Overview of the Armed Forces

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April 16, 2014
Topics Discussed in this Hour

- Military services and their respective missions;
- Address command structures and levels of personnel;
- Statutes governing active-duty status and eligibility for military legal assistance;
- Overview of the UCMJ;
Goals of this Presentation

• Better understanding of the military services;
• Where their military-connected clients fit into those services;
• What legal rights and legal assistance services are available to military personnel and their dependents; and
• An improved basic understanding of military justice and legal assistance in the US Armed Forces.
Governing Statutes

**Title 10 U.S. Code**: Active Component and Ready Reserve (Includes mobilized National Guardsmen)

**Title 32 U.S. Code**: National Guard
10 U.S.C. §101

What are the “Armed Forces?”

CHAPTER 1—DEFINITIONS

Sec. 101. Definitions.

§101. Definitions

(a) In general.—The following definitions apply in this title:

(1) The term “United States”, in a geographic sense, means the States and the District of Columbia.


(3) The term “possessions” includes the Virgin Islands, Guam, American Samoa, and the Guano Islands, so long as they remain possessions, but does not include any Commonwealth.

(4) The term “armed forces” means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(5) The term “uniformed services” means—

(A) the armed forces;

(B) the commissioned corps of the National Oceanic and Atmospheric Administration; and

(C) the commissioned corps of the Public Health Service.

(6) The term “department”, when used with respect to a military department, means the executive part of the department and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Secretary of the department. When used with respect to the Department of Defense, such term means the executive part of the department, including the
Organization: The Separate Services

Department of Defense (DOD)
  Department of the Army: U.S. Army
  Department of the Air Force: U.S. Air Force
  Department of the Navy
    U.S. Navy
    U.S. Marine Corps
    U.S. Coast Guard*

*Operates under the Department of Homeland Security During Peacetime
### Organization: Components

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<td>Active Component (Regular)</td>
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Personnel: Commissioned Officers

Original appointments in the grades of second lieutenant, first lieutenant, and captain in the Regular Army, Regular Air Force, and Regular Marine Corps and in the grades of ensign, lieutenant (junior grade), and lieutenant in the Regular Navy shall be made by the President alone.

10 U.S.C.A. § 531 (West)

To become an officer of a reserve component a person must be appointed as a Reserve of an armed force in a grade corresponding to a grade authorized for the regular component of the armed force concerned and, except as provided in paragraph (2), subscribe to the oath prescribed by section 3331 of title 5. In addition, to become an officer of the Army National Guard of the United States or the Air National Guard of the United States, he must first be appointed to, and be federally recognized in, the same grade in the Army National Guard or the Air National Guard, as the case may be.

10 U.S.C.A. § 12201 (West)
The Secretary concerned may accept original enlistments in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard, as the case may be, of qualified, effective, and able-bodied persons who are not less than seventeen years of age nor more than forty-two years of age.

10 U.S.C.A. § 505 (West)

To become an enlisted member of a reserve component a person must be enlisted as a Reserve of an armed force and subscribe to the oath prescribed by section 502 of this title, or be transferred to that component according to law. In addition, to become an enlisted member of the Army National Guard of the United States or the Air National Guard of the United States, he must meet the requirements of section 12107 of this title.

10 U.S.C.A. § 12102 (West)
Personnel: Rank Chart

Rank Insignia of the U.S. Armed Forces

ENLISTED

Army

Private (E-1)
Private E-2
Private First Class (E-3)
Corporal (E-4)
Staff Sergeant (E-5)
Sergeant (E-6)
Sergeant First Class (E-7)
First Sergeant (E-8)
Command Sergeant Major (E-9)

Marines

Private (E-1)
Private E-2
Lance Corporal (E-3)
Corporal (E-4)
Staff Sergeant (E-5)
Cpl (E-6)
Master Sergeant (E-7)
First Sergeant (E-8)
Sergeant Major (E-9)

Air Force

Airman Basic (A1-B)
Airman (A1)
Airman First Class (A1-C)
Senior Airman (A1-S)
Staff Sergeant (A1-S)
Technical Sergeant (Ssgt)
Master Sergeant (E-7)
First Sergeant (E-8)
Chief Master Sergeant (E-9)

Navy

Seaman Recruit (SB)
Seaman Apprentice (SA)
Seaman (SN)
Petty Officer Third Class (PO3)
Petty Officer Second Class (PO2)
Petty Officer First Class (PO1)
Chief Petty Officer (CPO)
Senior Chief Petty Officer (SCPO)
Master Chief Petty Officer (E-9)

Coast Guard

Seaman Recruit (SB)
Seaman Apprentice (SA)
Seaman (SN)
Petty Officer Third Class (PO3)
Petty Officer Second Class (PO2)
Petty Officer First Class (PO1)
Chief Petty Officer (CPO)
Senior Chief Petty Officer (SCPO)
Master Chief Petty Officer (E-9)
Personnel: Rank Chart
Civil Issues and Service Members
§ 1044. Legal assistance

(a) Subject to the availability of legal staff resources, the Secretary concerned may provide legal assistance in connection with their personal civil legal affairs to the following persons:

