



~ 2026 CAAF CLE ~

PROFESSIONAL RESPONSIBILITY

BLOCK #1: “LEGAL ETHICS & ARTIFICIAL
INTELLIGENCE IN OUR DUAL PROFESSION”

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INTRODUCTION

1



LEARNING OBJECTIVES

- 1) *The Why:* *Reflect on why our PR rules exist.*
- 2) *The What:* *Consider what key PR rules and principles are most relevant in military criminal appellate practice.*
- 3) *The How:* *Apply principles and experience to respond to common scenarios.*







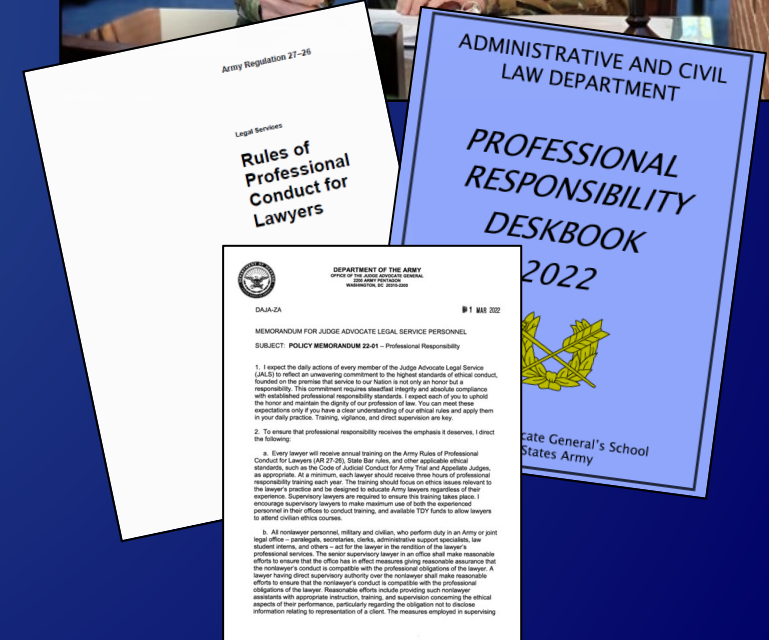
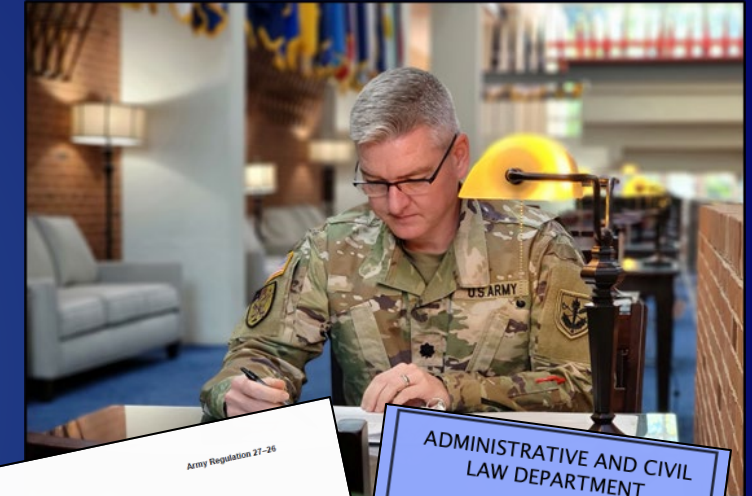






REFERENCES & POLICY GUIDANCE

1. Service-Specific Regulations and Policies
 - a. Army Regulation (AR) 27-26; AR 27-1 (Chapters 11 and 12); Army TJAG Policy Memorandum 22-01
 - b. Navy/USMC JAG Instruction 5803.1E
 - c. Air Force Instruction (AFI) 51-110; AFI 51-304
 - d. USCG COMDTINST M5800.1
2. Professional Responsibility Deskbook (ADA 2022)
3. ABA Model Rules of Professional Conduct
4. ABA Formal Ethics Opinions (e.g., Formal Opinion 512)
5. Respective State Bar's PR Rules
6. Technical Chain Guidance





AGENDA



~~1. Introduction~~



2. Background of Our PR Rules



3. Key PR Rules & Principles in CAAF Practice



4. Hypothetical Scenarios



5. Takeaways, Conclusion, & Questions

Professional Responsibility

1. Intro

2. Background

3. Key PR
Rules

4. Hypotheticals

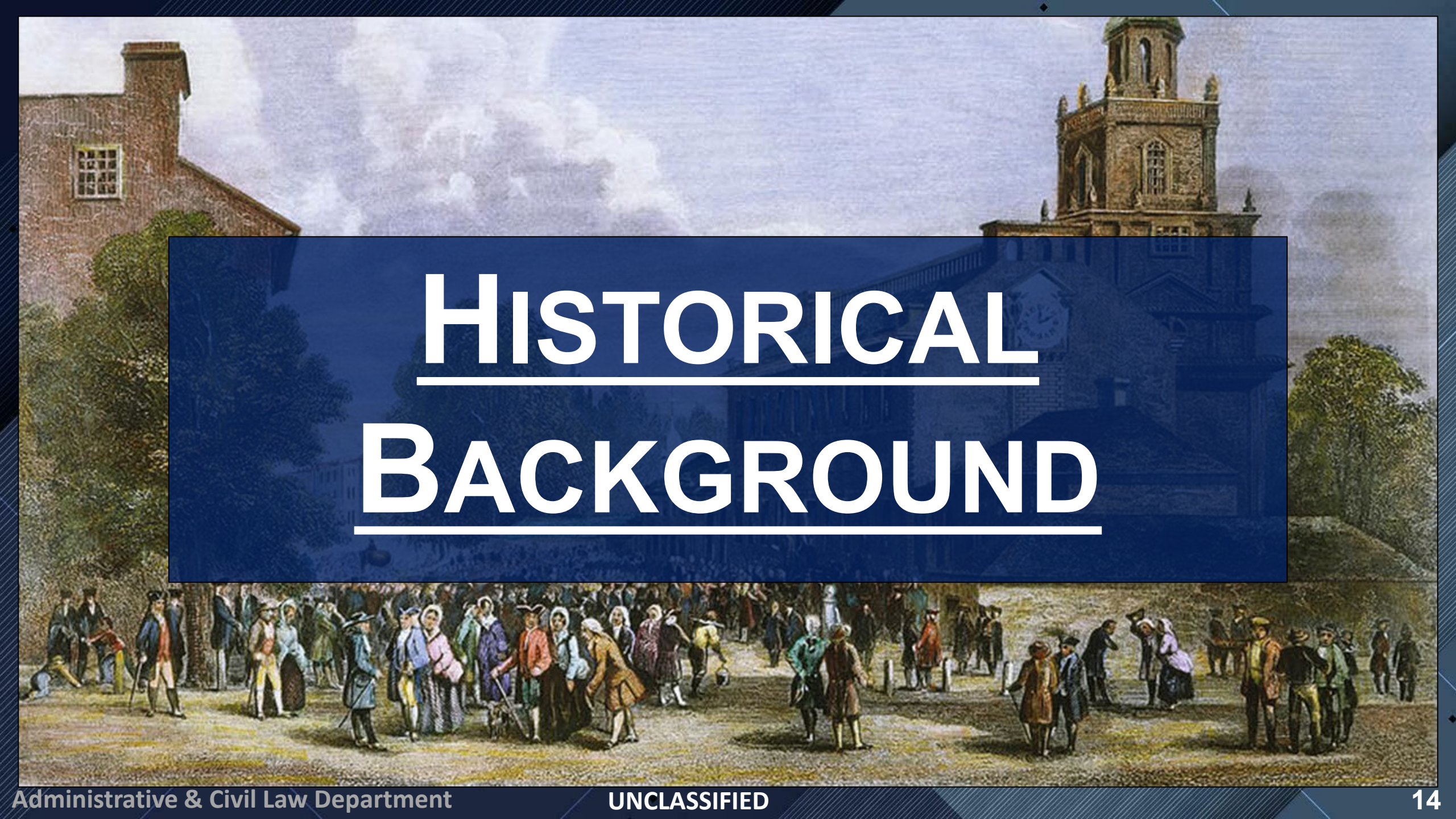
5. Conclusion



BACKGROUND OF OUR PR RULES

- a. History
- b. Purpose
- c. Spirit

2

A detailed historical painting of a busy street scene, likely from the 18th or 19th century. The foreground is filled with a large crowd of people in period clothing, including men in top hats and women in long dresses and bonnets. They are walking along a wide, unpaved street. In the background, a large, ornate church tower with a clock face is visible on the right, and a brick building with a chimney is on the left. The sky is filled with soft, white clouds. A dark blue rectangular box is overlaid in the center of the image, containing the title text.

HISTORICAL BACKGROUND





DEVELOPMENT OF THE ABA MRPC



1887

AL Code of
Professional
Ethics



1908

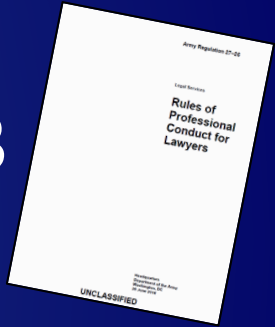
ABA Canons of
Professional Ethics
(modeled after AL
Code)

1969

ABA Model Code
of Professional
Responsibility

1983

**ABA Model
Rules of
Professional
Conduct**





ABA MODEL RULES OF PROFESSIONAL CONDUCT (MPRC)

- A set of rules and commentaries on the ethical and professional responsibilities of members of the legal profession in the United States.
- Generally, **NOT binding law on their own** . . .



