"Everything You Need To Know To Avoid A State Bar Grievance, You Learned In Kindergarten"

By: David Benbow
Benbow and Phillips, P.C.
Statesville, NC
Most of What Lawyers Need to Know to Avoid State Bar Grievances, We Learned in Kindergarten

BY C. DAVID BENBOW IV

Have you ever awakened from a nightmare where you had been dreaming that Bruno DeMolli was being interviewed by Action 9 News on the front steps of your law office? Have you ever had that dream? You know the one, where your secretary is frantically shredding your files as Dan Rather, microphone in hand, is knocking on your office door.

If you have had that dream or one similar, take heart. There is hope for you. This is because most of what lawyers need to know about State Bar grievances, we’ve already learned in kindergarten...lessons learned by all of us when we were five, that will help us avoid most State Bar Grievances.

Here are six important lessons from kindergarten for lawyers.

1. Answer “Here!” when your name is called.
   What was the first thing your kindergarten teacher did every day? She called roll. It was first because it was very important. It is also very important in practicing law because your clients are calling your name too. They need to know that you are present. They need your help, your expertise, your loyalty, and your time. Be sure to respond when your clients call your name. Promptly return their phone calls, emails, and letters. Remember these clients have chosen you to help them with some of life’s most difficult problems. What a special gift our clients give us when they give us their trust.

   The best defense against grievances is open, honest, forthright communication between you and your clients. Answer “Here!” when your client calls your name.

2. Don’t take things that don’t belong to you.
   You learned to leave your classmates’ snacks alone, not to take their crayons, not to wear coats and mittens belonging to someone else.

   This also applies to the practice of law. Leave your clients’ money alone. No matter
how desperate you are, no matter how scared you may be, no matter that you are sure that no one will ever know, and no matter that you can pay it back next week...leave your clients' money alone.

Period.

3 Be responsible for your mistakes.

When your teacher asked, "Who spilled the Kool-Aid all over the floor?" you may have shut your eyes and put your hands in front of your face, thinking, "If I can't see her, she can't see me." You learned that this didn't work.

It won't work when the State Bar sends you an inquiry either. If you receive an inquiry, answer it promptly. Don't hide behind "more pressing matters." Your failure to respond is a violation of the Rules of Professional Conduct in and of itself.

If your answer is too hard to deal with, seek help from an attorney friend, your State Bar Councilor, or from the Lawyers Assistance Program through PALS or FRIENDS. Help (hope) is available. There are caring people who may not know you, but who are willing to get to know you and to help you. After all, isn't that why most of us became lawyers—to help others?

4 Handle your crayons with care.

In kindergarten, we learned about crayons. Some were sharp and could be used to color within the lines; some were dull and harder to work with; some were bright colors; some drab; some had strange names like "magenta." Many were different colors. If you pressed too hard on a crayon, it broke. All had to be put back into the same crayon box.

Our clients are like crayons. Be careful with them. Remember, when the legal system is through with them, most go back into the same box. Remember each client is a unique individual who has come to you for help. Respect the dignity of each and every client.

5 Prepare for open house.

In kindergarten, you learned to do your best work on projects to be displayed for open house. You were proud because your parents, grandparents, brothers, and sisters were coming to visit your class. You carefully traced the outline of your hand to make the turkey feathers for the Thanksgiving drawing so that it would be the best you could do, because your mom and dad were coming to see it at open house.

As lawyers, often our work is on display. Make it your best. Prepare your work as if tonight were open house and your mom and dad were coming.

6 Share.

We learned to share in kindergarten. It is also important for us as lawyers to share our unique talents. Our training and experience qualify us to make a difference in our community and in our world. Share your talents. Be a catalyst for good.

There you have it. Six kindergarten lessons which you can use in your law practice. If you follow these examples, maybe you won't have those "Dan Rather" nightmares.

Stateville lawyer, David Benbow, is a State Bar Councilor who serves on the Grievance Committee.

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A Modest Proposal

By Jan H. Samet

Whereas, the failure to respond to a grievance is a violation of 8.1(b) of the Revised Rules of Professional Conduct; and

Whereas, there is an unacceptable number of attorneys in North Carolina who have failed and refused either to respond to local or State Bar Grievance Committees; and

Whereas, it is in the interest of the attorneys, the State Bar, and the citizens of the State of North Carolina to have timely responses filed to grievances; and

Whereas, when a grievance is mailed to an attorney by either the local or the State Bar Grievance Committee, said attorney has 15 days from the date of the letter transmitting the grievance to respond to said grievance; and

Now, therefore, be it resolved that upon failure to respond by the 20th day from the date of the mailing of a notice of grievance, the investigator at the State Bar level or the head of the Grievance Committee on the local level shall be authorized to contact a councilor within whose judicial district the non-responding attorney practices and request assistance from said State Bar councilor;

The councilor without being given any particulars concerning the nature of the grievance, will be advised that an answer or response to a grievance is overdue and the councilor will be asked to personally contact the attorney who has failed to make timely response.