1. Members of the armed forces who are on active duty.
2. Members and former members entitled to retired or retainer pay or equivalent pay.
3. Officers of the commissioned corps of the Public Health Service who are on active duty or entitled to retired or equivalent pay.
4. Members of reserve components not covered by paragraph (1) or (2) following release from active duty under a call or order to active duty for more than 30 days issued under a mobilization authority (as determined by the Secretary), for a period of time (prescribed by the Secretary) that begins on the date of the release and is not less than twice the length of the period served on active duty under that call or order to active duty.
5. Dependents of members and former members described in paragraphs (1), (2), (3), and (4).
(6) Survivors of a deceased member or former member described in paragraphs (1), (2), (3), and (4) who were dependents of the member or former member at the time of the death of the member or former member, except that the eligibility of such survivors shall be determined pursuant to regulations prescribed by the Secretary concerned.

(7) Civilian employees of the Federal Government serving in locations where legal assistance from non-military legal assistance providers is not reasonably available, except that the eligibility of civilian employees shall be determined pursuant to regulations prescribed by the Secretary concerned.

(b) Under such regulations as may be prescribed by the Secretary concerned, the Judge Advocate General (as defined in section 801(1) of this title) under the jurisdiction of the Secretary, and within the Marine Corps the Staff Judge Advocate to the Commandant of the Marine Corps, is responsible for the establishment and supervision of legal assistance programs under this section.

(c) This section does not authorize legal counsel to be provided to represent a member or former member of the uniformed services described in subsection (a), or the dependent of such a member or former member, in a legal proceeding if the member or former member can afford legal fees for such representation without undue hardship.

(d)(1) Notwithstanding any law regarding the licensure of attorneys, a judge advocate or civilian attorney who is authorized to provide military legal assistance is authorized to provide that assistance in any jurisdiction, subject to such regulations as may be prescribed by the Secretary concerned.

(2) Military legal assistance may be provided only by a judge advocate or civilian attorney who is a member of the bar of a Federal court or of the highest court of a State.

(3) In this subsection, the term “military legal assistance” includes—

(A) legal assistance provided under this section; and

(B) legal assistance contemplated by sections 1044a, 1044b, 1044c, and 1044d of this title.

(e) The Secretary concerned shall define “dependent” for the purposes of this section.
§ 1044a. Authority to act as notary

(a) The persons named in subsection (b) have the general powers of a notary public and of a consul of the United States in the performance of all notarial acts to be executed by any of the following:

(1) Members of any of the armed forces.

(2) Other persons eligible for legal assistance under the provisions of section 1044 of this title or regulations of the Department of Defense.

(3) Persons serving with, employed by, or accompanying the armed forces outside the United States and outside the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(4) Other persons subject to the Uniform Code of Military Justice (chapter 47 of this title) outside the United States.

(b) Persons with the powers described in subsection (a) are the following:

(1) All judge advocates, including reserve judge advocates when not in a duty status.

(2) All civilian attorneys serving as legal assistance attorneys.

(3) All adjutants, assistant adjutants, and personnel adjutants, including reserve members when not in a duty status.

(4) All other members of the armed forces, including reserve members when not in a duty status, who are designated by regulations of the armed forces or by statute to have those powers.

(5) For the performance of notarial acts at locations outside the United States, all employees of a military department or the Coast Guard who are designated by regulations of
Legal Assistance Regulations


• **USCG**: Commandant Instruction 5801.4E, Legal Assistance Program, 26 Oct. 2005.

• **USN & USMC**: JAGMAN, Chapter VII, Legal Assistance

http://legalassistance.law.af.mil/content/locator.php
Servicemembers Civil Relief Act (SCRA)

50 U.S.C. App. §§501-597b

Provides certain protections from civil actions against servicemembers who are called to Active Duty.

Allows for termination of leases and provides relief from certain contractual obligations.

Stays civil proceedings, protects against default judgments, and tolls statutes of limitations in actions by or against servicemembers

Not extended to child custody proceedings and modification of child custody arrangements. See In re Marriage of Grantham 698 N.W.2.d 140 (2005)
Welcome to SCRA

SCRA is a program that provides certain protections from civil actions against servicemembers who are called to Active Duty. It restricts or limits actions against these personnel in the areas of financial management, such as rental agreements, security deposits, evictions, installment contracts, credit card interest rates, mortgages, civil judicial proceedings, income tax payments, and more. From this site.

Users may submit a Single Record Request to obtain a report certifying Title 10 active duty status for provisions under SCRA. This report is also called a Certificate. No account is required to use the Single Record Request.

Users may also request Multiple Record Requests of multiple individuals (or multiple dates for a single individual) to determine Title 10 active duty status for provisions under SCRA. An account is required to use the Multiple Record Request. These users will be able to:

- Create and manage an account in order to retrieve information
- Upload Request files for Multiple Record Requests
- Download ‘Result’ file(s)
- Download Certificates for Multiple Record Request(s)

Resources

- User’s Guide
- Privacy Notice
- Help with Browser Certificate Error
- Download Adobe Reader
- What is an SCRA Certificate?
Uniformed Services Employment and Reemployment Rights Act (USERRA)

• 38 U.S.C. §§ 4301-4335

Considerations

Employment discrimination against veterans continues to be pervasive and USERRA claims are often difficult to prove. In 2012, 1,430 USERRA discrimination claims were filed, a 60 percent increase since 2001.