ABA MODEL RULES OF PROFESSIONAL CONDUCT (MPRC)

- A set of rules and commentaries on the ethical and professional responsibilities of members of the legal profession in the United States.
- Generally, **NOT binding law on their own** . . .
 - **But**, they provide **a model for state regulators** (like bar associations) to adopt, thereby creating administrative and/or criminal consequences . .
 - Also leave room for state-specific adaptations.
- Provide the basis for the legal ethics rules of all 50 states and D.C.
- **Also serve as model for PR Rules of each of the Military Services** . . .

THE APPLICABILITY & STRUCTURE OF MILITARY PR RULES



APPLICABILITY

7. Purpose of the Rules

a. Governance and applicability. These Rules of Professional Conduct govern the ethical conduct of lawyers practicing under the UCMJ, MCM, the supervision of the four Senior Counsels, Section 1044, Title 10, United States Code (10 USC 1044), other laws of the United States, and regulations of the Department of the Army, including AR 27-1, AR 27-3, and AR 27-10. The definitive interpretation, implementation, and enforcement of these Rules are the exclusive province of the authorities listed in appendix B, Rule 5.1, Rule 8.5, and Rule 9.1. These Rules are not substitutes for, and do not take the place of, other rules and standards governing Department of the Army personnel, such as DOD 5500.7-R, Executive Order 10631, the UCMJ, and the general precepts of ethical conduct to which all Department of the Army service members and employees are expected to adhere. Similarly, action taken to enforce these Rules is not supplanted or barred by, and does not supplant or bar, even if the underlying misconduct is the same, other appropriate punitive, disciplinary, or administrative action by other applicable authority.

(1) These Rules apply to:

(j) All Army nonlawyer personnel, military and civilian, who perform duty in an Army, or any other, legal office, as these Rules define the type of ethical conduct that the public and military community have a right to expect from Department of the Army legal personnel. Such nonlawyer legal personnel include, but are not limited to: legal administrators (MOS 270A), paralegal Soldiers (MOS 27D), court reporters, legal interns, and civilian support personnel including paralegals, legal secretaries, legal technicians, secretaries, court reporters, and other personnel holding similar positions.



APPLICABILITY OF AR 27-26



Army Regulation 27-26

Legal Services

Rules of Professional Conduct for Legal Personnel

Headquarters
Department of the Army
Washington, DC
26 March 2025

UNCLASSIFIED



STRUCTURE OF SERVICE PR RULES

Army:

Air Force:

Navy/USMC:

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DEPARTMENT OF THE NAVY	
OFFICE OF THE JUDGE ADVOCATE GENERAL	
WASHINGTON NAVY YARD	
1322 PATTERSON AVENUE SE SUITE 3000	
WASHINGTON DC 20374-5066	
IN REPLY REFER TO:	
JAGINST 5803.1E	
OJAG (Code 13)	
20 Jan 2015	
JAG INSTRUCTION 5803.1E	
From: Judge Advocate General	
Subj: PROFESSIONAL CONDUCT OF ATTORNEYS PRACTICING UNDER THE COGNIZANCE AND SUPERVISION OF THE JUDGE ADVOCATE GENERAL	
Ref: (a) Uniform Code of Military Justice (UCMJ)	
(b) Manual for Courts-Martial (MCM)	
(c) 10 U.S.C. § 1044	
(d) SECNAVINST 5430.27 (series)	
(e) U.S. Navy Regulations	
(f) DODI 1442.02	
(g) SECNAVINST 5430	
(h) DON GC Memo of	
(i) DODI 1100.21	
(j) JAGINST 5801.2	
(k) American Bar As	
Conduct	
(1) 5 U.S.C. § 552a	
(m) SECNAVINST 5211	
(n) SECNAV M-5210.1	
(o) DON System of R	
Encl: (1) Rules of Profes	
(2) Complaint Proce	
(3) Outside Practic	
(4) Relations with	
1. Purpose. In furtheran	
require the Judge Advocate	
the performance of legal s	
the Department of the Navy	
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attorneys subject to this	
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STRUCTURE OF SERVICE PR RULES

Rule 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

COMMENT: Legal Knowledge and Skill

(1) In determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter, and whether it is feasible to refer the matter to, or consult with, a lawyer of established competence in the field in question. In most instances, the required proficiency is that generally afforded to clients by other lawyers in similar matters. Expertise in a particular field of law may be required in some circumstances.

(2) Initial determinations as to competence of an Army lawyer for a particular assignment will be made by supervisory lawyers prior to case or issue assignments; however, once assigned, Army lawyers may consult with supervisory lawyers concerning competence in a particular case or issue. See Rules 5.1 and 5.2.

Rule 1.13 Department of the Army as Client [Modified Title]

(a) [Modified and Augmented] Except when representing an individual client pursuant to paragraphs (g) and (h) below, an Army lawyer (or a lawyer retained by the Army) represents the Department of the Army (or the executive agency to which assigned) acting through its authorized officials. These officials include the heads of organizational elements within the Army, such as the commanders of armies, corps, divisions, and brigades, and the heads of other Army agencies or activities. The term Army as used in this and related Rules v organizational element involved.

Rule 1.13 THE AIR FORCE AS CLIENT

(a) [Modified] Except when authorized to represent an individual client, the government of the United States, or another government agency, an Air Force judge advocate or other Air Force lawyer represents the Department of the Air Force acting through its authorized officials.

(b) [Modified] If an Air Force lawyer knows that an official, member, employee, or other person associated with the Air Force is acting, intends to act, or refuses to act in an official matter in

Rule 1.1 COMPETENCE

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for representation.

Rule 1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LAWYER

(a) [Modified] Subject to paragraphs (c), (d), and (e), a lawyer shall abide by a client's decisions concerning the objectives of representation, and, as required by Rule 1.4, shall consult with

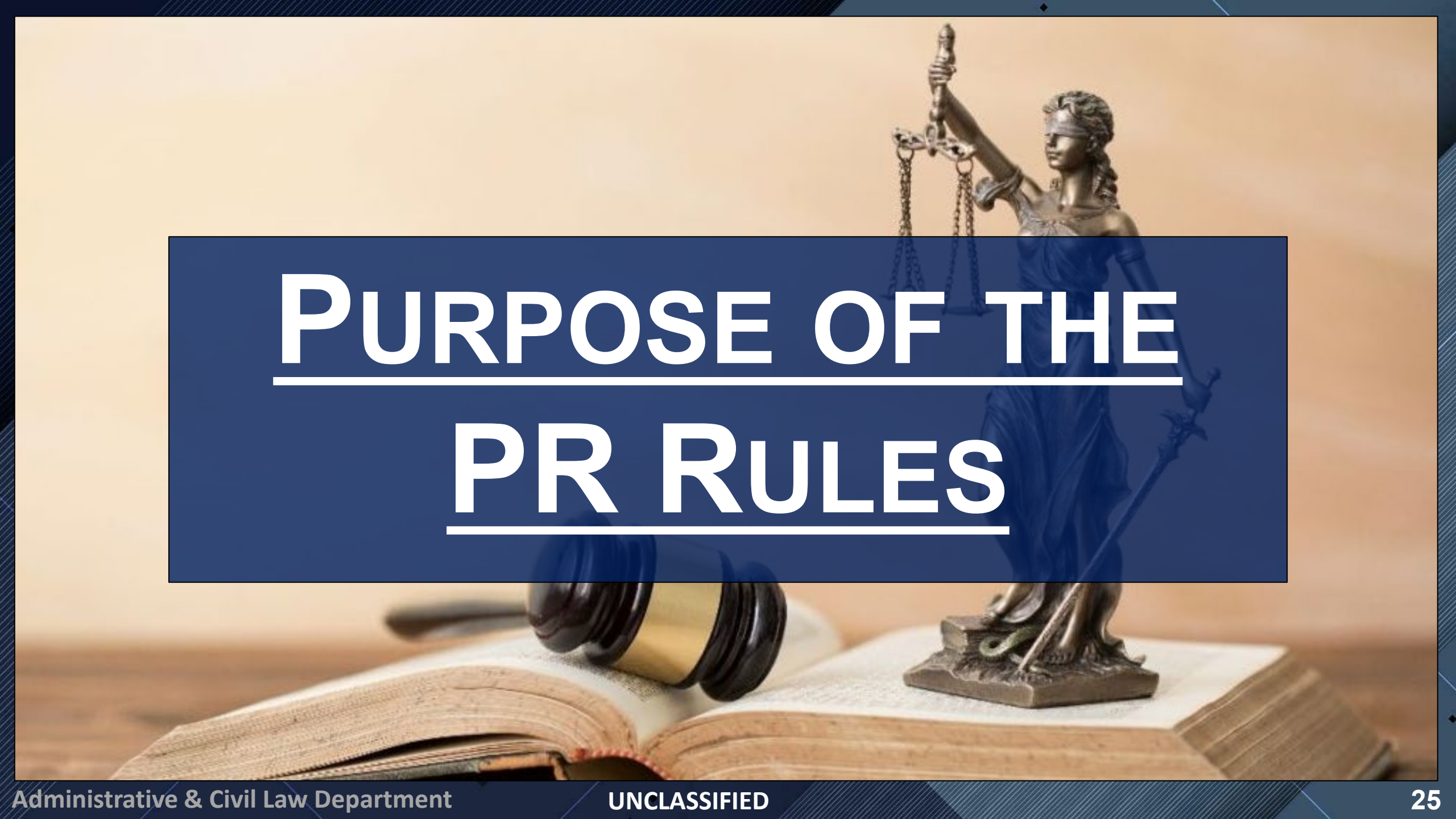
JAGINST 5803.1E

f. A covered USG attorney who has been duly assigned to represent an individual who is subject to criminal or disciplinary action or administrative proceedings, or to provide legal assistance to an individual, has, for those purposes, an attorney-client relationship with that individual.

g. COMMENT

(1) The Department of the Navy as the Client

(a) The Department of the Navy (although the used throughout this comment, the term cy to which a covered USG attorney is units, and activities are legal cept through their authorized mbers. The Department's interests adverse to the personal interests of , employees, or members. Under such arises as to who is the client. f great significance to the covered ramifications it has on the carrying



PURPOSE OF THE PR RULES



PURPOSE OF THE PR RULES

1. Protect the Client

- Clients generally are unable to judge an attorney's conduct/performance.