The councilor will make a reasonable effort to timely contact the attorney whose response is delinquent and discuss with the attorney the response requirement;

In said discussions, it is the hope of the State Bar Council that should the councilor become aware of any issues that would be appropriately addressed by PALS, Friends, the Lawyer Assistance Program, such reference will be timely made by the State Bar Councilor;

Once the contact has been made by the councilor with the delinquent attorney, the Local Bar Grievance or the State Bar Grievance Committee will be notified of the contact and the date upon which the contact took place;

The attorney who is delinquent in response to the Grievance Committee shall have 15 days from the date of contact by the councilor to file an appropriate response;

Failure to respond within the second 15 day period shall create a rebuttable presumption before the Grievance Committee that discipline up to and including a reprimand is appropriate. In the event that a non-responding attorney shall fail to respond in a timely manner to either the State or Local Bar Grievance Committee on a second and separate occasion there shall be a rebuttable presumption that discipline up to and including censure is appropriate.

High Point attorney, Jan H. Samet, is a State Bar Councilor who serves on the Grievance Committee.
The North Carolina State Bar Lawyer's Handbook 2012 (Abridged)

Mark E. Sullivan

THE MILITARY DIVORCE HANDBOOK

A Practical Guide to Representing Military Personnel and Their Families
OVERVIEW OF NORTH CAROLINA STATE BAR GRIEVANCE PROCESS

Grievance filed by Complainant or opened by State Bar

- Initial file review by staff attorney
  - No Rule violation alleged
    - Review by Chair of Grievance Committee
      - DISMISSED
  - Violation of one or more Rules alleged
    - Letter of Notice & Substance of Grievance sent to Respondent
      - Respondent has 15 days (or more) to submit written response
        - Staff attorney recommends letter of caution/warning or discipline
          - Follow-up letter to Respondent or further investigation
            - Response reviewed by staff attorney
              - Review by Chair & Vice-Chair of Grievance Committee
                - DISMISSED

- Probable cause to believe one or more Rules violated
  - Review by Grievance Committee at Quarterly Meeting
    - Probable cause to believe one or more Rules violated
      - Referral to Disciplinary Hearing Commission
        - Complaint filed in DHC
          - Admonition, Reprimand, or Censure issued
            - Discipline or LOW Accepted
              - Discipline or LOW Rejected
                - Dismissed with LOW
                  - DISMISSED or dismissed w/LOC

**FORMS OF DISCIPLINE**

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<tr>
<th>Form</th>
<th>Description</th>
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<tr>
<td>Letter of Caution</td>
<td>Communication stating that conduct, while not basis for discipline, is unprofessional or not in accord with accepted professional practice.</td>
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<tr>
<td>Letter of Warning</td>
<td>Communication stating that conduct, while not basis for discipline, is unintentional, minor or technical breach of Rules and may be basis for discipline if continued.</td>
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<tr>
<td>Admonition</td>
<td>Imposed for minor violations of Rules.</td>
</tr>
<tr>
<td>Reprimand</td>
<td>Imposed in cases in which attorney violates one or more Rules and causes harm or potential harm to client, professional, administration of justice, or public, but a censure is not required.</td>
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<tr>
<td>Censure</td>
<td>Imposed in cases in which attorney violates one or more Rules, causing harm or potential significant harm to client, professional, administration of justice or public, but a suspension is not required.</td>
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<tr>
<td>Suspension up to 5 years</td>
<td>May only be imposed by DHC or Courts.</td>
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<td>(all or part may be</td>
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<tr>
<td>stayed with conditions)</td>
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<tr>
<td>Disbarment</td>
<td>Requires a minimum of 5 years before attorney may seek reinstatement. May only be imposed by DHC or Courts.</td>
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<tr>
<td>Type of Action</td>
<td>Disability</td>
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<td>Given by</td>
<td>GC/DHC</td>
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<td>Kept in Bar Files</td>
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<td>Copy to Complainant</td>
<td>Yes</td>
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<tr>
<td>Recorded in NCSB Judgment Book</td>
<td>Yes</td>
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<tr>
<td>Becomes Public Record</td>
<td>Yes</td>
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<tr>
<td>Published in Journal</td>
<td>Yes</td>
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<tr>
<td>Put on Website</td>
<td>Yes</td>
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<tr>
<td>Sent to Courts</td>
<td>Yes</td>
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<tr>
<td>Sent to Media with News Release</td>
<td>Yes</td>
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Revised 2006
Military Personnel Legal Assistance

A significant number of military personnel are assigned within North Carolina. These military personnel and their family members are provided assistance with their legal problems typically through the Staff Judge Advocate’s Office on each base, post, or installation. Many of the military attorneys assigned to provide this Legal Assistance are newly graduated from law school. Military attorneys usually are licensed in a state other than where they are assigned. The Standing Committee on Legal Assistance for Military personnel undertakes projects to:

1. provide legal assistance attorneys assigned within North Carolina greater access to North Carolina law as it bears on the legal issues they are called upon to address; and
2. enable them to obtain prompt and professional advice from experienced North Carolina practitioners in relevant areas.

Beginning in 1983, the Committee implemented a preventative law handout program. The goals of this periodically updated and ever expanding series of pamphlets and handouts are to:

1. help prevent legal problems before they arise;
2. answer some of the military client’s questions before he or she is interviewed by a legal assistance attorney; and
3. provide legal assistance attorneys written information on applicable North Carolina law and procedure.

