



# “AI & PR” TRAINING

## SUPPLEMENT:

# HYPOTHETICAL SCENARIOS &

## DISCUSSION TOPICS

**POC: MAJ Curtis Cranston, [curtis.n.cranston.mil@army.mil](mailto:curtis.n.cranston.mil@army.mil)**  
**Associate Professor, The Judge Advocate General's Legal Center & School**



# HYPOS - PARTICIPATION IS KEY

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



# VIGNETTE #1

It's 1500 on a Friday afternoon before a long holiday weekend. A relatively new judge advocate (1LT Alpha) in a Division OSJA's Administrative & Civil Law Division has been balancing a mountain of legal reviews, investigations, and ethics opinions for their Division. The Chief of AdLaw (Mr. Bravo) walks into 1LT Alpha's office. As 1LT Alpha begins sharing their amazing plans for the weekend, Mr. Bravo casually asks if 1LT Alpha has sent a short-suspense legal review to the CG's CIG director for a local community event that weekend that the CG intends to participate in.

With a jolt of panic, 1LT Alpha remembers that they haven't even started the legal review in question. Mr. Bravo casually suggests, as he walks out the door, that maybe 1LT Alpha could use an AI tool to help.

**Are there any PR issues that we should be concerned about?**



# VIGNETTE #1

- What Rules Apply?
  - Rule 1.1 (Competence)
  - Rule 1.3 (Diligence)
  - Rule 1.4 (Communication)
  - Rules 5.1 and 5.3 (Responsibilities of Subordinate/Supervisory Attorneys)
- Other issues, questions, or concerns?
  - Additional / new policies?
  - Hallucinations?
  - Which version of the GenAI tool is being used?
  - Any prior experience with GenAI tool used?
  - Any prior experience with issue at hand?

# VIGNETTE #1

## CLIENT-LAWYER RELATIONSHIP

### 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.

### 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.



# VIGNETTE #1

## Rule 1.3 Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

### COMMENT:

- (1) A lawyer should pursue a matter on behalf of a client despite opposition, obstruction, or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer should also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. Although a lawyer may be bound by court precedent to pursue certain matters on behalf of a client, see, for example, *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), a lawyer has professional discretion in determining the means by which a matter should be pursued. See Rules 1.2 and 1.4(b). A lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.
- (2) A lawyer's workload should be managed by both lawyer and supervisor so that each matter can be handled competently. See Rule 5.1.

(3) Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

(4) Unless the relationship is terminated as provided in Rule 1.16, and to the extent permitted by law, regulation, or policy, a lawyer should carry through to conclusion all matters undertaken for a client. If a lawyer's representation is limited to a specific matter, the relationship terminates when the matter has been either concluded or resolved. Doubt about whether a client-lawyer relationship still exists should be clarified by the lawyer, preferably in writing, so that the client will not mistakenly suppose the lawyer is looking after the client's affairs when the lawyer has ceased to do so. A lawyer who has handled a judicial or administrative proceeding that produced a result adverse to the client should advise the client of the possibility of appeal before relinquishing responsibility for the matter.



# VIGNETTE #1

## Rule 1.3 Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

### COMMENT:

(1) A lawyer should pursue a matter on behalf of a client despite opposition, obstruction, or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer should also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. Although a lawyer may be bound by court precedent to pursue certain matters on behalf of a client, see, for example, *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), a lawyer has professional discretion in determining the means by which a matter

(2) A lawyer's workload should be managed by both lawyer and supervisor so that each matter can be handled competently. See Rule 5.1.

(3) Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

(4) Unless the relationship is terminated as provided in Rule 1.16, and to the extent permitted by law, regulation, or policy, a lawyer should carry through to conclusion all matters undertaken for a client. If a lawyer's representation is limited to a specific matter, the relationship terminates when the matter has been either concluded or resolved. Doubt about whether a client-lawyer relationship still exists should be clarified by the lawyer, preferably in writing, so that the client will not mistakenly suppose the lawyer is looking after the client's affairs when the lawyer has ceased to do so. A lawyer who has handled a judicial or administrative proceeding that produced a result adverse to the client should advise the client of the possibility of appeal before relinquishing responsibility for the matter.



# VIGNETTE #1

## LEGAL OFFICES

### Rule 5.1 Responsibilities of Senior Counsel and Supervisory Lawyers [Modified Title]

(a) [Modified] The General Counsel of the Army, The Judge Advocate General of the Army, the Command Counsel, Army Materiel Command, and the Chief Counsel, Army Corps of Engineers, are the Senior Counsels in the Army for purposes of these Rules of Professional Conduct. The Senior Counsels, and the civilian and military supervisory lawyers under their respective legal technical supervision, shall make reasonable efforts to ensure that Army legal offices under their legal technical supervision have in effect measures giving reasonable assurance that all lawyers in such respective offices conform to the Rules of Professional Conduct. This requirement also applies to Army lawyers who supervise the professional work of a legal office in a joint or unified command.

