

LEGADMINMAN

CHAPTER 9

COORDINATION OF CIVIL LITIGATION

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CHAPTER 9

COORDINATION OF CIVIL LITIGATION

9000. SCOPE

1. Purpose. This chapter provides step-by-step procedures for the reporting, notification, and monitoring of Federal civil litigation involving the United States as a party, and for complying with litigation requests or subpoenas for DON information, documents, or witnesses in Federal or State civil litigation where the United States is not a party.
2. Marine Corps or United States a Party. When the Marine Corps or the United States is a party, CMC is the decision-making authority for the Marine Corps. The Staff Judge Advocate to the Commandant (CMC (JA)) or Counsel for the Commandant (CMC (CL)), as appropriate, will coordinate the Marine Corps position with the Office of the Judge Advocate General of the Navy (OJAG), General Litigation Division.
3. Applicability. This chapter applies whenever a civil action seeking injunctive relief is brought against a Marine Corps command or against an individual Marine for actions taken in his/her official capacity, or whenever a subpoena or request for DON information, documents or witnesses is received.
4. Nonapplicability. This chapter does not apply to requests or subpoenas from Federal agencies, nor from State agencies, except in the case where a State has brought suit against the United States.
5. References. Additional guidance is contained in JAGMAN, chapters V and VI, and SECNAVINST 5820.8_.

9001. INJUNCTIVE RELIEF REQUESTED

1. Procedures. If delivery, service, or attempted service of a summons and complaint seeking injunctive relief (habeas corpus, temporary restraining order, or preliminary injunction) is attempted on a Marine Corps command or on any DON member or civilian employee arising from official duties, the Marine Corps command involved in the service of process should immediately notify the command staff judge advocate (SJA).
2. Litigation Action Attorney. The command SJA will immediately appoint a litigation action attorney. The litigation action attorney will be the focal point for any questions or actions regarding the

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litigation and will comply with the following procedures:

a. Immediately contact the OJAG, General Litigation Division, DSN 221-9870 [(703) 325-9870], and then CMC (JAR) DSN 224-2510 [(703) 614-2510];

b. Forward a copy of the complaint, summons, and all pleadings to the OJAG, General Litigation Division and CMC (JAR) via express mail or facsimile machine. (OJAG General Litigation FAX - DSN 221-6615, (703) 325-6615; CMC (JAR) FAX - DSN 224-5078, (703) 614-5078.)

c. Submit recurring FAX, telephone or message reports (daily if necessary) of significant developments in the case to the OJAG, General Litigation Division, and CMC (JAR);

d. Keep the local Marine Corps command informed of the status of the case.

9002. SUBPOENAS FOR DOCUMENTS AND WITNESSES

1. Procedure

a. DON Documents or Witnesses. If a Marine Corps command is served with a subpoena seeking DON documents or witnesses, the command should refer the matter to the command SJA. The SJA, in most cases, should return the papers to the civilian counsel; refer them to 32 CFR 725.7 (which publishes SECNAVINST 5820.8_); and advise the attorney that the General Counsel of the Navy (OGC) is the sole DON agent for service of process at the following address: Department of the Navy, Office of General Counsel, The Pentagon, Room 4E516, Washington, DC 20350-1000.

b. Department of Defense Pay Records

(1) Active Duty and Reserves. To obtain pay records of Marines, active duty or Reserves, a separate subpoena must be served on the Defense Finance and Accounting Service - Kansas City Center. The address for service by mail is: Defense Finance and Accounting Service - Kansas City Center, Office of General Counsel, Kansas City, MO 64197-0001. The telephone number is (816) 926-7103.

(2) Retired or FMCR Marines. To obtain pay records of retired or FMCR Marines, a separate subpoena must be served on the Defense Finance and Accounting Service - Cleveland Center. For Garnishment matters, the address for service by mail is: Defense Finance and Accounting Service - Cleveland Center (MUI), 1240 East 9th Street, Cleveland, OH 44199-2055. The telephone number is (216) 522-5118.

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For all other pay record matters, the address for service by mail is:
-General Counsel's Office, Defense Finance and Accounting Service -
Cleveland Center (MUI), 1240 East 9th Street, Cleveland, OH 44199-2055
The telephone number is (216) 522-5396.

2. Privacy Act Compliance. Subpoenas for service record books, medical records, pay records, and other records maintained in a system of records subject to the Privacy Act must be signed by the judge of a court of competent jurisdiction (see MCO P5211.2, and 5 U.S.C. § 552a(b)(11)). Subpoenas signed by clerks of court should not be honored and referred under 32 CFR section 725.7.

9003. REQUESTS FOR DOCUMENTS, DEPOSITIONS, WITNESSES OR SITE INSPECTIONS

1. United States a Party. In cases where the United States is, or may reasonably become, a party to the lawsuit, the following procedures apply to requests for documents, depositions, witnesses or site inspections:

a. OGC Matters. If subject matter involved is a matter assigned to OGC (see SECNAVINST 5430.25) such as business and commercial law, patent law, civilian personnel law, or contract claims and litigation:

- (1) Forward the request to OGC;
- (2) Send a copy of the request to CMC (CL); and
- (3) Send a letter to the requesting counsel advising of the referral.

b. OJAG Matters. For all other matters (pursuant to SECNAVINST 5430.27):

- (1) Forward the request to the OJAG, Claims and Tort Litigation Division, or OJAG, General Litigation Division, as appropriate;
- (2) Send a copy to CMC (JAR);
- (3) Send a letter to the requesting counsel advising of the referral.

2. United States Not a Party. In cases where the United States is not a party, and may not reasonably become a party to the lawsuit, the following procedures apply to requests for documents, depositions, witnesses or site inspections:

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a. OGC Matters. If the subject matter is an OGC matter (pursuant to SECNAVINST 5430.25_):

(1) Forward the request to CMC (CL). CL will staff the request to the appropriate Area Counsel's office; and

(2) Send a letter to the requesting counsel advising of the referral.

b. OJAG Matters. If the subject matter is a request for DON personnel to testify as expert witnesses:

(1) Forward the request to the OJAG, General Litigation Division via CMC (JAR); and

(2) Send a letter to the requesting counsel advising of the referral.

c. Other Matters. For any other matters, the Marine Corps "determining authorities" (i.e., general courts-martial convening authorities listed in SECNAVINST 5820.8_) will respond as follows:

(1) Improper Requests. If the determining authority finds the request does not meet the requirements of SECNAVINST 5820.8_, then it is an improper request. The determining authorities will return improper requests to the requesting counsels and refer them to 32 CFR 725.7 .

(2) Proper Requests. Normally, requests made in accordance with 32 CFR 725.7, will be forwarded for action to the respective Marine Corps command from the OJAG, General Litigation Division. In addition to specific direction from the OJAG, General Litigation Division or JAD (JAR), the determining authority will take the following actions:

(a) Respond directly to the requester (copy to CMC (JAR));

(b) Refer the request to another determining authority where the requested witness or document is located and send a letter to the requesting attorney advising of the referral; or

(c) Coordinate the request with CMC (JAR). This is appropriate in cases where a response from several different commands/determining authorities is necessary (for example, a request to depose a number of Marines, now located at several different commands or geographic areas) or where a requested witness is no longer a member of the Marine Corps.

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CHAPTER 10

COMPLIANCE WITH COURT ORDERS BY MARINES, DEPENDENTS,
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CHAPTER 10

COMPLIANCE WITH COURT ORDERS BY MARINES, DEPENDENTS,
AND CIVILIAN EMPLOYEES SERVING OVERSEAS

10000. SCOPE

1. This chapter designates responsible Marine Corps officials for acting on a request or order from a court or from Federal, State or local authorities concerning a court order for the return to the United States of servicemembers and their family members or civilian employees and their family members serving overseas.
2. Detailed procedural and policy guidance regarding the processing of requests or orders for the return of servicemembers, civilian employees, and their family members is set forth in SECNAVINST 5820.9 and DoD Directive 5525.9.

10001. POLICY

1. The Marine Corps will cooperate with requests for return pursuant to a court order when such action is consistent with mission requirements (including operational readiness), the provisions of applicable international agreements, and ongoing Department of Defense investigations or courts-martial.
2. Every reasonable effort will be made to resolve the matter without returning servicemembers to the United States or by taking other action authorized by SECNAVINST 5820.9 against civilian employees or the family members of servicemembers and civilian employees.
3. In appropriate circumstances, servicemembers may be returned involuntarily to the United States. The involuntary return of civilian employees and family members of both servicemembers and civilian employees is not authorized.
4. In appropriate circumstances, adverse action, to include removal from Federal service, may be taken in the case of civilian employees and the command sponsorship of family members of both servicemembers and civilian employees may be withdrawn.

10002. RESPONSIBLE OFFICIALS

1. CMC (MM) is the responsible official for acting on all requests involving servicemembers and their family members who are not employees.

2. Commanding officers who receive a request for the return of a servicemember or family members of a servicemember belonging to the command will comply with procedures set forth in SECNAVINST 5820.9, and forward the request to CMC (MM) for action.

3. Commanding officers are the responsible officials for acting on all requests involving civilian employees and their family members who are not active duty military members, and will take appropriate action in accordance with SECNAVINST 5820.9.

4. CMC (JA) will provide legal review and advice on requests under the cognizance of CMC (MM). CMC (JAR) is the point of contact for authorities issuing requests for return or other action.

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CHAPTER 11

ETHICS PROGRAM

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FIGURE

11-1 ETHICS PROGRAM CALENDAR.

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CHAPTER 11

ETHICS PROGRAM

11000. SCOPE. This chapter sets forth administrative instructions for the Marine Corps ethics program. Figure 11-1 is an annual calendar of filing and reporting dates under the program.

11001. JOINT ETHICS REGULATION. Department of Defense Directive 5500.7-R of 30 August 1993, the Joint Ethics Regulation (JER), is the single source for standards of ethical conduct and ethics guidance, including direction in the areas of financial disclosure, post-government employment rules, enforcement, and training for the Department of Defense.

11002. RESPONSIBILITIES. Supervision of the Marine Corps ethics program is shared between the Staff Judge Advocate to the Commandant (CMC (JA)) and Counsel for the Commandant (CMC (CL)), who are the designated agency ethics officials (DAEOs) for the Marine Corps. CMC (JA) and CMC (CL) provide ethics advice and training, and monitor financial disclosure reporting in their areas of responsibility as set forth below. Staff judge advocates and local CL attorneys serve as ethics counselors and supervise the ethics programs within their commands or areas of responsibility.

1. CMC (JA)

a. The Research and Civil Law Branch (JAR) administers the ethics program for CMC (JA).

b. JAR provides timely, individual, written notification, including an SF-278 Public Financial Disclosure Report, to all Marine Corps general officers whenever they are required to submit a new entrant, annual, or termination report, and monitors submissions to ensure that all reports are timely filed. JAR also maintains on file the SF-278 reports of all Marine Corps general officers.

c. CMC (JA) is responsible for the final review of the SF-278 reports of all Marine Corps general officers, except for those assigned to joint billets and those general officers at HQMC who fall under the cognizance of CMC (CL). CMC (JA) conducts the initial review of the SF-278 reports of the Counsel for the Commandant and the Deputy Counsel, and forwards the reports to the DON Office of General Counsel (Navy OGC) for final review; and conducts the final review of the SF-278 reports of the following general officers:

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- (1) Assistant Commandant of the Marine Corps
- (2) Director, Marine Corps Staff
- (3) Deputy Commandant for Manpower and Reserve Affairs
- (4) Deputy Commandant for Plans, Policies, and Operations
- (5) Deputy Inspector General/Inspector General for Marine Corps
- (6) Commanding General, Marine Corps Recruiting Command
- (7) Director, Public Affairs
- (8) Director, Legislative Affairs

d. CMC (JA) conducts the legal review of the Office of Government Ethics (OGE) Form 450, Confidential Financial Disclosure Report, for all personnel who report to the general officers identified in paragraph 11002.1c, and maintains those reports on file.

e. JAR compiles and submits for the Marine Corps all reports required by the ethics program.

2. CMC (CL)

a. CMC (CL) provides timely, individual, written notification, including an SF-278 Public Financial Disclosure Report, to all Marine Corps Senior Executive Service (SES) personnel whenever they are required to submit a new entrant, annual, or termination report, and monitors submissions to ensure that all reports are timely filed.

b. CMC (CL) conducts the initial review of the SF-278 reports of all Marine Corps SES personnel (except CMC (CL)) and forwards them to the Navy OGC for final review. CMC (CL) is responsible for the final review of the SF-278 reports of the following general officers at HQMC:

- (1) Commandant of the Marine Corps
- (2) Deputy Commandant for Aviation
- (3) Deputy Commandant for Installations and Logistics
- (4) Deputy Commandant for Programs and Resources
- (5) Deputy Commandant for Command, Control, Communications, and Computers

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(6) Director of Intelligence

(7) Staff Judge Advocate to the Commandant

c. CMC (CL) conducts the legal review of the OGE Form 450, Confidential Financial Disclosure Report, of personnel who report to the general officers identified in paragraph 11002.2b, and maintains those reports on file.

3. Ethics Counselors

a. Ethics counselors are responsible for supervising the ethics program for their organization, review and compliance with financial disclosure reporting, and providing ethics advice, to include post-government employment opinions, to commanders, individual Marines, and civilian personnel. CMC (CL) is responsible for the coordination and consistency of ethics opinions within the Marine Corps.

b. As DAEO for the Department of the Navy, the Navy OGC has designated the following ethics counselors within the Marine Corps:

(1) Head, and Deputy Head, Research and Civil Law Branch, Judge Advocate Division, HQMC;

(2) Director, Joint Law Center, MCAS Yuma, AZ;

(3) Director, Joint Law Center, MCAS New River, NC;

(4) Director, Joint Law Center, MCAS Beaufort, SC;

(5) Station Judge Advocate, MCAS Iwakuni, Japan;

(6) Staff and force judge advocates for all staffs and commands having GCM convening authority; and

(7) CMC (CL) designated ethics counselors.

c. Pursuant to JER paragraph 1-401, ethics counselors must be designated in writing by the DAEO. Submit requests for additional designations to CMC (JA) or CMC (CL), as appropriate.

11003. FINANCIAL DISCLOSURE. The purpose of financial disclosure reports is to assist Federal agencies in identifying potential conflicts of interests between the official duties of employees and their private financial interests and affiliations. The Office of Government Ethics establishes rules and regulations for both the public and confidential financial disclosure systems.

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1. Public Financial Disclosure Report (SF-278) (Report Control Symbol DN-5370-01)

a. Individuals Required to File. Regular and Reserve military officers whose pay grade is O-7 or above, and civilian employees in an SES position.

b. Time of Filing

(1) New Entrant Reports. Within 30 days of assuming a covered position, a reporting individual shall submit an SF-278.

(2) Annual Reports. Any time after 1 January, but not later than 15 May, a reporting individual who served in a covered position for more than 60 days during the preceding calendar year shall file an annual SF-278.

(3) Termination Reports. Not later than 30 days after termination from a covered position, a reporting individual shall submit a SF-278. Filers may post-date their reports for convenience, in particular before departing on terminal leave. Ethics counselors must ensure that no changes occur between signing and the effective date.

(4) Combined Annual/Termination Report. Reporting individuals who anticipate terminating their DoD employment before 30 June may request an extension of up to 45 days in order to file one consolidated report. Combined annual/termination reports must be filed within 30 days after termination of employment but not later than 15 July.

(5) Late Filing Fee. Any reporting individual who is required to file an SF-278 and does so more than 30 days after the required filing date shall be subject to a \$200.00 late filing fee. Note that combat zone and other administrative extensions are available as circumstances justify.

2. Confidential Financial Disclosure Report (OGE Form 450) (Report Control Symbol DN-5370-02)

a. Individuals required to file

(1) Commanding officers, executive officers, heads, and deputy heads of:

(a) Navy shore installations with 500 or more military and civilian DoD employees; and

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(b) All Army, Air Force, and Marine Corps installations, bases, air stations or activities.

(2) DoD employees when their official responsibilities require them to participate personally and substantially through decision making or the exercise of significant judgment in taking an official action for contracting or procurement, administering or monitoring grants, subsidies, licenses or other Federally conferred financial or operational benefits, regulating or auditing any non-Federal entity, or other activities in which their final decision or action may have a direct and substantial economic impact on the interests of any non-Federal entity.

b. Time of Filing

(1) New Entrant Reports. A reporting individual shall submit an OGE Form 450 with information current as of the filing date for the preceding 12 months, through the supervisor to the ethics counselor not later than 30 days after assuming duties in a covered position.

(2) Annual Reports. A reporting individual who was employed at least 61 days during the preceding reporting period must submit an OGE Form 450 to the ethics counselor by 30 November of each year covering the preceding 12 months. Individuals who have previously filed an OGE Form 450 may be eligible to file the OGE Optional Form 450-A (short form). Refer to the JER for further guidance.

11004. TRAINING

1. Initial Ethics Orientation (IEO) for New DoD Employees

a. Within 90 days of entering on duty, all new DoD employees who have not previously received ethics training shall receive an IEO.

b. The DAEO shall ensure that new, active duty enlisted members of the armed services receive, within 180 days of entering on active duty, initial ethics training.

c. An IEO shall be a minimum of 1 hour of official duty time. The amount of official duty time given to new employees to review written materials required by the IEO may be reduced by the amount of time they spend receiving verbal ethics training during official duty time.

2. Annual Ethics Training. All DoD employees who file an SF-278 or OGE Form 450 shall receive 1 hour of ethics training annually to be completed by 31 December.

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3. Training Materials. JAR will distribute annual ethics training materials prepared by OGE and the DoD Standards of Conduct Office to all commands.

11005. REPORTING GIFTS OF TRAVEL AND FOREIGN GIFTS. Figure 11-1 lists required reporting dates. Refer to chapter 12 for reporting formats and guidance on processing these gifts.

