

VOLUME 1

“LEGAL SUPPORT WITHIN THE MARINE CORPS”

SUMMARY OF VOLUME 1 CHANGES

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VOLUME 1: LEGAL SUPPORT WITHIN THE MARINE CORPS

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- (e) MCO 5430.2
- (f) JAGINST 5803.1E
- (g) Manual for Courts-Martial, (2016 ed.)
- (h) U.S. Navy Regulations, (1990)
- (i) MCO 5800.14
- (j) MCO 1001.62A
- (k) MCO 1200.17E
- (l) JAGINST 5803.2B
- (m) SECNAVINST 1920.6C
- (n) Uniform Code of Military Justice, (2016)
- (o) MCO 1610.7
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- (q) MCO 1000.6
- (r) JAGINST 5800.7F
- (s) SECNAVINST 5211.5E
- (t) 5 U.S.C. §§ 101, 552a, and 3111
- (u) JAGINST 5801.2
- (v) 37 U.S.C. §§ 601-604
- (w) 38 U.S.C. §§ 4301-4334
- (x) DoD Instruction 1205.12
- (y) 31 U.S.C. § 1342
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- (aa) 8 U.S.C. § 1400
- (bb) Executive Order 13269, (July 3, 2002)
- (cc) DOD Directive 2311.01E
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“REFERENCES”

As changes are made within this MCO Volume, the References list will also update.
Annotation of each update/change/addition to the References list is required.

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VOLUME 1: CHAPTER 1

**“STAFF JUDGE ADVOCATE TO THE COMMANDANT OF THE MARINE CORPS
AND JUDGE ADVOCATE DIVISION”**

SUMMARY OF SUBSTANTIVE CHANGES

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CHAPTER 1

STAFF JUDGE ADVOCATE TO THE COMMANDANT OF THE MARINE CORPS
AND JUDGE ADVOCATE DIVISION

0101 GENERAL ROLES

010101. Staff Judge Advocate to the Commandant of the Marine Corps

Pursuant to statute and regulations, the Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC) is the senior uniformed legal advisor to the Commandant. The SJA to CMC is responsible for overseeing and supervising the provision of legal support within the Marine Corps, as well as the professional responsibility oversight of individual Marine judge advocates, legal administrative officers, legal services specialists, and certain civilian legal support providers. This Order does not address the legal support provided to Marine Corps organizations by Department of the Navy General Counsel (GC) field offices.

010102. Judge Advocate Division Branches

The branches within Judge Advocate Division (JAD) assist the SJA to CMC with the roles and responsibilities that the Secretary of the Navy (SECNAV) and CMC assign.

010103. Applicability

This Order does not apply to, nor does it affect the legal support currently provided by GC of the Navy, the Judge Advocate General of the Navy, or the Counsel for the Commandant (CL) on behalf of the GC of the Navy.

0102 LEGAL SUPPORT WITHIN HEADQUARTERS MARINE CORPS

010201. Roles of the Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC)

A. Senior uniformed legal advisor to the Commandant of the Marine Corps (CMC) and Headquarters Marine Corps (HQMC)

The SJA to CMC provides independent legal advice, counsel, and guidance to the CMC and Headquarters Marine Corps (HQMC) staff and agency personnel on any matter under the SJA to CMC's cognizance based on statute or regulation or on any matter that the SJA to CMC determines should be brought to the attention of CMC, HQMC staff, or agency personnel.

B. Director, Judge Advocate Division (JAD)

The SJA to CMC directly supervises and manages JAD and its branches.

C. Functional Proponent

As the functional proponent for command legal advice and legal services, in accordance with MCO 5311.6 the SJA to CMC assists the CMC and relevant functional advocates by identifying capabilities, deficiencies, and solutions related to legal support structure and staffing.

D. Functional Supervision

Functional supervision includes the authority to formulate, promulgate, implement, supervise, inspect, and enforce standards of practice and the use of uniform standards and procedures for the performance of legal support tasks. The SJA to CMC supervises the performance of the following legal support functions: military justice, international and operational law, administrative law, civil law, legal assistance, and legal administration. This authority does not include direction and control of individual judge advocates, legal services specialists, or other legal support providers in the performance of their duties. Direction and control of legal support personnel remains an inherent function and responsibility of the respective commander. Additionally, the SJA to CMC does not exercise functional supervision over judge advocates assigned to the Office of General Counsel.