2. Protect the Reputation of the Legal Profession

- We are a nation of laws => Lawyers play a valuable role in our society.
- A baseline code of conduct = vital to maintaining public trust in the profession.





PURPOSE OF THE PR RULES

3. Because it was the *right thing to do*.





PURPOSE OF PR RULES: ONLY THE FRAMEWORK, NOT THE CEILING

- The Rules of Professional Conduct **provide “comprehensive rules” to govern the ethical conduct of lawyers.** (AR 27-26, para. 1)

“These Rules do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be completely defined by legal rules. These Rules simply provide a framework for the ethical practice of law.”

(AR 27-26, para. 7.d.(2))

- They outline **only the minimum levels of acceptable conduct.**

What else influences a one's conduct in the practice of law?



THE SPIRIT OF MILITARY PR RULES



“A LAWYER'S RESPONSIBILITIES”

“Within the framework of these Rules, however, many **difficult issues of professional discretion can arise.**”

Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying these Rules.”

(AR 27-26, para. 6b)

“... However, **a lawyer is also guided by personal conscience** and the approbation of professional peers.”

(Id. at para. 6g)



Professional Responsibility

1. Intro

2. Background

3. Key PR
Rules

4. Hypotheticals

5. Conclusion



ROLE OF CAAF PRACTITIONERS IN UPHOLDING PR

- Helping uphold integrity of the organization
- Overlap (and friction) between trial practice remedies and PR consequences
- Your actions model the dual profession's values



SURVEYING THE AUDIENCE:

What was the hardest PR call you've made as an criminal appellate attorney?

As an advisor?

As a teammate?

As a leader?

CAAF PRACTITIONERS AT A POINT OF CONVERGENCE

Military's Long-Term Interests

Public's or
DoW's
Expectations



Statutory/Regulatory
Authority (Justice)

Military's Current Priorities



UNIQUE PRESSURES TO CAAF PRACTITIONERS

- 1) Justice (due process, discovery obligations, etc.)
- 2) Commanders, victims, units, etc. want speed and action
- 3) Subordinate criminal litigators/judges need guidance
- 4) External stakeholders—from Congress to local communities—watch the military justice system closely, even at lower levels



PR IN MILITARY CRIMINAL APPEALS



- **Frivolous vs. Meritorious Claims:**

- Appellate counsel must balance the duty to provide diligent and zealous representation (MRPC 1.3) with the prohibition against bringing frivolous claims (MRPC 3.1).
- This is particularly acute in the military, where “Groston” issues—matters the client insists on raising even if counsel deems them meritless—must be submitted to the court.

- **Dual Loyalty and Command Influence:**

- Military lawyers serve within a chain of command, creating pressure to balance professional responsibilities toward a client with military duties.
- Although unlawful command influence is prohibited, the “technical chain of supervision” can still exert subtle pressure on strategy or resource allocation.

- **Speedy Post-Trial Processing:**

- Appellate counsel often face pressure to identify and document dilatory post-trial processing, which can impact a client’s sentence or the legality of the conviction.

- **Discovery and Disclosure:**

- Prosecutors (Trial Counsel) have heightened duties under MRPC 3.8 to disclose all exculpatory evidence.
- At the appellate level, failure to have made these disclosures can become a central ethical and legal conflict.



THOSE PRESSURES ➡ SUBTLE SHIFTS

- **From Trial Strategy to Record Review:**

- Unlike trial litigators, appellate practitioners focus on the "cold record."
- The shift requires specialized competence (MRPC 1.1) in recognizing errors that trial counsel might have missed or waived.

- **The "Grostefon" Shift:**

- While civilian attorneys might refuse to brief meritless issues, military appellate defense counsel must include client-identified issues in the record to ensure the appellate court reviews them.
- Shifts the lawyer's role from "gatekeeper" to "conduit" for certain claims.

- **Heightened Sensitivity to Ineffective Assistance of Counsel (IAC):**

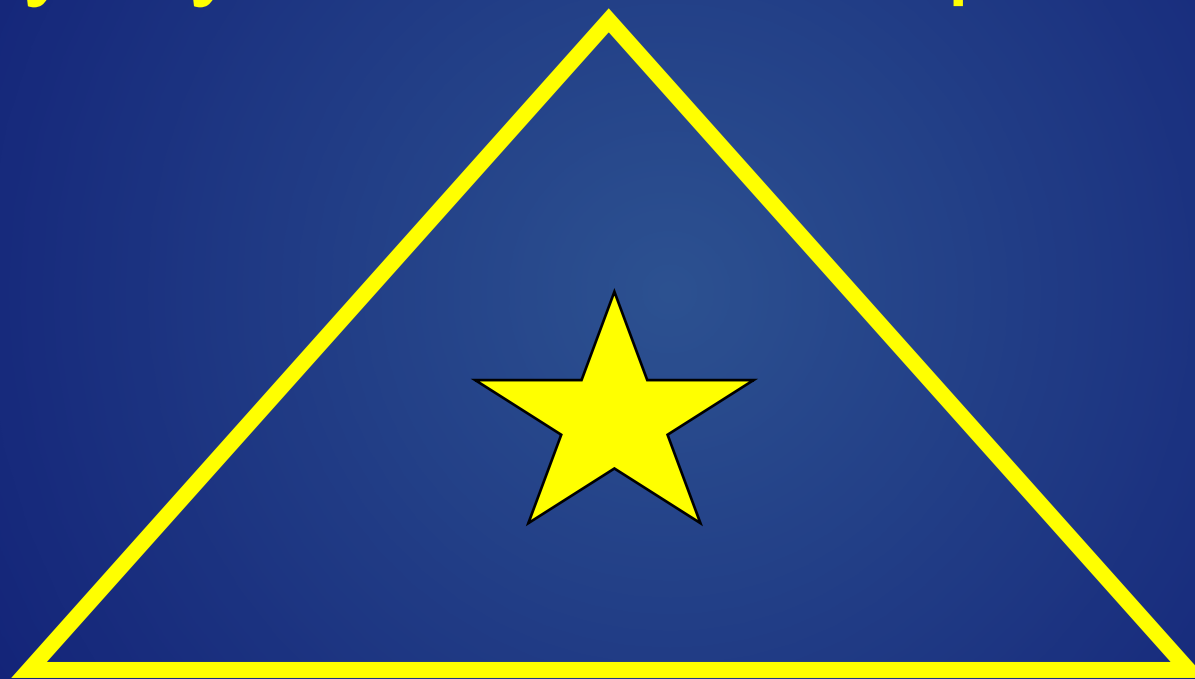
- Appellate counsel frequently investigate the performance of trial counsel.
- This creates a subtle professional tension when trial and appellate counsel belong to the same small, close-knit Judge Advocate General (JAG) corps.



BALANCING LOYALTY

Loyalty to Client or Supervisor

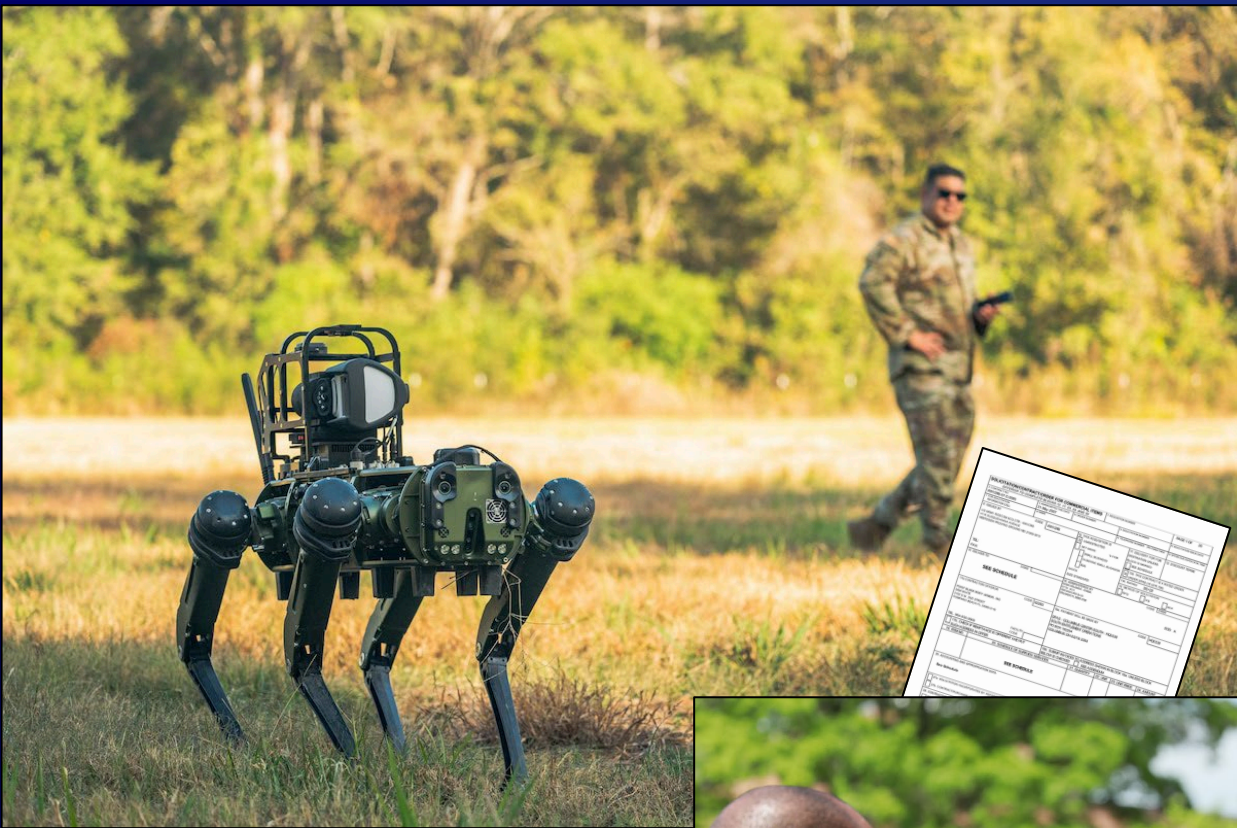
Loyalty to
Dept
(Army,
etc.)