(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.

(c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:

- (1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or
- (2) [Modified] the lawyer has direct supervisory authority over the other lawyer and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(d) [Augmented] A supervisory Army lawyer is responsible for making appropriate efforts to ensure that a subordinate lawyer is properly trained and is competent to perform the duties to which a subordinate lawyer is assigned.



# VIGNETTE #1

(3) Paragraph (b) applies to lawyers who have supervisory authority over the work of other lawyers. Paragraph (b) requires all lawyers who directly supervise other lawyers to take reasonable measures to ensure that such subordinates conform their conduct to these Rules. The measures required to fulfill the responsibility prescribed in paragraph (b) can depend on the office's structure and the nature of its practice. In a small office of experienced lawyers, informal supervision and periodic review of a subordinate lawyer's legal work ordinarily might be sufficient. In a large office, or in practice situations in which difficult ethical problems frequently arise, more elaborate measures may be necessary. Some offices, for example, have a procedure whereby junior lawyers can make confidential referral of ethical problems directly to a senior lawyer. See Rules 1.13 and 5.2. Offices, regardless of size, may also rely on continuing legal education in professional ethics. In any event, the ethical atmosphere of an office can influence the conduct of all its members, and a lawyer having authority over the work of another may not assume that the subordinate lawyer will inevitably conform to the Rules.

(4) Supervisory lawyers must be careful to avoid conflicts of interest in providing advice to subordinate lawyers. For example, the chief of administrative law in an office may be the supervisory lawyer for both an administrative law lawyer and a legal assistance lawyer. Both subordinate lawyers may seek advice concerning an appeal to an adverse action handled by the administrative law lawyer and now being challenged by the client of the legal assistance lawyer. In another example, the Senior Trial Defense Counsel may be the supervisory lawyer for two Trial defense Counsel representing clients with adverse interests. In both situations, the supervisory lawyer should not advise both subordinate lawyers. Depending on the circumstances, the supervisory lawyer may advise one subordinate lawyer and refer the other subordinate lawyer to another supervisory lawyer in the office, or the supervisory lawyer may refer both subordinate lawyers to separate supervisory lawyers in the office.

(5) Paragraph (c) expresses a general principle of supervisory responsibility for acts of another. See also Rule 8.4(a).



# VIGNETTE #1

## Rule 1.4 Communication

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in rule 1.0(h), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests from the client for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.



# VIGNETTE #1

## 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 will be understood to mean the Department of the Army or the organizational element involved.

(1) When an Army lawyer is assigned to or employed by such an organizational element and designated to provide legal services to the head of the organization, to include his or her subordinate commanders or staff, the client-lawyer relationship exists between the lawyer and the Department of Army as represented by the head of the organization as to matters within the scope of the official business of the organization.

(i) The head of the organization may not invoke the attorney-client privilege or the rule of client-lawyer confidentiality for the head of the organization's own personal benefit but may invoke either for the benefit of the Department of the



# VIGNETTE #2

At the Army's Contract Litigation & Intellectual Property Division (KLIP), it's close to the suspense to file a response in a major contract bid protest.

The respective KLIP trial attorney (CPT Delta) asks their all-star paralegal (SSG Echo) to help draft the response. After receiving the draft response, CPT Delta is surprised to see many novel cases cited, but they trust their paralegal.

Before filing their response, CPT Delta also learns that SSG Echo used ChatGPT to draft the response.

**What PR concerns do we have here?**



# VIGNETTE #2

- What Rules Apply?

- Same as previous (Competence, Diligence, Supervisory Lawyers)
- Rule 1.4 (Communication)
- Rule 1.6 (Confidentiality)
- Rule 5.3 (Nonlawyer Assistance)
- Others?

- Other issues, questions, or concerns?

- Oversight GenAI Tools as if they were paralegals
- Set up expectations early; incorporate discussion of AI/PR into initial counselings
- Questions to ask paralegal
- Warning flags for closer review

# VIGNETTE #2

## Rule 1.4 Communication

(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in rule 1.0(h), is required by these Rules;
- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) keep the client reasonably informed about the status of the matter;
- (4) promptly comply with reasonable requests from the client for information; and
- (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

### COMMENT:

- (1) Reasonable communication between the lawyer and the client is necessary for the client effectively to participate in the representation.