1 January: CMC (JAR) mails annual SF-278 notifications to all general officers.

15 January: Ethics counselors send responses to OGE annual questionnaire to CMC (JAR).

15 January: Ethics counselors report foreign gifts of more than minimal value received during previous calendar year to CMC (JAR).

30 January: CMC (JAR) reports foreign gifts of more than minimal value received by the Marine Corps during previous calendar year to Navy OGC.

30 April: Ethic counselors report gifts of travel/travel related expenses in excess of \$250.00 accepted under 31 U.S.C. § 1353 to CMC (JAR).

15 May: CMC (JAR) makes semiannual report of gifts of travel/travel related expenses to Navy OGC.

15 May: Annual SF-278s required to be filed with ethics counselors.

15 October: CMC (JAR) notifies HQMC personnel of requirement to file an annual OGE Form 450 on or before 30 November.

31 October: Ethic counselors report gifts of travel/travel related expenses in excess of \$250.00 accepted under 31 U.S.C. § 1353 to CMC (JAR).

15 November: CMC (JAR) makes semiannual report of gifts of travel/travel related expenses to Navy OGC.

30 November: All annual OGE Form 450s due. Report due to CMC (JAR) that all reports filed.

1 December: CMC (JAR) mails OGE annual ethics questionnaire to ethics counselors.

15 December: Ethics counselors report to CMC (JAR) on status of OGE Form 450 filings.

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15 December: CMC (JAR) reports gifts to foreign governments and individuals to Navy OGC.

31 December: Ethics counselors report to CMC (JAR) on completion of annual ethics training.

Figure 11-1.--Ethics Program Calendar.

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CHAPTER 12

GIFTS

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FIGURE

- FOREIGN GIFT OF MORE THAN MINIMAL VALUE
- SAMPLE GIFT OFFER FORWARDING LETTER

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CHAPTER 12

GIFTS TO THE MARINE CORPS

12000. SCOPE. This chapter implements policy and procedures for accepting gifts to the Marine Corps pursuant to SECNAVINST 4001.2_ and SECNAVINST 1650.1_. It covers:

1. Gifts under 10 U.S.C. § 2601. Acceptance of gifts for the establishment, operation, or maintenance of a school, hospital, library, museum, cemetery, or any other organization under the jurisdiction of the Marine Corps authorized by 10 U.S.C. § 2601;
2. Gifts from foreign governments;
3. Gifts to the Commandant's House;
4. Gifts to a Marine Corps special service recreation fund;
5. Gifts given to MWR activities;
6. Gifts of Travel under 10 U.S.C. § 1353. Acceptance of payment from a non-Federal source for travel expenses authorized under 31 U.S.C. § 1353 (implemented by 41 C.F.R. § 301-1.2 and Chapter 304 as well as Chapter 4 of the JER); and
7. Gift acceptance authority and delegations.

12001. DEFINITIONS

1. Gift, unless otherwise qualified, means a gift, devise, bequest, or loan (other than of money) of real or personal property without consideration.
2. Money means cash, checks, or other forms of negotiable instruments.
3. Personal property includes clothing, jewelry, household furnishings, money, vehicles, stocks, bonds, and all property not defined as real or intellectual property.
4. Real property includes land and any buildings, improvements, or fixtures on that land.
5. Intellectual property includes any patent, trademark, copyright, or other intangible property interest of a similar nature.

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6. Organization includes any activity under the jurisdiction of the Marine Corps including, but not limited to, any defined organizational unit or activity, nonappropriated fund activity, research and development facility, school, hospital, library, museum, or cemetery.

7. Acceptance authority is the DON official or officer who, on behalf of the Secretary of the Navy, may accept gifts that satisfy the criteria found in this chapter. The acceptance authorities for particular categories of gifts are listed below.

8. Foreign government includes any unit of foreign governmental authority (including any foreign national, state, local, or municipal government or armed force), any international or multinational organization whose membership is comprised of any of the units of foreign governments described above, and any agent or representative of any such unit or organization while acting as such.

9. Prohibited source means any person who (1) is seeking official action by the Marine Corps or the DON; (2) does business or seeks to do business with the Marine Corps or the DON; (3) conducts activities regulated by the Marine Corps or the DON; (4) has interests that may be substantially affected by the performance or nonperformance of official duties by Marine Corps or DON personnel; or (5) is an organization a majority of whose members are described in (1) through (4) above. No person or organization shall be deemed a prohibited source for the purposes of this chapter solely because of the offer of a gift or because the stated purpose of the organization includes the provision of financial support to DON, its components, or DON personnel.

10. For the purposes of this chapter, Marine Corps personnel include:

a. All members of the Marine Corps, regular or Reserve, on active duty, active duty for training, and periods of inactive duty training, such as drills or other appropriate duty;

b. All Navy military personnel, regular or Reserve, on active duty, serving with the Marine Corps; and

c. All civilian employees of the DoD serving with the Marine Corps, including personnel of nonappropriated fund instrumentalities.

12002. POLICY. Any gift, regardless of value, will be refused by the Marine Corps if at some future time it might embarrass or lead to criticism of the Marine Corps or the DON by reason of favors which might be expected as a result of the gift, by creating the appearance

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of a relationship in which favors are granted, or if it might result in unwarranted publicity for the donor at the expense of the Government.

1. Conditional Gifts. An offer of a gift to the Marine Corps with specified conditions, other than the use to which the gift shall be put, will normally not be accepted. Such gifts might include loans of property, property donated with unduly burdensome conditions or conditions that improperly discriminate among beneficiaries, or gifts requiring expenditures of funds or administrative effort that outweigh the value of the gift.

2. Solicitation of Gifts. Unless specifically authorized by the Secretary of the Navy, Marine Corps personnel shall not solicit gifts for the Marine Corps or its personnel and no gift that is the result of an unauthorized solicitation shall be accepted. Further, as provided in DoD 5500.7-R, Joint Ethics Regulation (JER), the solicitation of gifts from prohibited sources by Marine Corps personnel for themselves, their spouses, minor children, or members of their household is prohibited and may result in disciplinary action.

3. Selective Endorsement. DoD and DON policies proscribe giving preferential treatment to any organization or person. No gift from a commercial enterprise, non-profit organization, or individual shall be accepted if such acceptance would reasonably create the appearance of selectively endorsing the donor, its products, or its services.

4. Future Gifts. A gift may not be accepted until actually offered. An offer by a donor to raise funds for future donation to the Marine Corps, for example, shall be treated as a pledge for a future gift. If the ultimate gift is acceptable under this chapter, the acceptance authority should so advise the donor that the gift cannot be finally accepted until fund-raising is completed and the funds, or the property purchased with the funds, offered to the Marine Corps.

5. Gifts from Foundations and Similar Entities. Foundations and other non-profit organizations may provide valuable support to the Marine Corps; however, such organizations should not be used as a conduit for such sources to make gifts indirectly that would not be permitted under the gift acceptance policies if they were offered directly to the Marine Corps. Acceptance authorities must exercise caution before accepting a gift from a foundation (or similar entity) that solicits funds or other property for future donation to the Marine Corps, its organizations or personnel to ensure that the donation is not an attempt to circumvent the policies contained in this chapter.

6. Fund-Raising by Marine Corps Personnel. Participation by Marine

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Corps personnel in activities to raise funds for future presentation to the Marine Corps, or for the purchase of real or personal property to be presented to the Marine Corps in the future, is governed by DoD policy which prohibits DoD personnel from participating in their official military capacity in fund-raising activities which are not recognized for on-the-job solicitation with the Federal service. This prohibition applies to official participation during duty and non-duty hours, but does not preclude participation in fund-raising activities as a private citizen during non-duty hours. Refer to the JER for specific guidance.

7. Gifts from Prohibited Sources. Acceptance of gifts from prohibited sources requires heightened sensitivity because acceptance may create embarrassment to the Marine Corps or the DON, or the appearance of influencing official decision-making or actions of the Marine Corps or the DON. Consequently, before accepting a gift of more than \$5,000.00 from a prohibited source, the acceptance authority shall inform the Staff Judge Advocate to the Commandant (CMC (JA)) of the offer. CMC (JA) shall then consult with and request a determination from the Office of General Counsel for the Navy (Attn: Assistant General Counsel (Ethics)) whether the donor is involved in any claims, procurement actions, litigation, or other matters involving the DON, and will provide this information to the gift acceptance authority. Additionally, gift acceptance authorities shall provide a copy of each gift acceptance decision involving a gift from a prohibited source to CMC (JA), who will provide a copy to the Office of General Counsel for the Navy.

8. Gifts From Foreign Governments

a. Gifts of Minimal Value. Table favors, mementos, or other remembrances bestowed at official functions, and other gifts of minimal value (i.e., \$305.00 or less) received as souvenirs or marks of courtesy from a foreign government may be accepted and retained by the recipient.

b. Gifts of More than Minimal Value. When a gift of more than minimal value (i.e., more than \$305.00) is tendered, the donor should be advised that statutory provisions and DoD policy prohibit Marine Corps personnel from accepting such gifts. If it appears that refusal of a gift would be likely to cause embarrassment to the donor or could adversely affect the foreign relations of the United States, it may be accepted as a gift to the Marine Corps and becomes Marine Corps property. The gift may be retained for official use by the command or forwarded to CMC (JAR) as excess property for disposal by the General Services Administration (DoD Directive 1005.13 and SECNAVINST 1650.1 provide additional guidance). If forwarded for

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disposal, include a cover letter with all information specified in subparagraphs 12002.8c(1) through (5).

c. Reporting Requirement. Each command shall maintain records of gifts of more than minimal value received by their employees from foreign governments. A report of all such gifts received during the preceding calendar year (Report Control Symbol EXEMPT) shall be forwarded annually to CMC (JAR) no later than 15 January (negative reports not required). The report (figure 12-1) shall include the following information:

- (1) Name and title of recipient
- (2) Brief description of the gift, date of acceptance, estimated value, and current disposition or location
- (3) Identity of foreign donor and government
- (4) Circumstances justifying acceptance
- (5) Whether recipient desires to participate in sale of gift if sold by GSA.

9. Acceptance of Travel From a Non-Federal Source

a. Gifts of Travel. 31 U.S.C. § 1353 permits non-Federal sources to pay the Government, in kind or by reimbursement, for the expenses of travel, accommodations and meals for Government officials and employees attending meetings, conferences, or events of a similar nature. Implementing regulations are found at 41 C.F.R. § 301-1.2 and Chapter 304 as well as Chapter 4 of the JER.

b. Acceptance Procedures. Before accepting payments for travel from a non-Federal source, the travel approving authority should make the following determinations:

- (1) Payment is for attendance at a meeting or similar function. This excludes events required to carry out an agency's statutory and regulatory functions. It also excludes promotional vendor training.
- (2) Payment is for travel related to the employee's official duties.
- (3) Acceptance of the payment under the circumstances would not cause a reasonable person with knowledge of all the relevant facts to question the integrity of Department of the Navy programs or

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operations. The travel approving authority must be guided by all relevant considerations, including but not limited to the:

- (a) Identity of the non-Federal source;
- (b) Purpose of the meeting;
- (c) Identity of other expected participants;
- (d) Nature and sensitivity of any matter pending within the Department of the Navy which may affect the interest of the non-Federal source;
- (e) Significance of the employee's role in any such matter; and
- (f) Monetary value and character of the travel benefits offered by the non-Federal source.

(Note: The travel approving authority may find that, while acceptance from the non-Federal source is permissible, it is in the interest of the Department of the Navy to qualify acceptance of the offered payment by, for example, authorizing attendance at only a portion of the event or limiting the type or character of benefits that may be accepted.)

(4) The travel is primarily for the benefit of the Government, not the organization.

c. Reporting Requirement. Each travel approving authority shall report gifts of travel of more than \$250.00 to CMC (JAR) semiannually on 30 April and 30 October using SF 326 (negative reports not required).

d. The offer of payment shall be accounted for and processed per the Joint Federal Travel Regulations (uniformed members) or the Joint Travel Regulations (civilian personnel).

12003. PROCESSING OF GIFTS OF PERSONAL PROPERTY TO THE MARINE CORPS

1. Procedures. The following procedures shall be employed in processing gifts of personal property to the Marine Corps:

a. When any Marine Corps organization is offered a gift, the recipient shall acknowledge the offer and advise the prospective donor

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that the offer has been forwarded to the appropriate acceptance authority.

b. Offers of gifts shall be forwarded promptly to the acceptance authority via the chain of command. The forwarding correspondence should contain the information provided in the sample at Figure 12-2.

c. If tangible property of any kind other than money is received, the receiving organization shall temporarily assume custody of the property. The property shall not be taken up on the property account records of the organization concerned, however, until after final acceptance by the appropriate acceptance authority.

d. When money is offered as a gift, it shall be forwarded to the appropriate acceptance authority as an attachment to correspondence that conforms to Figure 12-2. (Gifts of money tendered in the form of negotiable instruments must be made payable to the Department of the Navy.) The funds shall then be forwarded to CMC (RFO) for submission to the Assistant for Administration, Deputy Under Secretary of the Navy (AAUSN). Once the gift has been properly accepted, the funds will be deposited and, in most cases, returned to the receiving activity.

e. Gifts offered to Morale, Welfare and Recreation (MWR) organizations should be processed in accordance with MCO P1700.27__.

f. Birthday Balls. If a gift is to an MCCS activity, gift acceptance rests with MCCS. If a private organization has been set up to plan and coordinate the social portion of the Marine Corps birthday ball, the private organization, rather than the Marine Corps or unit, may accept gifts designated for, or to defray the costs of, the social portion of the ball. (Chapters 2 and 3 of the JER govern official and personal capacity involvement with such private organizations.) Finally, gifts may be accepted as gifts to the Marine Corps, in which case, the procedures of paragraph 12003 apply.

g. Any gift offered by a foreign government must be processed under the procedures in Chapter 2 of the JER and paragraph 12002.8. Offers of gifts of travel may be accepted under paragraph 12002.9.

h. In exceptional circumstances where a limited time offer must be expeditiously accepted, such as an offer of tickets to a near-term event or a gift of travel taking place in a short time, the offer may be forwarded to the acceptance authority in message format or by facsimile, copying the chain of command.

i. Any offer of a gift of real property, regardless of value, made for the benefit of, or in connection with the establishment,
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operation, or maintenance of any Marine Corps organization, shall promptly be referred to the cognizant general officer in command or district director who shall forward the offer with comments and a recommendation regarding acceptance to the engineering field division of the Naval Facilities Engineering Command serving the area where the offered property is located for further handling per SECNAVINST 4001.2_. The general officer in command or district director shall forward a copy of such correspondence to CMC (CL). The engineering field division concerned shall staff through CMC any offer of a gift of real property to a Marine Corps organization. Under SECNAVINST 4001.2_, only the Secretary of the Navy can accept gifts of real property.

j. Any offer of a patent, trademark, copyright or other gift of intellectual property for the benefit of, or in connection with the establishment, operation, or maintenance of any Marine Corps organization shall be promptly referred to CMC (CL).

k. Any offer of a gift to the Marine Corps made through the religious offerings fund will be processed per MCO 7010.17_. This includes funds collected during church services. However, offers of gifts designated for a use other than that for which a church service offering is made shall be processed under this chapter rather than MCO 7010.17_ (money donated for the purchase of a stained glass window for a base chapel is an example of such a gift).

l. Where money is offered as a gift and the donor has not specified a use for the money, the receiving organization shall recommend a use to the acceptance authority.

m. Acceptance authorities may accept gifts of personal property to the Marine Corps consistent with the policy stated in this chapter and within the value limitations specified in paragraph 12003.2. Acceptance authorities shall maintain records of gifts per paragraph 12006. Acceptance authorities shall direct the recipient of the gift to acknowledge the generosity of the donor in appropriate correspondence.

n. Acceptance authorities that approve gifts having significant public affairs implications shall notify the appropriate public affairs officer.

o. Gifts of an artistic or historic nature will be reviewed by the Director, Marine Corps History and Museums (CMC (HD)) if of a value exceeding \$5,000.00 to ensure suitability prior to their acceptance by any Marine Corps acceptance authority or, in the case of gifts valued at \$50,000.00 or more, prior to forwarding the gift to

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the Secretary of the Navy's acceptance authority per SECNAVINST 4001.2_.

2. Acceptance Authorities. The following officials are authorized to accept gifts within their cognizance:

a. Any Marine commander may accept gifts of consumable or perishable products such as food, nonalcoholic beverages, flowers, candy, etc., intended for personnel of that command provided that acceptance of such a gift does not violate the policies set forth in this chapter. Alcoholic beverages and tobacco products may not be accepted. This acceptance authority is limited to items which will be consumed at one specific event; e.g., command picnic, delayed entry pool party, etc. This authority may not be redelegated.

b. Officers exercising special court-martial jurisdiction are authorized to accept gifts of personal property to the Marine Corps of a value not exceeding \$1,500.00. This authority may not be redelegated.

c. The Director, Marine Corps History and Museums may accept gifts to the Marine Corps of personal property having historical significance or artistic work of museum quality of a value not exceeding \$10,000.00. This authority may not be redelegated.

d. General officers in command and district directors may accept gifts of personal property offered to the Marine Corps of a value not exceeding \$10,000.00. This authority may not be redelegated.

e. The Staff Judge Advocate to the Commandant and the Counsel for the Commandant may accept gifts of personal property to the Marine Corps of a value not exceeding \$10,000.00. This authority may not be redelegated.

f. The Commandant of the Marine Corps may accept gifts of personal property to the Marine Corps of a value not exceeding \$50,000.00. The authority to accept such gifts of a value exceeding \$10,000.00 may not be redelegated except with approval of the Secretary of the Navy. Gifts which may be accepted only by the CMC shall be forwarded to CMC (JAR) for processing.

g. The Director of an MWR activity may accept gifts of a value not exceeding \$3,000.00. The Director, Personnel and Family Readiness Division will be the acceptance authority for gifts to MWR activities in excess of \$3,000.00.

3. Gifts of Personal Property Valued at More Than \$50,000.00. Gifts
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of personal property of a value of more than \$50,000.00 shall be forwarded to CMC (JAR) for submission to the appropriate acceptance authority per SECNAVINST 4001.2_.