E. Professional Responsibility Oversight

The SJA to CMC serves as Rules Counsel with the responsibility to exercise professional responsibility oversight over all Marine judge advocates, legal administrative officers, legal service specialists, and those civilian attorneys who practice law under the SJA to CMC's cognizance.

010202. Additional Guidance

See 10 U.S.C. §§ 806, 1044, 1044e, and 5046; SECNAVINST 5430.27D, MCO 5430.2, and JAGINST 5803.1E for additional information regarding the roles and responsibilities of the SJA to CMC.

0103 Organization of Judge Advocate Division (JAD)

010301. Deputy Staff Judge Advocate to the Commandant/Deputy Director, Judge Advocate Division (JAD)

The Deputy Staff Judge Advocate to the Commandant/Deputy Director, JAD (DSJA to CMC/DepDir, HQMC Legal Support) assists the SJA to CMC in performing his duties. The DSJA to CMC/DepDir, HQMC Legal Support is the SJA to CMC's primary deputy and acts in place of the SJA to CMC in his absence. The DSJA to CMC/DepDir, HQMC Legal Support is responsible for the day-to-day operations of JAD. The DSJA to CMC/DepDir, HQMC Legal Support supervises the Administrative Support Branch, Civil and Administrative Law Branch, Military Personnel Law Branch, and the International and Operational Law Branch.

010302. Administrative Support Branch (JAA)

JAA is primarily responsible for managing the internal administrative requirements of JAD, including the JAD Reserve Individual Mobilization Augmentee (IMA) Detachment. These duties include management of awards, civilian and military performance evaluations, JAD accountability and training, files and directives control, law library, budget and fiscal management, travel, and reserve orders preparation. The civilian Executive Assistant and Enlisted Executive Assistant to the SJA to CMC also fall within this branch.

010303. Civil and Administrative Law Branch (JCA)

JCA provides legal review and guidance to the SJA to CMC, HQMC staff agencies, and to the Marine Corps legal community on civil and administrative law matters, to include: processing complaints of wrongs under Article 138, UCMJ, or Article 1150, U.S. Navy Regulations; conducting legal review of administrative investigations and any Department of Defense (DoD), Department of the Navy, or United States Marine Corps issuances; reviewing release of Government records under the Freedom of Information Act or the Privacy Act. JCA assists the SJA to CMC in his role as a Deputy Designated Agency Ethics Official responsible for managing the Marine Corps government ethics program and in his role as Rules Counsel for professional responsibility oversight of Marine judge advocates. JCA also supports the Office of the Judge Advocate General and the U.S. Department of Justice on civil litigation and claims issues affecting the Marine Corps.

010304. Military Personnel Law Branch (JPL)

JPL advises the SJA to CMC, HQMC staff agencies, and the Marine Corps legal community on the full range of military personnel law matters affecting the Active and Reserve Marine components to ensure the provision of timely, efficient, consistent, and appropriate legal advice and support from the SJA to CMC to Deputy Commandant for Manpower and Reserve Affairs (DC M&RA), CMC, and SECNAV. JPL duties include reviewing officer misconduct and substandard performance cases, reviewing selection board precepts and guidance, screening results of selection boards and monthly promotion MARADMINs, processing adverse officer promotion packages, and reviewing enlisted administrative separation packages for cases requiring approval by DC M&RA or SECNAV. In addition, on behalf of the SJA to CMC, JPL provides advisory opinions to the Performance Evaluation Review Board (PERB) and the Board for Correction of Naval Records.