The materials that are designed to address the frequently asked questions of legal assistance clients are called “Take-1” handouts and “The Legal Eagle.” Those designed as attorney-to-attorney resources for legal assistance attorneys are called “Co-Counsel Bulletins” and “Silent Partners.” The Committee also provides an annual CLE program for military legal assistance attorneys on relevant areas of North Carolina law. It also attempts to keep the Bar informed, and suggests additional projects in support of unique problems for military personnel and those created by large scale developments of those stationed at military installations within the State (e.g., Desert Storm).

Military legal assistance attorneys using this website can research and print the written assistance materials available and locate appropriate subject matter advisors in the statewide network of attorneys identified for that purpose.
Legal Assistance for Military Personnel

Take-1 Handouts
Make your selection below to view an article

Child Support

Custody and Child Support: The Interstate Connection

Powers of Attorney

Name Changes

You and Your Lawyer

Your Last Will and Testament

International Custody and Visitation Issues

Child Custody and Visitation

Divorce, Alimony, and Property Division

To: The Drinking Soldier Driving While Impaired (DWI) in North Carolina

Collecting Support: Garnishment and Involuntary Allotment

What are my Reemployment Rights?

All About Probate

Small Claims Court

Adoption and Illegitimate Children

Uniformed Services Former Spouses Protection Act (USFSPA)

For Unmarried Couples

The Servicemembers Civil Relief Act

Separation Agreement Survival Guide for Soldiers and Spouses

Family Member Pre-Movement Checklist

Child Support Guidelines

All About Probate

Mobilization and Family Support

Early Lease Termination for Military Service Members and their Dependents

The Servicemembers Civil Relief Act and Military Recruits
Legal Assistance for Military Personnel

Legal Eagle
Make your selection below to view an article

Overseas Custody and Visitation Issues

You and Your Lawyer

Uniformed Services Former Spouses’ Protection Act (USFSPA)

The Survivor Benefit Plan

Family Members Pre-Movement Checklist

Setting Child Support

Overseas Divorce Issues—Europe

Overseas Divorce Issues—Far East

Matters to Decide for your Separation Agreement

Separation Agreement Survival Guide for Soldiers and Spouses

Child Support Enforcement

Garnishment and Involuntary Allotment

Overseas Kidnapping Issues

Selecting a Divorce Attorney

Your Divorce: An Overview of the Process

How to Find a Military Divorce Attorney

Fact or "Whacked"? Myths and Mistakes in Military Divorces

Good to Go (And Return)

VA Disability Compensation and Divorce—Facts and Fallacies
Legal Assistance for Military Personnel

Co-Counsel Bulletins
Make your selection below to view an article

Separation Agreements
Divorce Procedures
Divorce from Bed and Board
Landlord/Tenant Problems
Tenant Advocacy: Practical Pointers for Doing the Right Thing
Paternity Claims
Getting Court-Ordered Support
Practical Aspects of Equitable Distribution
Counseling on Custody and Visitation Issues
Establishment and Enforcement of Child Support
Child Support: How Much is Enough?
Alimony
Setting the Record Straight on Living Trusts
Domestic Violence
Child Support: Shopping for Options
Termination of Child Support
Consent Modification of Child Support
Child-Snatching
Consent Modification of Child Custody
The Servicemembers Civil Relief Act in North Carolina
Outline of Law of Summary Ejectment
The Uniform Interstate Family Support Act
Legal Assistance for Military Personnel

Silent Partners
Make your selection below to view an article

Separation Agreements

Divorce

"Lost" Military Pensions: The Ten Commandments

Lawyer Resources and Referral

Custody Enforcement-Domestic (In the US)

Counseling on Custody and Visitation Issues

Child Support Options

Custody and Single-Parent Enlistment

Marriage and Annulment

Answering a Lawsuit: Ten Rules

Visitation Travel Costs

Counseling on Foreign Divorce

Hot Tips for Military Family Law Cases: A Baker's Dozen

The Commandments of Cross-Examination: A Baker's Dozen

Getting Military Pension Division Orders Honored by DFAS

Should I Get a Divorce Overseas?

Military Pension Division: Scouting the Terrain

Military Pension Division: The Servicemember's Strategy

Military Pension Division: The Spouse's Strategy

Military Pension Division: The "Evil" Twins" - CRDP and CRSC

Servicemembers Civil Relief Act

Good to Go (And Return)

Master Checklist for Military Retirement Benefits
Other Publications / Resources

Publications List

International Establishment and Enforcement of Family Support

The Uniform Interstate Family Support Act

Judge’s Guide to Military Divorce in North Carolina

A Judge’s Guide to the Servicemembers Civil Relief Act

An Agency Guide to the Servicemembers Civil Relief Act

"Are We There Yet?" - A Roadmap for Appointed Counsel Under the Servicemembers Civil Relief Act

Clerks’ and Workers’ Guide to the SCRA & Military Support Enforcement

Getting Government Records into Evidence

Administration of Justice—International Service of Process Under the Hague Convention

Administration of Justice—Service of Process and the Military


Child Support Calculator—The calculation of child support is governed by the North Carolina Child Support Guidelines established by the Conference of Chief District Court Judges.

The child support worksheets were developed by the Administrative Office of the Courts (AOC). To view the North Carolina Child Support Guidelines, effective October 1, 2006, visit the AOC website at www.nccourts.org. A child support calculator and the North Carolina Child Support Guidelines are available on the North Carolina Child Support Enforcement website.