4. Costs of Gift Transfer from Donor to Recipient. The Secretary of the Navy may pay all expenses in connection with the conveyance or transfer of accepted gifts. Under SECNAVINST 4001.2_, authority to pay such expenses is delegated to the activity head whose appropriations are properly chargeable in connection with the particular organization to be benefited.

12004. LEGAL QUESTIONS. Any questions of law which may arise in connection with this chapter should be referred to the staff judge advocate of the cognizant acceptance authority, or CMC (JAR) or CMC (CL), as appropriate.

12005. GIFT TAXATION. For the purposes of Federal income, estate, and gift taxes, gifts of property to the Marine Corps or its organizations shall be considered gifts to the United States. Donors not eligible for legal assistance should be advised to consult private tax experts for specific advice concerning permissible deductions.

12006. RECORDS, REPORTS AND FILES RELATING TO GIFTS MADE TO THE MARINE CORPS. Such records shall be maintained by the designated acceptance authority for the following periods:

1. Records relating to accepted gifts shall be retained for 3 years.
2. Records relating to gifts not accepted shall be retained for 1 year. Depending upon the nature of a gift and/or the circumstances surrounding its offer, the above retention periods may be extended at the discretion of the acceptance authority.

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From: Commanding Officer
To: Commandant of the Marine Corps (JA)
Via: Chain of Command

Subj: FOREIGN GIFT OF MORE THAN MINIMAL VALUE (REPORT CONTROL SYMBOL EXEMPT)

Ref: (a) SECNAVINST 1650.1_
(b) LEGADMINMAN

1. A foreign gift of more than minimal value was received during (*insert calendar year*). The following information is submitted per the references:

- a. Name, grade, social security number, and position of recipient.
- b. Description of gift (composition, size, brand, etc.).
- c. Estimated retail value of the gift in the United States at the time of acceptance (a specific dollar amount is required).
- d. Name and position of donor and identity of foreign government.
- e. Date and place gift accepted by recipient.
- f. Circumstances justifying acceptance.
- g. Whether recipient desires to participate in sale of gift if sold by GSA.

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From: Commanding Officer (receiving organization)
To: (Acceptance Authority)
Via: (Chain of Command)

Subj: OFFER OF GIFT

Ref: (a) LEGADMINMAN

Encl: (1) Check or Money Order

1. _____, the donor, a (private individual) (corporation) (charitable organization), (doing) (not doing) (seeking) business with the U.S. Government, has offered the following gift to (the U.S. Marine Corps) (organization). The offer is forwarded for action per the reference.

2. The gift is a (check) (money order) in the amount of \$ _____, made payable to the Department of the Navy, and is forwarded as an enclosure.

OR

2. The gift is a _____ of a value of \$ _____. I have taken temporary custody of this gift pending action of the acceptance authority. Administrative, maintenance, security, and storage costs are estimated to be (minimal) (about \$ _____ per year.)

3. This gift (was) (was not) solicited. It (does) (does not) have conditions other than to be used to _____. (If the gift is conditional, state those conditions.)

4. This gift (does) (does not) have the potential to embarrass the Marine Corps or to raise questions as to the integrity of the decision-making process within the Marine Corps. (If potential for embarrassment exists, explain.)

5. I believe this gift (will) (will not) be useful to the Marine Corps. I (do) (do not) believe that acceptance will result in embarrassment to the Marine Corps by reason of favors which might be expected as a result of the gift, by creating the appearance of a relationship in which favors are granted, or by resulting in unwarranted publicity for the donor. I recommend that this gift be (accepted) (declined).

6. If the gift is accepted, I will send an appropriate letter thanking the donor (and take up the gift on the property account of this command.)

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Figure 12-2.--Sample Gift Offer Forwarding Letter.

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CHAPTER 13

CLAIMS

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FIGURE

13-1 NLSO CLAIMS JURISDICTION FOR U.S. & TERRITORIES

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CHAPTER 13

CLAIMS

13000. SCOPE

1. This chapter sets forth procedures and responsibilities for processing claims against the Marine Corps for injuries or property damage arising in the United States and its territories.
2. This chapter does not address claims arising in foreign countries or claims brought by military personnel or Federal Government employees. For detailed guidance on processing these claims, refer to JAGINST 5890.1 or contact the command staff judge advocate (SJA). Commands without an assigned SJA should refer to chapter 22 of this Manual to determine the SJA responsible for providing this advice.

13001. RESPONSIBILITIES

1. Commanding officers are responsible for the expeditious processing of all claims received by their commands and for the expeditious investigation of claims arising from the activities of their commands.
2. SJAs are responsible for advising commands on processing claims and the conduct of claims investigations.
3. The Judge Advocate General of the Navy is responsible for adjudicating and paying all claims made against Marine Corps commands. Within the United States, claims are adjudicated at one of three regional Naval Legal Service Offices (NLSOs) based on the geographic location of the incident giving rise to the claim. Figure 13-1 depicts the geographic jurisdictions of the three NLSOs and provides their addresses and telephone numbers.

13002. PROCEDURES

1. Claims against the Government are required to be filed on a Standard Form 95 (SF-95). Commands should provide this form to individuals who indicate a desire to file a claim or who submit a claim by some other means.
2. Upon receipt of an SF-95 arising from the activities of the command receiving the claim, the command shall:

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a. Stamp or mark the date and time of receipt and forward the original SF-95 within 2 business days to the responsible NLSO listed in Figure 13-1;

b. Send a letter to the claimant advising that the SF-95 was received and forwarded to the NLSO, with the NLSO's address and telephone number; and

c. Complete and forward an investigation of the claim via the chain of command to the responsible NLSO within 14 business days of receipt of the SF-95.

(1) Commands should contact their SJA for guidance before initiating the investigation and should delay completing investigations only upon the advice of the SJA.

(2) For additional guidance, procedures, and checklists for conducting investigations of specific types of incidents, refer to the JAG Manual and Chapter 8 of this instruction. Investigations of routine incidents like traffic accidents involving minor property damage will usually only require that the investigator obtain a copy of the police report, interview the military personnel and witnesses involved, and make a determination whether the military personnel were acting within the scope of their official duties at the time of the incident.

3. If the claim arose from the activities of another Marine Corps or Navy command, the command receiving the SF-95 shall:

a. Stamp or mark the date and time of receipt and forward the original SF-95 within 2 business days to the responsible NLSO listed in Figure 13-1;

b. Forward a copy of the SF-95 to the responsible command via the chain of command; and

c. Send a letter to the claimant advising that the SF-95 was received and forwarded to the responsible NLSO and command with their addresses and telephone numbers.

4. If the claim arose from the activities of another branch of the armed forces, the command receiving the SF-95 shall:

a. Forward the original SF-95 to the responsible command via the chain of command; and

b. Send a letter to the claimant advising that the SF-95 was

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forwarded to the responsible command with that command's address and telephone number.

NAVAL LEGAL SERVICE OFFICE CLAIMS JURISDICTION
FOR UNITED STATES AND TERRITORIES

Naval Legal Service Office, Mid-Atlantic

Claims Department
9620 Maryland Ave, Suite 100
Norfolk, VA 23511-2989
Telephone: (757) 444-1993/2251, DSN 564
Fax: (757) 444-1771

Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Washington DC, West Virginia, Vermont, Virginia, and Virgin Islands.

Naval Legal Service Office, Central

Claims Department
206 South Avenue, Suite B
Pensacola, FL 32508-5100
Telephone: (904) 452-3736, DSN 922
Fax: (904) 452-4576

Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Tennessee, Texas, and Wisconsin.

Naval Legal Service Office, Southwest

Claims Department
2585 Callagan Highway
San Diego, CA 92136-5090
Telephone: (619) 556-7261, DSN 526
Fax: (619) 556-7772

Alaska, Arizona, California, Colorado, Hawaii, Idaho, Kansas, Montana, Oklahoma, Oregon, Nevada, New Mexico, Utah, Washington, and Wyoming.

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CHAPTER 14

LEGAL ASSISTANCE PROGRAM

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CHAPTER 14

LEGAL ASSISTANCE PROGRAM

14000. SCOPE. To promulgate policy, prescribe procedures, and assign responsibilities for the Marine Corps Legal Assistance Program. This chapter provides supplemental guidance to the Department of the Navy policy contained in JAGINST 5800.7C, Manual of the Judge Advocate General (JAGMAN), and JAGINST 5801.2, Navy-Marine Corps Legal Assistance Program. Activities and personnel providing services under this program shall comply with these directives. The Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC) is responsible for the overall supervision and administration of the Marine Corps Legal Assistance Program. The activity responsible for this chapter is the Legal Assistance Branch, Judge Advocate Division, Headquarters, U.S. Marine Corps (JAL) (703) 614-1266 / DSN 224-1266.

14001. BACKGROUND AND POLICY STATEMENT

1. Legal assistance has been provided to Marines, members of the armed forces, and their families, since 1943. Congress officially recognized the military services' legal assistance programs in 1984 by enacting 10 U.S.C. § 1044, which authorizes provision of legal assistance to eligible clients, and mandates, *inter alia*, that the Service Secretaries supervise their respective legal assistance programs. Paragraph 0702(a) of the JAGMAN directs the Commandant of the Marine Corps to supervise and control the Marine Corps Legal Assistance Program. Worldwide and deployable legal assistance is now regarded as a significant benefit of military service and a major quality of life program that enhances duty performance and retention of personnel. The specialized expertise gained by Marine Corps judge advocates in legal assistance billets constitutes a core capability that must be retained by the Marine Corps judge advocate community to fulfill its mission.

2. The focus of the legal assistance program is to assist those eligible for legal assistance with their personal legal affairs in a timely and professional manner by providing clients legal counsel, support, and representation to the maximum extent

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possible.

14002. LEGAL ASSISTANCE BRANCH (JAL)

1. Mission. The mission of JAL is to implement and supervise the Marine Corps Legal Assistance Program, to provide continuous supervision and guidance to Marine Corps legal assistance attorneys (LAAs) and staff in the field, to disseminate legal assistance policies and procedures, to foster communication and inspect the effectiveness of legal assistance programs, and to assist and advise the SJA to CMC on all legal assistance policies, procedures, and related matters.

2. Functions. JAL will accomplish its mission by performing the following tasks:

a. Provide advice regarding legal assistance policies, issues, and procedures;

b. Standardize legal assistance software programs and their related equipment (in conjunction with CMC (JAI));

c. Recommend and implement both mandatory and discretionary legal assistance and preventive law policies, programs, and procedures;

d. Communicate with legal assistance offices on developments, changes and trends in the law via site visits, video teleconferences, continuing legal education seminars, newsletters, e-mail, the legal assistance web page, and other available communication resources;

e. Support legal assistance providers with resources to enhance their practices;

f. Coordinate the Marine Corps Legal Assistance Program with the Legal Assistance programs of the other uniformed services to achieve maximum standardization and compatibility of programs, policies and resources;

g. Coordinate with the other uniformed services to identify the best ways to deliver legal services to clients and to identify trends and potential problems requiring preventive measures;

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h. Coordinate with the Armed Forces Tax Council, Department of Defense working groups, and various other entities (e.g., Internal Revenue Service, Immigration and Naturalization Service, Federal Trade Commission, Defense Finance and Accounting Service, The Judge Advocate General's School of the Army, and Naval Justice School) to obtain the most current legal information of value to legal assistance practitioners;

i. Coordinate with the American Bar Association's (ABA) Standing Committee on Legal Assistance for Military Personnel (LAMP) to ensure ABA recognition and support for current issues of military importance, as well as to obtain LAMP recognition of outstanding Marine Corps LAAs and offices;

j. Coordinate and oversee the Regional Legal Assistance Councils (RLACs) and their programs and policies; and

k. Annually visit and evaluate Marine Corps legal assistance programs and providers to ensure quality and compliance with binding policy guidance.

14003. REGIONAL LEGAL ASSISTANCE COUNCILS

1. The delivery of quality legal assistance services is enhanced when all LAAs, active and reserve, communicate with one another regarding trends and developments in law and procedure. This can best be accomplished in a periodic series of meetings that bring together active duty attorneys and Reserve judge advocates that specialize in areas of the law relevant to the delivery of legal assistance.

2. In furtherance of this concept, two Regional Legal Assistance Councils (RLACs) are established and will function as set forth in the following paragraphs.

3. The RLAC, East, shall consist of all LAAs from the legal assistance offices located east of the Mississippi River and shall be chaired by the senior active duty LAA in the region.

4. The RLAC, WestPac, shall consist of all LAAs from the legal assistance offices located west of the Mississippi River and shall be chaired by the senior active duty LAA in the region.

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5. Marine Corps Reserve LAAs within the region may participate in activities of the RLAC.

6. Each RLAC shall be co-chaired by a reserve liaison. Each reserve liaison shall:

a. Present seminars at RLAC meetings, as requested by the RLAC.

b. Assist in the development of program improvements.

c. Arrange and schedule regular CLE for legal assistance attorneys located in CONUS.

d. Visit each legal assistance office annually with the Head of JAL, and review the manner in which each office delivers legal assistance to its clients, including:

(1) The nature, extent and types of legal assistance provided;

(2) The condition and adequacy of building and office facilities;

(3) Computer hardware and software;

(4) Library and automated research programs;

(5) Referrals to civilian attorneys;

(6) Difficulties the legal assistance office has in providing quality legal assistance, if any;

(7) Requests or suggestions the legal assistance office has for improving the quality of legal assistance it provides; and

(8) Any other matters or issues the LAAs or the visiting Reservists want to discuss or address, with a view toward improving the delivery of legal assistance to clients.

e. Mentor active duty and Reserve LAAs.

7. The RLACs shall function as follows:

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a. The RLACs shall meet, in person if possible, at least every 6 months, to address, at minimum, the following:

(1) Recent trends, developments and problem areas in legal assistance;

(2) Current and planned preventive law programs with recommendations, if any, for action to be taken; and

(3) Recently concluded (and planned) continuing legal education (CLE) programs attended by LAAs, including an objective evaluation of each course attended. Any LAA who has attended a special CLE or training program will brief the other LAAs on the course, summarize its content, and provide copies of pertinent materials. Copies of the summary and materials should be forwarded to JAL.

b. The RLAC chairman shall submit a semi-annual report to JAL, no later than the 30th day after the conclusion of the RLAC meeting.

c. Each RLAC will invite representatives from legal assistance offices from other uniformed services in the region to participate in the RLAC's activities.

14004. ACCEPTANCE AND USE OF VOLUNTARY SERVICES

1. Legal Assistance Offices may recruit and accept services from volunteers. The acceptance and use of such voluntary services must be in accordance with DoD Directive 1100.21, "Voluntary Services in the Department of Defense", March 11, 2002, and any other implementing regulations and procedures established by the Secretary of the Navy.

2. All volunteers shall sign the appropriate part of DD Form 2793, "Volunteer Agreement for Appropriate Activities or Nonappropriated Fund Instrumentalities." The acceptance of volunteer services shall be acknowledged on this document before an individual is allowed to provide volunteer services. A copy of the signed volunteer agreement should be given to the volunteer prior to commencing volunteer services. Part IV shall be completed at the end of the volunteer's service in order to document the dates of the volunteer service. A copy of the completed volunteer agreement shall be given to the volunteer

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upon termination of service. Volunteer records shall be retained for 3 years following the termination of volunteer service.

14005. FACILITIES AND RESOURCES

1. LAAs should be provided with individual private offices with full floor-to-ceiling walls to safeguard confidentiality of consultations with clients.
2. Adequate measures and procedures will be established to ensure the security of clients, confidential records, and office personnel and equipment.
3. Client records shall be maintained for the period of time set forth in JAGINST 5801.2.
4. All Marine Corps legal assistance offices shall be provided software from JAL in such areas as estate planning, time and document management, and legal document creation. Upon receipt, legal assistance offices shall fully employ said software.

14006. SERVICES. Marine Corps legal assistance offices will provide, subject to ethical considerations, the services set forth in Section 708 of the JAGMAN, and JAGINST 5801.2, and will abide by the following:

a. Estate Planning

(1) Paralegals and support staff may assist LAAs in the drafting of wills and related instruments; however, absent unusual circumstance, no will should be executed until it is reviewed by the LAA with the client.

(2) Marine Corps legal assistance attorneys are strongly encouraged to draft wills using the Military Testamentary Instruments (MTI) provisions specified in Department of Defense Directive 1350.4 ("Legal Assistance Matters"), whenever possible. Legal Assistance Attorneys should use the SOP in Figure 14-3 when executing wills.

(3) Every effort should be made to advise primary next of kin (PNOK) on probating wills and settling estates of service

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members who die while in an active duty status.

(4) In order to minimize hasty preparation and mass will executions, commanders should direct servicemembers to the local legal assistance office during the check-in process to assess their estate planning needs. Mass will executions are discouraged.

(5) Although members of a command may be required to attend estate-planning briefs, and be given the opportunity to obtain a will, commanders should not require personnel to draft or execute a will.

b. Domestic Relations and Family Law

(1) Paralegals and support staff may assist LAAs in the drafting of court pleadings, separation agreements, and related instruments; however, no separation agreement may be executed until it is reviewed by the LAA with the client.

(2) LAAs may "ghost write" *pro se* pleadings if such practices are permissible under local law and applicable ethical rules. If professional rules prevent an LAA from providing specific *pro se* assistance, the LAA may do any of the following: (1) refer the client to an Expanded Legal Assistance Program (ELAP) attorney; (2) seek *pro hac vice* admission into the appropriate court; (3) refer the matter to a locally-licensed LAA or Reserve judge advocate; or (4) contact JAL for further guidance and assistance.

(3) Under no circumstances will a Marine Corps legal assistance office conduct divorce-counseling classes in which clients are grouped together, unless the individual is first advised that the same preliminary information regarding the divorce process may be provided through an alternate private and confidential method, such as include video tapes, CD ROMs, written publications, and other methods.

