

VOLUME 2

“OVERSIGHT OF THE MARINE CORPS LEGAL COMMUNITY”

SUMMARY OF VOLUME 2 CHANGES

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VOLUME 2: OVERSIGHT OF THE MARINE CORPS LEGAL COMMUNITY

TABLE OF CONTENTS

REFERENCES.....REF-1

CHAPTER 1: GENERAL OVERSIGHT PROVISIONS.....1-3

0101 GENERAL1-3

0102 EXERCISE OF FUNCTIONAL SUPERVISION1-3

0103 PROFESSIONAL RESPONSIBILITY OVERSIGHT.....1-3

0104 EVIDENCE OF GOOD STANDING WITH LICENSING AUTHORITY1-3

0105 ASSIGNMENT RECOMMENDATIONS1-4

CHAPTER 2: LEGAL SUPPORT INSPECTION PROGRAM.....2-3

0201 GENERAL2-3

0202 OVERVIEW2-3

0203 OBJECTIVES2-3

0204 RESPONSIBILITIES2-4

CHAPTER 3: LEGAL RESEARCH AND RESOURCE MANAGEMENT3-3

0301 PURPOSE3-3

0302 GENERAL.....3-3

0303 CORE LEGAL REQUIREMENTS.....3-3

0304 LEGAL RESEARCH RESOURCES COORDINATOR RESPONSIBILITIES3-3

0305 LEGAL INFORMATION TECHNOLOGY3-4

CHAPTER 4: COURT REPORTER PROGRAM.....4-3

0401 PURPOSE4-3

0402 BACKGROUND4-3

0403 TRAINING4-3

0404 NOMINEE APPLICATIONS.....4-4

REFERENCES

- (a) SECNAVINST 5430.7R
- (b) SECNAVINST 5430.27D
- (c) SECNAVINST 5430.25E
- (d) 10 U.S.C. §§ 806, 1044, 1044e, 1059, 1072, 1565b, 1588, and 5046
- (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 1200.18
- (l) JAGINST 5803.2B
- (m) SECNAVINST 1920.6C
- (n) Uniform Code of Military Justice, (2016)
- (o) MCO 1610.7
- (p) MCO 1300.8
- (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
- (z) DoD Instruction 1100.21
- (aa) 8 U.S.C. § 1400
- (bb) Executive Order 13269, (July 3, 2002)
- (cc) DOD Directives 2311.01E
- (dd) MCO 3300.4A
- (ee) DoD Directive 2310.01E
- (ff) DoD Directives 5146.13
- (gg) Executive Order 12333, (December 4, 1981)
- (hh) DoD Directive 5240.01
- (ii) DoD 5240.1-R
- (jj) DoD Instruction 3025.21
- (kk) DoD Instruction 5525.03
- (ll) SECNAVINST 5710.25B
- (mm) 1 U.S.C. § 112b
- (nn) 22 CFR Part 181
- (oo) DoD Directive 5530.3
- (pp) DoD 5500.07-R
- (qq) 18 U.S.C. § 202
- (rr) 5 C.F.R. § 2634

“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 2: CHAPTER 1

“GENERAL OVERSIGHT PROVISIONS”

SUMMARY OF SUBSTANTIVE CHANGES

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CHAPTER 1

GENERAL OVERSIGHT PROVISIONS

0101 GENERAL

The general roles and authorities of the Staff Judge Advocate (SJA) to Commandant of the Marine Corps (CMC) are described in Volume 1. This Order does not restrict the advice or support provided to the Marine Corps by the Judge Advocate General of the Navy (JAG), or the Counsel for the Commandant (CL) on behalf of the General Counsel of the Navy, in accordance with SECNAVINST 5430.7R, SECNAVINST 5430.25E, and SECNAVINST 5430.27D.

0102 EXERCISE OF FUNCTIONAL SUPERVISION

As described in Volume 1 of this Order and in MCO 5430.2, the SJA to CMC exercises functional supervision over the Marine Corps legal community. The SJA to CMC exercises this supervision through the formulation and implementation of standards of practice and uniform standards and procedures for the performance of legal support tasks, and the conduct of frequent visits to the field to inspect compliance. Chapter 2 of this Volume describes the SJA to CMC's inspection program. The SJA to CMC will generally exercise his functional supervision through SJAs, the Officers-in-Charge of the four regional Legal Services Support Sections Officer in Charge (LSSS OICs), the Chief Defense Counsel (CDC), the OIC of the Victims' Legal Counsel Organization (OIC, VLCO).