Loyalty to
Law

DIVERSE LEGAL-ETHICAL
TERRAINS:
PR RISKS ACROSS MILITARY
CRIMINAL APPELLATE PRACTICE









TOP PR RULES & PRINCIPLES FOR CAAF PRACTITIONERS



1) **Maintaining Expertise Amidst Increasing Complexity of Practice**

- Rule 1.1: Competence: Requires specialized knowledge of appellate procedures and military-specific law (e.g., flying missions, Iraq interrogations).
- Rule 1.3: Diligence: Counsel must pursue a client's appeal with zeal despite administrative delays or heavy caseloads.
- Rule 3.8: Special Responsibilities of a Prosecutor: Governs the government's duty to ensure justice rather than just a conviction, specifically regarding disclosure of exculpatory evidence.

2) **Confidentiality & End of Client Relationships**

- Rule 1.6: Confidentiality: This duty endures even if the attorney-client relationship breaks down or the lawyer must withdraw.
- Rule 1.3: Diligence: Counsel must pursue a client's appeal with zeal despite administrative delays or heavy caseloads.

3) **Ensuring Meritorious Claims & Arguments**

- Rule 3.1: Meritorious Claims and Contentions: Prohibits frivolous filings, though modified by military custom for client-requested issues.

4) **Leading Legal Offices / Avoiding & Addressing Misconduct**

- Rules 5.1 - 5.3 – Supervisory/Subordinate Attys; Nonlawyer Assistants
- Rule 8.5: Disciplinary Authority: Military lawyers are often subject to both their state bar and the military's disciplinary rules, with the military rules typically controlling in cases of conflict.



PR POLICIES (ARMY): REPORTING MISCONDUCT

Rule 8.3 (MPRC/State Bar Rules/Sister Service Regulatory Language):

“A lawyer who knows that another lawyer has committed a violation of these Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects, **shall report** such a violation.”

TJAG Policy Memo 22-01:

- Requirement to to **self-report** any allegations of professional misconduct under investigation by our licensing authorities
- Key Leader/Supervisor Reporting – All allegations of JALS misconduct or impropriety (e.g., criminal, PR, etc.) must be reported thru appropriate technical channels to:
 - Chief, PRB – Judge Advocates and Civilian lawyers
 - CWOC – Legal Administrators
 - RCSM – Paralegal Soldiers

A blurred, high-tech control room or server room with blue lighting and multiple monitors displaying data.

EMERGING PR CONCERN: ARTIFICIAL INTELLIGENCE & LEGAL PRACTICE



OR...

“GUARDIANS OF CODE & CONSCIENCE: Exploring Legal and Ethical Frontiers of Generative AI”*



*This alternate title and image were both generated by Artificial Intelligence.

To ChatGPT*:
“Give me an image of an Army attorney facing an ethical dilemma.”



To ChatGPT*:
“Give me an inspiring
image of a **military
attorney** exemplifying
legal ethics and
professional
responsibility **in an
office setting.**”



* Non-Endorsement



“...Now make them
a Civilian.”





“...Now make them
a robot.”





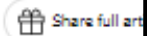
*“AI won’t replace lawyers,
but lawyers who use AI will replace
those who don’t.”*

- A repeated refrain from countless tech & law articles (e.g., Law Technology Today & ABA resources)

Here's What Happens When Your Lawyer Uses ChatGPT

A lawyer representing a man who sued an airline relied on artificial intelligence to help prepare a court filing. It did not go well.

PODCASTS



Share full article

The ChatGPT Case (Mata v. Avianca, Inc.) and AI in Courts: A Closer Look



As an Avianca flight approached Kennedy International Airport, a legal saga began, prompting the question: smart? Nicolas Economou/NurPhoto, via Getty Images



By Benjamin Weiser

May 27, 2023

U.S. NEWS

Lawyers submitted bogus case law created by ChatGPT. A judge fined them \$5,000

Latest version of ChatGPT aces bar exam with score nearing 90th percentile

BY DEBRA CASSENS WEISS

MARCH 16, 2023, 1:59 PM CDT

Post

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LAW

Michael Cohen says he unwittingly sent AI-generated fake legal cases to his attorney

DECEMBER 30, 2023 · 8:20 AM ET

By The Associated Press



World Business Markets Sustainability Legal Breakingviews Technology Invest

Transactional | Legislation | Legal Ethics | Legal Industry | Data Privacy

Another NY lawyer faces discipline after AI chatbot invented case citation

By Sara Merken

January 30, 2024 3:42 PM EST · Updated 8 months ago



Aa



AMERICAN BAR ASSOCIATION

STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY

July 29, 2024

Formal Opinion 512

Generative Artificial Intelligence Tools

To ensure clients are protected, lawyers using generative artificial intelligence tools must fully consider their applicable ethical obligations, including their duties to provide competent legal representation, to protect client information, to communicate with clients, to supervise their employees and agents, to advance only meritorious claims and contentions, to ensure candor toward the tribunal, and to charge reasonable fees.

I. Introduction

Many lawyers use artificial intelligence (AI) based technologies in their practices to improve the efficiency and quality of legal services to clients.¹ A well-known use is electronic discovery in litigation, in which lawyers use technology-assisted review to categorize vast quantities of documents as responsive or non-responsive and to segregate privileged documents. Another common use is contract analytics, which lawyers use to conduct due diligence in connection with mergers and acquisitions and large corporate transactions. In the realm of analytics, AI also can help lawyers predict how judges might rule on a legal question based on the judge's rulings; discover the summary judgment grant rate for every federal district judge; or evaluate how parties and lawyers may behave in current litigation based on their conduct in similar litigation. And for basic legal research, AI may enhance lawyers' search

This opinion discusses a subset of AI technology that has more recently drawn the attention of the legal profession and the world at large – generative AI (GAI), which can create various types of new content, including text, images, audio, video, and software code in response to prompts and questions.² GAI tools that produce new text are prediction tools that generate statistically probable output when prompted. To accomplish this, these tools analyze large quantities of digital text culled from the internet or proprietary data sources. GAI tools are as “self-learning,” meaning they will learn from themselves as they cull more data. GAI tools assist lawyers in tasks such as legal research, contract review, due diligence, document regulatory compliance, and drafting letters, contracts, briefs, and other legal documents.

¹ There is no single definition of artificial intelligence. At its essence, AI involves computer technology and systems that perform tasks traditionally requiring human intelligence. The ability of a computer-controlled robot to perform tasks commonly associated with intelligent beings is one definition. It is frequently applied to the project of developing systems that appear to employ or replicate intelligence characteristic of humans, such as the ability to reason, discover meaning, generalize, or learn from experience. *BRITANNICA*, <https://www.britannica.com/technology/artificial-intelligence> (last visited July 12, 2024).
² George Lawton, *What is Generative AI? Everything You Need to Know*, *TECHTARGET* (July 12, 2024), <https://www.techtarget.com/searchenterpriseai/definition/generative-AI>.

ABA Task Force on Law and Artificial Intelligence

Addressing the Legal Challenges of AI

Year 1 Report on the Impact of AI on the Practice of Law
August 2024

FLORIDA BAR ETHICS OPINION OPINION 24-1 January 19, 2024

Advisory ethics opinions are not binding.

Lawyers may use generative artificial intelligence (“AI”) in the practice of law but must protect the confidentiality of client information, provide accurate and competent services, avoid improper billing practices, and comply with applicable restrictions on lawyer advertising. Lawyers must ensure that the confidentiality of client information is protected when using generative AI by researching the program’s policies on data retention, data sharing, and self-learning. Lawyers remain responsible for their work product and professional judgment and must develop policies and practices to verify that the use of generative AI is consistent with the lawyer’s ethical obligations. Use of generative AI does not permit a lawyer to engage in improper billing practices such as double-billing. Generative AI chatbots that communicate with clients or third parties must comply with restrictions on lawyer advertising and must include a disclaimer indicating that the chatbot is an AI program and not a lawyer or employee of the law firm. Lawyers should be mindful of the duty to maintain technological competence and educate themselves regarding the risks and benefits of new technology.