As a general rule, child support will be set by the court using the guideline amount unless the court determines that a variance is needed because the guideline amount produces too much or inadequate child support or is otherwise unreasonable.
Legal Research

Every Office of the Staff Judge Advocate should have:

North Carolina Family Law (4 volumes) by Robert E. Lee, published by the Michie Company, Charlottesville, Virginia (invaluable for most North Carolina domestic relations questions)


North Carolina Legal Directory - Official Directory of the North Carolina State Bar, published by Legal Directories Publishing Company, Inc., 9111 Garland Road, P.O. Box 189000, Dallas, Texas 75218-9000 (almost every N.C. attorney listed with address and telephone number; lists board certified specialists; very helpful book for finding your way around N.C. legal community)

Nice to have or at least know about:


Post-Separation Events in North Carolina Equitable Distribution, Special Series No. 11, 1993, NC IOG, Cheryl Daniels Howell


North Carolina Trial Practice Forms by William L. Thorp, published by The Harrison Company, 3110 Crossing Park, P.O. Box 7500, Norcross, Georgia 30091-7500

North Carolina Civil Procedure (2 volumes) by G. Gray Wilson, published by the Michie Company, Charlottesville, Virginia

OR

North Carolina Civil Practice and Procedure by W. Brian Howell, published by The Harrison Company, 3110 Crossing Park, P.O. Box 7500, Norcross, Georgia 30091-7500


Strong's North Carolina Index 4th (30 volumes plus Index) by the Editorial Staff of the Publisher, published by The Lawyers Co-operative Publishing Company, Aqueduct Building, Rochester, New York 14694 (can be helpful as a quick reference into N.C. law)

Annotated Rules of North Carolina (1 volume) published annually by The Michie Company, P.O. Box 7587, Charlottesville, VA 22906-7587 (contains such items as Rules of Appellate Procedure, Code of Judicial Conduct, Rules of the State Bar, Rules of Professional Conduct)

North Carolina Digest 2d (45 volumes plus Index) published by West Publishing Company, St. Paul, Minn. (covers state decisions and federal decisions pertaining to N.C.)

North Carolina Criminal Trial Practice, Third Edition, by Ronald M. Price, published by The Harrison Company, 3110 Crossing Park, P.O. Box 7500, Norcross, Georgia
North Carolina Pattern Instructions for Civil Cases/for Criminal Cases published by North Carolina Conference of Superior Court Judges (can be helpful in determining elements of a cause of action or criminal offense)

State of North Carolina Session Laws and Resolutions issued by the Secretary of State (contains the latest Acts of the N.C. General Assembly)

North Carolina Administrative Code published by Barclays Law Publishers, 50 California Street, San Francisco, CA 94111 (contains rules and regulations of N.C. state agencies, boards and commissions)

North Carolina Reports (347 volumes) and North Carolina Court of Appeals Reports (126 volumes) published by North Carolina Administrative Office of the Courts, justice building, 2 East Morgan Street, Raleigh, NC 27602


**SELECTED WEB SITES for LEGAL ASSISTANCE PROVIDERS**

This URL site list is intended to be useful to DoD and Coast Guard legal assistance practitioners. The presence of any site on this list is not an endorsement by the Office of the Judge Advocate General, the Department of the Army, the Department of Defense, or any other agency of the United States Government.

What, exactly, is the Internet? Basically it is a global network exchanging digitized data in such a way that any computer, anywhere, that is equipped with a device called a "modem" can make a noise like a duck choking on a kazoo. This is called "logging on," and once you are "logged on," you can move the "pointer" of your "mouse" to a "hyperlink" and, simply by "clicking" on it, change your "pointer" to an "hourglass." Then you can go to "lunch," and when you come back, there, on your computer screen, as if by magic, will be at least 14 advertisements related to Beanie Babies (which currently are the foundation of the entire world economy)."


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<thead>
<tr>
<th>Legal Mega Sites and Associations</th>
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<tbody>
<tr>
<td><strong>N.C. Institute of Government</strong></td>
<td>Full text articles on various areas of NC Family Law.</td>
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<tr>
<td><strong>Judge Advocates Association</strong></td>
<td>National Bar Association dedicated to military &amp; veteran law. Includes useful links.</td>
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<tr>
<td><strong>ABA's Lawlink</strong></td>
<td>ABA's Lawlink with selected links to other legal research and information resources on the internet.</td>
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<tr>
<td><strong>ABA Division of Legal Services</strong></td>
<td>Includes links to ABA Lamplighter, Dialogue (the section's quarterly newsletter), lawyer referral, legal aid.</td>
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<tr>
<td><strong>The Retired Officer Association Home Page</strong></td>
<td>Lots of useful information.</td>
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<tr>
<td><strong>Findlaw - Internet Legal Resources</strong></td>
<td>This giant, comprehensive site in the form of a search engine lets you find information on everything law related. Includes message boards, job information, and legal news. Rated best by Encyclopedia Britannica - &quot;Comprehensive directory of legal resources. Covers law schools, legal associations and organizations, law firms and lawyers, news and reference material, and legal practice information, as well as state, federal, and international law resources and law cases and codes. FindLaw is a superb, well-organized resource dealing with all aspects of law. Among its outstanding features are its database of cases and codes, full-text searches of law reviews, the &quot;LegalMinds&quot; community area, and career resources from the Center for Professional Development in the Law.&quot;</td>
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<tr>
<td><strong>The American Law Sources Online! (ALSO!)</strong></td>
<td>A good source for detailed information on North American law. Query by jurisdiction: federal (either U.S., Mexico, or Canada), state, or province. For each jurisdiction, it has links to source texts, commentaries on the law, and practice aids. This site has online sources that are free of charge, and it also has a search function to help you compile a list of links.</td>
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<tr>
<td><strong>Worldwide Legal Information Association</strong></td>
<td>This site has some unique basic content, such as a legal dictionary. It also includes the history of law, as well as specifics on laws in Canada, the United States, Australia, New Zealand, and the United Kingdom. It even has an area called &quot;Fishing.&quot;</td>
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http://www.nclamp.gov/legal_research.asp
LAWkids Only, which includes simple, everyday descriptions of what law is and why we have it.