### Communicating with Client

(2) If these Rules require that a particular decision about the representation be made by the client, paragraph (a)(1) requires that the lawyer promptly consult with and secure the client's consent prior to taking action unless prior discussions with the client have resolved what action the client wants the lawyer to take. For example, a lawyer who receives from opposing counsel an offer of settlement in a civil controversy or a proffered pretrial agreement in a criminal case must promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or reject the offer. See Rule 1.2(a).

(3) Paragraph (a)(2) requires the lawyer to reasonably consult with the client about the means to be used to accomplish the client's objectives. In some situations - depending on both the importance of the action under consideration and the feasibility of consulting with the client - this duty will require consultation prior to taking action. In other circumstances, such as during a trial when an immediate decision must be made, the exigency of the situation may require the lawyer to



# VIGNETTE #2

## Rule 1.6 Confidentiality of Information

(a) [Modified] A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is required by paragraph (b)(1) or permitted by paragraph (b)(2).

(b) [Modified and Augmented] A lawyer:

(1) shall reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(i) to prevent reasonably certain death or substantial bodily harm; or

(ii) [Augmented] to prevent the client from committing a criminal act that the lawyer believes is likely to result in the significant impairment of national security or the readiness or capability of a military unit, vessel, aircraft, or weapon system.

(2) may reveal such information to the extent the lawyer reasonably believes necessary:

(i) to secure legal advice about the lawyer's compliance with these Rules;

(ii) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;

(iii) to comply with other law or a court order;

(iv) [Modified] to detect and resolve conflicts of interest arising from the Army lawyer's change of duty position, assignment, or employment within the Army, or arising from the non-government lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.

(v) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services; or

(vi) to prevent, mitigate, or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services.



# VIGNETTE #2

## **Rule 5.3 Responsibilities Regarding Nonlawyer Assistants [Modified Title]**

[Modified] With respect to a nonlawyer acting under the authority, supervision, or direction of a lawyer:

(a) [Modified] the senior supervisory lawyer in a legal office shall make reasonable efforts to ensure that the office has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer. This requirement also applies to an Army lawyer who is the senior supervisory lawyer in a legal office in a joint or unified command;

(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer. This requirement also applies to an Army lawyer in a legal office in a joint or unified command; and

(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) [Modified] the lawyer has direct supervisory authority over the person and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.



# VIGNETTE #3

As a Brigade Judge Advocate, MAJ Uniform receives a Ch. 14-12c separation packet back from a TDS Defense Counsel (CPT Sierra) with their client's elections and matters.

Among the matters, MAJ Uniform sees an audio file, entitled "ElevenLabs\_Altered File.mp3." After some cursory research, she learns that ElevenLabs is a generative AI website that allows a user to alter any recorded voice to "say" whatever they want. Listening to the audio file, it appears objectively obvious that it was altered to misrepresent what was actually recorded.

MAJ Unsure reaches out to CPT Sierra to clarify her concerns that this may be fabricated evidence. CPT Sierra responds aggressively and says he doesn't believe there is any concern. MAJ Uniform suspects that CPT Sierra may actually know the file was altered.

**What PR concerns do we have? What should MAJ Uniform do here?**

# VIGNETTE #3

- What Rules Apply?

- Same as previous (Competence, Diligence, Supervisory Lawyers)
- Rule 3.3 (Candor Towards Tribunal; Comment: False Evidence)
- Rule 8.3 (Reporting Professional Misconduct)
- Rule 8.4 (Misconduct)
- Rule 8.5 (Jurisdiction)

- Other issues, questions, or concerns?

- Duties to verify evidence
- Communications with clients
- Clarifying with opposing attorney and their supervisors
- Warning flags for closer review



# VIGNETTE #3

## Rule 3.3 Candor Toward the Tribunal

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel;