- RPC:** 4-1.1; 4-1.1 Comment; 4-1.5(a); 4-1.5(e); 4-1.5(f)(2); 4-1.5(h); 4-1.6; 4-1.6 Comment; 4-1.6(c)(1); 4-1.6(e); 4-1.18 Comment; 4-3.1; 4-3.3; 4-4.1; 4-4.4(b); Subchapter 4-7; 4-7.13; 4-7.13(b)(3); 4-7.13(b)(5); 4-5.3(a)
- OPINIONS:** 76-33 & 76-38, Consolidated; 88-6; 06-2; 07-2; 10-2; 12-3; ABA Comm. on Ethics and Prof’l Responsibility, Formal Op. 498 (2021); ABA Comm. on Ethics and Prof’l Responsibility, Formal Op. 93-379 (1993); Iowa Ethics Opinion 11-01; New York State Bar Ethics Opinion 842
- CASES:** *Mata v. Avianca*, 22-cv-1461, 2023 WL 4114965, at 17 (S.D.N.Y. June 22, 2023); *Bartholomew v. Bartholomew*, 611 So. 2d 85, 86 (Fla. 2d DCA 1992); *The*



Rule 1.1: Competence

Share:



Maintaining Competence

(7) To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education, and comply with all continuing legal education requirements to which the lawyer is subject.

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.



Administration Priorities

OCTOBER 30, 2023

Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence

BRIEFING ROOM PRESIDENTIAL ACTIONS



CHIEF DIGITAL AND ARTIFICIAL INTELLIGENCE OFFICE

WH.GOV



OCTOBER 24, 2024

Memorandum on Advancing the United States' Leadership in Artificial Intelligence; Harnessing Artificial Intelligence to Fulfill National Security Objectives; and Fostering the Safety, Security, and Trustworthiness of Artificial Intelligence



BRIEFING ROOM

PRESIDENTIAL ACTIONS

An official website of the United States Government Here's how you know

U.S. Department of Defense

U.S. Endorses Responsible AI Measures for Global Militaries

Nov. 22, 2023 | By David Vergun, DOD News | f x ↻

The United States government is leading global efforts to build strong norms that will promote the responsible military use of artificial intelligence and autonomous systems. Last week, the State Department announced that 47 states have now endorsed the "Political Declaration on Responsible Military Use of Artificial Intelligence and Autonomy" that the government first launched at The Hague on Feb. 16.



AI refers to the ability of machines to perform tasks that would otherwise

An official website of the United States Government Here's how you know

U.S. Department of Defense

RELEASE
IMMEDIATE RELEASE

DOD Announces Establishment of Generative AI Task Force

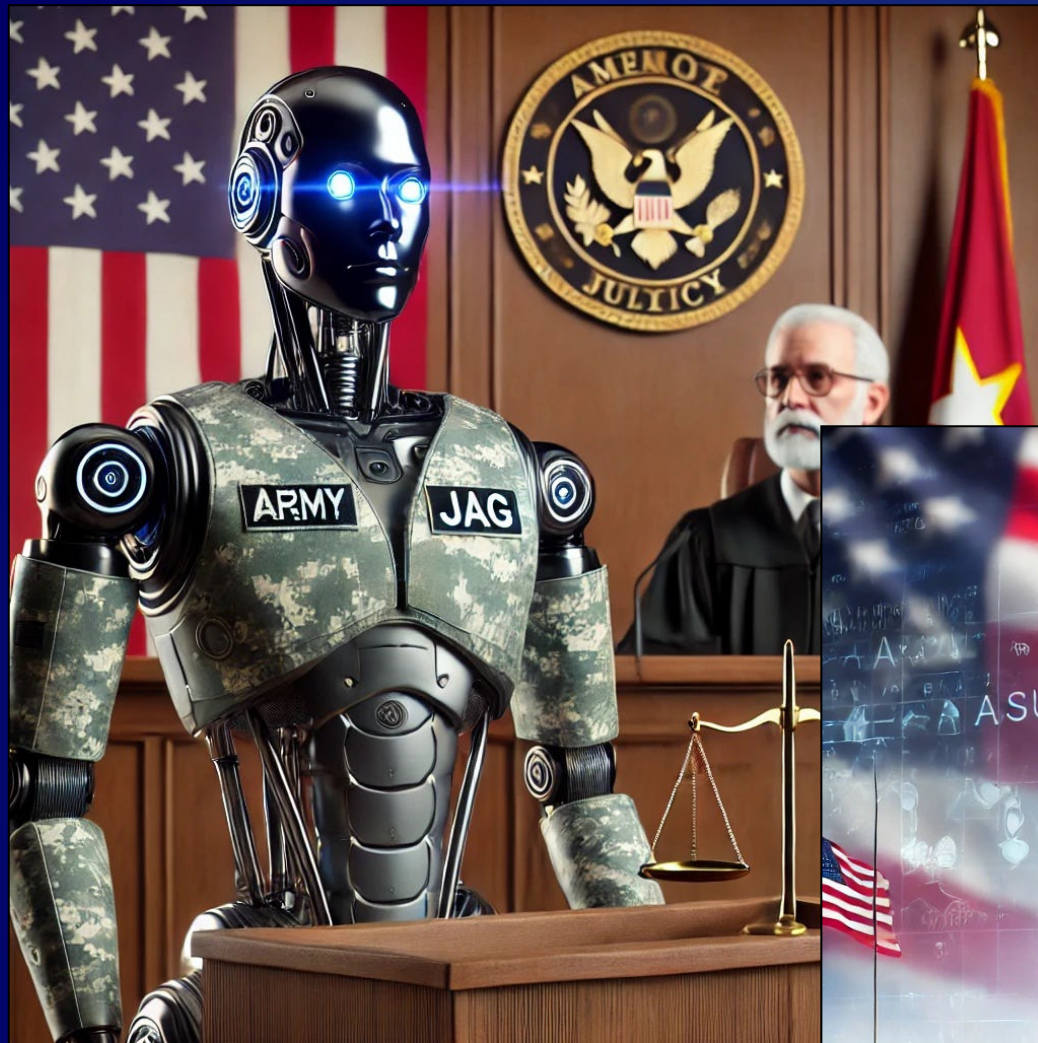
Aug. 10, 2023 | f x ↻

Today, the Department of Defense (DoD) announced the establishment of a generative artificial intelligence (AI) task force, an initiative that reflects the DoD's commitment to harnessing the power of artificial intelligence in a responsible and strategic manner.

Deputy Secretary of Defense Dr. Kathleen Hicks directed the organization of Task Force Lima; it will play a pivotal role in analyzing and integrating generative AI tools, such as large language models (LLMs), across the DoD.

"The establishment of Task Force Lima underlines the Department of Defense's unwavering commitment to leading the charge in AI innovation," Hicks said. "As we navigate the transformative power of generative AI, our focus remains steadfast on ensuring national security, minimizing risks, and responsibly integrating these technologies. The future of defense is not just about adopting cutting-edge technologies, but doing so with foresight, responsibility, and a deep understanding of the broader implications for our nation."





WE'VE IMAGINED
AN AI-DRIVEN
FUTURE . . .





BUT THE “FUTURE”
HAS ARRIVED.



PAXTON
LEGAL AI



Meet CoCounsel—the world’s first AI legal assistant



Harvey.

Unprecedented
Legal AI



THE LEGAL PROFESSION: PERFECT SETTING FOR AI USE?

- Clear, defined rules
- Repeatable processes
- Large quantities of documents
- Databases of authoritative text
- Similar writing styles





REWARDS & RISKS: AI USE IN THE LEGAL PROFESSION

STRENGTHS / “REWARDS”

- Summarizing large documents
- Drafting briefs, memos & emails
- Legal Research
- Synthesis based on the information you give it
- Brainstorming
- E-discovery
- Can get you 80% of the way to a good document

WEAKNESSES / “RISKS”

- Data Security
- Hallucinations
- Bias
- Makes a prediction based on what it thinks you want to hear
- “May be wrong, but is never uncertain.”
- When we like what AI produces, we call it creative; when we don’t like it, it’s a hallucination



ABA RESOLUTION 112 (2019)

Urged legal community to **address the emerging ethical and legal issues related to the usage of AI in the practice of law**, including:

- 1) Bias, explainability, and transparency of automated decisions made by AI;
- 2) Ethical and beneficial usage of AI; and
- 3) Controls and oversight of AI and the vendors that provide AI.

112

AMERICAN BAR ASSOCIATION

HOUSE OF DELEGATES

ADOPTED AUGUST 12-13, 2019

RESOLUTION

RESOLVED, That the American Bar Association urges courts and lawyers to address the emerging ethical and legal issues related to the usage of artificial intelligence ("AI") in the practice of law including: (1) bias, explainability, and transparency of automated decisions made by AI; (2) ethical and beneficial usage of AI; and (3) controls and oversight of AI and the vendors that provide AI.



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GENA.MIL

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Securely access advanced AI capabilities on **IL5 accredited environments**.
Accelerate mission outcomes and achieve information advantage with **cutting-edge generative AI**.



ARMY DJAG POLICY MEMORANDUM 26-01 – INTERIM ARTIFICIAL INTELLIGENCE GOVERNANCE Policy (10 FEB 26)



DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
3300 ARMY PENTAGON
WASHINGTON, DC 20315-3200

DAJA-ZB

10 FEB 2026

MEMORANDUM FOR JUDGE ADVOCATE LEGAL SERVICE PERSONNEL

SUBJECT: DJAG POLICY MEMORANDUM 26-01 – Interim Artificial Intelligence Governance Policy

1. Artificial Intelligence (AI) technology is advancing rapidly throughout the profession of arms and the profession of law. The U.S. Army Judge Advocate General's Corps (JAGC) will seize this opportunity and harness AI to strengthen our practice to meet the evolving demands of the Army and the warfighter. We will exploit AI responsibly – with the highest standards of integrity and accountability grounded in our four constants: principled counsel, stewardship, mastery of the law, and servant leadership.¹

2. To that end, this policy establishes the framework and foundational principles for the responsible and effective use of AI by all Judge Advocate Legal Services (JALS) personnel.² This policy empowers the JAGC to strengthen legal services by leveraging AI, consistent with the American Bar Association (ABA), *Model Rules of Professional Conduct* and the references outlined below (see Enclosure).