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<th>Links, Services, &amp; Publications</th>
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<tr>
<td>Government on Line</td>
<td>Lots of links.</td>
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<tr>
<td>Law Crawler - Legal Search Information</td>
<td>Comprehensive legal search site.</td>
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<tr>
<td>MetaIndex for U.S. Legal Research</td>
<td>Links to legal search sites.</td>
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<tr>
<td>The Virtual Chase</td>
<td>A research site for legal professionals more than 400 pages of information about Internet resources and research strategies. Designed especially for lawyers and other experienced legal researchers.</td>
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<td>U.S. Code</td>
<td>Searchable by title and section, from Cornell’s Legal Information Institute (LII)</td>
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<td>U.S. Constitution</td>
<td>Sorted by article, from Cornell’s LII.</td>
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<td>State law links at FindLaw</td>
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<td>Legal Ethics by State</td>
<td>From Cornell’s LII.</td>
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<tr>
<td>Federal/State Agencies</td>
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<td>White House</td>
<td>White House home page; includes interactive Citizens’ Handbook for searching on federal government.</td>
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<td>Thomas-Legislative Information on the Internet</td>
<td>Comprehensive Legislative Information site.</td>
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<tr>
<td>The US Senate Home Page</td>
<td>Committees, senators and other information.</td>
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<tr>
<td>The U.S. House of Representatives Home Page</td>
<td>Committees, representatives and other information.</td>
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<tr>
<td>National Legal Aid and Defender Association</td>
<td>Criminal Defense</td>
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<tr>
<td>Victim-Assistance Online</td>
<td>Emotional support and assistance for crime and tragedy survivors</td>
</tr>
<tr>
<td>Social Security Home Page</td>
<td>Has informative pubs; can request a copy of Personal Earnings &amp; Benefits Estimate Statement.</td>
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<tr>
<td>VA Home Page</td>
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<tr>
<td>Federal Information Center</td>
<td>Massive information site</td>
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<tr>
<th>Global Information Locator Service</th>
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<tr>
<td>Federal Judicial Center</td>
<td>Publications, educational and court links</td>
</tr>
<tr>
<td>Federal Voting Assistance Site</td>
<td>See the 1998-99 Voting Assistance Guide &amp; a Voting Assistance Newsletter, How to Do it! - Vote Absentee, to obtain an election calendar (by month or state), toll-free voter assistance phone numbers from CONUS and OCONUS, and links to Federal Government and Related web sites.</td>
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<th>US State &amp; Local Government Gateway</th>
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<tr>
<td>Foreign/International Law Resources</td>
<td>A selective guide to web sites providing links to texts of laws and court decisions, international documents, directories, trade information, and/or statistics. Initially a training handout for law students, this guide has developed into a dynamic tool for faculty and law students, legal practitioners and business professionals. The annotations, describing the arrangement of information at the site and highlighting noteworthy links, is unique among web guides and is a powerful tool for the researcher.</td>
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<tr>
<td>Washburn University School of Law Library</td>
<td>Links to primary foreign/international legal resources, research aids, and sites useful in conducting research in these areas of the law.</td>
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<tr>
<td>Military Sites</td>
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<tr>
<td>DefenseLink</td>
<td>DOD's home page with many links; includes subscription for Defense news e-letters.</td>
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<tr>
<td>DoD Pubs site</td>
<td>The DoD Pubs page. Links to DoD directives, the MCM and UCMJ.</td>
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<td>Defense Technical Information Center</td>
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<td>Army Home Page</td>
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<td>HQDA Home Page</td>
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<tr>
<td>US Army Publishing Home Page</td>
<td>Official Army publications site (ARs, Pamphlets, Circulars, Forms)</td>
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<td>Army Review Boards Agency</td>
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<td>USAF publications</td>
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<td>Army JAGC Home Page</td>
<td>Links to Army lawyer's online articles, plus other legal resources.</td>
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We are drowning in information, while starving for wisdom. The world henceforth will be run by synthesizers, people able to put together the right information at the right time, think critically about it, and make important choices wisely.

Professor Edward O. Wilson, *Consilience*, 1998

http://www.nclamp.gov/legal_research.asp
Wounded Agent Captured, Dies Later

INDIANHEAD

Vol. III No. 31
24 Infantry Division, Korea
August 7, 1958

By Cpl. Lee Cattenall

The first 50 minutes were the roughest for a patrol July 30th from Company B, 39th Battalion, 35th Infantry. It was rougher for a wounded North Korean infiltrator who was shot dead in the battle of the United Nations Command.

