WHO NEEDS A WILL?

Grafenwoehr Law Center—As more units in the 100th Area Support Group prepare for deployment, commanders, supervisors, and soldiers will all think of making wills. Contrary to popular belief, however, not everyone needs a will. Further, the decision to make a will is strictly for each individual. A soldier cannot be ordered or otherwise pressured to make a will. The attorneys at the Law Centers will not draw up wills at the behest of anyone but the servicemember concerned.

Single Soldiers Without Children

Unless one expects to leave a substantial estate upon his death—bear in mind that the proceeds of insurance policies are governed by a contract, not a will—a single soldier without children normally does not need a will. The various laws of the fifty states generally provide that the property of a single person goes to his or her parents, if they are living and, if not, to his siblings. Pernicious misconceptions abound, chief among them that if one dies intestate (that is, without a will), then all his worldly goods become the property of the state. This is flatly untrue. Do not rely on anyone's pronouncements in this area unless that person is the holder of a degree from an accredited law school and is licensed to practice law. In other words, consult an attorney. Soldier's lore is no substitute for legal advice.

Single Soldiers With Children

On the other hand, a single soldier with minor children probably needs a will with a trust for the children. In the alternate, property may be left to children under a Uniform Gifts To Minors Act (UGMA) account, under which a trustee or custodian is designated to disburse funds for the children's benefit. With a trust, the testator (that is, the person making the will) may specify the age at which the children will receive the principal of the trust. With UGMA, the child will receive the funds at age 18 or 21, depending on which state's laws govern.

Married Soldiers

A married person without children generally only needs a will if he wishes to leave substantial property to someone other than the surviving spouse. Married persons with any substantial property other than life insurance proceeds need wills if they have children. State laws of intestate succession do not effect the usual desires most married people, because these laws often divide the property between the surviving spouse and children, while most married persons wish to leave their property to the surviving spouse,

and to their children only after the death of the spouse. As above, trusts or UGMA accounts may be set up for minor children in married people's wills.