010305. International and Operational Law Branch (JAO)

JAO assists the SJA to CMC in his capacity as the legal advisor to CMC and HQMC on operational law matters. JAO provides operational law support to CMC in his role as both a Service Chief and as a member of the Joint Chiefs of Staff, to HQMC staff agencies, and to Marine judge advocates worldwide. On behalf of the SJA to CMC, JAO maintains HQMC staff cognizance over the operational law function, including legal issues associated with treaty interpretation and compliance, negotiation and conclusion of international agreements, law of war (LOW), detainee operations, rules of engagement, law of the sea, funding of military operations, training and equipping foreign forces, cyberspace law, non-lethal weapons, intelligence activities, and domestic operations. While Deputy Commandant for Plans, Policies and Operations is the primary staff sponsor, JAO is the subject matter expert and manager of the Marine Corps LOW Program and provides support to Marine judge advocates, to include: instruction and guidance, web-based resource and information portal, training materials and reference documents, and after-action reports/legal lessons learned.

010306. Deputy Director, Judge Advocate Division (JAD) (Military Justice and Community Development)

The Deputy Director, JAD (Military Justice and Community Development) (DepDir, MJCD) is responsible to the SJA to CMC for military justice matters and for the legal community planning and development to ensure the Marine Corps provides high-quality legal support across the entire spectrum to commanders, Marines, Sailors, and their families. The DepDir, MJCD oversees the Military Justice Branch; the Community Development, Strategy, and Plans Branch; and the Legal Assistance Branch.

Additionally, the DepDir, MJCD serves as the SJA to CMC in the absence of the SJA to CMC and the DSJA to CMC.

010307. Military Justice Branch

Military Justice Branch contains two sections, the Military Justice Policy and Legislation Section, and the Trial Counsel Assistance Program.

A. Military Justice Policy and Legislation Section

Military Justice Policy and Legislation Section provides military justice advice to the SJA to CMC, CMC, HQMC staff agencies, and the Marine Corps legal community on all military justice policy or legislation matters, informs lawmakers and other federal officials regarding military justice matters, and drafts, reviews, and oversees implementation of military justice-related legislation, regulations, and policy.

B. Trial Counsel Assistance Program

Trial Counsel Assistance Program supports all Marine trial counsel by providing training, advice, and assistance to trial counsel on performing their duties, helping to standardize the trial counsel practice, coordinating training, serving as a helpdesk, providing trial counsel resources, and managing the Marine Corps Victim-Witness Assistance Program in accordance with MCO 5800.14.

010308. Plans & Innovation Branch (JPI)

JPI works in conjunction with the legal community to set standards for legal support providers, manage and develop training and equipment to help the community meet those standards, and create metrics by which those standards can be inspected. JPI is responsible for the following specific functions: (1) performing the long-term strategic planning for the Marine Corps legal community; (2) using lessons learned to propose and draft organizational and doctrinal changes; (3) providing overall coordination of the IT assets and support provided to the legal community; (4) managing both internal and external strategic communications; and (5) coordinating all manpower requirements of legal support providers, both active and reserve.

010309. Information, Plans, and Programs Section (JPI-1)

This section within JPI provides overall management of legal community and Judge Advocate Division information technology activities, operations, and applications. JPI-1 serves as the principal advisor to the SJA to CMC regarding the use of information technology to increase the productivity and efficiency of legal support. JPI-1's primary focus is to ensure successful operation of case management applications for courts-martial, officer misconduct, legal assistance, victims' legal counsel, Disability Evaluation System counsel, and administrative law.

010310. Legal Assistance Branch (JLA)

JLA administers the Marine Corps Legal Assistance Program, provides functional supervision and guidance to Marine legal assistance attorneys and staff, disseminates legal assistance policies and procedures, fosters communication amongst the legal assistance programs, assists JAD with inspecting

the effectiveness of the legal assistance programs, and assists and advises the SJA to CMC on all legal assistance policies, procedures, and related matters.