Sgt. Larry Asbe had been told before making his morning patrol that North Koreans were likely to be present in the area of the Breach, North of the 30th Line. An incident that took the lives of one American patrol and an infiltrator occurred in an adjacent sector of the DMZ only ten days before Sergeant Asbe's men knew this was no ordinary day.

Sergeant Asbe's patrol had just entered the DMZ around 10:30 a.m. when Private Rudolph Williams, the patrol's point man, tripped a booby trapped wire on the north side of the DMZ. Private Williams was immediately shot, and the patrol members were forced to seek cover.

Sergeant Asbe's men finally entered the DMZ around 10:30 a.m. when Private Williams was shot. All the men were forced to seek cover.

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Alert Pointman Surprises Reds

By PFC Norm Weil

Foes North Koreans were still lurking in the wooded areas and were evading detection. This was after their attempt to infiltrate across the DMZ had been foiled by a division patrol, July 30th.

At least two of the Communist infiltrators were believed to have lived in the area. The patrol members were sent to search for the infiltrators. One infiltrator was reported to have been killed by a patrol member.

Two North Koreans were believed killed and two more were believed wounded in the firefight. One American soldier was killed.

Patrol Thwarts Infiltrators

PFC's Leave ACTA As E5s

Private First Class Joseph A. Polovick and Private First Class Daniel R. Tosto, of the 3rd Battalion, 10th Cavalry, walked into the Recreational Center, 21 Theatre at PFC's, and walked out as E5s minutes later at the ceremony.

This is the first time in the history of the cavalry unit that promotion from E3 to E5 has been possible. Two E5s have been awarded.

The promotion ceremony was attended by a hundred officers, including Second Lieutenant Ralph M. Nelson, Company C commander.

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Sarge 'On Target'

Staff Sergeant James Childress, Headquarters and Headquarters Company, 3rd Battalion, 3rd Infantry, won the award for 'On Target' at the Eighth Army pistol match held July 30th at the International Match Site.

The Division Pistol Team captured third individual awards, the greatest number for any unit in competition.

### Dangerous Duty on Korea's DMZ

#### July 28, 1954 - Sept. 30, 1966
(No Medal Awarded)

##### 1955
- **Feb 5**: An RB-45 UNC aircraft is attacked by four Chinese MiG-15s over the Yellow Sea. Air fighting between 8 U.S. F-86s and 12 MiGs result in one MiG-15 damaged and two others shot down.
- **Mar 17-19**: 1st Marine Div leaves Korea after being relieved by the 24th ID.
- **Aug 18**: An unarmed U.S. T-6 trainer plane is shot down by NK ground fire near Parnunjom. One U.S. pilot KIA; 1 WIA.

##### 1957
- **Mar 27**: A 12-man patrol is fired on south of the DMZ.
- **Oct 15**: 1st Cavalry Div returns to Korea, replacing the 24th ID.

##### 1958
- **Mar 6**: A U.S. Air Force F-26 is shot down over the DMZ by ground fire.

##### 1961
- **Apr 20**: U.S. pilot is fired on by NK planes; his plane crashes as he attempts an emergency landing south of Seoul. Pilot dies.

##### 1962
- **Oct 1**: One U.S. soldier KIA on DMZ, the first since the armistice.
- **Nov 23**: NKs kill one U.S. soldier and wound another with grenades in an attack on Outpost Susan.

##### 1963
- **May 17**: An 8th Army OH-23 helicopter is shot down in communist-held territory and two crewmen kidnaped. They are not returned until a year later.
- **Jul 29**: Two U.S. soldiers are KIA and one WIA in an ambush of a jeep. One additional GI is KIA in pursuit of NKs.
- **Aug 4**: NKs assault a UNC guard post, precipitating a two-hour engagement with 13 men of the 1st Recon Squadron, 9th Cav. Regt., 1st Cav. Div. GIs had engaged in firefights for successive nights.

##### 1964
- **Nov 14**: U.S. Air Force plane is attacked on the DMZ.

##### 1965
- **Apr 27**: Two NK MiG-17s fire on a U.S. RB-47 over the Sea of Japan.
- **May 18**: Army aviation aircraft are shot down by NK ground fire.
- **Jul 1**: 2nd ID returns to Korea, replacing the 1st Cavalry Div.
- **Nov 18**: A sergeant of C Co., 2nd Bn., 23rd Inf., 2nd ID is wounded by an NK patrol. He is subsequently awarded the Bronze Star.

#### Oct. 1, 1966 - June 30, 1974
(Armed Forces Expeditionary Medal)

##### 1966
- **Nov 2**: Eight-man patrol is ambushed a half-mile south of the DMZ. Six U.S. soldiers, and one Korean of the 1st Bn., 23rd Inf., 2nd ID are KIA. One wounded GI survives. This was the most serious attack involving American troops since the armistice.