3. **Policy Objectives.** As the Department of War (DoW) and the Department of the Army integrate AI capabilities, the JAGC must ensure its personnel can (1) responsibly leverage AI consistent with our professional responsibility obligations and (2) effectively advise our clients on their development and use of AI systems.³ Therefore, the JAGC adopts the following as foundational principles for the use and development of AI:

- Promote the effective use of AI tools for legal purposes.
- Mitigate risks that legal AI generates false or misleading outputs.
- Maintain the confidentiality and integrity of government and client data.
- Comply with emerging laws, regulations, and guidelines concerning AI.
- Stay informed about developments in AI as these technologies evolve.
- Encourage informed communication with clients and within the JAGC about AI use.

¹ The guidelines in this document are for internal use by the JAGC and do not create any enforceable rights for any other person or entity.

² This policy applies to all JALS personnel as defined in AR 27-1, paragraph 3-1. This includes members of the JAGC, civilian attorneys under TJAG's qualifying authority, contractors, and any other individuals who have access to JAGC systems, software, and hardware.

³ *AI MEDIA LAB, AI Glossary/Dictionary*, <https://www.media.mil.edu/ai-media-lab-glossary-dictionary/>. For the purposes of this policy, Artificial Intelligence refers to systems that can perform tasks typically requiring human intelligence, such as reasoning, learning, and problem-solving. AI encompasses a broad range of technologies, including but not limited to machine learning, natural language processing, and generative AI models.

DAJA-ZB
SUBJECT: DJAG POLICY MEMORANDUM 26-01 – Interim Artificial Intelligence Governance Policy

4. **User Responsibility.** All JALS personnel must comply with the Rules of Professional Conduct and any applicable state licensing legal and ethical guidelines.⁴ Care shall be taken to comply with legal ethical issues discussed in reference (b), including the implications on an attorney's duties of competent representation, confidentiality, communications, and candor in all legal matters.⁵ Moreover, supervisory lawyers must ensure that their personnel understand and adhere to these rules.

a. Each member of the JALS is responsible for their use of AI systems and their legal advice.⁶ Improper use of or reliance on AI may result in false or misleading content (e.g., hallucinations and bias), the disclosure of confidential or proprietary information (e.g., privileged information), or the unauthorized release of private data (e.g., personally identifiable information). The JAGC's use of AI will fully comply with Army policy guidance, professional responsibility obligations, and information security standards. See Rules 1.1, 1.4, 1.6, 3.3, 5.1, 5.2, and 5.3.

b. JALS personnel will carefully analyze AI inputs before uploading data to AI models. They must comply with stringent information security and cybersecurity practices, taking appropriate measures to protect Controlled Unclassified Information (CUI) and other protected data sets, including Personally Identifiable Information (PII) and Protected Health Information (PHI).⁷ Additionally, JAGC personnel must safeguard confidential communications and not compromise privileged information. No CUI, PII, PHI, privileged material, client information, or sensitive/classified data may be entered into any GenAI tool unless the platform is explicitly authorized for that type of data.⁸ See Rule 1.6.

c. JALS personnel will critically review AI outputs before official use – human review is mandatory. AI outputs should serve as supportive tools for your work. Independent verification of legal theories, factual assertions, supporting research, and conclusions remains necessary. Any content generated by AI technology must be considered an initial draft only. Always review and cross-check AI outputs against reliable sources, including citations. See Rules 1.1, 1.3, 5.1, 5.2, and 5.3.

5. **Training and Education.** To competently leverage AI, JALS personnel will develop a reasonable understanding of the capabilities and limitations of the specific AI technology they intend to use. This includes understanding the uses of AI systems and their associated benefits and risks. JALS personnel may pursue competency through

⁴ Army Regulation 27-26, *Rules of Professional Conduct for Lawyers*, 26 March 2025, para. 7a(1).

⁵ American Bar Association Formal Opinion 512, *Generative Artificial Intelligence Tools*, 29 July 2024.

⁶ Army Chief Information Officer, *Guidance on Generative Artificial Intelligence and Legal Language Models*, 27 June 2024, para. 5c(1). "Users have sole responsibility for their input and acceptance of output from Gen AI tools."

⁷ *Id.*, para. 5c(2). "Users are responsible for information inputted into publicly accessible Gen AI tools and are subject to existing legal, cybersecurity, information, operational security, classification (and Gen AI) policies."

⁸ Chief Digital and Artificial Intelligence Officer Memo, *Interim Guidance on the Use of Generative Artificial Intelligence*, 5 October 2023. "Any input into publicly accessible Gen AI tools is analogous to a public release of that information. DoD personnel are prohibited from entering CUI, such as PII or PHI, as inputs to publicly accessible Gen AI tools."

1 – Interim Artificial Intelligence

Additionally, supervisors will ensure that and trained on the responsible use and JAGC organizations may develop sue practice. See Rules 1.1, 5.1, and

JALS personnel are required to o client representation – this duty representing individual clients must re inputting information relating to the determination will be based on a fact- Opinion 512.¹⁰ When counsel early explain that AI will be used to asks it will be used for, and the al information. Additionally, they will be client will be informed that, if they be deemed to have consented to the ganizational leaders and supervisors ngent standards. Where the Army is le written disclosure follows. See

C employs various technologies ents. These may include digital, the storage, handling, and They may also include digital r LexisNexis and generative or research, develop work product, The JAGC employs reasonable disclosure of client confidential and will not knowingly include in any interaction with an AI a Model. The JAGC conducts if these technologies, engages d employs protective adjacent ion, and malware screening. athod of storage, transmission, ts, the client consents to the knowledges that the JAGC is to those of similarly situated law

ackages as they develop

gence Tools, 29 July 2024, para. 5.B.

1 – Interim Artificial Intelligence

History opinions published by the use of such technologies. By tion, you are deemed to have ed above.

trial and empower its leaders to JAGC's framework for employing AI, g document, designed to evolve with y leveraging AI, the JAGC will support to the Army and the warfighter.

General is the proponent for this ive Officer at 703-697-5151.

ERT A. BORCHERDING
General, USA
y Judge Advocate General

MEMORANDUM 26-01 – Interim Artificial Intelligence

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Generative Artificial Intelligence and the Army Legal

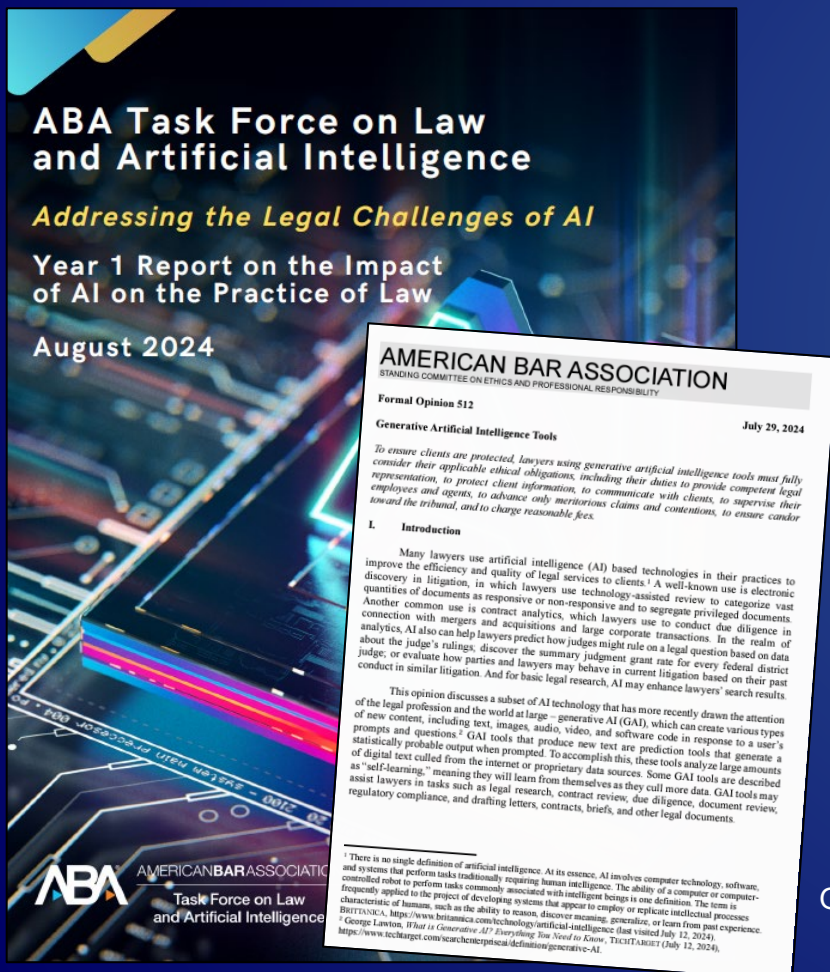


ABA FORMAL OPINION 512 (2024)

ABA's Key Areas of Concern:

- "Hallucinations"
- Competence
- Diligence, Consultation, and Communications
- Confidentiality
- "Deepfakes" and Candor to the Court
- Responsibility for Lawyer's Agents
- ~~[Client Billing]~~ (N/A)

(See ABA Model Rules of Professional Conduct, Formal Ethics Opinion 512, Generative Artificial Intelligence Tools, ABA Standing Committee on Ethics and Professional Responsibility, July 29, 2024)





ABA Formal Opinion 512 (2024)

AP

WORLD U.S. ELECTION 2024 POLITICS SPORTS ENTERTAINMENT BUSINESS SCIENCE FACT CHECK ODDITIES BE WELL NE

Middle East wars Koreas tensions Harris on Fox News Bath & Body Works apology Giant pandas

AP SETS THE SUPPORT IN

U.S. NEWS

Lawyers submitted bogus case law created by ChatGPT. A judge fined them \$5,000



FILE - The ChatGPT app is displayed on an iPhone in New York, May 18, 2023. A federal judge on Thursday, June 22, imposed \$5,000 fines on two lawyers and a law firm in an unprecedented instance in which ChatGPT was blamed for their submission of fictitious legal research in an aviation injury claim. (AP Photo/Richard Drew, File)

BY LARRY NEUMEISTER
Published 6:16 PM EDT, June 22, 2023

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ABA's Key Areas of Concern: "Hallucinations"

Reuters

World US Election Business Markets Sustainability Legal Breakingviews Technology

New York lawyers sanctioned for using fake ChatGPT cases in legal brief

By Sara Merken

June 26, 2023 4:28 AM EDT · Updated a year ago



512, responsibility, July 29, 2024)



ABA FORMAL OPINION 512 (2024)

Maintaining Competence

[8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.