0103 PROFESSIONAL RESPONSIBILITY OVERSIGHT

The SJA to CMC, as Rules Counsel, has the responsibility to exercise professional responsibility oversight over all Marine Corps judge advocates and over those civilian attorneys who practice law under the SJA to CMC's cognizance. The SJA to CMC has professional supervisory authority over all active-duty and reserve Marine Corps judge advocates, legal administrative officers, and legal services specialists. This authority stems from SECNAVINST 5430.27D, and JAGINST 5803.1E.

0104 EVIDENCE OF GOOD STANDING WITH LICENSING AUTHORITY

In accordance with JAGINST 5803.1E and JAGINST 5803.2B, all judge advocates, and civilians practicing under the cognizance of the SJA to CMC, shall maintain their "good standing" status at all times with the licensing authority admitting the covered attorney to the practice of law. The requirements of this paragraph do not apply to Marine Corps judge advocates serving as trial or appellate judges.

010401. Proof of Good Standing

All judge advocates, and civilians practicing under the cognizance of the SJA to CMC, are required to provide proof of good standing with their licensing authority every two years.

A. Certification Period

During a year in which good standing certification is required, the certification period will begin 15 January and conclude on 1 April. Proof of good standing must be dated between those dates and is due to Judge Advocate Division (JAD) no later than 1 April. Specific guidance during each reporting year will be provided by MARADMIN.

B. Proof of Good Standing

Covered attorneys admitted to practice law in more than one State need only provide proof of good standing with one State. However, pursuant to JAGINST 5803.1E, covered attorneys are reminded that they are required to immediately report if any jurisdiction in which the attorney is or has been a member in good standing commences a disciplinary investigation or action against him, or if the covered attorney is disciplined, suspended, or disbarred from the practice of law in any jurisdiction.

C. Non-Compliance

Failure of a judge advocate to comply with the requirement to provide proof of good standing may result in professional disciplinary action, loss of certification under Articles 26 or 27 of the Uniform Code of Military Justice (UCMJ), adverse entries in military service records, or processing for administrative separation under SECNAVINST 1920.6C based on the officer's failure to maintain professional qualifications. Failure of a civil service or contracted attorney practicing under the cognizance and supervision of the SJA to CMC to comply with the requirement to provide proof of good standing may result in adverse administrative action under applicable personnel regulations, including termination of employment.

D. Student Judge Advocates

Student judge advocates (MOS 4401) in the Funded Law Education Program and Excess Leave Program (Law) are required to submit either an original letter of good standing or original certificate of admission from their licensing authority to JAD within 30 days of receiving their notification of admission to the practice of law from their licensing authority. Student judge advocates (MOS 4401) in the Officer Candidate Course (Law) Program and Platoon Leaders Class (Law) Program are required to submit either an original letter of good standing or original certificate of admission from their licensing authority to JAD prior to graduation from The Basic School.

E. Authority of Supervisory Judge Advocates

Supervisory judge advocates, as described in JAGINST 5803.1E, may at any time require any officer over whom they exercise supervisory authority to document that he or she continues to be in good standing with that officer's licensing authority.

F. Additional Guidance

Further guidance is provided in JAGINST 5803.1E and JAGINST 5803.2B. Additional guidance will be provided in a biennial MARADMIN.

0105 ASSIGNMENT RECOMMENDATIONS

010501. Authority

Under Article 6, UCMJ, the assignments for duty of Marine Corps judge advocates are made by direction of the CMC. MCO 1300.8 and MCO 1000.6 provide guidance on assigning personnel to duty stations throughout the Marine Corps. In accordance with SECNAVINST 5430.27D and MCO 5430.2, the SJA to CMC advises and makes recommendations to the Deputy Commandant for Manpower and Reserve Affairs (DC M&RA) on the assignment of active duty and reserve 44XX Marines. The Deputy

Director, JAD, Military Justice and Community Development (MJCD), with the assistance of the Community Development, Strategy, and Plans Branch, the Legal Administrative Officer of the Marine Corps, and the Legal Services Chief of the Marine Corps, serves as the primary liaison between DC (M&RA) to express SJA CMC's recommendations.