##### 1967
- **Feb 12**: A GI of the 3rd Bn., 23rd Inf., 2nd ID, is KIA in an ambush.
- **May 22**: Two soldiers of the 1st Bn., 23rd Inf., 2nd ID, are KIA and 16 WIA when mortar charges shatter their barracks in the first act of sabotage since the armistice.
- **Jul 16**: Three 2nd ID soldiers are KIA by NKs.
- **Jul 28**: Construction begins on the barrier fence in the U.S. sector of the DMZ. It is completed two months later on Sept. 28.
- **Aug 10**: Three 7th ID soldiers are KIA, and 16 WIA in an unprecedented daylight ambush on a truck near Freedom Village.
- **Aug 22**: One 2nd ID soldier is KIA, and one WIA when their jeep hits a mine and then is fired on by NKs.
- **Aug 28**: In an NK attack on C Co., 7th Engineer Bn. near the JSA, 2 U.S. soldiers are KIA. 14 WIA. The unit was raked with 3,000 rounds of ammunition.
- **Aug 29**: Three 2nd ID soldiers are KIA and 5 WIA when two vehicles detonate mines.
- **Sept 13**: NKs blow up two trains near Seoul in 2nd ID area, destroying seven carloads of Army supplies. No casualties.
- **Oct 7**: One 2nd ID soldier drowns after being WIA by NK gunfire which raked a U.S. patrol boat on the Imjin River.
- **Dec 31**: By year's end, 16 Americans had been KIA and 51 WIA.

##### 1968
- **Jan 19**: U.S. troops conduct search operations for a group of 31 NKs sighted near Pobonni.
- **Jan 23**: First American ship—USS Pueblo—to be seized in 161 years is captured off Wonsan by NKs: Of 83 crewmen aboard, one dies of wounds and 4 are WIA. In response, Operation Combat Fox brings aircraft from the 18th TFW to Kimpo; the USS Enterprise and Ticonderoga deploy among the 32-ship task force in the Sea of Japan; and, 3,000 Air National Guardsmen and Reservists later arrive in Korea. Crewmen are released 11 months later on Dec. 23.
- **Jan 24**: A soldier of the 1st Bn., 23rd Inf., 2nd ID is KIA.
- **Jan 26**: Soldier of the 2nd Bn., 72nd Armor, 2nd ID, is KIA south of the DMZ.
- **Jan 29**: Members of the 2nd ID repel four separate NK agent teams attempting to infiltrate into the south.
- **Apr 2**: Defense Dept. authorizes hostile fire pay for GIs who serve north of the Imjin River. By this time, 31 Americans had already been KIA and 71 WIA.
- **Apr 14**: NKs ambush a truck and kill 2 Americans and wound 2 others south of the JSA.
- **Apr 18**: NK guards attack UNC guards in the JSA.
Apr 21  A U.S. patrol from Co. B, 2nd Bn., 31st Inf., 7th ID, and an NK force of 50-75 men clash in the southern portion of the DMZ, leaving one American dead and three WIA. Four NKS die.

Apr 27  Two 7th ID soldiers are WIA when their patrol is ambushed by NKS near Panmunjom.

Jul 21  Two U.S. soldiers—one of the 2nd Bn., 38th Inf., 2nd ID and the other from the 7th ID—are KIA and two WIA in separate firefight:

Jul 30  In a pair of clashes with NKS south of the DMZ, one GI of Co. C, 3rd Bn., 23rd Inf., 2nd ID, is KIA and 3 WIA.

Aug 5  NKS kill a U.S. soldier of the 1st Bn., 38th Inf., 2nd ID; 4 other members are WIA.

Aug 18  Two NCOs of the 7th ID are KIA when eight NKS clash with a UNC patrol south of the DMZ.

Sep 2  Three U.S. officers are assaulted in the JSA at Panmunjom by 15 to 20 NKS.

Sep 19  Four NKS are killed in a firefight in the 2nd ID area.

Sep 27  Two members of the 2nd ID are KIA when their jeep is ambushed south of the MDL.

Oct 5  One 2nd ID soldier is KIA and 2 WIA in an ambush.

Oct 23  A soldier is KIA, and five other Americans of the 2nd Bn., 38th Inf., 2nd ID are WIA during a firefight with NKS.

Dec 26  Army Dept. authorizes Combat Infantryman Badge and Combat Medic Badge for selected troops in Korea.

Dec 31  By year-end, 17 Americans had been KIA and 54 WIA.

1969

Mar 15  An NK guard post opens fire on a 10-man work party of the 2nd ID replacing markers on the MDL. One GI is KIA and 2 WIA from a patrol during a 4-hour firefight. When a U.S. helicopter evacuating the WIA accidentally crashes shortly after take off, 5 crewmen, 2 GIs and a Korean die.

Apr 15  Two NK MiG-17s intercept and shoot down an unarmed USN EC-121 reconnaissance plane with 31 men aboard in the Sea of Japan. All die; one was a Marine. Task Force 71—29 ships—forms to protect further recon flights.

Apr 23  NKS open fire on a UNC guardpost in the southern half of the DMZ with recoilless rifle and machinegun fire.

Jul 21  NKS are repulsed by 2nd ID troops after a 35-minute firefight. No casualties.

Jul 30  45 NK guards attack 15 UNC personnel in the JSA.

Aug 17  U.S. OH-23 helicopter with three members of the 59th Aviation Co. is shot down over NK-held territory. Crewmen are not rescued until 108 days later on Dec. 3. All had been WIA.