...some questions. GAI tools that produce new text are prediction tools that generate a statistically probable output when prompted. To accomplish this, these tools analyze large amounts of digital text culled from the internet or proprietary data sources. Some GAI tools are described as "self-learning," meaning they will learn from themselves as they cull more data. GAI tools may assist lawyers in tasks such as legal research, contract review, due diligence, document review, regulatory compliance, and drafting letters, contracts, briefs, and other legal documents.

¹ There is no single definition of artificial intelligence. At its essence, AI involves computer technology, software, and systems that perform tasks traditionally requiring human intelligence. The ability of a computer or computer-controlled robot to perform tasks commonly associated with intelligent beings is one definition. The term is frequently applied to the project of developing systems that appear to employ or replicate intellectual processes characteristic of humans, such as the ability to reason, discover meaning, generalize, or learn from past experience.

² George Lawton, *What is Generative AI? Everything You Need to Know*, TECHTARGET (July 12, 2024), <https://www.techtarget.com/whatis/definition/generative-AI>.

➔ ~~[Client Billing]~~ (N/A)

(See ABA Model Rules of Professional Conduct, Formal Ethics Opinion 512, Generative Artificial Intelligence Tools, ABA Standing Committee on Ethics and Professional Responsibility, July 29, 2024)

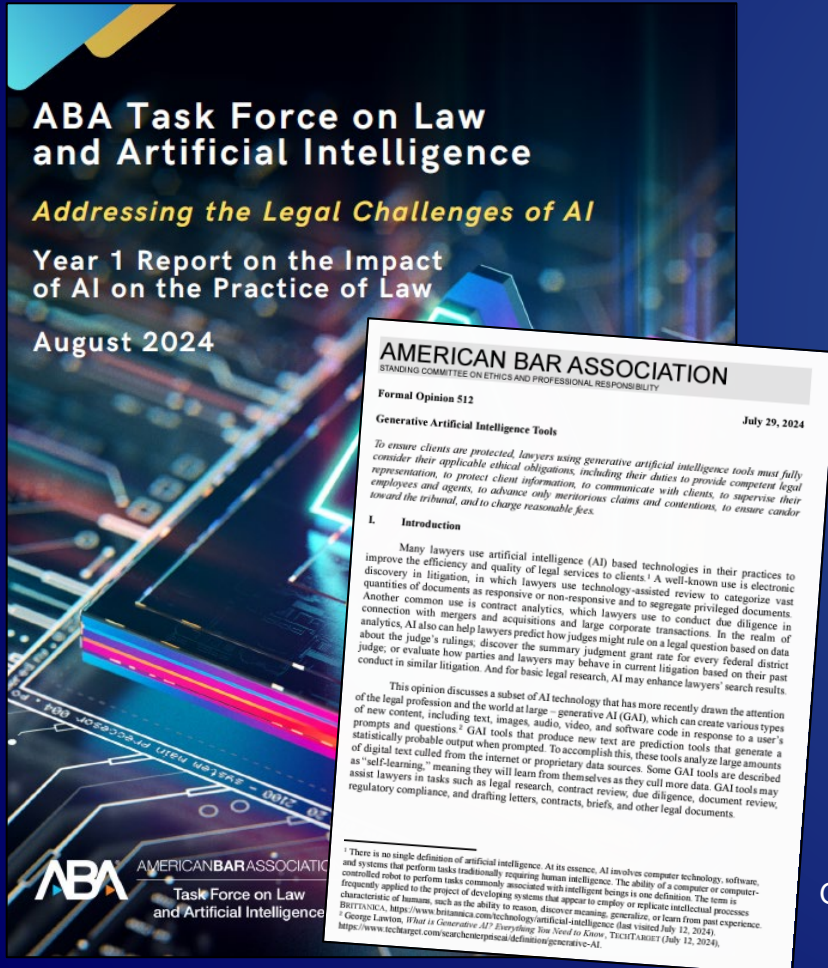


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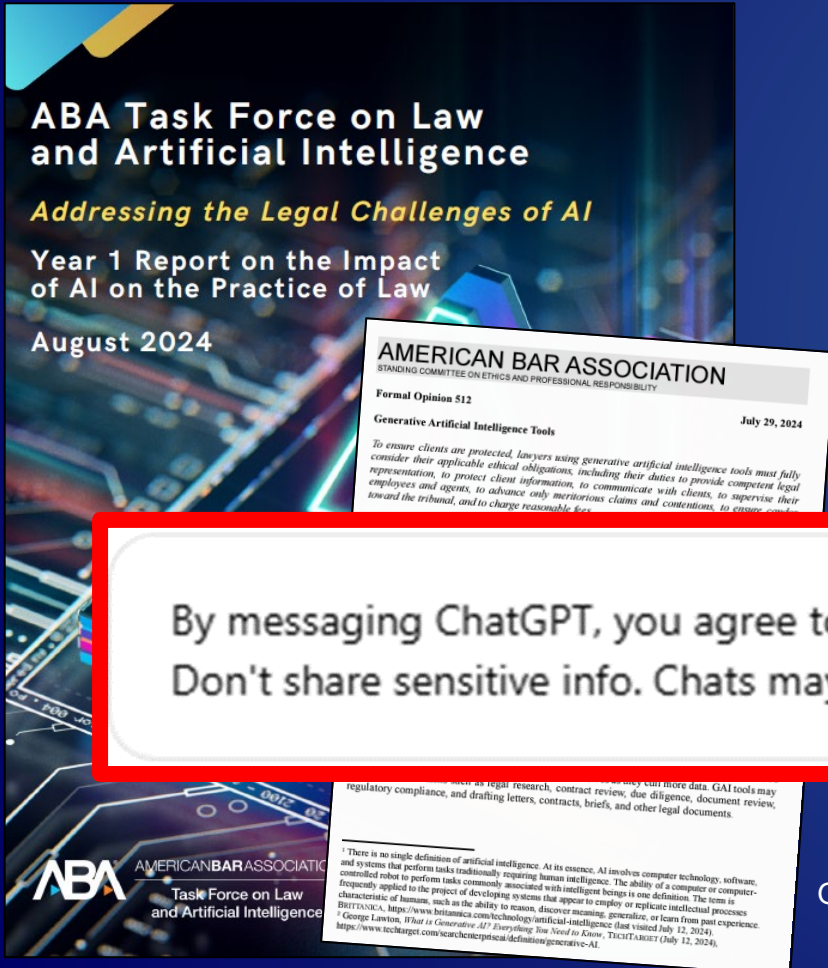




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(See ABA Model Rules of Professional Conduct, Formal Ethics Opinion 512, Generative Artificial Intelligence Tools, ABA Standing Committee on Ethics and Professional Responsibility, July 29, 2024)



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y, July 29, 2024)