010311. Deputy Director, Judge Advocate Division (JAD) (Reserve Legal Support)

The Deputy Director, JAD (Reserve Legal Support) (DepDir, RLS) oversees the provision of RLS to the Marine Corps on behalf of the SJA to CMC. The DepDir, RLS is the head of the JAD IMA Detachment and is responsible for oversight of the unit's branches. The DepDir, RLS, in coordination with the JPI Branch, ensures that all JAD IMA billets are filled by the most qualified reserve judge advocates and legal services specialists. The JAD IMA Detachment consolidates IMA judge advocate billets providing legal services within the Marine Corps, and legal support to the Department of the Navy and Department of Defense. Command legal advice billets are located within the supported commanders Reserve structure. The Operational Sponsor (OpSponsor) for the JAD IMA Detachment is located with the JPI Branch and assists the DepDir, RLS in overseeing the provision of RLS to the total force. The specific duties of the OpSponsor are contained in MCO 1001.62A. All members of the JAD IMA Detachment in defense, victims' legal counsel, or judiciary billets receive administrative support from the JAD IMA Detachment and the JAA and JPI Branches, but operate under the supervision of the Chief Defense Counsel; Officer-in-Charge, Victims' Legal Counsel Organization; Chief Judge of the Navy-Marine Corps Trial Judiciary; or the Chief Judge of the Navy-Marine Court of Criminal Appeals, as appropriate.

010312. Chief Defense Counsel of the Marine Corps (CDC)

The CDC is the head of the Marine Corps Defense Services Organization (DSO) and is responsible to the SJA to CMC for the supervision of all Marine defense personnel and the provision of defense counsel services throughout the Marine Corps. The roles and responsibilities of the CDC and the DSO are set forth in Volume 3 of this Order.

010313. Officer-in-Charge, Victims' Legal Counsel Organization (OIC, VLCO)

The Officer-in-Charge, Victims' Legal Counsel Organization (OIC, VLCO) is the head of the VLCO and responsible for the provision of victims' legal counsel services throughout the Marine Corps, as well as the supervision of all personnel assigned to the VLCO. The roles and responsibilities of the OIC, VLCO and other personnel assigned to the VLCO are set forth in Volume 4 of this Order.

010314. Legal Administrative Officer of the Marine Corps (LAO)

The LAO is the senior chief warrant officer in legal administrative officer community and serves as the SJA to CMC's primary advisor on legal administrative matters. The LAO acts as the occupational field manager for legal administrative officers. The LAO advises the SJA to CMC on the adequacy of active and reserve legal administrative officer billets.

010315. Legal Services Chief of the Marine Corps (LSC)

The Legal Services Chief (LSC) acts as the senior enlisted advisor to the SJA to CMC. Through the JPI Branch, he oversees enlisted training and education, assignments, and promotions. The LSC advises the SJA to CMC on the adequacy of active and reserve legal services specialist billets within the T/O.

VOLUME 1: CHAPTER 2

“COMMAND LEGAL ADVICE AND LEGAL SERVICES”

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CHAPTER 2

COMMAND LEGAL ADVICE AND LEGAL SERVICES

0201 LEGAL SUPPORT

Legal support is provided in two forms, command legal advice and legal services. This order does not apply to, nor does it affect, the legal support provided by the GC, JAG, or by CL on behalf of the GC. Generally, Marine judge advocates are only authorized to practice law while serving in legal support billets (44XX BMOS). Questions regarding the authorized practice of law should be directed to the Civil and Administrative Law Branch (JCA) at Judge Advocate Division.

0202 COMMAND LEGAL ADVICE

Command legal advice is that legal advice provided by judge advocates in their role as command advisors, generally while in a command judge advocate billet (e.g., staff judge advocate). Command legal advice informs the commander's decision making process with respect to ensuring good order and discipline, maintaining unit readiness, and accomplishing assigned missions. The provision of command legal advice is a component of command and control. Command legal advice includes that advice required by law and regulation. Command legal advisors are part of a commander's special staff and advise on all matters within their cognizance, including military justice, operational law, administrative law, claims, and ethics. Under 10 U.S.C. § 5046(d)(2), no officer or employee of DoD may interfere with the ability of judge advocates assigned or attached to, or performing duty with, military units to give independent legal advice to commanders. Similarly, under 10 U.S.C. § 806, convening authorities shall at all times communicate directly with their staff judge advocate in matters relating to the administration of military justice. Throughout this order, the term "command legal advice" is used as a term of art, understood to mean the independent legal advice prescribed in 10 U.S.C. § 5046(d)(2).

0203 LEGAL SERVICES

Legal services are those recurring legal support tasks that are executed to implement a commander's decision, sustain the force, and support service members, retirees, and their families. Marine Corps judge advocates and legal support personnel perform legal services support tasks in the following functional areas: military justice, administrative law, operational law, and legal assistance.