(4) Separation agreement worksheets that require a client's signature or initials shall not be used.

c. Taxes

(1) Legal assistance offices will staff and manage a local program that provides seasonal tax preparation and

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electronic filing services to eligible clients. Advice will be provided on income, real and personal property tax issues and LAAs will assist with the preparation of Federal and State income tax returns. Advice may be provided on estate, inheritance and gift tax matters, and on appealing tax rulings and other findings based on availability of expertise and resources. Legal assistance offices may refer to the Navy ELF Manual for guidance concerning the establishing and maintaining of electronic filing programs.

(2) LAAs with special tax expertise may be authorized to assist clients with tax audits and filing of petitions with the U.S. Tax Court. The LAA must submit a request, endorsed by the Staff Judge Advocate, to JAL, explaining his/her special expertise and the actions which the LAA seeks to perform. Supplemental requests must be submitted for authorization to perform additional representational acts.

(3) Each legal assistance office will submit a final tax report not later than 1 July in a format prescribed by JAL.

d. Economic and Consumer Affairs. Each legal assistance office will designate a point of contact (POC) to the Federal Trade Commission (FTC). Each POC will forward a completed Application for Access to the Consumer/Military Sentinel Website to JAL, which will forward the application to the FTC. After receiving permission from the FTC, the POC will review this database on a regular basis and disseminate information on current consumer fraud activities to other LAAs and judge advocate personnel. The POC will add to the database any information on consumer fraud activities that occur on or around the local installation.

2. Citizenship and Immigration Services. LAAs shall provide counsel and assistance to Marines in matters regarding applications for naturalization based upon qualifying military service, as set out in 8 U.S.C. §§ 1439-1440, and the U.S. Marine Corps Legal Assistance Guide to Naturalization Applications Based on Qualifying Military Service. The guide is provided at Figure 14-1.

14007. EXTENDED LEGAL ASSISTANCE PROGRAM (ELAP). Supervisory attorneys may start or continue ELAP within their command areas. Supervisory attorneys can restrict ELAP by types of cases or

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limit assistance to personnel of specific grades; status or other criteria. Permission to initiate or continue ELAP programs must be requested from CMC (JAL) per the provisions of JAGINST 5801.2, paragraph 8-1.

14008. LEGAL ASSISTANCE OUTREACH SERVICES

1. Independent duty Marines, such as recruiters and those serving on embassy guard duty, often serve at locations without access to legal assistance offices. Because their service is often performed at places far from Marine Corps installations, the need to maintain their morale is of great significance. Every effort will be made to provide these Marines and their dependents quality and timely assistance.
2. When an independent duty Marine or that Marine's dependent requests legal assistance, the LAA will verify eligibility by obtaining the requester's duty assignment, social security number and date of birth. The LAA may presume the independent duty Marine is authorized assistance. If there is a question of eligibility, the LAA may ask for a facsimile copy of the military or dependent identification card or call the Marine's parent command.
3. Typically, legal assistance is not provided over the telephone. However, the special circumstances and conditions of independent duty Marines require a different approach. LAAs may provide legal assistance to independent duty Marines by telephone and, resources permitting, will make use of facsimile, electronic mail and video teleconferencing to expedite the provision of legal services.
4. SJAs at the Marine Corps Recruit Depots should be proactive in making legal assistance available to independent duty Marines by:
 - a. Providing regular TAD visits to the Recruiting Stations; and
 - b. Providing classes and written material to recruiters at Recruiting School.

14009. ALTERNATIVE DISPUTE RESOLUTION. Alternative dispute

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resolution (including mediation, arbitration, and other alternative dispute resolution services) is a method of settling disputes outside a court setting by using a neutral third party to act as a link between the parties. A neutral third party, by definition, can never have advised or represented either party to the dispute on any matter. Based on the availability of expertise and resources, a SJA may authorize alternative dispute resolution services as part of the command's legal assistance program. Attorneys and other individuals who serve as mediators, arbitrators, or in similar roles, will comply with the ethical standards of the Marine Corps and will use the American Arbitration Association rules as a guideline for arbitration matters.

14010. QUARTERLY REPORTS.

1. Statistical Report: Legal assistance offices shall provide JAL with quarterly reports in the format provided in Figure 14-2. Such reports are due the 15th day after the conclusion of the quarter being reported.

2. Quarterly Briefing Memo: Each legal assistance office should make quarterly report to JAL, due on the date of the Legal Assistance quarterly statistical report. Such reports will be in memorandum format and will summarize legal assistance office challenges, notable legal assistance office successes, and local developments that relate to legal assistance matters and effect service members. Also include copies of articles published in local and national publications, and recommended changes of law.

3. Legal assistance offices will provide prompt written notification to JAL of any of the following:

- A detailed description of substantiated violations by any individual or organization of any applicable law or regulation regarding commercial solicitations aboard Marine Corps installations;

- The basis for and terms of withdrawal of solicitation privileges by installation commanders against any individual or organization for violating such laws or regulations;

- A summary of any matters referred to the regional Armed Forces Disciplinary Control Board, and action taken thereon;

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14011. THE COMMANDANT'S AWARD FOR EXCELLENCE IN LEGAL ASSISTANCE (CAELA)

1. The delivery of quality legal assistance services is an essential element of readiness and morale. The purpose of the CAELA is to promote the delivery of quality legal assistance services by recognizing outstanding achievement, effort and innovation in legal assistance. It will serve as the basis for nominations to the ABA LAMP Committee for the Legal Assistance Distinguished Service Award.

2. Award criteria are as follows:

a. A superior legal assistance program worthy of emulation by other legal assistance offices;

b. Exceptional service in the provision of legal assistance services; and

c. Major legal assistance innovation.

3. Nominations for the CAELA shall be submitted no later than 1 December of each year in a format prescribed by JAL.

4. The selection committee chaired by the Deputy SJA to CMC will evaluate each office on the basis of the information contained in the nomination form, the results of site visits, the quality and timeliness of required reports and other submissions, and other relevant information. The report of the selection committee will be forwarded to the SJA to CMC for final approval. Those offices selected to receive the CAELA will be notified not later than 15 February.

5. The nomination forms from the highest-ranking Marine Corps legal assistance offices will be forwarded to the ABA LAMP Committee as the Marine Corps candidates for the Legal Assistance Distinguished Service Award.

14012. Standardized Judge Advocate Resources. Each legal assistance office should forward to JAL a list of internet website addresses useful to legal assistance offices, as well as

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resources that will be useful for inclusion in the Legal Assistance Toolkit. JAL compiles, updates and distributes the following resources to Marine Corps Judge Advocate at least once yearly:

1. JAL Bookmarks: Law internet browser bookmarks, including links to Federal, State, and military laws and regulations;
2. USMC Legal Assistance Toolkit: an electronic compilation of files, primers, presentations, templates, forms, and other documents indispensable and helpful for legal assistance and legal awareness judge advocates. Among areas of law that should be included are consumer, family, immigration, tax, pre-deployment, and property law.

14013. LEGAL AWARENESS PROGRAM. Each legal assistance office shall create and maintain an installation "Legal Awareness Program", headed by a designated "Preventive Law Officer", that offers timely, concise, and educational information to the military community regarding consumer and legal issues relevant to the local active duty community. Topics should include identity theft, unfair and deceptive trade practices, life insurance designations, and other significant legal issues unique to military life.

1. Mission. Each Legal Awareness Program shall be designed to educate the local Marine Corps community on methods of avoiding legal problems. The eligible clientele and covered topics of a program shall correspond to that of a legal assistance program, per JAGINST 5801.2 and this Chapter.

2. Legal Awareness Program Functions.

a. Outreach. Legal Awareness Programs shall distribute to as many eligible legal assistance clients as possible information about legal rights and issues. Legal Awareness Programs shall take steps to promote the existence and location of legal assistance offices and the scope of free legal assistance services. Legal Awareness Programs should also accomplish the following:

- i. Legal Advisories: Post advisories on widely available media regarding important legal issues that affect eligible legal assistance clients. Examples of appropriate topics include family,

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consumer, estate planning, and insurance law. JAL Advisories shall be widely and immediately publicized to eligible legal assistance clients.

ii. Website: Maintain legal assistance and/or Legal Awareness websites publicly available to eligible legal assistance clients and containing up-to-date and useful legal information.

iii. Education:

1. Law Day: Advance the Legal Awareness Program on "Law Day" which is normally recognized on the first day of May each year. Law Day was established in Public Law 87-20 on April 7, 1961. Program representatives should organize appropriate activities and events for Marines and their families. Other government and private organizations should be sought to participate in events.

2. Command Representatives: Ensure unit commanders, legal officers and Sergeants Major maintain awareness of available legal assistance and Legal Awareness Program services and the current status of such services. Advise commanders of judge advocate availability to present educational/informational briefs to commanders and Sergeants Major meetings, staff meetings, welcome aboard briefs, and other occasions. Ensure unit commanders understand DoD policy under DoDD 1350.4, *Legal Assistance Matters*, that commanders should urge military personnel to seek legal counsel regarding wills, living wills, advance medical directives, and powers of attorney well before mobilization, deployment, or similar activities.

iv. Pre-Deployment Program: Legal assistance offices shall establish comprehensive programs that prepare eligible legal assistance clients to deploy or mobilize.

1. Pre-Deployment programs should educate on,

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among other topics:

- a. Servicemembers Civil Relief Act (SCRA);
- b. Uniformed Services Employment and Reemployment Rights Act (USERRA);
- c. Life insurance (including SGLI) designations;
- d. Child and dependent support (including modification prior to deployment);
- e. Estate planning;
- f. Consumer Law.

v. Articles: Legal Awareness Programs should publish writings on important legal issues on a broad variety of topics, and in a variety of publications. Organizations that normally welcome articles include reserve, retired, family associations or organizations. The following themes should be stressed in every article:

1. The existence of legal issues that affect eligible legal assistance clients;
2. The existence of additional rights or benefits for eligible legal assistance clients;
3. The importance of advance planning of legal matters, particularly with regard to deployment or PCS;
4. The importance of seeking legal advice prior to signing documents or executing waivers;
5. Location, telephone numbers, free services, and office hours of local legal assistance offices.

b. Liaison: Legal assistance offices shall maintain points of contact within their AOR and liaise with, the following organizations in order to further the legal

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assistance and Legal Awareness Program's mission:

- i. Public Affairs;
 - ii. Financial Management offices;
 - iii. Family Services offices;
 - iv. Armed Forces Disciplinary Control Boards;
 - v. Base or unit officials responsible for monitoring businesses or services, including insurance agents;
 - vi. Base and unit commanders;
 - vii. Military housing/housing referral offices;
 - viii. Voting Officers;
 - ix. Federal Trade Commission (at minimum the Division for Planning and Information and the Consumer Sentinel/Military Sentinel);
 - x. American Bar Association, local, and state bar associations, including the ABA's Legal Assistance for Military Personnel (LAMP) Committee, military law committees and discussion groups;
 - xi. State Attorneys General;
 - xii. The National Association of Attorneys General;
 - xiii. Local courts and administrative hearing departments;
 - xiv. United States Citizenship and Immigration Services (USCIS) (regional and lower offices only; the Marine Corps Preventive Law Officer maintains the national liaison);
 - xv. Internal Revenue Service (IRS).
- c. Changes of Law. Legal assistance offices shall study the current state of Federal, military, state, and local laws and regulations, shall seek input from legal assistance attorneys in their AOR, and shall identify changes of law

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that may benefit eligible legal assistance clients consistent with the provisions of JAGINST 5801.2 and this Chapter.

- d. Continuing Legal Education. Preventive Law Officers shall encourage office activities promoting currency of all legal assistance Office judge advocates in recent legal developments pertaining to legal assistance matters.

3. Legal Awareness Program Resources:

- a. Legal Assistance Toolkit CD (available through JAL);
- b. JAL Advisories (<http://www.usmc.mil>);
- c. TJAGSA CLAMO CD (available through TJAGSA);
- d. FTC's Military Sentinel;
(<http://www.consumer.gov/military>)
- e. FTC's Consumer Sentinel;
<http://www.consumer.gov/sentinel>)

4. Legal Awareness Program Forms:

- a. CMCJAL 1000 SCRA Real Property Lease Termination;
- b. CMCJAL 1001 SCRA Power of Attorney;
- c. CMCJAL 1003 SCRA Auto Lease Termination;
- d. CMCJAL 3001 Legal Readiness Checklist: Deployment and Mobilization.

U.S. MARINE CORPS LEGAL ASSISTANCE

Guide to Military Citizenship Applications Based upon Qualifying Military Service and Posthumous Citizenship Applications

I. Introduction. This Guide outlines the Marine Corps procedures for processing naturalization applications for active duty Marines who submit applications for naturalization based upon qualifying military service, and is intended to supplement the Citizenship and Immigration Service's (CIS) "A Guide to Naturalization" (Form M-476). This document also provides information regarding the Posthumous Citizenship application process. Information and certain forms regarding the citizenship process may be obtained from the CIS website at <http://uscis.gov>. This Guide does not apply to applications for naturalization that are not based upon qualifying military service.

1. The local Marine Corps Legal Assistance Office (LAO) is the primary source of assistance for Marines who intend to submit citizenship (also known as "naturalization") applications. Accordingly, the LAO should provide Marines with counsel regarding naturalization law and the application process. In addition, the LAO shall provide the applicant with CIS forms, and access to other appropriate resources necessary to complete the application process. With the aid of the CONAD/ADMIN offices, and the Naval Criminal Investigative Service (NCIS), the applicant will complete the application for naturalization and the LAO will forward it to CIS for processing.

2. Comments regarding this Guide should be directed to the Legal Assistance Branch, Judge Advocate Division, Headquarters, U.S. Marine Corps (Code JAL), 3000 Marine Corps Pentagon, Washington, DC 20350-3000. DSN 224-1266, commercial (703) 614-1266.

II. Military Citizenship Application Overview. There are a number of categories of persons who are eligible to apply for United States citizenship. However, the matters discussed this section only apply to the following two categories of applicants:

1. Service in the Armed Forces for 1 year (8 U.S.C. §1439) (section 328 of the INA). This category permits naturalization for persons who have served honorably in the Armed Forces of the United States for 1 year. Such applicants may be naturalized without having to fulfill the continuous residency requirements that apply to other application categories, provided that such applications are filed while the applicant is still in the military service or within six months after termination of such service. The applicant must also be a lawful permanent resident of the United States at the time of the examination, of good moral character, and attached to the principles of the Constitution of the United States. (See 8 U.S.C. § 1439(a) et seq.)

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2. Service in the Armed Forces during military hostilities (8 U.S.C. §1440) (section 329 of the INA). This category authorizes naturalization of persons who have honorably served in an active duty status in the Armed Forces of the United States during periods of military hostilities (including any period as may be designated by the President in an Executive Order pursuant to 8 CFR 329(a) (1994)). In such cases, the applicant must satisfy the permanent residence requirement by either: (1) lawful admission to the United States after enlistment or induction into the Armed Forces of the United States; or (2) at the time of enlistment or reenlistment, the applicant was physically present in the geographical territory of the United States, or other areas as set forth in the statute. (See 8 U.S.C. § 1440(a) et seq.)

3. In both instances, the applicant must submit a completed "Application for Naturalization" (Form N-400), two photographs, a completed "Request for Certification of Military or Naval Service" (Form N-426), and a completed "Biographic Information" (Form G-325B). Once the application and allied documents are mailed and processed, the applicant must have fingerprints taken by CIS, submit to an interview, and pass an English and civics test. Afterwards, if the application for naturalization is granted, the applicant will be scheduled to take the Oath of Allegiance to the United States, and will be given a Certificate of Naturalization.

A. Obtaining the Forms. The LAO should provide the applicant with all of the forms necessary to complete the application process. These forms include Form M-476, which provides information helpful to the applicant in understanding the process. The primary application form is the "Application for Naturalization" (Form N-400). The applicant will also need the "Request for Certification of Military or Naval Service" (Form N-426), and the "Biographic Information" (Form G-325B). These forms should be stocked at the LAO and are available by calling the CIS Forms Line (1-800-870-3676) and requesting the "Military Naturalization Packet". Several forms are available at the CIS website at <http://uscis.gov>.

B. Completing the Forms. It is vital that all forms be thoroughly completed before submission. Incomplete forms are returned by the CIS, causing substantial delays in the application process.

1. "Application for Naturalization" (Form N-400). Check box "c" in Part 2 of the Form N-400, indicating that the application is on the basis of qualifying military service. Adjacent to box c, the applicant should indicate whether the application is based upon section 328 or 329 of the INA. Note that the answers provided on this application will be reviewed during the applicant's interview.

2. "Request for Certification of Military or Naval Service" (Form N-426). Notwithstanding the notice at the top of the N-426, the applicant must complete page 1 of the N-426 and then must submit the Form N-426 to their S-1 office for completion. Once submitted, the S-1 office will complete page 2 and certify the form. It is essential that page 2 be completed in its entirety. **Note that block 5 of page 2 MUST indicate whether the applicant's service has been under honorable conditions.** The S-1 office will complete and certify the form with a raised seal. The certifying official will be identified as "Personnel Officer." When completed, the form will be

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delivered to a LAO representative who will verify the document's authenticity with the Personnel Officer, and will include the document in the application package.

3. **"Biographic Information" (Form G-325B).** Active duty Marines will complete page 1 of the G-325B, and then submit the form to their Legal Assistance support staff, who will contact the local NCIS office to obtain the background report (DCII report). The DCII report will be attached to the Form G-325B, and returned to the responsible Legal Assistance Attorney. The LAO will obtain any military records referenced in the DCII report, and attach them to the G-325B. In the event the LAO is unable to obtain a background report from the local NCIS office, the completed G-325B will be sent for processing to HQMC (Code JAL). Note, when obtaining the DCII report, you must first run the report under the applicant's name, and then again under the applicant's SSN. Attach both DCII reports to the G-325B.

C. Obtain Two Photographs. Every applicant is required to furnish two identical color photographs of him or herself. The photos must fully comply with the CIS specifications set forth in CIS Form M-378.