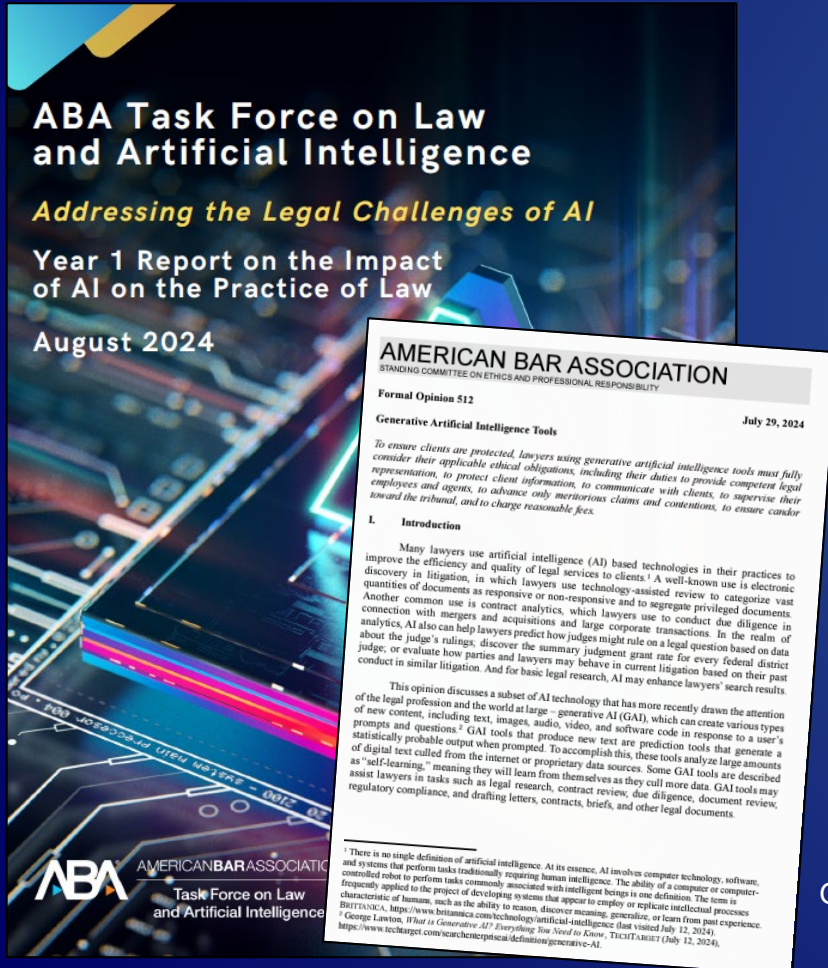


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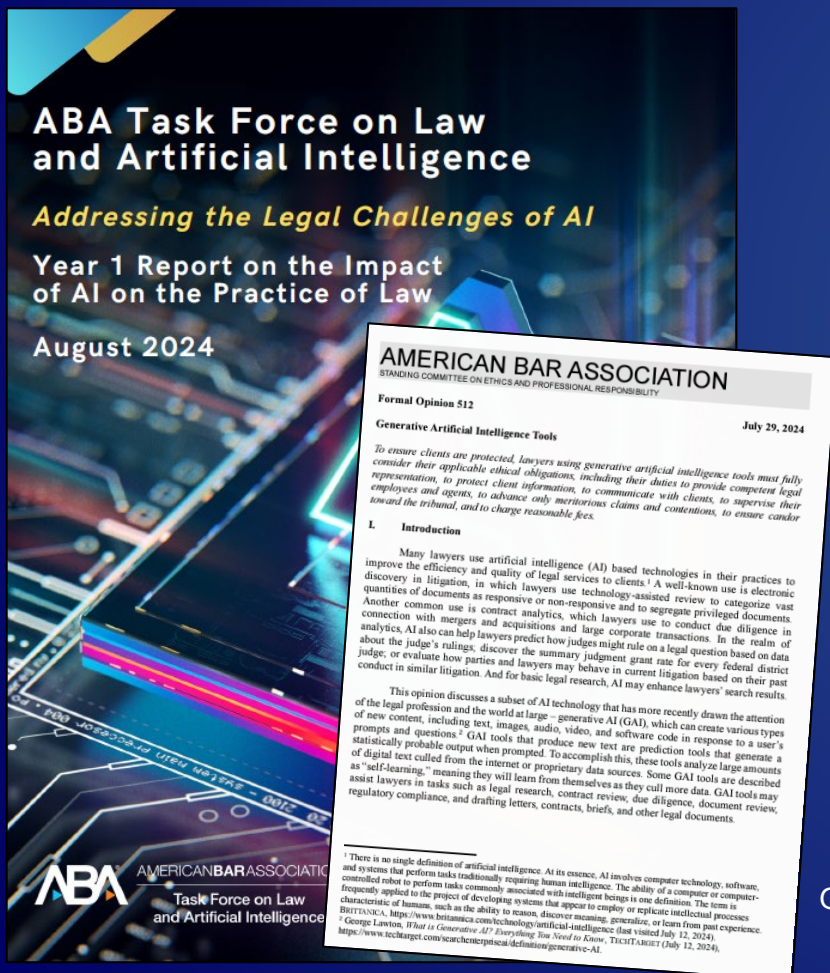


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(See ABA Model Rules of Professional Conduct, Formal Ethics Opinion 512, Generative Artificial Intelligence Tools, ABA Standing Committee on Ethics and Professional Responsibility, July 29, 2024)





*“AI won’t replace lawyers,
but lawyers who use AI will replace
those who don’t.”*

- A repeated refrain from countless tech & law articles
(e.g., Law Technology Today & ABA resources)



understand

*"AI won't replace lawyers,
but lawyers who ~~use~~ AI will replace
those who don't."*

- Me



AI & PR – Want to Know More?



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The Judge Advocate General's Legal Center and School

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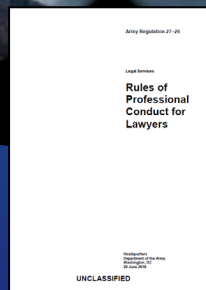
Special Topics

- Artificial Intelligence
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- AI & PR Class Supplement, Hypothetical Scenarios & Discussion Topics
- Army-Approved "Ask Sage" – Army Enterprise LLM Workspace
- ABA Formal Opinion 512 (GenAI Tools) (JUL 2024)
- DoDI 5105.89 (Chief Digital and AI Office) (NOV 2024)
- DoDI 8510.01 (Risk Management Framework for DoD Systems) (JUL 2022)
- DoD Data Analytics AI Adoption Strategy (JUN 2023)
- Professional Responsibility Video Vignettes (EAMS-A Login Required)

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Professional Responsibility

1. Intro

2. Background

3. PR
Rules

4. Hypotheticals

5. Conclusion



PARTICIPATION IS KEY

- Share your insights/experiences.
- Some vignettes are military-centric but could take place in any office.
- Don't worry about specific PR rule numbers.
 - Instead, think about "what is the underlying legal-ethical principle?"



VIGNETTE #1

You are an Appellate Defense Counsel (ADC) representing a Sergeant convicted of sexual assault. After a thorough record review, you identify one strong issue regarding a military judge's evidentiary ruling. However, your client provides a list of 15 additional "errors," including a claim that the trial counsel (prosecutor) wore the "wrong shade of blue" in their uniform, which the client believes prejudiced the jury. You believe these 15 issues are legally frivolous.

The PR Conflict: Under MRPC 3.1, a lawyer shall not bring a frivolous claim. However, under the military's Grostefon doctrine, an appellant has a personal right to have their issues raised . . .

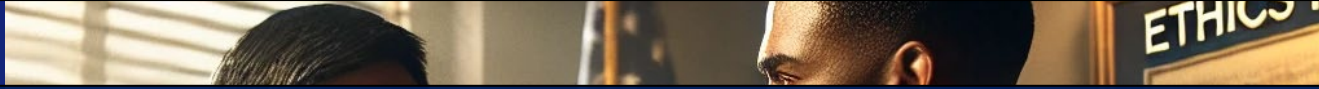
VIGNETTE #1

Discussion Questions:

- 1) How do you balance your duty under MRPC 1.2 (abiding by client objectives) with MRPC 3.1 (meritorious claims)?
- 2) Does your signature on a Grostefon brief constitute a certification of merit under court rules?
- 3) How do you "wall off" your meritorious argument from the client's non-meritorious ones to avoid diluting the appeal?

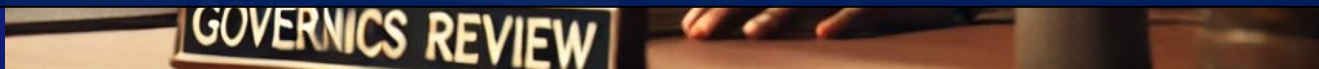


VIGNETTE #2



While preparing an appeal, you discover that the Trial Defense Counsel (TDC) failed to call a key alibi witness. This suggests a strong claim for Ineffective Assistance of Counsel (IAC). However, the TDC is a highly respected Major in your small JAG Corps who is currently your direct supervisor's best friend and a potential rater for your next promotion.

The PR Conflict: This creates a potential Conflict of Interest under MRPC 1.7(a)(2), where your personal interests (career advancement/social standing) might materially limit your representation. It also tests MRPC 1.3 (Diligence).





VIGNETTE #2

Discussion Questions:

- 1) Is this a "waivable" conflict? Can the client consent to you continuing if you disclose the relationship?
- 2) At what point does "professional courtesy" toward a fellow officer cross into a violation of your duty of independent professional judgment (MRPC 2.1)?
- 3) If you determine you cannot zealously pursue the IAC claim, what are your obligations regarding withdrawal under MRPC 1.16?

A close-up of a wooden sign with the words "GOVERNICS REVIEW" in gold lettering, resting on a desk. A person's hand is visible in the background, near the sign.

GOVERNICS REVIEW

VIGNETTE #3

You are a Government Appellate Counsel (prosecutor). While reviewing the trial's "discovery" file to respond to an appeal, you find a misfiled lab report that was never turned over to the defense. The report contains DNA evidence that is not a match for the accused, but it also doesn't definitively clear him. The defense has not raised a discovery issue in their appeal.

The PR Conflict: This involves the special responsibilities of a prosecutor under MRPC 3.8(d) (timely disclosure of exculpatory evidence) and the duty of candor toward the tribunal under MRPC 3.3.

VIGNETTE #3

Discussion Questions:

- 1) Does the duty to disclose under MRPC 3.8 continue after a conviction is secured and the case is on appeal?
- 2) If your supervisor (a senior Colonel) tells you to "stay in your lane" and only respond to the issues the defense actually raised, how do you handle the conflict between military orders and ethical rules (MRPC 5.2)?
- 3) What are the consequences if you remain silent and the court later discovers the report?

Professional Responsibility

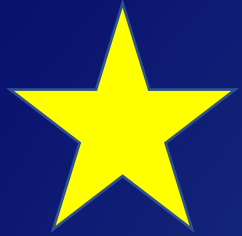
1. Intro

2. Background

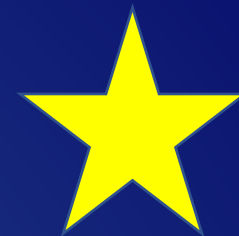
3. PR
Rules

4. Hypotheticals

5. Conclusion



KEY TAKEAWAYS



You play a key role in maintaining the integrity of the organization—always help your teams oriented to our “north star” (*why*) of ensuring justice.

You’re not an island—when challenging PR issues arise, seek help from peers and supervisors.

Our mission is important and worth doing right—*substantively and moral/legal-ethically.*

Professional Responsibility

1. Intro

2. Background

3. PR
Rules

4. Hypotheticals

5. Conclusion



QUESTIONS?





QUESTIONS?





THANK YOU