NKS soldiers of the 7th ID are killed in a daylight ambush by NKS.

Sack was shot through the head. Their light truck was flying a white truce flag.

of the 2nd ID kill an NK near Panmunjom.

ee separate incidents, 2nd ID troops intercept and fire at NKs.

Army helicopter is fired on by NK gun positions north of the but is not hit.

an UNC security personnel in the JSA are injured as a result of an unprovoked attack by club-wielding NK guards and civilians.

The responsibility for the U.S.'s 18.5-mile sector of the DMZ is officially transferred from the U.S. 2nd ID to the 1st ROK Division. 7th ID leaves Korea after 24 years service there. Simultaneously, the 2nd ID is relieved on line by the Koreans and moves into reserve positions 20 miles north of Seoul.

1973

Sep 1  Hostile fire pay terminated for Korea.

1974

Mar 3  120 NK guards attack 30 U.S. personnel in the JSA.

May 9  Two U.S. helicopters are fired on by NK batteries on the Han River.

July 1, 1974 - Oct. 4, 1991

(No Medal Awarded)

May 10  Two U.S. Army helicopters are fired on:

Nov 15  ROK army uncovers an NK-built underground tunnel extending 1,000 yards into the UNC side of the armistice zone.

Dec 20  An enemy device explodes in the tunnel complex, killing a U.S. Navy officer, and wounding four U.S. servicemen.

1975

Jun 30  A U.S. Army major is attacked at Panmunjom by 10 NK guards.

He suffers a fractured larynx, and is medically evacuated to the United States.

1976

Aug 18  Two U.S. Army officers are brutally murdered and 4 other U.S. personnel injured—by 30 NKS wielding axes and metal pipes—while attempting to trim a tree in the DMZ.

Operation Paul Bunyan. Some 26 gunships and a Quick Reaction Force of 500 back up 2nd Engineer Bn. members who cut down the tree which was involved in the Aug. 18 incident. Naval Task Force 77-4, led by the USS Midway, is dispatched to the Korean coast. Aircraft from Okinawa, Guam and Idaho are sent to South Korea. One U.S. helicopter is hit by NK fire.

1977

Aug 16  NKS release a U.S. helicopter pilot after 57 hours of captivity.

 Bodies of three other crew members killed when their OH-47 Chinook was shot down after straying over NK airspace on the 14th are returned. This was the sixth U.S. aircraft shot down since the armistice.

1979

Dec 7  One American is KIA and 4 WIA when they stumble into an NK minefield in heavy fog. Body is recovered 5 days later.

1984

Nov 23  A GI is shot and wounded in the jaw by NKS while on security patrol. He was the last recorded American WIA on the DMZ.

1991

Oct 4  Last GIs are withdrawn from the one-mile U.S. sector on the DMZ. Only 150 remain to share duty with South Koreans at one guard post.

Infamous tree incident on Aug. 18, 1976. In which two U.S. officers were murdered. U.S. Army photo

All told, 59 Americans were KIA and 134 WIA defending the DMZ. Another 32 died in the Sea of Japan, for a total of 90 killed by North Koreans.

NOTE: A special thanks to the Center for Military History in compiling this chronology.
Significant information regarding Agent Orange use along Korea's DMZ is now available. The Pentagon has confirmed that Agent Orange was used from April 1968 through July 1969 to defoliate the fields of fire between the front line defensive positions and the south barrier fence.

The size of the treated area was a strip of land 151 miles long and up to 350 yards wide, from the fence to north of the civilian control line. There is no indication that herbicides were sprayed inside the DMZ itself. The defoliants were applied by South Korean troops by hand-spraying and by hand-distribution of pelletized herbicides. Although restrictions were put in place to limit the potential for spray drift, run-off and damage to food crops, records indicate the effects were sometimes observed as far as 200 meters down wind.

The Defense Department has provided a list of units deployed on four-month rotations up to the DMZ.

Presumption for individuals who served in those units during the applicable timeframe has been granted.

For all other claims of herbicide exposure, veterans are advised to contact their VFW Department service officer or call toll-free 1-800-VFW-1899. The information provided by DoD determines whether exposure can be established. Since March 2003, C&P Service has received approximately 130 such inquiries from Korea DMZ veterans.


"The parent of the child must have performed active military, naval or air service beginning Sept. 1, 1967, and ending Aug. 31, 1971, in the Republic of Korea in the area between the south line of the Demilitarized Zone and a line five miles south of the Civilian Control Line established with respect to the DMZ. The child would be eligible only if the individual was conceived after the parent performed such service."

For those who will benefit from compensation, these are landmark actions.

"VFW is to be commended for doggedly pursuing this issue for so many years," said C. David Benbow, a Korea DMZ veteran of 1968-69 and activist. "Through its magazine and National Veteran Service, the organization has clearly taken the lead in making presumptive compensation for Korea DMZ vets a priority. VFW should be proud of its educational and lobbying efforts."

For more information about Agent Orange, contact VA's Gulf War/Agent Orange Helpline at 1-800-749-8387 or visit www.va.gov/agentorange.

TED SYPKO, VFW service officer, is retiring in April 2004 after 25 years at VFW.
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THE MILITARY DIVORCE HANDBOOK

A Practical Guide to Representing Military Personnel and Their Families