D. Collect Necessary Documents. The applicant will need to include copies of several documents with the application. Use the "Document Checklist" (Form M-477), which is contained in Form M-476, to ensure the correct documents are included. Send an English translation with any document that is not already in English. The translation must include a notarized statement from the translator that he or she is competent to translate and that the translation is correct. In the event that the applicant is divorced, a copy of the final divorce decree should also be included in the application package.

E. Fingerprinting. The LAO will schedule the applicant to have fingerprints completed at an Application Support Center (ASC). To do this, the LAO will refer to the CIS website at <http://www.ins.usdoj.gov/> <http://uscis.gov>. (under "forms, fees and fingerprints") for the complete list of ASCs and their hours of operation. The LAO is not required to call the ASC to schedule the appointment. However, the LAO should review the hours of operation listed on the spreadsheet and may schedule the member accordingly. The LAO will then complete the fingerprint notification form located at Enclosure (1) of this Guide. Once completed with the member's correct address, ASC location, and date/time of the appointment, the form will be delivered to the applicant. Note that a copy of the form must be included in the application package to indicate that the applicant was scheduled for fingerprinting. The applicant will take the fingerprint notification form, Permanent Resident Card, and another form of identification (drivers license, passport, state identification card) to the fingerprinting appointment. The second form of identification shall have the applicant's photograph on it.

1. If the applicant is stationed overseas, the military police may take the applicant's fingerprints. Send a completed Fingerprint Card (Form FD-258) with the initial application package to the CIS Lincoln Service Center at the address provided below. Note that the Nebraska Service Center can only accept the FD-258 form. The FD-258 and the cover letter should indicate where the prints were taken abroad. Note that only fingerprints that are taken at a U.S. Embassy,

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military installation or Naval Vessel that is underway, will be accepted. CIS recommends that two sets of prints be submitted with the application. The masthead of the FD-258 form must be completed with:

- a. All biographical data of the individual;
- b. Address data of both the person being printed and the person taking the prints;
- c. The A Number of the applicant in the "OCA" and "Miscellaneous MNU" blocks;
- d. Signatures of the applicant and the person taking the fingerprints; and
- e. "N-400 Military" in the "Reason Printed" block.

F. Mailing the Application Package. The LAO shall review the entire package with the applicant prior to mailing. The applicant should retain a copy of the entire completed package. The application package must also be accompanied by a cover letter from the applicant's Legal Assistance Attorney, indicating the CIS service center at which the applicant would like to be interviewed, and any periods of unavailability. (Note that applicants stationed overseas may have their interviews conducted at various overseas locations supported by CIS. The Department of Defense is preparing regulations that will grant a high priority for leave and transportation aboard DoD aircraft, for naturalization applicants. Check the Marine Corps legal assistance website for up-to-date information on overseas CIS support and new DoD regulations.) The letter will also authenticate the Forms N-426 and G-325B, and shall be personally signed by a representative from the legal assistance office. A sample cover letter is provided at Enclosure (2). **Note that applications that are mailed without the cover letter will not be expedited by CIS.** Regardless of the residence of the applicant, the original application package should be mailed by certified mail, return receipt requested, to:

U.S. Department of Homeland Security
Citizenship and Immigration Services
Nebraska Service Office
P.O. Box 87426
Lincoln, NE 68501-7426

1. If there are problems with any of the documents, CIS will contact the Legal Assistance Policy Branch (JAL), Headquarters, U.S. Marine Corps, to resolve any issues. Once the application is accepted and processed, CIS will send the applicant a letter scheduling the interview.

G. The Interview. CIS will schedule the applicant for an interview. Note that beginning in October 2004, CIS will conduct interviews, oaths and ceremonies at certain overseas locations, to include certain military installations, United States Embassies, and consulates. Information regarding overseas CIS support will be available on the CIS website. Note also that DODD 1327.5 (Leave and Liberty Regulations) allows for the granting of emergency leave, and priority on government transportation for persons applying for citizenship. CIS will send the applicant an interview notice that will tell the date, time, and place of the interview. Applicants will not receive a second notice. If the interview must be rescheduled, applicants should directly contact

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the office where the interview is scheduled, by mail, as soon as possible. The letter should explain the circumstances of the request, and ask to reschedule the interview, noting any periods of unavailability. When a new date is set, CIS will send the applicant a new interview notice. Rescheduling an interview may add several months to the naturalization process.

1. To make sure applicants receive the interview notice, CIS must be advised of any address changes. Mail Form AR-11, "Alien's Change of Address Card" to the Nebraska Service Office at the address provided above for this purpose.
2. Applicants should appear at the office where they are to be interviewed in advance of their interview. If applicants fail to appear at their interview without contacting CIS, their cases will be "administratively closed." If this happens and the applicant does not contact CIS within 1 year to reopen the case, the application will be denied.
3. In some cases, CIS may ask the applicant to bring additional documents to the interview. These documents will be listed on the applicant's appointment letter. If the applicant fails to bring the necessary documents, the case may be delayed or denied.
4. During the interview, the applicant's ability to read, write, and speak English will be tested. The applicant will also be given a civics test to test his knowledge and understanding of United States History and Government.
5. At the interview, an CIS officer will place the applicant under oath and then ask about:
 - a. The applicant's background;
 - b. Evidence supporting the applicant's case;
 - c. The applicant's place and length of residence;
 - d. The applicant's character;
 - e. The applicant's attachment to the Constitution; and
 - f. The applicant's willingness to take an Oath of Allegiance to the United States.
6. A representative may accompany the applicant to his interview if a "Notice of Entry of Appearance as Attorney or Representative" (Form G-28) has been mailed to CIS. Also, if the applicant is exempt from the English requirements, he may bring an interpreter to the interview. If the applicant has any disabilities, he may bring a family member or legal guardian with him at the discretion of the CIS officer.

H. Receive a Decision. After the interview, the application for citizenship will be granted, denied, or continued.

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1. Granted. At the end of the interview, CIS may advise the applicant that citizenship will be granted. In some cases, the applicant may be able to complete the oath ceremony the same day as his interview (where available). Otherwise, the applicant will receive a notice advising him of the time and location of the ceremony.

2. Continued. The CIS officer may also “continue” the case. The most common reasons for continuation are: (1) failing the English and civics tests; or (2) failing to provide CIS with required documents. When a case is continued, the applicant will be asked to: (1) come to a second interview, usually within 60-90 days of the first interview; and/or (2) provide additional documents.

3. Denied. If CIS denies the application, the applicant will receive a written notice explaining the reasons therefor. There is an administrative review process for applicants who receive denials. The applicant may request a hearing with an CIS officer if he feels he has been unfairly denied naturalization. The denial letter will explain how to request a hearing and will include the necessary form. The form for filing an appeal is the “Request for Hearing Proceedings Under Section 336 of the Act” (Form N-336).

I. Taking the Oath. If CIS approves the application for naturalization, the applicant must attend a ceremony and take the Oath of Allegiance to the United States. The following are the steps in this process:

1. Establish a ceremony date. CIS will notify the applicant by mail of the time and date of the ceremony. The notice CIS sends is called the “Notice of Naturalization Oath Ceremony” (Form N-445). In some cases, CIS may give the applicant the option to take the Oath on the same day as the interview. If the applicant decides to take a “same day” oath, CIS will ask the applicant to come back to the office later that day. At this time, the applicant will take the Oath and receive a Certificate of Naturalization.

2. Check in at the ceremony. When the applicant arrives at the ceremony, he will be asked to check in with CIS. If the applicant cannot attend the ceremony on the day he is scheduled, he should return the CIS notice (Form N-445) to his local CIS office. The applicant should include a letter explaining why he cannot be at the ceremony and asking CIS to reschedule the ceremony. If more than a day has passed between the applicant’s interview and the ceremony, he will need to answer questions regarding his conduct since the interview. These questions will be located on the back of the notice CIS sends the applicant (Form N-445). Some of the questions include “Have you traveled outside the United States?” and “Have you claimed exemption from military service?” The applicant should read the questions carefully and mark his answers before he arrives at the ceremony.

3. Return the applicant’s Permanent Resident Card. Applicants are required to return their Permanent Resident Cards to CIS when they check in for their oath ceremony. Applicants will receive their Certificate of Naturalization at the ceremony.

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4. Take the Oath. The applicant is not a citizen until he has taken the Oath of Allegiance. The applicant will take the Oath during the ceremony. An official will read each part of the Oath slowly and ask the applicant to repeat his/her words. The Oath can be found in the section titled "Eligibility Requirements" in the Form M-476 "A Guide to Naturalization."

5. Receive Certificate of Naturalization. Once the applicant has taken the Oath, he will receive his Certificate of Naturalization. The applicant may use this document as proof that he is a United States citizen.

6. Applicants should take steps to obtain a United States passport soon after their naturalization ceremony. A passport serves as evidence of citizenship and is easier to use than a Certificate of Naturalization. Applicants may obtain an application for a passport at their oath ceremony or at most post offices.

III. Posthumous citizenship applications.

1. CIS is the agency responsible for the processing of posthumous citizenship (PHC) applications for certain servicemembers. The current requirements for posthumous citizenship applications are set forth in 8 USC 1440, *et seq.*, (Section 329A of the INA), and generally provide that such applications may be approved for servicemembers who died of service-related activities, while on active duty during a period of hostilities. The request for citizenship may be made by the next of kin of the decedent, or by the Secretary of Defense, with the consent of the next of kin. Formerly, the conferral of citizenship through this process was honorary only, however, Public Law 108-136, the Military Citizenship Act of 2003, now certain allows non-citizen relatives to receive preferential treatment in adjustment and other immigration and naturalization applications.

2. CIS Form N-644 is used to apply for citizenship on behalf of a deceased servicemember. Although the form calls for the payment of an \$80.00 application fee, CIS has permanently waived the fee, without formal request for such a waiver. In addition, all PHC applications must be mailed to the CIS office in Laguna Niguel, California. The application mailing address is:

Citizenship and Immigration Services
California Service Center
P.O. Box 10360
Laguna Niguel, CA 92607-1036

3. Note that section 1703(f) of PL 108-136 now extends the eligibility for naturalization under Section 319(d) to surviving spouses of aliens granted posthumous citizenship under Section 329A. In addition, the law now treats surviving spouses, children and parents of aliens granted posthumous citizenship like immediate relatives and / or adjustment applicants based on such classification. With the exception of benefits explicitly provided by Section 1703, such aliens must satisfy all of the other requirements for immediate relative adjustment of status

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applications. There is nothing in Section 1703 that exempts aliens who are applying for immigration benefits under section 1703 from any required background check or other procedural requirements.

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U.S. Department of Justice
Immigration and Naturalization Service
801 I Street, NW
Suite 900
Washington, DC 20536

Vinnell Corporation
INS Project Office
12900 Federal Systems Park Drive
Mailstop: FP1 / 5133
Fairfax, VA 22033-4411

ASC Communication FY:00-0013

DEC 10 1999

To: INS Regional Directors
INS District Directors
INS Officers in Charge
INS ASC Managers

To: Vinnell Regional Managers
Vinnell Site Supervisors

From: Kathy A. Redman
Acting Associate Commissioner
HQISD

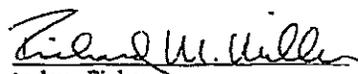
From: Andrew Finlayson
Vinnell ASC Program
Manager

Subject: Fingerprint Processing of Military Personnel for Naturalization

Special fingerprinting procedures have been developed to ensure processing of applications for naturalization filed by certain military personnel. Under these procedures, the applicant for naturalization because of military service will be given an appointment notice by the Department of Defense. The appointment notice will contain a specific date and time to appear at a designated ASC or Colo, with photo identification and/or the person's Alien Registration Receipt Card. No advance notice is given to the ASC or Colo. A copy of the Department of Defense Referral Fingerprint Notification to be used for this purpose is attached.

When the person appears and presents his or her appointment notice, the ASC or Colo will take his or her fingerprints and forward them in the usual manner. Thus, the sole aspect of this process that is unusual is the ability of the applicant to appear for fingerprinting without advance notice to the ASC or Colo.


Kathy A. Redman
Acting Associate Commissioner
Immigration Services Division
Field Services Operations


Andrew Finlayson
Vinnell Program Manager
INS Application Support Center
Project

Attachment

Page 1

Fingerprint Notification			NOTICE DATE
CASE TYPE N400 Application for Naturalization			US AIR
APPLICATION NUMBER Department of Defense Referral	RECEIVED DATE	PRIORITY DATE	PAGE 1 of 1
APPLICANT NAME AND MAILING ADDRESS			
<p>To process your application, INS must take your fingerprints and have them cleared by the FBI. PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED. If you are unable to do so, complete the bottom of this notice and return the entire original notice to the address below. RESCHEDULING YOUR APPOINTMENT WILL DELAY YOUR APPLICATION. IF YOU FAIL TO APPEAR AS SPECIFIED BELOW OR REQUEST RESCHEDULING, YOUR APPLICATION WILL BE CONSIDERED ABANDONED.</p> <p>APPLICATION SUPPORT CENTER _____ DATE AND TIME OF APPOINTMENT _____</p>			
<p>PLEASE DISREGARD THIS NOTICE IF:</p> <ol style="list-style-type: none"> 1. YOU HAVE BEEN FINGERPRINTED WITHIN THE LAST 90 DAYS, 2. YOUR APPLICATION HAS ALREADY BEEN GRANTED, OR 3. YOU WERE UNDER 14 YEARS OF AGE OR OVER 79 (75 FOR NATURALIZATION APPLICANTS) AT THE TIME YOUR APPLICATION WAS FILED. 			
<p>WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR FINGERPRINTS TAKEN, YOU MUST BRING:</p> <ol style="list-style-type: none"> 1. THIS APPOINTMENT NOTICE and 2. PHOTO IDENTIFICATION. Naturalization applicants must bring their Alien Registration card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, you will not be fingerprinted. 			
<p align="center">WARNING!</p> <p><i>Specific appointment time requests will not be guaranteed. Due to limited seating availability in our lobby areas, only persons who are necessary to assist with transportation or completing the fingerprint worksheet should accompany you.</i></p>			
<p align="center">REQUEST FOR RESCHEDULING</p> <p>I am unable to appear because: _____</p> <p>Please reschedule my appointment for the next available: <input type="checkbox"/> Wednesday afternoon. <input type="checkbox"/> Saturday afternoon.</p> <p>INS cannot guarantee the day preferred, but will do so to the extent possible. If you have any questions regarding this notice, please call 1-888-557-5398.</p> <p>APPLICATION NUMBER</p> <p>Department of Defense Referral</p>			

Figure 14-1.--Guide to Naturalization Applications

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UNITED STATES MARINE CORPS
Office of the Staff Judge Advocate
Legal Assistance Office
John Quick Road; Building 3025
Marine Corps Base, Quantico, VA 22134

5811
LAO
January 1, 2004

Immigration and Naturalization Service
Nebraska Service Office
P.O. Box 87426
Lincoln, NE 68501-7426

Dear Sir or Madam:

SUBJECT: FACILITATED MILITARY APPLICATION FOR NATURALIZATION FOR SERGEANT
JOHN DOE, USMC, (A# 123 45 678)

I write as counsel for Sergeant John Doe, and hereby submit his completed application for naturalization with attachments. Sergeant Smith resides at 100 Main Street, Quantico, Virginia, 22134. His residential phone number is (555) 233-4567, and his e-mail address is doej@emailservice.net. Sergeant Doe prefers to have his interview conducted at the Alexandria CIS office. Please be advised that Sergeant Doe will not be available for this interview between the dates of January 15, 2004 and February 15, 2004.

I certify that the enclosed N-426 and G-325B Forms and any attachments thereto, are accurate and authentic records prepared in the regular course of business, by Department of Defense employees with knowledge or from information compiled by a person with knowledge of the matters set forth therein.

Sincerely,

A. FREHLEY
Captain, U.S. Marine Corps
Legal Assistance Attorney

Enclosures: 1. Completed N-400 form
 2. Completed N-426 form
 3. Completed G-325B form
 4. Two color photographs of Sgt. Smith
 5. Completed Fingerprint Notification Form
 6. Intentionally omitted
 7. Photocopy of (or affidavit of lost) Resident Alien Card
 8. (Any other documents required under Form M-477

*A legal assistance attorney represents the interests of individual clients,
and not those of the United States Government*

LEGAL ASSISTANCE QUARTERLY REPORT					
Field Office:	1st QTR OCT-DEC	2nd QTR JAN-MAR	3rd QTR APR-JUN	4th QTR JUL-SEP	TOTAL
SERVICES¹					
Adoption/Name Change					0
Consumer Protection Law ²					0
Domestic Relations ³					0
Immigration ⁴					0
Military Rights and Benefits ⁵					0
Notarizations					0
Property/Landlord-Tenant					0
Tax ⁶ (Do not include VITA/ELF)					0
Wills/Estate Planning					0
Other Services ⁸					0
TOTAL # OF SERVICES	0	0	0	0	0
NEW CLIENTS⁹					
Active Duty					0
Family Members					0
Retirees					0
Reservist					0
DOD Civilians (Overseas Only)					0
TOTAL # OF NEW CLIENTS	0	0	0	0	0
REPEAT CLIENT VISITS⁹					
Active Duty					0
Family Members					0
Retirees					0
Reservist					0
DOD Civilians (Overseas Only)					0
TOTAL # OF REPEAT CLIENT VISITS	0	0	0	0	0
ELAP CLIENTS					
# of ELAP Clients					0
DOCUMENTS PREPARED¹⁰					
# of Wills ¹¹					0
# of Powers of Attorney ⁵					0
# of Separation Agreements					0
# of INS Forms N-400 Sent to Lincoln NE					0
# of Other Documents					0
TOTAL # OF DOCUMENTS PREPARED	0	0	0	0	0
PREVENTATIVE LAW					
# of Preventative Law Briefs ¹²					0
# of Personnel Briefed					0
# of Preventative Law Publications ¹³					0

Figure 14-2.-Legal Assistance Quarterly Report

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LEGAL ASSISTANCE QUARTERLY REPORT INSTRUCTIONS

1 Referrals are not services, although they may be the logical conclusion to a consultation. Do not count a referral separately from the appointment. Services can be performed by an attorney or non-attorney. Non-attorney assistance such as performing notarizations, or answering basic legal questions under the supervision of an attorney will be counted under the appropriate service category. Scheduling appointments, taking messages, handing out tax forms and other clerical assistance will not be counted. Telephone calls do not count as services unless they are approved incidents of telephonic legal assistance to remote clients.