020301. Legal Administration

Legal administration is an additional non-substantive legal support functional area that encompasses those tasks and associated capabilities necessary for the internal administration of legal organizations across all substantive functional areas (e.g., budget management, contracting, correspondence, embark, information technology, knowledge management).

020302. Provision of Legal Services

Legal services are provided by judge advocates, legal administrative officers, and legal services specialists through four regional Legal Services Support Sections (LSSSs), nine subordinate Legal Services Support Teams (LSSTs), and subordinate Legal Services Support Detachments established within Marine Corps Installations Command, which provide consolidated legal services in garrison that are beyond the organic capability of a command's legal advisor. Each LSSS provides support to

commands and individual Marines, Sailors, retirees, dependents, and other eligible recipients within its designated Legal Services Support Area (LSSA). Generally, each LSSS's respective LSSA is aligned to an MCI region. Legal services performed by a command legal advisor are limited to those within the organic capability of that command legal advisor's office and ordinarily do not require the establishment of an attorney-client relationship. Legal services required beyond the organic capability of the command legal advisor are provided by LSSTs and LSSSs as combat service support. Legal services provided by the Supporting Establishment in general support of both Supporting Establishment and Operating Forces are a function of general sustainment.

0204 SUPPORTED-SUPPORTING RELATIONSHIPS

Each LSSS and its corresponding subordinate LSSTs will provide general legal services support to all supporting establishment and operating force commands within their respective LSSA, except as otherwise provided below.

020401. Marine Forces Reserve

All Marine Forces Reserve (MARFORRES) units and organizations will receive general support from LSSS National Capital Region (NCR). Each LSSS and its subordinate LSSTs will provide legal services support to MARFORRES units and organizations located within their respective LSSAs when practical and after coordination with LSSS NCR.

020402. Legal Services Support Section (LSSS) Pacific

LSSS Pacific and all of its subordinate LSSTs provide general support to Marine Corps Forces Korea and Marine Corps Forces Pacific. All Western Recruiting Region (WRR) units and organizations within LSSA Pacific will receive general support from LSSS West. When practical, LSSS Pacific will provide legal services to WRR units located in LSSA Pacific after coordination with LSSS West. LSST Okinawa provides direct support to Marine Corps Bases Japan, and the following subordinate installations: Marine Corps Base Camp Butler; Marine Corps Air Station (MCAS) Iwakuni; MCAS Futenma; Combined Arms Training Center, Camp Fuji; and all tenant commands. LSST Kaneohe Bay provides direct support to Marine Corps Bases, Hawaii, and all tenant commands.

020403. Legal Services Support Section (LSSS) East

LSSS East and all of its subordinate LSSTs provide general support to Eastern Recruiting Region (ERR); U.S. Marine Corps Forces, Central Command; U.S. Marine Corps Forces, South (MARFORSOUTH); U.S. Marine Corps Forces, Special Operations Command; Marine Corps Logistics Command; and Marine Corps Security Forces (MCSF) Kings Bay. LSST Lejeune provides direct support to MCB Camp Lejeune, Camp Johnson, MCAS New River, Stone Bay, and all tenant commands. LSST Cherry Point provides direct support to MCAS Cherry Point and all tenant commands. LSST Parris Island provides direct support to Marine Corps Recruit Depot (MCRD) Parris Island, MCAS Beaufort, Marine Corps Support Facility Blount Island, Marine Corps Logistics Base (MCLB) Albany, Marine Aviation Training Support Group-21, Marine Aviation Training Support Group-23, and all tenant commands.

020404. Legal Services Support Section (LSSS) West

LSSS West and all of its subordinate LSSTs provide general support to WRR, Marine Corps Forces Pacific (CONUS), and MCSF Bangor. LSST Pendleton provides direct support to MCB Camp Pendleton and all tenant commands. LSST Miramar provides direct support to MCAS Miramar; MCRD San Diego; MCAS Yuma; and all tenant commands. LSST 29 Palms provides direct support to Marine Air Ground Task Force Training Command (MAGTFTC)/Marine Corps Air Ground Combat Center (MCAGCC); Marine Corps Mountain Warfare Training Center, Bridgeport; MCLB Barstow, and all tenant commands.