Protects servicemembers’ and veterans’ civilian employment rights. Under certain conditions, USERRA requires employers to put individuals back to work in their civilian jobs after military service. USERRA also protects servicemembers from discrimination in the workplace based on their military service or affiliation.
IL Access to Justice Act, PA 98-0351 (HB 3111)

levels of legal assistance appropriate for their individual circumstances.

(c) An increasing number of active duty service members and veterans in this State have a need for legal information and assistance in a variety of matters that are often critical to their safety and independence, yet they are often unable to access that assistance.

Section 10. Pilot programs.

(a) The General Assembly encourages the Supreme Court to develop: (i) a pilot program to create a statewide military personnel and veterans' legal assistance hotline and coordinated network of legal support resources; and (ii) a pilot program to provide court-based legal assistance within a circuit court in each appellate district of this State.
The Uniform Code of Military Justice (UCMJ)
The Punitive Articles of the UCMJ criminalizes and severely punishes behavior that would be perfectly normal and possibly even encouraged in civilian society.

Example: Article 99 Misbehavior before the enemy

Any member of the armed forces who before or in the presence of the enemy—

(1) runs away;

(5) is guilty of cowardly conduct;

shall be punished by death or such other punishment as a court-martial may direct.

10 U.S.C. § 899
Military courts have exclusive authority over purely military crimes such as:

- Mutiny
- Sedition
- Failure to obey an order
- Insubordination

Most crimes violate both civilian and military law (robbery, assault, murder, etc.)

A military member can't be tried for the same misconduct by both a military court and another federal court. He can be tried for the same misconduct by both a military court and a state court.

Jurisdiction Under the UCMJ

Considerations

Civilian court authority is usually based on the location of the crime. The crime must have occurred within the boundaries of the state. Military court authority is based on the status of the offender. If he's an active service member, the UCMJ applies no matter where the crime occurs.
Who is Subject to the UCMJ?

(1) Members of a regular component of the armed forces, including those awaiting discharge after expiration of their terms of enlistment; volunteers from the time of their muster or acceptance into the armed forces; inductees from the time of their actual induction into the armed forces; and other persons lawfully called or ordered into, or to duty in or for training in, the Armed forces, from the dates when they are required by the terms of the call or order to obey it.

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(3) Members of a reserve component while on inactive-duty training, but in the case of members of the Army National Guard of the United States or the Air National Guard of the United States only when in Federal Service.

(4) Retired members of a regular component of the armed forces who are entitled to pay.

(5) Retired members of a reserve component who are receiving hospitalization from an armed force.

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(8) Members of the National Oceanic and Atmospheric Administration, Public Health Service, and other organizations, when assigned to and serving with the armed forces.

(9) Prisoners of war in custody of the armed forces.

(10) In time of declared war or a contingency operation, persons serving with or accompanying an armed force in the field.

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10 U.S.C.A. § 802 (West)
(a) Subject to section 843 of this title (article 43), a person who is in a status in which the person is subject to this chapter and who committed an offense against this chapter while formerly in a status in which the person was subject to this chapter is not relieved from amenability to the jurisdiction of this chapter for that offense by reason of a termination of that person's former status.

(b) Each person discharged from the armed forces who is later charged with having fraudulently obtained his discharge is, subject to section 843 of this title (article 43), subject to trial by court-martial on that charge and is after apprehension subject to this chapter while in the custody of the armed forces for that trial. Upon conviction of that charge he is subject to trial by court-martial for all offenses under this chapter committed before the fraudulent discharge.

(c) No person who has deserted from the armed forces may be relieved from amenability to the jurisdiction of this chapter by virtue of a separation from any later period of service.

(d) A member of a reserve component who is subject to this chapter is not, by virtue of the termination of a period of active duty or inactive-duty training, relieved from amenability to the jurisdiction of this chapter for an offense against this chapter committed during such period of active duty or inactive-duty training.

10 U.S.C.A. § 803 (West)
How is the UCMJ Administered?

Considerations

National Guard members are not subject to the UCMJ when not mobilized, but instead are subject to their state’s regulations.

Courts-Martial

Summary: 1 grade reduction (E5 and above); Multi-grade reduction (E4 & below); Confinement for 30 days (E3 & below); Forfeiture of two-thirds pay for 1 month; Hard labor without confinement for 30 days; Restriction for 60 days

Special: Bad Conduct Discharge; Reduction to E1; Confinement for 6 months; Forfeiture of two thirds pay for six months

General: Any punishment allowed by law, to include death
How is the UCMJ Administered?

Non-judicial Punishment

Article 15: 1 grade reduction (E5 & E6); Multi-grade reduction (E4 & below); Forfeiture of half months for 2 months; 45 days extra duty; 60 days restriction (45 days if extra duty is imposed)