2 Consumer protection law includes assistance with respect to a broad range of matters, such as personal contracts, debtor-creditor matters, bankruptcy, automobile repairs, and other consumer protection/law matters.

3 Domestic relations includes divorce, separation, child custody, nonsupport, marital advice, and paternity matters.

4 Immigration includes naturalization and citizenship matters, residency permits, visas, employment eligibility, and other immigration-related matters.

5 Military rights and benefits includes issues not falling under personal representation such as SSCRA and USERRA.

6 Powers of Attorney includes generals, specials, and durable health care.

7 Tax includes tax advice, attorney preparation of tax returns outside of the VITA/ELF program and assistance with other tax matters, such as state tax residency disputes. Do not include VITA/ELF that are reported through the normal Legal Assistance Tax Program Report.

8 "Other services" include all legal assistance which does not fit into one of the delineated categories.

9 A service member/family member/retiree is listed only once as a "new client" per fiscal year by a particular legal assistance office. Once an individual is seen by a legal assistance office that fiscal year, when that individual returns for future services they will be listed as a "repeat client visit". "Repeat Client Visits" are only clients that come in for a scheduled appointment or to receive a listed service. The "service" category captures services provided to "new clients" and "repeat client visits". Remember, when a client comes back for a repeat visit and receives 3 services during that appointment they are only counted as one "repeat client visit" and their services are counted in accordance with the "services" section criteria. Each category of service provided to a client is counted separately. Thus if a client comes in for a POA, a will and divorce advice, count three services. However, for each client visit only one service may be counted in each "service category". Thus a visit for a living will and a will counts as only one service with 2 documents prepared.

10 "Documents Prepared" are final, smooth documents. Do not count drafts (of wills, POAs, etc.), copies, or internal documents (dual rep letters) as "documents prepared". Do not count tax returns done as part of the ELF/VITA program.

11 For each will prepared, there will be either one or two services counted. The first to encompass the entire process of the preparation of the will (intake to smooth will). The second service would be counted, if the legal assistance office executes the will. On the rare occasion when a will is prepared and executed by the LA Office on the same day, count one of the services in "wills/estate planning" and the execution service in "other service".

12 Preventative Law Briefs include general information presentations to educate personnel on personal legal affairs such as squadron or ship visits, predeployment briefs, etc.

13 Preventative Law Pubs include articles and newsletters.

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STANDARD OPERATING PROCEDURE FOR EXECUTING WILLS

1. The Testator/Testatrix should read the will and all related documents in their entirety prior to execution. The legal assistance attorney should discuss the will with the Testator/Testatrix, prior to execution, and ensure understanding by the Testator/Testatrix of the effect of each clause of the will. The following steps should be taken, in order, at the execution ceremony:
2. Ensure the presence of the following persons:
 - a. Presiding Attorney: the presence of a legal assistance attorney for the entire duration of the will execution is required under 10 U.S.C. §1044d for military testamentary instruments;
 - b. Testator/Testatrix;
 - c. 2 witnesses:
 - i. The witnesses should have no interest, whether vested or contingent, in any property disposed of in the will; they should not be related to the Testator/Testatrix, nor otherwise have any interest in the estate in the event of intestacy.
 - ii. The presiding attorney may not act as witness when using a Military Testamentary Document, which accounts for the majority of Legal Assistance wills. 10 U.S.C. §1044d(c)(3);
 - iii. Witnesses must be positioned to observe the Testator/Testatrix and his or her actions and signatures;
 - d. Notary:
 - i. May not be a witness to the will;
 - ii. Either a military or civilian notary may be used;
 - iii. Will notarize the witness' and Testator/Testatrix' signatures;
 - iv. Entries must be made by both Testator/Testatrix and witnesses in the military or civilian notary's notary logbook per the requirements of JAGMAN 0909;
3. The presiding attorney or notary should have the Testator/Testatrix and witnesses produce adequate identification cards for the execution and notarization;
4. The presiding attorney or notary should ask the Testator/Testatrix the questions below entitled "Will Execution Questions";
5. If appropriate responses are received to the questions, the Testator/Testatrix initials and dates all pages of the will in a consistent location on each page.
6. The presiding attorney or notary should ask the witnesses the appropriate questions below entitled "Will Execution Questions";
7. If appropriate responses are received to the questions, the witnesses then initial and date all pages of the will in a consistent location on each page;
8. The witnesses should read and declare aloud that the attestation clause is a true and correct statement;
9. The Testator/Testatrix and witnesses should all read and sign, under oath, the self-proving affidavit, notarized by the presiding attorney or notary. Ensure the witnesses print their name, rank, and duty address next to or below their signatures;
10. Will pages should have previously been numbered consecutively, and after signature all pages should be securely stapled along the top of the document. Once the document is signed and stapled, do not remove the staples.

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WILL EXECUTION QUESTIONS

The presiding attorney should follow the below procedure. When asking the Testator/Testatrix and witnesses questions, the presiding attorney should ensure all responses are audible and verbal, if possible.

1. Ensure the Testator/Testatrix and all witnesses are present, in the same room, during the entire will execution.
2. Administer the oath to the Testator/Testatrix and all witnesses.
3. Ask the Testator/Testatrix:
 - a. Are you 18 years of age or older?
 - b. Are you of sound and disposing mind and memory?
 - c. Do you publish and declare this document to be your last will and testament?
 - d. Have you read this will in its entirety, and do you understand its terms?
 - e. Do you have any additions or corrections to make to this will?
 - f. Does this will dispose of and distribute your property according to your intentions, in the event of your death?
 - g. Are you under any coercion, duress, or undue influence in either the preparation or signing of this will?
 - h. Are you executing this will voluntarily and of your own free will?
 - i. Do you wish these witnesses (state witness names) to witness your signature and execution of this will?
4. Ask the witnesses:
 - a. To the best of your knowledge, is the Testator/Testatrix 18 years of age or older?
 - b. To the best of your knowledge, is the Testator/Testatrix of sound and disposing mind and memory?
 - c. Does the Testator/Testatrix appear to understand the nature of his/her actions?
 - d. Does the Testator/Testatrix appear to be acting under duress, coercion, or undue influence?
 - e. At the Testator/Testatrix's request, did you in the Testator/Testatrix's presence subscribe your names to this will as attesting witnesses on the date of the will?

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> CHAPTER 15

FINANCIAL SUPPORT OF FAMILY MEMBERS

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CHAPTER 15

FINANCIAL SUPPORT OF FAMILY MEMBERS

15000. SCOPE This chapter establishes Marine Corps policy regarding the treatment of family members of Marines in need of financial support. This chapter is punitive in nature, and violations of this order are punishable under the UCMJ, and may subject the violator to adverse administrative action. The activity responsible for this chapter is the Legal Assistance Branch, Judge Advocate Division, Headquarters, U.S. Marine Corps (JAL) (703) 614-1266 / DSN 224-1266.

15001. POLICY

1. The Marine Corps will not serve as a haven for personnel who fail to provide adequate and continuous support to their family members. Marines shall comply fully with the provisions of separation agreements and court orders addressing the support of family members. Absent such agreements or court orders, and conditioned upon a complaint of nonsupport to a commanding officer, the support standards set forth in this chapter shall be enforced. For purposes of this chapter, the phrase "court orders" shall include administrative child support orders and their functional equivalents. For purposes of this chapter, the phrase "commanding officer" means a Special Court Martial Convening Authority or higher.

2. Preferably, the amount of support to be provided to family members should be established by a written agreement between the parties, or be adjudicated in the civilian courts. Nevertheless, because family support issues are closely aligned with readiness, morale, discipline, and the reputation of the service, mandatory interim financial support standards are needed. Assistance in obtaining written support agreements and court orders in these matters is available from local legal assistance offices.

3. Final divorce decrees and written agreements in which spousal support is not awarded or mentioned, or is affirmatively waived, eliminates the obligation to support spouses under this chapter.

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4. The obligation to support a biological or adopted minor child under this chapter is not eliminated by a final court order, such as a decree of divorce, or a written agreement, unless the documents specifically negate the obligation to pay child support. The fact that a divorce decree is silent relative to support of a minor child does not effect the obligation of the Marine to provide support for the child under this chapter.

5. The support standards set forth in this chapter apply only to a Marine's spouse, minor biological children and minor adopted children. For purposes of this chapter, "minor" means less than 18 years of age. In addition, all children born in wedlock are presumed to be the biological children of the Marine and the Marine's spouse. The standards set forth herein do not extend to stepchildren or other DoD-recognized dependents of the Marine. There is no duty of support as between active duty military spouses without children. In addition, the application of these standards shall commence only after the commanding officer has received a complaint of nonsupport, and the commanding officer has issued a support order in substantial compliance with the form attached hereto at Figure 15-2.

15002. PUNITIVE PROVISIONS

1. Marines will not violate any of the following:

a. The financial dependent support provisions of a court order.

b. The financial support provisions of a written agreement addressing the issue of dependent support. (Note: a marital settlement agreement worksheet which is used to prepare an agreement does not constitute a written financial support agreement for purposes of this chapter) or

c. If neither a court order nor a written agreement exists, the interim financial support standards of Paragraph 15004, and orders issued thereunder by a commanding officer.

2. This paragraph is punitive in nature. Marines who fail to comply with this paragraph are subject to punishment under the UCMJ, as well as to adverse administrative action.

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15003. COMPLAINTS OF INADEQUATE SUPPORT

1. All complaints alleging inadequate support of family members shall be directed to the commanding officer of the Marine concerned. All Marines who receive complaints of inadequate support shall immediately forward the complaint to the commanding officer, and advise the party making the complaint that the commanding officer is the appropriate authority to take action in the matter. In the absence of extraordinary circumstances, the commanding officer will meet with the Marine and take appropriate action under this chapter within 10 working days of receiving the complaint. If the Marine who is the subject of the complaint is not assigned to the command receiving the request for support, the commanding officer will forward it to the commanding officer having authority to take action, and will inform the complaining party of the action taken as soon as possible. If the commanding officer is unable to initiate action within 10 working days, the commanding officer shall so advise the party seeking support.

2. When a complaint alleging inadequate support of family members is received, the commanding officer will inform the Marine about the nature of the complaint and shall encourage the Marine to consult with a legal assistance attorney. After the Marine has had the opportunity to consult with counsel, the commanding officer will then meet with the Marine, and determine the content of an order or warning, if any, to be given to the Marine to foster compliance with this chapter.

3. In instances where a request for support is made for a child born out of wedlock, the Marine shall provide support under this chapter only when paternity is established by court or administrative order or formal written acknowledgement by the Marine. Prior to responding to paternity allegations, the Marine shall be directed to consult with a legal assistance attorney regarding the full consequences of an admission of paternity. Notably, some states hold that an admission of paternity creates a legal presumption that paternity is established, and that based upon such an admission, a court may order the payment of child support.

15004. INTERIM FINANCIAL SUPPORT STANDARDS

1. In cases where the amount of support has not been fixed by

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court order or written agreement, and upon a complaint of nonsupport to a commanding officer by or on behalf of a family member entitled to support (as set forth in Paragraph 15001.5), interim support per supported family member shall be the greater of the fixed amount of support reflected in the center column of the chart below, or the pro-rated share of whatever BAH or OHA (Overseas Housing Allowance) to which the Marine is currently entitled, as shown in the chart below, per month. Note that BAH that is credited to the Marine for government housing, but is not actually paid in cash, is not counted for purposes of this chapter. Under no circumstances shall the total amount of support required exceed 1/3 of the Marine's gross military pay, per month. For purposes of this order, gross military pay is defined as the total of all military pay and allowances before taxes or any other deductions. The amount calculated under the chart below is presumed to be the correct amount of support to be paid to a family member. A Support Calculation Worksheet is provided at Figure 15-1.

Total Number of Family Members Entitled to Support	Minimum Amount Of Monthly Support per Requesting Family Member	Share of Monthly BAH/OHA per Requesting Family Member
1	\$350	1/2
2	\$286	1/3
3	\$233	1/4
4	\$200	1/5
5	\$174	1/6
6 or more	\$152	1/7 or etc.

2. In calculating the total number of family members entitled to support, the commanding officer shall count the complaining family member(s) and all other family members as defined in Paragraph 15001.5 that: a) the Marine is supporting under court order, written agreement, or order under this chapter (not party to the complaint of nonsupport); and b) minor biological or adopted children that reside with the Marine whom the Marine is supporting. For example, if the Marine is paying support for a child from a previous marriage, and the current spouse requests support under this chapter, there are two family members in need of support, and the Marine should be ordered to pay the spouse \$286.00 or 1/3 of his BAH, per month, whichever is greater (up to 1/3 of his gross military pay).

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3. The Marine may request the commanding officer to deviate from the amount of spousal support required under Paragraph 15004.1. If the facts of the particular case are consistent with one of the reasons for modification as set forth in Paragraph 15005.4, the commanding officer may decrease or terminate spousal support to be paid, only after consulting with the appropriate staff judge advocate. However, except for situations described under Paragraph 15005.4d, support for a minor child shall not be decreased from the amount required in Paragraph 15004.1. Financial support established by a commanding officer under this chapter shall continue until such time as a written agreement is reached, a court order is obtained, or the commanding officer modifies or terminates the support order. This scale is not intended for use outside the Marine Corps or as part of any civilian judicial proceeding. Deviation from the amounts provided in Paragraph 15004.1 is not authorized except as provided in Paragraph 15005.4.

15005. MODIFICATION OF INTERIM FINANCIAL SUPPORT REQUIREMENTS

1. A commanding officer has discretion (but is not required) to reduce or eliminate the interim financial support standards under certain circumstances as listed in Paragraph 15005.4, only after consulting with the appropriate staff judge advocate. A commanding officer has no authority to reduce or eliminate the interim financial support standards in any situation not listed in Paragraph 15005.4. Note that while a commanding officer may reduce or in certain cases, completely eliminate a support requirement under this chapter, reduction of support below "BAH diff" may render the Marine ineligible for BAH under applicable regulations. See Department of Defense Financial Management Regulation (DoDFMR), Volume 7A, Paragraph 260406.B for guidance on BAH entitlement.

2. A commanding officer must be satisfied by a preponderance of the evidence that the underlying intent of this chapter, to provide adequate and continuous support to family members, would be furthered before he or she may reduce or eliminate the interim financial support standards established herein. Before granting relief, the commanding officer may attempt to contact the family member requesting support for whatever additional information may be necessary to make an informed decision on the matter.

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3. The Marine has the burden of coming forward with sufficient information and documents (for example, receipts, tax returns, pay vouchers, court orders, etc.) to establish a basis for a commanding officer's action under this paragraph.

4. Situations warranting consideration of reduction or elimination of financial support requirements.

a. The gross income of the spouse exceeds the gross military pay of the Marine (including allowances). The income of the non-service member spouse will be based on his or her wages, before deductions are taken for taxes, voluntary allotments, and garnishments, together with income from all other sources, such as interest, dividends, and profits derived from property in that spouse's possession. This does not relieve the Marine from the requirement to provide financial support for his or her adopted or biological minor children.

b. Interim financial support has been provided to the spouse for a continuous and uninterrupted period of 12 months. A commanding officer may reduce or eliminate the interim financial support requirements to support a spouse if: i) the parties have been separated for 12 months or longer; and ii) the Marine has made the financial support required in Paragraph 15004 for the entire 12 months (including instances where the Marine has voluntarily complied with this Chapter in the absence of a complaint for support to a commanding officer); and iii) the Marine has not acted in any manner to avoid service of process or otherwise to prevent a court from ruling on the issue of support. This does not relieve the Marine from the requirement to provide financial support for his or her adopted or biological minor children.

c. The Marine has been the victim of a substantiated instance of abuse by a spouse seeking support. A commanding officer may reduce or eliminate the interim financial support requirements to support a spouse if an instance of abuse committed by the complaining spouse against the Marine has been substantiated by either a family advocacy case management team at Level II or higher, or a court as evidenced by a judgment amounting to a conviction, or by issuance of a permanent restraining order (or similar order) against the complaining spouse. This does not relieve the Marine from the requirement to provide financial support for his or her adopted or biological minor children.

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d. The Marine is paying regular and recurring obligations (such as rent or consumer debts) of the family members requesting support of sufficient magnitude and duration as to justify a reduction or elimination of support specified herein. If the commanding officer elects to give credit for such payments, they should be limited to the extent that such payments do not benefit the Marine, and should continue for as long as support is paid under this chapter.

15006. FORM AND TIMING OF FINANCIAL SUPPORT PAYMENTS

1. Unless otherwise required by court order or by written financial support agreement, a financial support payment will be made directly to the family member in one of the following ways:

- a. Cash with receipts.
- b. Check.
- c. Money order.
- d. Electronic transfer.
- e. Voluntary allotment.

2. Unless otherwise required by a court order or by a written financial support agreement, a financial support payment shall be due on the first day of the month in which the financial support payment pertains.

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Support Calculation Worksheet in the case of

_____, USMC

1. Enter the date the complaint was received: _____
(Refer the Marine to Legal Assistance)

2. Enter the total number of family members entitled
to support (2a-d): _____

INCLUDE ALL OF THE FOLLOWING:

- a. Non-military spouse requesting support: _____
- b. Biological or adopted minor children on
whose behalf financial support is
requested: _____
- c. Family members that reside with the Marine
that the Marine supports (i.e., spouse and
biological or adopted minor children): _____
- d. Family members that do not reside with the
Marine that the Marine supports (i.e., spouse
and biological or adopted minor children),
that the Marine already supports under prior
order or written agreement: _____

3. Enter the number of persons requesting support
from Lines 2a and 2b above: _____

Figure 15-1.--Support Calculation Worksheet

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4. Locate the number from **Step 2** of this Worksheet on the left column of the USMC Support Table. Highlight the other two columns to the right of this number on the same line. Use this line for all support calculations in this case.