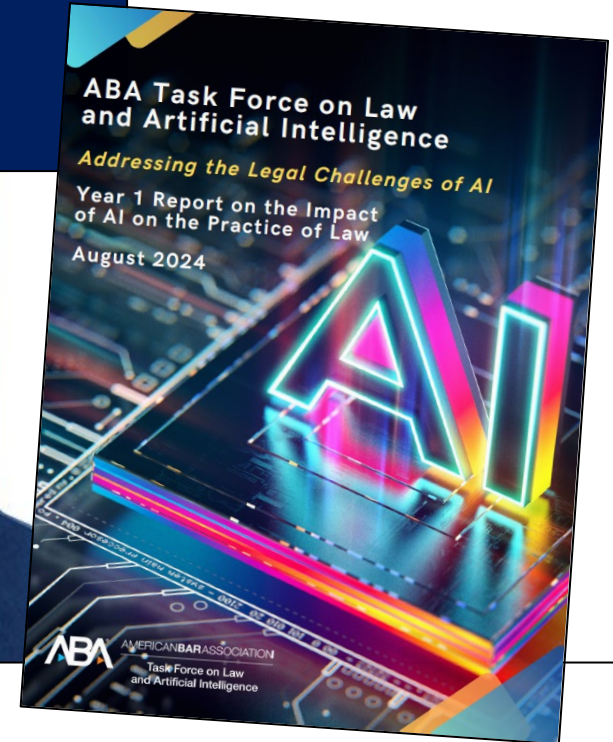
(3) [Modified] offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of an accused in a criminal matter, that the lawyer reasonably believes is false; or

### False Evidence

(5) Paragraph (a)(3) requires that the lawyer refuse to offer evidence that the lawyer knows to be false, regardless of the client's wishes. This duty is premised on the lawyer's obligation as an officer of the court to prevent the trier of fact from being misled by false evidence. A lawyer does not violate this Rule if the lawyer offers the evidence for the purpose of establishing its falsity.

(6) If a lawyer knows that the client intends to testify falsely or wants the lawyer to introduce false evidence, the lawyer should seek to persuade the client that the evidence should not be offered. If the persuasion is ineffective and the lawyer continues to represent the client, the lawyer must refuse to offer the false evidence. If only a portion of a witness's testimony will be false, the lawyer may call the witness to testify but may not elicit or otherwise permit the witness to present the testimony that the lawyer knows to be false. For more on false testimony by the client, see Comments (10) through (14) below.

(7) The prohibition against offering false evidence only applies if the lawyer knows that the evidence is false. A lawyer's reasonable belief that evidence is false does not preclude its presentation to the trier of fact. A lawyer's knowledge that evidence is false, however, can be inferred from the circumstances. See Rule 1.0(j). Thus, although a lawyer should resolve doubts about the veracity of testimony or other evidence in favor of the client, the lawyer cannot ignore an obvious falsehood.



State of Maryland	175	175	175
State of New York	175	175	175
State of California	175	175	175
State of Texas	175	175	175
State of Florida	175	175	175
State of Illinois	175	175	175
State of Ohio	175	175	175
State of Pennsylvania	175	175	175
State of Michigan	175	175	175
State of Indiana	175	175	175
State of Wisconsin	175	175	175
State of Minnesota	175	175	175
State of Iowa	175	175	175
State of Missouri	175	175	175
State of Arkansas	175	175	175
State of Louisiana	175	175	175
State of Mississippi	175	175	175
State of Alabama	175	175	175
State of Georgia	175	175	175
State of South Carolina	175	175	175
State of North Carolina	175	175	175
State of Virginia	175	175	175
State of West Virginia	175	175	175
State of Kentucky	175	175	175
State of Tennessee	175	175	175
State of Mississippi	175	175	175
State of Louisiana	175	175	175
State of Arkansas	175	175	175
State of Missouri	175	175	175
State of Illinois	175	175	175
State of Indiana	175	175	175
State of Ohio	175	175	175
State of Pennsylvania	175	175	175
State of Michigan	175	175	175
State of Wisconsin	175	175	175
State of Minnesota	175	175	175
State of Iowa	175	175	175
State of Missouri	175	175	175
State of Arkansas	175	175	175
State of Louisiana	175	175	175
State of Mississippi	175	175	175
State of Alabama	175	175	175
State of Georgia	175	175	175
State of South Carolina	175	175	175
State of North Carolina	175	175	175
State of Virginia	175	175	175
State of West Virginia	175	175	175
State of Kentucky	175	175	175
State of Tennessee	175	175	175



# VIGNETTE #3

(w) [Augmented] “Tribunal” denotes a court, an Article 32, Uniform Code of Military Justice investigation, administrative separation boards or hearings, boards of inquiry, disability evaluation proceedings, an arbitrator in a binding arbitration proceeding, or a legislative body, administrative agency, or other body acting in an adjudicative capacity. A legislative body, administrative agency, or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party's interests in a particular matter.