010502. Assignment Goals

The goals of the SJA to CMC's assignment recommendations are to ensure that the right 44XX Marine is assigned to the right billet, and that there is an appropriate distribution of experienced judge advocates at each duty station. In furtherance of those goals, the SJA to CMC may consider the following criteria when making recommendations to MM: (1) the nature of the billet (e.g., senior trial counsel, staff judge advocate, etc.) and whether it is coded for a particular MOS (e.g., 4405, 4409, etc.); (2) the individual Marine's prior service, including his or her experience in different practice areas; (3) the individual's additional military occupational specialty (e.g., 4405, 4409, etc.), if any; (4) input from the leadership of the gaining units; (5) approximate caseloads at the various LSSS and Teams; and (6) requests for specific 44XX Marines to fill specific billets. The needs of the Marine Corps retain ultimate priority.

VOLUME 2: CHAPTER 2

“LEGAL SUPPORT INSPECTION PROGRAM”

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CHAPTER 2

LEGAL SUPPORT INSPECTION PROGRAM

0201 GENERAL

This section promulgates policy, assigns responsibilities, and establishes procedures to inspect and assess the provision of legal support by the Marine Corps legal community. This section applies to SJA offices, LSSSs, Legal Services Support Teams, Legal Services Support Detachments, and any other office over which the SJA to CMC exercises functional supervision. This section does not apply to offices practicing under the cognizance of the General Counsel of the Navy. No inspections conducted under this section shall inspect the content of privileged files, except as authorized by the JAGINST 5803.1E. An inspection made pursuant to this chapter shall be referred to as a “Legal Support Inspection.”

0202 OVERVIEW

020201. Authority

Legal Support Inspections are conducted under the authority of 10 U.S.C. §§ 806, 1044, 1044e, 5046; SECNAVINST 5430.27D; and MCO 5430.2 in order to assess, assist, and enhance the overall effectiveness of legal support provided throughout the Marine Corps. Legal Support Inspections encompass the full range of legal support provided under the cognizance of the SJA to CMC, to include legal services and command legal advice.

020202. Process

The SJA to CMC will conduct inspections of legal support providers as appropriate. The results of these inspections will, among other things, provide potential Operational Advisory Group research topics for presentation to the Marine Corps Judge Advocate Advisory Board. Through this mechanism, the community continuously evaluates itself in order to improve and adapt to the ever-changing and increasingly complex legal practice.

020203. Relationship to Other Inspections

Legal Support Inspections are not a substitute for assessments or evaluations done by commanders or officers-in-charge, or that may be required by other directives (e.g., Commanding General’s Inspection Program). However, to the extent practicable and advisable, Legal Support Inspections will seek to complement or reinforce other evaluations.

0203 OBJECTIVES

020301. Compliance

Ensure compliance with established laws, regulations, policies, practice advisories, and procedures. The focus of inspections conducted on SJA offices will be limited to regulations, policies, and procedures, and not on the advice provided to their respective commanders.

020302. Quality Control

Verify that the quality of legal support remains consistent and the provision is standardized.

020303. Process Improvement

Identify deficiencies and make recommendations to correct deficiencies. Identify, recognize, and disseminate best practices, and promulgate efficient and effective processes throughout the legal community.

020304. Evaluation

Evaluate judge advocates, legal administrative officers, and legal services specialists in the field, providing an opportunity for discussion on issues affecting legal professionals, and facilitating the SJA to CMC's ability to make informed decisions about their professional development and overall force development within the legal community.

020305. Observation

Observe, firsthand, the challenges facing OICs and SJAs, their staffs, and their commands.

0204 RESPONSIBILITIES

020401. Staff Judge Advocate (SJA) to Commandant of the Marine Corps (CMC)

The SJA to CMC shall: conduct frequent visits to all legal support providers acting under the cognizance of the SJA to CMC; provide a written report on the results of the Legal Services Inspections to the relevant SJAs and OICs who underwent an inspection; and conduct an annual review of the Legal Services Inspection program.