USMC SUPPORT TABLE

Total Number of Family Members Entitled to Support	Minimum Amount Of Monthly Support per Requesting Family Member	Share of Monthly BAH/OHA per Requesting Family Member
1	\$350	1/2
2	\$286	1/3
3	\$233	1/4
4	\$200	1/5
5	\$174	1/6
6 or more	\$152	1/7 or etc.



5. Multiply the number in **Step 3** of this Worksheet times the dollar figure in the center column of the USMC Support Table from the line that was selected in Step 4. Enter the amount:

\$ _____

6. If the Marine receives BAH, multiply the number in **Step 3** of this Worksheet times the fraction in the right column of the USMC Support Table from the line that was selected in Step 4. Multiply the adjusted fraction times the BAH received. Enter the share of BAH for the requesting family members:

\$ _____

Figure 15-1.—Support Calculation Worksheet

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7. Select the larger dollar amounts from Steps 5 and 6. This is the amount of support presumed to be correct under the MCO. The total amount of support for all persons in Step 2 may not exceed 1/3 of the Marine's gross military pay.

\$ _____

8. The Marine may request reduction of the amount of support calculated under Step 7 only under limited circumstances. Reduction of support is entirely discretionary on the part of the commanding officer. See Paragraph 15005.4d for details.

9. After consulting with the appropriate staff judge advocate, should the commanding officer choose to deviate from the required amount pursuant to Paragraph 15005.4d for a reduction of support, enter the new amount of support due:

\$ _____

Figure 15-1.—Support Calculation Worksheet

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From: Commanding Officer,
To:

Subj: ORDER OF SUPPORT

Ref: (a) MCO P5800.16C (LEGADMINMAN), Chapter 15

1. On _____, this Command received a complaint from _____, alleging that since that time you did not provide an amount of support sufficient for the needs of your family.
2. On _____, you were counseled regarding this matter, and your obligations under the reference. At that time, you were afforded the opportunity to request that the support requirements of the reference be modified, and to provide reasons therefor.
3. Since there is no support agreement or order regarding this matter, you are ordered, per the reference, to pay _____ the sum of \$ _____ per month, on the first of each month, as support. Support payments will be made by _____. This order will remain in full force and effect until such a support agreement or judicial order is obtained, or unless sooner modified by this Command.

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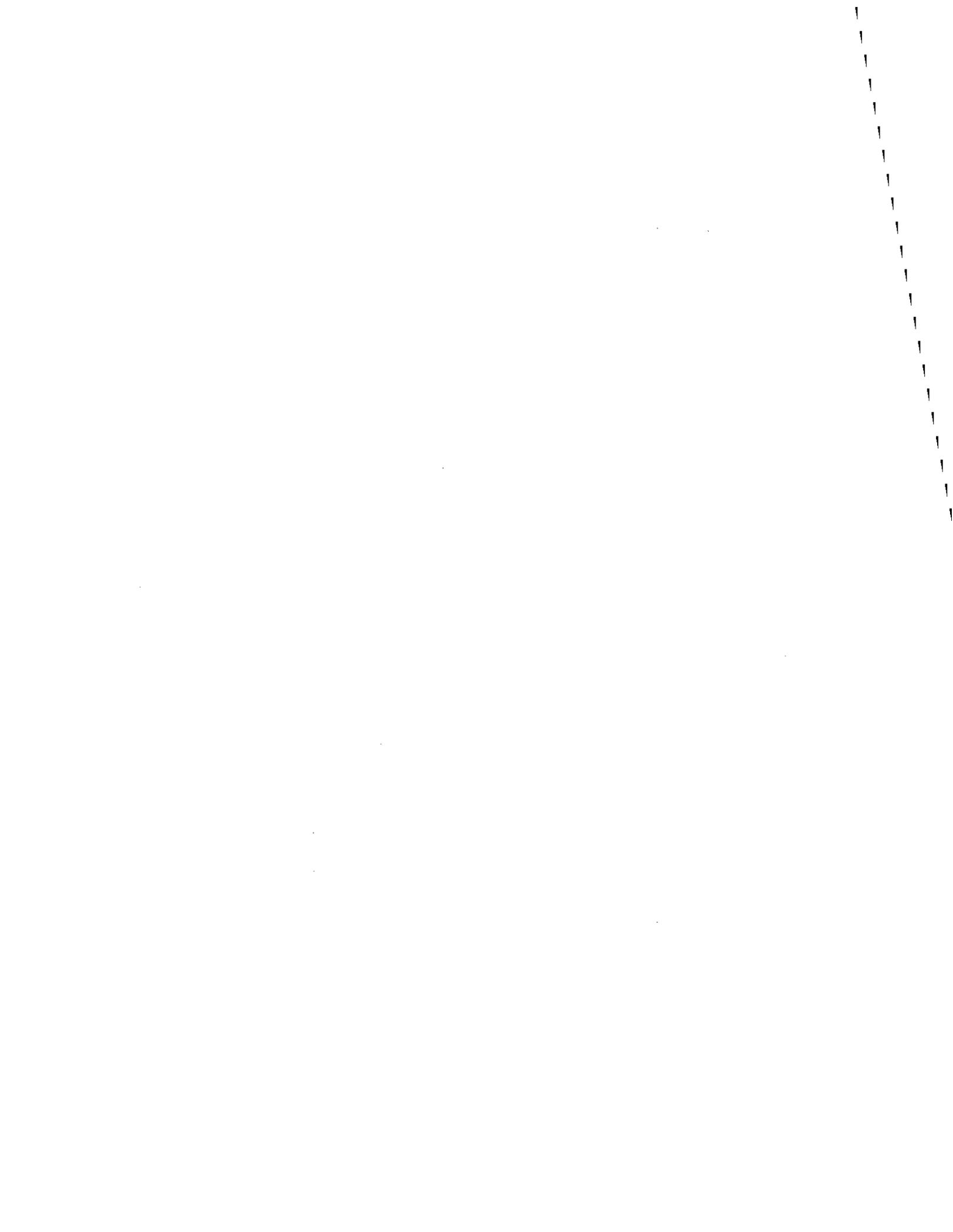
CHAPTER 16

INDEBTEDNESS

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CHAPTER 16

INDEBTEDNESS

16000. SCOPE. This chapter includes policy and responsibilities governing complaints of indebtedness and provides guidance for processing involuntary allotments. Excluded from its provisions are claims for alimony or child support and claims by Federal, State, or Municipal Governments.

16001. POLICY ON INDEBTEDNESS

1. Marines are expected to pay their just financial obligations in a proper and timely manner. A Marine's failure to pay a just financial obligation may result in disciplinary action under the UCMJ or a claim pursuant to UCMJ Article 139. Except as provided in this chapter, the Marine Corps has no legal authority to require Marines to pay a private debt or to divert any part of their pay for its satisfaction.

2. Legal process instituted in civil courts to enforce judgments against Marines for the payment of spousal or child support and for division of marital property (including related attorney fees) is discussed in chapter 15 of this Manual.

16002. COMPLAINTS OF INDEBTEDNESS

1. Whenever possible, indebtedness disputes should be resolved through amicable means. This paragraph provides policies for processing complaints of indebtedness (not involuntary allotments).

2. The processing of complaints of indebtedness will not be extended to those who have not made a bona fide effort to collect the debt directly from the Marine, or to those whose claims are patently false and misleading.

3. Most States have enacted laws that prohibit creditors from contacting a debtor's employer with regard to alleged indebtedness and from communicating facts concerning indebtedness to the employer, unless certain conditions are met. The conditions that must be met to remove this prohibition generally include reduction of a debt to judgment or obtaining written permission of the debtor. In States having such laws, the processing of complaints of indebtedness will not be extended to those creditors who are in violation of State law. Commanders may advise creditors that this policy has been established because it is the general policy of the military services to comply

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with State law, when that law does not infringe upon significant military interests. This policy will govern even though a creditor is not licensed to do business in the State where the debtor is located. A similar practice will be initiated in any State enacting a similar practice with respect to debt collection.

4. "The Fair Debt Collection Practices Act" (15 U.S.C. § 1692 et seq.) regulates certain activities of those who regularly collect debts for others (debt collectors) as distinguished from creditors who collect their own debts. This law prohibits debt collectors from using any means of interstate commerce, such as the mail, to contact a debtor's employer (except for the purpose of confirming or correcting information concerning the debtor's location) unless the debt collector is acting with the debtor's consent or is in possession of a valid court order or judgment. Unless the debtor has given permission, such contacts may not contain any language to indicate that the inquiry is from a debt collection agency or that the purpose of the inquiry relates to collection of a debt. The processing of claims of indebtedness will not be extended to those debt collectors who are in violation of this Federal law.

5. The "Truth in Lending Act" (15 U.S.C. § 1601 et seq.) prescribes the general disclosure requirements which must be met by those offering or extending consumer credit, and Regulation Z (12 C.F.R. § 226 et seq.) prescribes the specific disclosure requirements for both open-end and installment credit transactions. In place of Federal requirements, State regulations apply to credit transactions when the Federal Reserve Board has determined that the State regulations impose substantially similar requirements and provide adequate enforcement measures. Commanders should consult with the staff judge advocate to determine whether Federal or State laws and regulations apply.

6. Paragraph 16002.3 shall not apply to credit unions serving DON personnel as set forth in SECNAVINST 5381.5_, or to those similarly serving other DoD personnel. Commanders will provide debt processing assistance to such credit unions to the extent permitted under the Privacy Act of 1974 (5 U.S.C. § 552a). Credit unions may bring delinquent loans or dishonored checks to the attention of a commander, or designee, for such assistance (32 C.F.R. § 230).

7. Commanders are urged to contact the local staff judge advocate for assistance with regard to any correspondence about which there is any uncertainty.

8. Courtesy. CMC has specifically directed that replies to inquiries, verbal or written, must be temperate and courteous in tone.

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16003. PROCESSING COMPLAINTS OF INDEBTEDNESS

1. It is incumbent on those submitting complaints of indebtedness to show that the disclosure requirements of Section 125 of the "Truth in Lending Act" and Regulation Z have been met and to show compliance with the standards of fairness (Figure 16-1).
2. Creditors subject to Regulation Z, and assignees claiming there under, shall submit with their request for debt processing assistance an executed copy of the Certificate of Compliance (Figure 16-2), or other evidence of compliance, and a true copy of the general and specific disclosures provided the military member as required by the "Truth in Lending Act." Requests that do not meet these requirements will be returned to the claimant without action.
3. A creditor not subject to Regulation Z, such as a public utility company, shall submit with the request a certification that no interest, finance charge, or other fee is in excess of that permitted by law of the State in which the obligation was incurred.
4. A foreign-owned company having debt complaints shall submit with its request a true copy of the terms of the debt (English translation) and shall certify that it has subscribed to the standards of fairness.
5. Commanders will process complaints of indebtedness that meet the requirements of this chapter. "Processed" means that the command will:
 - a. Review all available facts surrounding the transaction forming the basis of the complaint, including the Marine's legal rights and obligations, and any defenses or counterclaims the Marine may have.
 - b. Advise the Marine that just financial obligations are expected to be paid in a proper and timely manner; what the Marine should do to comply with that policy; that financial and legal counseling services are available to assist in resolving indebtedness; and that failure to pay a just debt may result in the creditor obtaining a judgment from a court that could form the basis for collection of pay from the Marine pursuant to an involuntary allotment. A "just financial obligation" is defined as a legal debt acknowledged by the military member in which there is no reasonable dispute as to the facts or the law; or one reduced to judgment that conforms to the Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA), as amended (50 U.S.C. § appendix sections 501-591).
 - c. If a Marine acknowledges a debt as the result of creditor contact with the command, advise the Marine that assistance and counseling are available from the on-base military banking office, the

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credit union serving the military field membership, and the local legal assistance office.

d. Advise the creditor of those aspects of Marine Corps policy contained in paragraph 16001 which are pertinent to the claim in question, and that the Marine concerned has been counseled concerning the obligations with respect to the claim. The commander's response will not undertake to arbitrate any disputed debt, or to admit or deny the validity of the claim. Under no circumstances will the response indicate whether any action has been taken against the Marine as a result of the complaint. (See figure 16-3)

6. Indebtedness complaints that fail to meet the requirements of this chapter shall be returned to the creditor, using figure 16-4 as a format, with an explanation of why the complaint was not processed.

7. When a creditor, having been notified of the requirements of this chapter, refuses or repeatedly fails to comply with them or, regardless of the merits of the claim, clearly has shown that an attempt is being made to make unreasonable use of the processing privilege, commanders are authorized to deny the creditor any processing of the claim. In such a case, a letter following the format contained in figure 16-5 should be used. Commanders should consult with the staff judge advocate when this action is contemplated.

8. If a complaint is received alleging indebtedness of a Marine no longer a member of the command, it will be forwarded to the Marine's new command. If the individual has been separated from the Marine Corps, the correspondence will be returned to the sender so informing the party. The creditor may be informed of the Marine's new military address but in no case shall the permanent (home) mailing address be disclosed, except as may otherwise be authorized under the Freedom of Information Act or Privacy Act of 1974. (See figure 16-6)

16004. INVOLUNTARY ALLOTMENT OF PAY FOR COMMERCIAL DEBTS

1. The pay of active duty Marines is subject to involuntary allotment to satisfy a judgment for a commercial debt (5 U.S.C. § 5520a(k) (1994)). Detailed guidance is found in DoD Directive 1344.9_ and DoD Instruction 1344.12_.

2. Generally, creditors may collect the lesser of 25 percent of a debtor's pay subject to involuntary allotment or the maximum percentage of pay subject to garnishment proceedings under the applicable State law. For further procedures, see DoD Financial Management Regulation, Volume 7A, section 5003.

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3. Creditors must comply with the SSCRA and apply to the Defense Finance and Accounting Service (DFAS) to initiate action to obtain an involuntary allotment. DFAS will forward pertinent information to the debtor and his/her commanding officer, giving them advance notice and an opportunity to respond. For further guidance see DoD Instruction 1344.12_.

4. All applications from creditors seeking to enforce a court-ordered judgment must be sent to:

Defense Finance and Accounting Service
Cleveland Center, Code L
P.O. Box 998002
Cleveland, OH 44199-8002

16005. INVOLUNTARY ALLOTMENT OF PAY FOR DELINQUENT TRAVEL CHARGE CARD DEBT

1. Under the provisions of the "Travel and Transportation Reform Act of 1998" (P.L. 105-264, 5 U.S.C. section 5701 note) heads of agencies may, upon written request of a federal contractor, collect by involuntary allotment any undisputed amount of funds the employee owes to the travel charge card contractor that are delinquent.

2. The due process procedures applicable to military members are exactly the same as for civilian employees of the Department. Therefore, salary offset for a military member's undisputed delinquent travel charge card debt shall follow the procedures contained in Volume 8, Chapter 8, subparagraph 080602 of the DoD Financial Management Regulation. Pay and allotment procedures are as provided in Volume 7A, Chapter 43 of the DoD Financial Management Regulation.

3. The amount deducted in connection with respect to a pay period may not exceed fifteen (15) percent of the disposable pay for that pay period, except that a greater percentage may be deducted upon the written consent of the employee.

4. After undisputed debts become 90 days delinquent, the travel charge card contractor shall send a 90-day demand letter to the debtor which shall include all due process requirements for initiating salary offset. At a minimum, the letter will include:

a. The debtor's name and travel charge card account number;

b. The amount of debt, itemized by purchase, representing undisputed amounts owed on the travel charge card, including any late

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fees. No interest will accrue on amounts presented for collection, although late fees may accrue;

c. Copies of monthly statements showing the amount was properly billed to the employee; and

d. A contact at the travel charge card contractor with information to allow the employee an opportunity to make a written agreement to repay the debt.

5. If the debt is not disputed, paid, or arrangements made for an installment agreement within the 30-day period following the final debt letter, the travel charge card contractor may request initiation of the salary offset process. The travel charge card contractor shall forward delinquent debts to the Salary Offset Project Office (Defense Finance and Accounting Service-AHADC/CL).

6. Any inquiries or disputes regarding the debt and the 90-day demand notice, which are received by the travel charge card contractor prior to forwarding the debt to DFAS for collection, shall be handled and resolved by the travel charge card contractor. If the debtor wants to negotiate an installment agreement prior to the referral of the debt for salary offset, any such agreement shall be made with the travel charge card contractor.

7. If the debtor is not satisfied with the travel charge card contractor's disposition of the dispute, he or she may submit a petition for a debt hearing. Petitions to (1) contest the validity of a debt, (2) contest the amount of a debt, or (3) contest the government's proposed offset schedule, shall be forwarded to the DFAS Debt and Claims Management Directorate (ATTN: Defense Finance and Accounting Service-POCC/DE). Upon receipt of a petition for hearing, the Defense Finance and Accounting Service Debt and Claims Management Directorate immediately shall direct the travel charge card contractor and/or the Salary Offset Project Office to suspend the debt until a hearing is completed.

16006. INDOCTRINATION AND COUNSELING

1. The responsibility to indoctrinate and counsel Marines is a basic precept of military leadership. It is the nondelegable responsibility of command, at every echelon, to ensure that Marines are indoctrinated and counseled concerning indebtedness and to ensure that prompt, effective, corrective action is taken to reduce, insofar as possible, the number of complaints of indebtedness concerning Marines.

2. Such indoctrination and counseling should include: the pitfalls of installment buying; incurring debts beyond the capacity to pay; the

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necessity for liquidating debts in a timely manner; information regarding the need for a full disclosure of the terms of the agreement; how finance and interest rates are quoted and computed; the standards of fairness which should be observed; the forms available for this purpose; and the availability of offices for advice and assistance.