020405. Legal Services Support Section (LSSS) National Capital Region (NCR)

LSSS NCR and its subordinate LSST Quantico provide general support to MARFORRES; Marine Corps Forces Command; U.S. Marine Corps Forces, Europe; U.S. Marine Corps Forces, Africa; U.S. Marine Corps Forces, Cyber Command; U.S. Marine Corps Forces, Northern Command (MARFORNORTH); MCSF Norfolk; and Marine Corps Embassy Security Group. All ERR units and organizations within LSSS NCR LSSA will receive general support from LSSS EAST. When practical LSSS NCR will provide legal services support to ERR units located in LSSA NCR after coordination with LSSS East. LSST Quantico provides direct support to MCB Quantico, Marine Barracks Washington, Joint Base Myer-Henderson Hall, their tenant Marine Corps units and organizations, and all Marine Corps units and organizations in the NCR.

020406. Relationships with Navy

LSSS and LSST leadership must foster a close and cooperative relationship with the servicing Navy Region Legal Service Office (RLSO), Navy DSO, and Navy VLCO. An LSSS should not provide legal services in cases that are normally tried by a RLSO unless specifically requested by the convening authority. When such a request is received, the LSSS shall coordinate with the SJA and the supporting RLSO prior to assuming responsibility for the prosecution of the case.

0205 Legal Services Support Section (LSSS) and Legal Services Support Teams (LSST) CHAIN OF COMMAND

The chain of command runs from the LSST OIC up through the LSSS OIC to the respective regional MCI commander. The chain of command is separate from and independent of the local command providing administrative support, the MCI SJA, or any other judge advocate serving in a position responsible for providing command legal advice. The OICs of the LSSSs and LSSTs exercise direction and control over their respective sections and teams, exercising authority derivative of, and delegated down from, the MCI CG's service command authority. This provision does not apply to judge advocates or legal services specialists who are serving in defense billets as members of the DSO and operate under the supervision of the CDC, or who are serving in victims' legal counsel billets operating under the supervision of the OIC, VLCO, in so far as separate relationships are established for fitness reporting, detailing authority, and other aspects of supervision as detailed in Volumes 3 and 4.

0206 LEGAL SUPPORT TO DEPLOYED MAGTFS

Legal support to deployed MAGTFs is task organized based on mission requirements. Legal services personnel are organized within the Marine Expeditionary Force (MEF) for their warfighting mission, which is to provide real-time, decentralized command legal advice to battlefield commanders. The MEF commander has ready, integrated, scalable legal support across the legal functional areas for the entire range of military operations.

020601. Requests for Legal Personnel

The supported unit's cognizant SJA (e.g., MEF SJA, MARFOR SJA, etc.) will conduct legal support planning for operations and exercises, including the preparation of any applicable Legal Annexes/Appendices, estimates of supportability, and proposed augmentation requirements. The LSSS provides personnel to fill validated augmentation requirements for deploying MAGTFs, by either returning Fleet Assistance Program (FAP) personnel in accordance with the applicable FAP MOU, or through global sourcing. The cognizant SJA will coordinate with the respective LSSS OIC in the development of legal support personnel augmentation requirements early in the planning process.

020602. Organization

Operating force tables of organization (T/O) reflect personnel structure for current and emerging mission requirements for the provision of legal support to deployed MAGTFs. Those legal services billets structured in the Marine Logistics Group (MLG) and not resident in the Office of the SJA will be retained on the MLG's T/O to task organize LSSTs for MAGTF operations based on mission requirements; however, while in garrison, those legal services personnel staffed to the MLG shall be assigned via the FAP (Category 1) to the garrison LSSS/LSST. Additionally, some legal services billets are structured in MEF Command Element (CE) and Division Headquarters (HQ) to meet requirements for command legal advice during operational missions and exercises. Similar to the MLG, some Marines staffed to these legal services billets within the MEF CE and Division HQ will be assigned in garrison via the FAP (Category 1) to the garrison LSSS/LSSTs.