020402. Deputy Director, Judge Advocate Division (JAD), Military Justice and Community Development (MJCD)

The Deputy Director, JAD, MJCD shall: serve as the lead inspector for Legal Services Inspections; identify inspectors to assist in preparing for, conducting, and reporting the results of Legal Services Inspections; ensure that best practices are promulgated throughout the community; and identify areas of practice that should be assessed as part of the Legal Services Inspection process.

020403. Officer in Charge (OIC), Legal Services Support Sections (LSSS) or Staff Judge Advocate (SJA)

The OIC, LSSS or SJA shall provide inspectors full access to all unprivileged records within the control of the inspected legal office and relevant to the areas on the inspection checklist, as well as any records needed to provide a full assessment of the inspected office. If pertinent records are held by other base agencies, the inspected office will work with those agencies to obtain access to the records. Inspectors will be permitted access to classified materials, subject to their possession of the appropriate clearance. Provide a written response of measures taken to correct any deficiencies identified in the Legal Services Inspection report within 60 days. Promulgate approved best practices to their respective LSSTs.

020404. Chief Defense Counsel (CDC)

The CDC shall implement an inspection program within the DSO consistent with statute, regulations, and this section.

020405. Officer in Charge (OIC), Victims' Legal Counsel Organization (VLCO)

The OIC, VLCO shall implement an inspection program within the VLCO consistent with statute, regulations, and this section.

VOLUME 2: CHAPTER 3

“LEGAL RESEARCH AND RESOURCE MANAGEMENT”

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CHAPTER 3

LEGAL RESEARCH AND RESOURCE MANAGEMENT

0301 PURPOSE

To set minimum resource requirements and management responsibilities for Marine Corps legal research resources, computer-assisted legal research (CALR) services, and enterprise legal information technology (IT) systems.

0302 GENERAL

Marine judge advocates, civilian attorneys, legal administrative officers, and legal services specialists require access to adequate legal research resources, CALR services, and enterprise legal IT systems to assist them in providing timely, efficient, and competent legal support.

0303 CORE LEGAL RESEARCH REQUIREMENTS

030301. Legal Services Support Sections (LSSS), Legal Services Support Team (LSST), and Staff Judge Advocate (SJA) Offices

These offices must maintain the core legal resource requirements for the mission of their legal office. A list of the core legal resource requirements is maintained on the Legal Administrative Officer of the Marine Corps (JAD LAO) SharePoint site. The JAD LAO will review and update the core requirements annually. Requests may be submitted to the JAD LAO to add locally-procured “titles” to the core legal resource list. Requests to purchase titles readily accessible at no cost via the internet, or accessible through existing CALR services, will not likely be favorably considered.

030302. Deployable Legal Resource Requirements

Each deployable law library must contain, at a minimum, the items listed on the JAD LAO SharePoint site in the Deployable Law Libraries section. All efforts should be made to minimize the movement of bound or printed materials into the expeditionary environment. Electronic library resources must be organized, legible, and available to all judge advocates and legal services support personnel in the operating theater. All deployed judge advocates and legal services support personnel must also have accounts and passwords for CALR services. Electronic versions of resources, to include those available via CALR, are considered to meet the minimum requirements.

030303. Judge Advocate Division (JAD) Resources

JAD provides CALR accounts to all judge advocates and law offices under the cognizance of the SJA to CMC. In addition, JAD provides print materials to law offices as indicated on the JAD LAO SharePoint site. Requests for JAD purchase of additional resources may be submitted to the JAD LAO for consideration or purchased locally.

0304 LEGAL RESEARCH RESOURCES COORDINATOR RESPONSIBILITIES

Each LSSS and LSST will assign a legal research resources coordinator in writing and provide the name of the assigned individual to the JAD LAO. The legal research resources manager must be in the grade of

corporal or higher and have the appropriate experience, maturity, and temperament for this position of responsibility. This position may also be filled by a civilian.

030401. Legal Resources

The legal research resources coordinator is responsible for tracking, receiving, cataloguing, and distributing all legal research resources for his respective law office. Upon receipt of bound, printed legal resources, the legal research resources coordinator will mark these items as the property of the United States Marine Corps.

