

§ 516.1

516.37 Proceedings to repossess government real property or quarters or to collect delinquent rent.

Subpart F—Environmental Litigation

516.38 Scope.
516.39 Duties and procedures.

Subpart G—Release of Information and Appearance of Witnesses Scope

516.40 General.
516.41 Policy.
516.42 Reference to HQDA.

RELEASE OF RECORDS IN CONNECTION WITH LITIGATION

516.43 Release of Army and other agency records.
516.44 Determination of release authorization.
516.45 Records determined to be releasable.
516.46 Records determined not to be releasable.

DA PERSONNEL AS WITNESSES IN PRIVATE LITIGATION

516.47 Response to subpoenas, orders, or requests for witnesses.
516.48 Official information.
516.49 Expert witnesses.
516.50 Interference with mission.

LITIGATION IN WHICH THE UNITED STATES HAS AN INTEREST

516.51 Response to subpoenas, orders, or requests for witnesses.
516.52 Expert witnesses.
516.53 News media and other inquiries.

STATUS, TRAVEL, AND EXPENSES OF WITNESSES

516.54 Witnesses for the United States.
516.55 Witnesses for a State or private litigant.
516.56 Witnesses before foreign tribunals.

Subpart H—Remedies in Procurement Fraud and Corruption

516.57 Purpose.
516.58 Policies.
516.59 Duties and procedures.
516.60 Procurement fraud and irregularities programs at MACOMs.
516.61 Reporting requirements.
516.62 PFD and HQ USACIDC coordination.
516.63 Coordination with DOJ.
516.64 Comprehensive remedies plan.
516.65 Litigation reports in civil recovery cases.
516.66 Administrative and contractual actions.
516.67 Overseas cases of fraud or corruption.
516.68 Program Fraud Civil Remedies Act (PFCRA).

32 CFR Ch. V (7–1–09 Edition)

Subpart I—Cooperation With the Office of Special Counsel

516.69 Introduction.
516.70 Policy.
516.71 Duties.
516.72 Procedures.
516.73 Assistance from HQDA.

Subpart J—Soldiers Summoned To Serve on State and Local Juries

516.74 General.
516.75 Policy.
516.76 Exemption determination authority.
516.77 Procedures for exemption.
516.78 Status, fees, and expenses.

APPENDIX A TO PART 516—REFERENCES

APPENDIX B TO PART 516—MAILING ADDRESSES

APPENDIX C TO PART 516—DEPARTMENT OF DEFENSE DIRECTIVE 5405.2, RELEASE OF OFFICIAL INFORMATION IN LITIGATION AND TESTIMONY BY DOD PERSONNEL AS WITNESSES

APPENDIX D TO PART 516—DEPARTMENT OF DEFENSE DIRECTIVE 7050.5, COORDINATION OF REMEDIES FOR FRAUD AND CORRUPTION RELATED TO PROCUREMENT ACTIVITIES

APPENDIX E TO PART 516—DEPARTMENT OF DEFENSE DIRECTIVE 5505.5, IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT

APPENDIX F TO PART 516—GLOSSARY

APPENDIX G TO PART 516—FIGURES

AUTHORITY: 5 U.S.C. 552; 10 U.S.C. 218, 1037, 1089, 1552, 1553, 2036; 18 U.S.C. 219, 3401; 28 U.S.C. 50, 513, 515, 543; 31 U.S.C. 3729 and 41 U.S.C. 51; 42 U.S.C. 290, 2651; 43 U.S.C. 666

SOURCE: 59 FR 38236, July 27, 1994, unless otherwise noted.

Subpart A—General

§ 516.1 Purpose.

(a) This part prescribes policies and procedures for the following:

(1) Defensive and affirmative litigation in Federal and state civilian courts where the Army or DOD has an interest in the matter.

(2) Proceedings before Federal or state administrative bodies, such as utility rate commissions.

(3) Release of official information and testimony by DA personnel with regard to litigation.

(4) Remedies for procurement fraud and corruption.

(5) Environmental civil litigation and administrative proceedings.

(6) Proceedings before the Office of Special Counsel.

Department of the Army, DoD

§516.4

(b) This regulation does not apply to DA or DOD proceedings such as court-martial or administrative boards.

§516.2 References.

Applicable publications and forms are listed in appendix A to this part.

§516.3 Explanation of abbreviations and terms.

(a) The Glossary contains explanations of abbreviations and terms.

(b) The masculine gender has been used throughout this regulation for simplicity and consistency. Any reference to the masculine gender is intended to include women.

§516.4 Responsibilities.

(a) *United States Department of Justice (DOJ)*. DOJ will defend litigation in domestic and foreign courts, against the United States, its agencies and instrumentalities, and employees whose official conduct is involved. The various U.S. Attorney Offices, under the oversight of the Attorney General, will conduct much of the representation.

(b) *The Judge Advocate General (TJAG)*. Subject to the ultimate control of litigation by DOJ (including the various U.S. Attorney Offices), and to the general oversight of litigation by the Army General Counsel, TJAG is responsible for litigation in which the Army has an interest except with respect to proceedings addressed in paragraph (i) of this section, only TJAG (or Chief, Litigation Division) will communicate to DOJ the army's position with regard to settlement of a case.

(c) *Assistant Judge Advocate General For Civil Law and Litigation (AJAG-CL)*. Responsible to TJAG for litigation issues; supervises Chief, Litigation Division.

(d) *Chief, Litigation Division*. Reports to AJAG-CL and is responsible for the following:

(1) Supervising litigation in which the Army has an interest.

(2) Acting for TJAG and Secretary of the Army on litigation issues, including the authority to settle or compromise cases, subject to the supervision of TJAG and AJAG-CL.

(3) Delegating cases if appropriate.

(4) Serving as primary contact with DOJ on litigation.

(5) Accepting service of process for DA and for the Secretary of the Army in his official capacity. See 32 CFR §257.5).

(e) *Special Assistant U.S. Attorneys (SAUSAs) and DOJ Special Attorneys*. Army judge advocates and civilian attorneys, when appointed as SAUSAs under 28 U.S.C. 543, will represent the Army's interests in either criminal or civil matters in Federal court under the following circumstances:

(1) *Felony and misdemeanor prosecutions in Federal court*. Army attorneys, at the installation level, after being duly appointed (See AR 27-10), will prosecute cases, in which the Army has an interest, in Federal court. Army attorneys who prosecute criminal cases will not represent the United States in civil litigation without authorization from Chief, Litigation Division.

(2) *SAUSAs for civil litigation*. By assignment of TJAG and upon the approval of the U.S. Attorney, Judge Advocates will serve within a U.S. Attorney's office to represent the government in litigation in which the Army or DOD has an interest. These Judge Advocates have the same general authority and responsibility as an Assistant U.S. Attorney.

(3) *Special Attorneys assigned to DOJ*. By assignment of TJAG and with the concurrence of the appropriate DOJ official, Judge Advocates will work as Special Attorneys for DOJ. Special Attorneys are authorized to represent the United States in civil litigation in which the Army or DOD has an interest.

(f) *Attorneys at Army activities or commands*. SJAs or legal advisers, or attorneys assigned to them, will represent the United States in litigation only if authorized by this regulation or delegated authority in individual cases by the Chief, Litigation Division.

(g) *Commander, U.S. Army Claims Service (USARCS)*. The Commander, USARCS, and USARCS attorneys, subject to AR 27-20, Chapter 4, will maintain direct liaison with DOJ in regard to administrative settlement of claims under the Federal Tort Claims Act.