## Rule 8.5 Jurisdiction [Substituted Title]

[Substituted Rule in its Entirety]

- (a) Lawyers (as defined in these Rules of Professional Conduct and as identified in paragraph 7 of this regulation) shall be governed by these Rules of Professional Conduct. A lawyer admitted to practice in this (Department of the Army) jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer's conduct occurs.
- (b) Pursuant to the authority of The Judge Advocate General under 10 USC 3037, these Rules apply to Judge Advocates in the Regular Army, the Army National Guard/Army National Guard of the United States, and the U. S. Army Reserve, regardless of whether serving in a legal billet or performing legal services, and not just when performing duty in a Title 10 or Title 32 status.
- (c) Pursuant to the authority of The Judge Advocate General under Rule for Courts–Martial 109, these Rules apply to all lawyers who practice in Army courts or tribunals and other proceedings governed by the Uniform Code of Military Justice and the Manual for Courts-Martial, including, but not limited to, non-Department of Defense civilian defense counsel with no connection to the Army.
- (d) Pursuant to the authority of The Judge Advocate General under these Rules of Professional Conduct and this regulation, these Rules apply to all non-Department of Defense civilian lawyers representing individuals in any matter for which The Judge Advocate General is charged with supervising the provision of legal services. These matters include, but are not limited to, courts-martial, administrative separation boards or hearings, boards of inquiry, and disability evaluation proceedings.



# VIGNETTE #3

## Rule 8.3 Reporting Professional Misconduct

(a) [Modified] 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 in accordance with Army Rule 10.1 and implementing regulations or policies promulgated or established by the appropriate Senior Counsel (that is, the General Counsel of the Army, The Judge Advocate General of the Army, the Chief Counsel, Army Materiel Command, the Chief Counsel, Army Corps of Engineers).

(b) [Modified] A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall report such a violation in accordance with Army Rule 10.1 and implementing regulations or policies promulgated or established by the appropriate Senior Counsel (that is, the General Counsel of the Army, The Judge Advocate General of the Army, the Command Counsel, Army Materiel Command, and the Chief Counsel, Army Corps of Engineers).

(c) [Modified] This Rule does not require disclosure of information otherwise protected by Rule 1.6.

(d) [Augmented] This Rule does not affect any reporting requirements a lawyer may have under other applicable rules of professional conduct to which the lawyer is subject.

### COMMENT:

(1) Self-regulation of the legal profession requires that members of the profession initiate disciplinary action when they know of a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects. Lawyers have a similar obligation with respect to the conduct of judges and the judicial system. An apparent isolated violation may indicate a pattern of misconduct that only a disciplinary action can uncover. Reporting a violation is especially important where the victim is unlikely to discover the offense.

(2) A report about misconduct is not required where it would involve violation of Rule 1.6. However, a lawyer should encourage a client to consent to disclosure where such disclosure would not substantially prejudice the client's interests.

(3) If a lawyer were obliged to report every violation of the Rules, the failure to report any violation would itself be a professional offense. Such a requirement existed in many jurisdictions but proved to be unenforceable. This Rule limits the reporting obligation to those offenses that a self-regulating profession must vigorously endeavor to prevent. A measure of judgment is, therefore, required in complying with provisions of this Rule. The term "substantial" refers to the seriousness of the possible offense and not the quantum of evidence of which the lawyer is aware. See Rule 1.0(t) ("Substantial" when used in reference to degree or extent denotes a material matter of clear and weighty importance). Any report should be made in accordance with regulations and/or policies promulgated by the appropriate Senior Counsel (that is, the General Counsel of the Army, The Judge Advocate General of the Army, the Command Counsel, Army Materiel Command, and the Chief Counsel, Army Corps of Engineers). Similar considerations apply to the reporting of judicial misconduct.

(4) The duty to report professional misconduct does not apply to a lawyer appointed, detailed, or retained to represent a lawyer whose professional conduct is in question. Such a situation is governed by the Rules applicable to the client-lawyer relationship.

## Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;



# FINAL DISCUSSION TOPICS

- What do you think the most common uses of AI tools in JAG offices will be?
- What do you think the most common misuses (potential PR violations) of AI tools will be?
- Can you think of other examples of PR concerns with using AI in our dual profession?  
What are the ultimate dangers (negative impacts) if these situations occurred?
  - Inputting individuals' PII/PHI into an AI tool?
  - Inputting organizational clients' (Army command teams') protected information—e.g., confidential, classified, etc.—into an AI tool?
  - Reduced competence in basic Legal-Soldier skills (research, writing, analysis, etc.)?
  - Relying too heavily on AI tools or being too quick to utilize them?
  - Other situations?
- In light of AI's many potential benefits, how can you and your teams mitigate the risks discussed above? (i.e., creative training opportunities, deliberate systems, etc.)





# QUESTIONS?

**POC: MAJ Curtis Cranston, [curtis.n.cranston.mil@army.mil](mailto:curtis.n.cranston.mil@army.mil)**  
**Associate Professor, The Judge Advocate General's Legal Center & School**