rendered to any person entitled to legal assistance under this part whether or not the service rendered is normally provided or available to such person under this part and whether or not the service is rendered during duty hours as a part of official duties. Reserve judge advocates on inactive duty are prohibited from accepting or receiving any fee or compensation of any nature, in cash or otherwise, for legal services rendered to any person entitled to legal assistance under this part with respect to matters about which they consulted or advised said person in an official capacity. The prohibition may be waived only by the Judge Advocate General of the Navy or the Director, Naval Legal Service, as appropriate, in extraordinary circumstances on a case by case basis for inactive duty Reserve judge advocates who consulted with or advised an eligible client in an official capacity. Before a waiver may be granted, the following criteria, as well as other relevant criteria, shall be considered:

(1) Whether the waiver is specifically requested by the party concerned or an appropriate representative,

(2) Whether there is a likelihood that undue and substantial prejudice will otherwise be suffered by the party concerned,

(3) Whether adequate continued representation for compensation is otherwise reasonably available, and

(4) Whether the requested representation will violate the Code of Professional Responsibility of the American Bar Association or other applicable legal or ethical requirements.

(b) *Solicitation.* Active duty military personnel, civilian employees of the Navy and Marine Corps, and inactive reservists, acting in an official capacity, are prohibited from soliciting, or

advising that any person entitled to legal assistance under this part retain, consult, or seek legal services from themselves in their private capacities, or from any attorney who is a partner or associate of a law firm of which they are partners or associates, or from any attorney with whom they share office spaces; *Provided* that nothing herein shall prevent such person from being referred to civilian counsel as provided in § 727.9.

(c) *Representation before civilian courts or agencies.* No active duty Navy or Marine Corps judge advocate may appear as counsel on behalf of any person entitled to legal assistance, except as provided in paragraph (a)(3) of § 727.6 and under guidelines prescribed in the Manual of the Judge Advocate General before any civil court, civil administrative tribunal, civil regulatory body, or civil governmental agency, in any proceeding, whether or not a fee or other compensation is accepted or received, without prior written approval of the Judge Advocate General, or the Director, Naval Legal Service, as appropriate. Requests for such permission may be in the form prescribed in the Manual of the Judge Advocate General.

[47 FR 41561, Sept. 21, 1982]

§ 727.11 Supervision.

The Judge Advocate General will exercise supervision over all legal assistance activities in the Department of the Navy. Subject to the supervision of the Judge Advocate General, officers in charge of Naval Legal Service Offices, and all Marine Corps commanders exercising general court-martial authority, acting through their judge advocates, shall exercise supervision over all legal assistance activities within their respective areas of responsibility and shall ensure that legal assistance services are made available to all eligible personnel within their areas. The Judge Advocate General will collaborate with the American Bar Association, the Federal Bar Association, and other civilian bar organizations as he may deem necessary or advisable in the accomplishment of the objectives and purposes of the legal assistance program.

[42 FR 35957, July 13, 1977]

§ 727.12 Communications.

(a) Legal assistance officers are authorized to communicate directly with the Judge Advocate General, with each other, and with other appropriate organizations and persons concerning legal assistance matters.

(b) The use of a legal assistance office letterhead within the Department of the Navy is authorized as an exception to the standard letterhead requirements contained in Department of Defense Instruction 5330.2 of July 12, 1968. A sample of the letterhead to be used is:

Legal Assistance Office, Building 200, Washington Navy Yard, Washington, DC 20374,
Tel: 202-433-4331.

Naval Legal Service Offices and other commands having authorized legal assistance officers are authorized to print and use letterheads without seal or official command designation in those matters in which the correspondence pertains solely to legal assistance matters. Legal assistance officers are directed to ensure that their correspondence does not imply United States Navy or command sponsorship or approval of the substance of the correspondence. Such correspondence is considered a private-client matter arising from the attorney-client relationship as indicated in § 727.8.

[42 FR 35958, July 13, 1977]

§ 727.13 Reports.

Each legal assistance office shall, by the 10th day of October of each year, prepare and submit to the Judge Advocate General one copy of the Legal Assistance Report (NAVJAG 5801/3 Rev. 12-78)) covering the preceding fiscal year. A final report shall be submitted on the disestablishment of the legal assistance office. Special reports shall be submitted when requested by the Judge Advocate General. Information copies of all reports shall be furnished to the supervising commander referred to in § 727.11. Reports symbol JAG-5801-1 is assigned for this reporting requirement.

[38 FR 6026, Mar. 6, 1973, as amended at 47 FR 41561, Sept. 21, 1982]