030402. Library Management

The legal research resources coordinator is responsible for the general management of the law office library and must ensure proper disposal of materials no longer required, no longer being updated, or clearly outdated (copies of certain outdated materials may be kept for reference).

030403. Annual Inventory

The legal research resources coordinator will conduct an annual inventory of library books during August and submit the results to the JAD LAO by 1 September to assist in making the next fiscal year purchases. Requests to add or delete items on the core law library resources lists maintained by the JAD LAO should be submitted with the annual inventory.

030404. CALR Duties

Legal research resources coordinators are responsible for the local management of CALR services within their respective law office. Specific duties include coordinating training, managing accounts and passwords, notifying the CALR service representative or JAD LAO of personnel changes for purposes of issuing or deactivating passwords, and tracking the law office's CALR usage.

0305 LEGAL INFORMATION TECHNOLOGY

Continuing advancements in IT provide opportunities for the Marine Corps legal community to streamline efforts to achieve greater efficiency and to employ hardware, software, and web-based technologies to further enhance the mission capabilities of Marine Corps legal services. JAD's Information, Plans, and Programs Section (JPI-1) maintains managerial responsibility for the implementation, accreditation, administration, and lifecycle management of "enterprise" legal information systems and applications that are used by the Marine Corps legal community.

030501. JPI-1 Responsibilities

To ensure standardized practice and use of legal IT software, JPI-1 serves as the Marine Corps Legal Functional Area Manager (FAM). As the FAM, JPI-1 is responsible for entering all legal software into the Department of the Navy's Application and Database Management System (DADMS). Accordingly, prior to purchasing any legal software, legal support organizations must first contact and coordinate DADMS entry and approval with JPI-1. JPI-1 personnel will assist with the testing and accreditation of commercial off-the-shelf software when it is found to benefit the entire Marine Corps legal community. Additionally, JPI-1 manages IT assets and software license requirements within the Marine Corps legal community.

030502. Mandatory Use of the Case Management System

JPI-1 manages the Case Management System application, which includes modules for military justice case tracking, Victims' Legal Counsel Services, officer discipline, and legal assistance. The use of CMS modules, or successor systems or applications, as appropriate, is mandatory within the Marine Corps legal community.

VOLUME 2: CHAPTER 4

“COURT REPORTER PROGRAM”

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CHAPTER 4

COURT REPORTER PROGRAM

0401 PURPOSE

To set forth information, guidance, and instructions for administering the Marine Corps Legal Services Court Reporter (LSCR) Program for the necessary MOS 4422.

0402 BACKGROUND

040201. Military Justice

The court reporter program spans all three phases of the military justice process: pre-trial, trial, and post-trial. Pre-trial and trial proceedings require court reporters to record the proceedings and to capture the spoken word through speech dictation, also known as voice writing. The post-trial process produces the record of trial necessary for the convening authority's action and subsequent review, to include appellate court review if required.

040202. Administrative

Court reporters may be assigned as the court reporter of record for administrative hearings, such as boards of inquiry, investigations, non-judicial punishments, or other hearings as directed.

0403 TRAINING

Court reporter training consists of intense instruction in English grammar, punctuation, courtroom procedures, production of a record of trial, and real-time capture of the spoken word. Real-time capture is the production of verbatim text, punctuation, and speaker identification immediately after the words are spoken in a military justice or administrative proceeding.

040301. Selection

Each fiscal year, two LSCR courses are held at Naval Justice School, Newport, Rhode Island. JAD will announce course dates and solicit nominees from the legal services specialist (4421) MOS. Upon receipt of all applications, a selection board comprised of JAD members will select those best qualified for participation in the program. JAD will notify commands of selected attendees no later than 30 days prior to any course convening date.

040302. Qualifications

Court reporter qualifications are identified in the Military Occupational Specialties Manual (MCO 1200.17E).

040303. Waivers

Waivers of any of the basic qualifications should be submitted to Plans & Innovation Branch (JPI) of JAD and will be considered on a case-by-case basis.

0404 NOMINEE APPLICATIONS

Applications shall be submitted via the LSSS or LSST Officer-in-Charge to JPI. At a minimum, applications must include a completed court reporter checklist and a completed JPI Quota Submission Form. Letters of recommendation are unnecessary and are discouraged.