020603. Readiness

Those legal services Marines provided to the LSSS/LSST should generally be available for recall and immediate deployment with their operational unit. In those instances when a judge advocate's recall will likely create a professional or ethical conflict for the individual judge advocate or result in a significant degradation of the LSSS/LSST mission, a similarly qualified Category 1 FAP judge advocate may be provided to the operational unit.

Legal Services Support Section

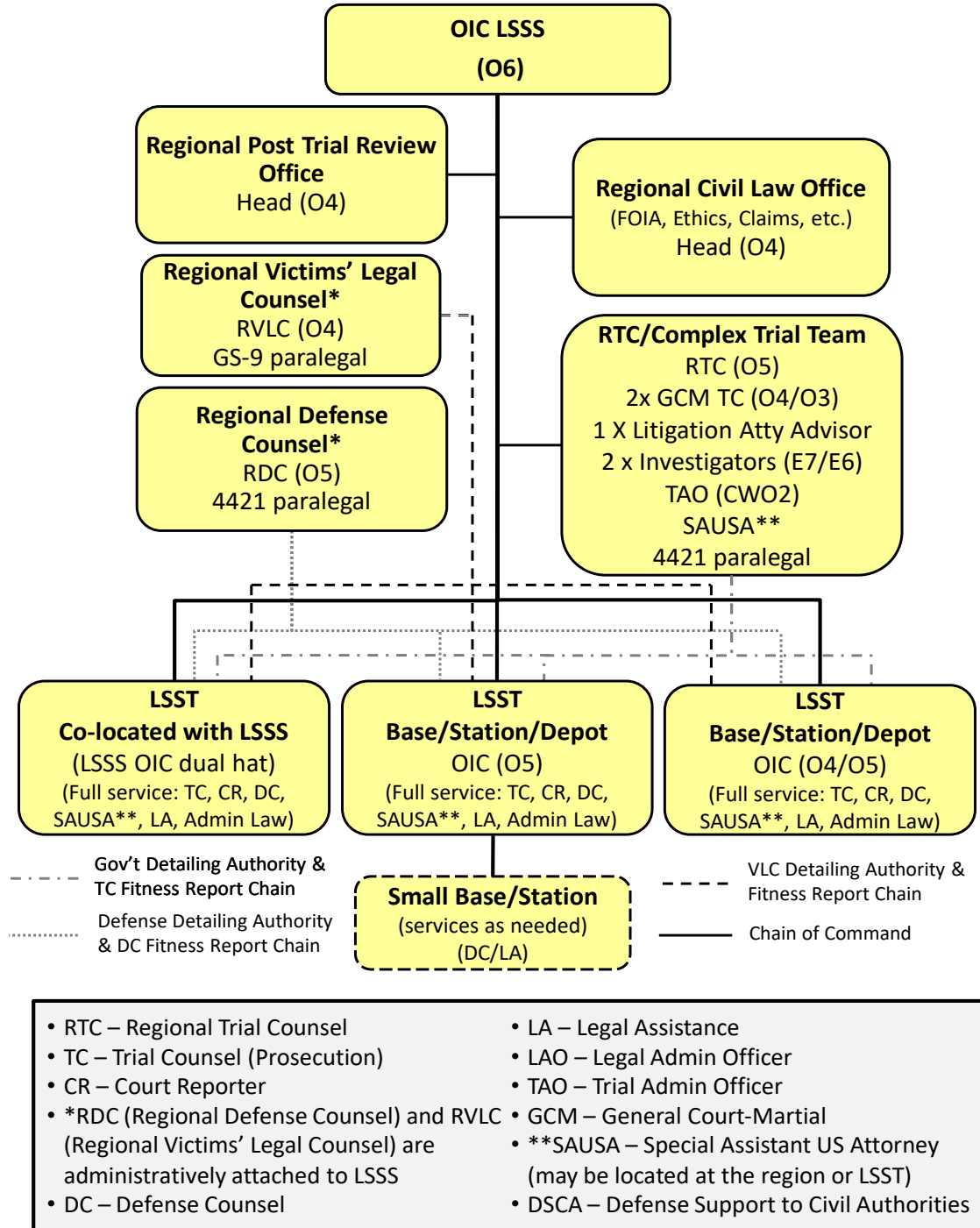


Figure 1