3. Commanders will take appropriate punitive, nonpunitive, and/or administrative action against Marines who fail to meet their just financial obligations in a proper and timely manner. Additionally, commanders are reminded that these matters should be appropriately reflected in evaluating the conduct and performance of Marines of all grades.

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STANDARDS OF FAIRNESS

1. In the United States, no finance charge contracted for, made, or received under any contract shall be in excess of the charge that could be made for such contract under the law of the place in which the contract is signed by the military member.

a. In the event a contract is signed with a U.S. company in a foreign country, the lowest interest rate of the State or States in which the company is chartered or does business shall apply.

b. The Department of Defense will establish interest rates and service charges applicable to overseas military banking facilities.

2. No contract or loan agreement shall provide for an attorney's fee in the event of default, unless suit is filed. In that event, the fee provided in the contract shall not exceed 20 percent of the obligation found due. No attorney fee shall be authorized if the attorney is a salaried employee of the holder of the obligation.

3. In loan transactions, defenses which the debtor may have against the original lender or its agent shall be good against any subsequent holder of the obligation. In credit transactions, defenses against the seller or its agent shall be good against any subsequent holder of the obligation, provided that the holder had actual knowledge of the defense, or under conditions where reasonable inquiry would have apprised the holder of this fact.

4. The military member shall have the right to remove any security for the obligation beyond State or national boundaries if the military member or family moves beyond such boundaries under military orders, and if the military member notifies the creditor, in advance of the removal, of the new address where the security will be located. Removal of the security shall not accelerate payment of the obligation.

5. No late charge shall be made in excess of five percent of the late payment, or \$5, whichever is the lesser amount, or as provided by law or applicable regulatory agency determination. Only one late charge may be made for any tardy installment. Late charges will not be levied where an allotment has been timely filed but payment of the allotment has been delayed. Overseas banking facilities are a matter of contract with the Department of Defense.

6. The obligation may be paid in full at any time, or through accelerated payments of any amount. There shall be no penalty for

Figure 16-1.--Standards of Fairness.

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prepayment and, in the event of prepayment, that portion of the finance charges which have inured to the benefit of the seller or creditor shall be prorated on the basis of the charges which would have been ratably payable had finance charges been calculated and payable as equal periodic payments over the terms of the contract, and only the prorated amount to the date of prepayment shall be due. As an alternative, the sum of the digits method (called the Rule of "78's") may be used. Under this formula for crediting unearned interest, multiply the number of months in advance of the due date that the payment is made by the amount of interest that would be made on a payment one month in advance of the due date. Interest on a payment one month in advance of the due date is 1/78 of the total annual interest. For example, a payment made five months in advance of the due date would be credited with five times the interest of a payment one month in advance of the due date (5/78's of the total interest due).

7. If a charge is made for loan insurance protection, it must be evidenced by delivery of a policy or certificate of insurance to the military member within 30 days.

8. If the loan or contract agreement provides for payments in installments, each payment, other than the down payment, shall be in equal or substantially equal amounts, and installments shall be successive and of equal or substantially equal duration.

9. If the security for the debt is repossessed and sold in order to satisfy or reduce the debt, the laws of the State in which the security is repossessed will govern the repossession and resale.

10. A contract for personal goods and services may be terminated at any time before delivery of the goods or services, without charge to the purchaser. However, if goods made to the special order of the purchaser result in pre-production costs, or require preparation for delivery, such additional costs will be listed in the order form or contract.

a. No termination charge will be made in excess of this amount. Contracts for delivery at future intervals may be terminated as the undelivered portion.

b. The purchaser shall be chargeable only for that proportion of the total cost which the goods or services delivered bear to the total goods called for by the contract. (This is in addition to the right to rescind certain credit transactions involving a security interest in real estate provided by the Truth in Lending Act (Public Law 90-321) and Federal Reserve Board Regulation Z.)

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CERTIFICATE OF COMPLIANCE

I certify that the _____, upon
(name of creditor)
extending credit to _____ on _____,
(name of obligor) (date)
complied with the full disclosure requirements of the Truth in Lending
Act and Regulation Z, and with the Fair Debt Collection Practices Act
(or the laws and regulations of the State of _____), and that the
attached statement is a true copy of the general and specific
disclosures provided the obligor as required by law.

I further certify that the standards of fairness have been applied to
the consumer credit transaction to which this form refers. (If the
unpaid balance has been adjusted as a consequence, the specific
adjustments in the finance charge and the annual percentage rate
should be set forth below.)

ADJUSTMENTS:

(Date of certification)

(Signature of creditor or
authorized representative)

(Street)

(City, State and ZIP Code)

Figure 16-2.--Certificate of Compliance.

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HEADING

(Date)

Military Collection Corporation
Suites 1000-1020 Credit Building
200 Indebtedness Road
Chargeatown, Allstates ZIP Code

Gentlemen:

Receipt of your letter alleging indebtedness of _____ is acknowledged. The matter has been brought to his/her attention and s/he has been advised to communicate with you setting forth his/her intentions in the matter.

The Marine Corps expects its members to meet their just financial obligations. The Marine Corps, however, has no authority to compel any payment, except in the case of State court garnishment proceedings. Such payments are the individual responsibility of _____, and any action to enforce payment would be a matter for civil court.

Section 5520a of title 5, United States Code, provides that a servicemember's pay is subject to legal process initiated to enforce satisfaction of a legal debt. Such action, however, requires final judgment of a court of competent jurisdiction directing the Marine Corps to withhold an amount from the pay of _____ and make payment to _____.

Unless this matter can be resolved satisfactorily by direct correspondence with _____, the appropriate forum for settlement is a civil court. Any action to enforce a valid court-ordered judgment must be sent to:

Defense Finance and Accounting Service
Cleveland Center, Code L
P.O. Box 998002
Cleveland, OH 44199-8002

Sincerely,

J. J. AUTHORITY
Major, U.S. Marine Corps
Commanding Officer

Figure 16-3.--Standard Form for Commander's Reply to Complainant
Alleging Indebtedness of a Member of the Command.

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HEADING

(Date)

Military Collection Corporation
Suites 1000-1020 Credit Building
200 Indebtedness Road
Chargeatown, Allstates ZIP Code

Gentlemen:

Your letter alleging indebtedness of Sergeant J. Marine Leatherneck, Jr., U.S. Marine Corps, is returned. Your letter does not indicate that the requirements prescribed by the Secretary of Defense and promulgated in 44 Federal Register 31014 and 32 Code of Federal Regulations 43A, have been complied with, in that

I have enclosed an excerpt of the cited directive.

If you will provide me, at the above address, the necessary information and certification, I shall proceed with those measures that are authorized by the Secretary of Defense.

Sincerely,

J. J. AUTHORITY
Major, U.S. Marine Corps
Commanding Officer

Encl:

- (1) Your letter
- (2) Standards of Fairness, Full Disclosure and Certificate of Compliance

NOTES:

1. In the first paragraph, briefly set out the deficiencies and the method by which they may be corrected.
2. Enclosure (2) need not be furnished to large commercial users on a recurring basis.

Figure 16-4.--Standard Form For Commander's Reply to
Complainant Not Complying with Current
Regulations.

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HEADING

(Date)

Military Collection Corporation
Suites 1000-1020 Credit Building
200 Indebtedness Road
Chargeatown, Allstates ZIP Code

Gentlemen:

Receipt of your letter alleging indebtedness of Sergeant J. Marine Leatherneck, Jr., U.S. Marine Corps, is acknowledged.

(As this individual has been separated from the U.S. Marine Corps, your letter is returned without action) (_____ has been reassigned to _____. Your letter has been forwarded to his new commanding officer. Any further correspondence should be addressed to that organization.)

Sincerely,

J. J. AUTHORITY
Major, U.S. Marine Corps
Commanding Officer

Encl:

(1) Your letter (if appropriate)

Figure 16-5.--Standard Form for Commander's Reply to
Complainant Alleging Indebtedness of a Person
not a Member of the Command.

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HEADING

(Date)

Military Collection Corporation
Suites 1000-1020 Credit Building
200 Indebtedness Road
Chargeatown, Allstates ZIP Code

Re: Sergeant J. Marine Leatherneck Jr., U.S. Marine Corps

Gentlemen:

Your claim will not be processed because of your (repeated failure) (refusal) to comply with the provisions of regulations published regarding the processing of a claim.

or

Your claim will not be processed because it is my opinion that you are attempting to make an unreasonable use of the debt processing privilege.

All further correspondence regarding this matter will be returned without action.

Sincerely,

J. J. AUTHORITY
Major, U.S. Marine Corps
Commanding Officer

Note: Prior to sending this type of reply, consult with the staff judge advocate.

Figure 16-6.--Standard Form for Commander's Reply to
Complainant Denying Processing of Claim for
Abuse of Processing Privilege.

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CHAPTER 17

LAW LIBRARIES

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CHAPTER 17

LAW LIBRARIES

17000. Purpose. To set standards for Marine Corps law libraries.

17001. Background. Judge advocates must have access to adequate research facilities to provide competent counsel. To ensure that each judge advocate has the required research materials, the Staff Judge Advocate to the Commandant (CMC (JA)) created minimum standards for all Marine Corps law libraries. A core law library is maintained and funded for each Marine legal office by CMC (JA). Requests for materials not described in this chapter may be submitted to CMC (JAI) or purchased locally.

17002. Application. These standards apply to all law libraries used by judge advocates under the control of the United States Marine Corps.

17003. Action. The standard list identifies the minimum requirements for each Marine Corps field law library. This list will be reviewed and updated periodically by CMC (JAI). Field offices should submit recommendations to add or delete items on the standard list to CMC (JAI).

17004. Law Library Manager Responsibilities. Each office should designate a library manager. The library manager is responsible for receipt and control of law library materials, cataloging and shelving of books and updates, tracking loans, and ensuring the library is in good order. Each manager is responsible for updating the library database at <http://sja.hqmc.usmc.mil> as the research materials are received. Requests for additional materials should also be made via the on-line library database. The manager is also responsible for notifying the on-line research representative of personnel changes for issuing or deactivating passwords and tracking the on-line research usage by that office's personnel via the on-line database at http://sja.hqmc.usmc.mil/JAI/database/lexis_lookup.asp. The library manager will conduct an annual inventory of the library during August and submit to CMC (JAI) by 1 September to assist in making the following years' purchases.

17005. Standard Lists For USMC Law Libraries

1. On-line research providers or similar works by alternate publishers may be substituted if they are adequate as reference materials.

2. All works shall be maintained in the most current version available.

17006. TRIAL AND DEFENSE COUNSEL. Judge advocates appearing in courts-martial shall be furnished the following research materials:

Manual for Courts-Martial
Navy-Marine Corps Trial Judiciary Trial Guides
Military Judges Bench Book
Military Rules of Evidence Manual
Evidentiary Foundations

17007. DEPLOYABLE LAW LIBRARY STANDARD. Each deployable law library will contain the items listed below and in paragraph 17006 as well as provide each judge advocate access to on-line research materials:

U.S. Navy Regulations
Title 10, U.S.C.
Soldiers' and Sailors' Civil Relief Act
AOR SOFAs
Selected Problems in Law of War, Army Training Circular 27-10-1
Operational Law Handbook
FM 19-40, EPWS, Civilian Interns & Detained Personnel
FM 27-2, Your Conduct in Combat
FM 27-10, Law of Land Warfare
FM 41-10, Civil Affairs Operations
FM 41-5, Joint Manual for Civil Affairs
Country Studies
AFP 110-20
NWP 1-14M Commanders Handbook on the Law of Naval Operations
JAGINST 5800.7C (JAGMAN)
MCO P5800.16A (LEGADMINMAN)
MCO 1070.12J (IRAM)
MCO P1900.16E (MARCORSEPMAN)
NAVPERS 15560C (MILPERSMAN)
DoDDir 5515.8 (Single Service Claims Responsibility)
MCO P4400.150E (Consumer Level Supply Manual)
SECNAVINST 1920.6B (Administrative Separation of Officers)
CompGen Vol V (Paying Agent)
JAGINST 5890.1 (Administrative Processing and Consideration of Claims)

17008. Station or Base Library Standards. Station and base libraries will maintain all items listed in paragraphs 17006 and 17007 as well as the following:

1. Federal and Criminal Materials

Military Justice Reporter
Military Justice Digest
U.S. Code
Code of Federal Regulations
Service Law Reviews
Federal Register
Military Criminal Justice Practice & Procedure
Court-Martial Procedure
Prosecution and Defense of Sex Cases
Federal Criminal Code and Rules

2. Legal Assistance

State Statutes
Federal Tax Materials
Consumer Credit Law Handbook
Immigration Law and Procedure Handbook
Wills Handbook
Veterans' Benefits Guide
Adoption Law Handbook
Family Law Guide (TJAGSA)
Soldiers and Sailors Civil Relief Guide (TJAGSA)
Uniformed Services Former Spouses Protection Act Guide (TJAGSA)
Wills Guide (TJAGSA)
Income Tax Assistance Guide (TJAGSA)

3. General Materials

Department of Justice FOIA Handbook
JA Deskbook 234 Environmental Handbook (TJAGSA)
JA Deskbook 210 Law of Federal Employment (TJAGSA)
Uniform Guide to Citations (Bluebook)
Law Dictionary
DSM-IV

17009. Information Technology

All judge advocates must have access to information technology assets capable of accessing on-line legal research databases.

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CHAPTER 18

STENOTYPE PROGRAM

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CHAPTER 18

STENOTYPE PROGRAM

18000. Scope. To set forth information, guidance, and instructions for administering the Marine Corps Stenotype Court-Martial Reporter Program.

18001. Background

1. Enlisted members of the Marine Corps, while continuing to draw full pay and allowances may, upon application and selection, be ordered as students to selected civilian schools located in the United States for training in machine shorthand (stenotype) at Government expense.
2. Satisfactory completion of the stenotype course leads to designation Legal Services Reporter (Stenotype) (MOS 4429).

18002. Selection. A Marine Corps bulletin in the 1510 series announcing the stenotype program and soliciting applications from volunteers from all enlisted occupational fields will be published annually. Upon receipt of all applications, a selection board will be convened by CMC (JA) to consider the applications and to select those for participation in the program.

18003. Qualifications. An applicant for the program must possess the following basic qualifications:

1. Be a citizen of the United States;
2. Be a high school graduate;
3. Be a corporal or sergeant at the time of application;
4. Be able to type a minimum of 60 words per minute on a 5-minute typing test;
5. Possess minimum Clerical (CL) and General Technical (GT) scores of 110 each;
6. Have served on continuous active duty for not less than 36 months; and
7. Have sufficient time to complete a 4-year obligated service requirement, following course completion, prior to reaching service limits.

8. Have a minimum of 1 year at a current CONUS duty station at the time of application submission deadline, except for a first term Marine reenlisting less than 90 days prior to the expiration of service. Marines in Western Pacific commands or on deployment who are selected will be ordered to report for schooling after their normal rotation.

18004. Applications. Figure 18-1 provides detailed instructions for completing applications for the program.

18005. Obligation upon Acceptance

1. A minimum 6-year active service obligation is required for enrollment in this program. Prior to acceptance of orders and prior to actual transfer for enrollment in the stenotype course, selectees must reenlist for a sufficient period of time to meet this minimum obligated service requirement. Such reenlistment must be in the Marine's current MOS, and the Marine is not eligible for any bonus in MOS 4429, or other MOS, under this extension or reenlistment.

2. Termination from stenotype school, for any reason, at any time prior to normal completion of the scheduled course will not negate the aforementioned 6-year active service obligation.

18006. Duration of the Stenotype Course. This course normally takes eight academic quarters (24 months) to complete. Participants are, however, authorized to remain in a student status for up to 27 months while undergoing training. Student status begins on the date classes start during the year for which selected.

18007. General Instructions

1. Upon acceptance into this program, and within a reasonable time before classes are to begin, selectees will be transferred by permanent change of station orders to Company A, Headquarters Battalion, HQMC. At the same time, selectees' primary MOS will be changed to Basic Legal Services Marine (MOS 4400) and the former primary MOS will be assigned as the first additional MOS. At all times while enrolled in stenotype school, students are under command of the Commanding Officer, Company A. Daily operational control of the Marine stenotype students vests with CMC (JA-3).

a. During the entire course of instruction, the Marine's primary duty is that of a stenotype student.

b. The Commanding Officer, Company A and CMC (AR) shall not require the stenotype student's participation in command functions;

e.g., Bachelor Enlisted Quarters/HQMC Duty NCO/Assistant Duty NCO, physical fitness test (PFT) monitors, parades, ceremonies, color guards, etc., with the exception of performing the semiannual PFT and the annual Battle Skills Training/Essential Subjects Performance Test.

c. While in this program, enlisted Marine stenotype students are representatives of the Marine Corps. Their conduct, personal appearance, demeanor, life style, and activities as students and citizens reflect not only upon themselves but upon the Marine Corps as well. Each Marine must project an image in both the civilian and military communities which is in keeping with the highest traditions of the Marine Corps. Although civilian clothing may be worn while attending school, Marine Corps grooming standards shall be adhered to at all times. Failure to adhere to these standards may result in removal from the program, in addition to other appropriate administrative or disciplinary actions.

2. A Marine's eligibility for assignment to Government quarters in the Washington, DC area and entitlement to use of exchanges, commissaries, medical, and dental facilities are not affected by participation in this program.

18008. TERMINATION FROM THE STENOTYPE PROGRAM

1. Prior to normal completion of the scheduled stenotype course, a Marine may be terminated from the program by CMC (JA) for deficiency in academic performance, machine shorthand writing skills, conduct, weight control assignment, or for other good cause.

a. Deficiency in academic performance shall include, but is not limited to, receipt of one or more failing grades in required academic subjects.

b. Deficiency in machine shorthand writing skills shall include, but is not limited to, lack of satisfactory progress in attaining the various writing speed levels, and/or inability to complete the course of instruction within the regularly scheduled time.

c. Deficiency in conduct shall include, but is not limited to, conviction by court-martial or civilian court, nonjudicial punishment, or other behavior customarily recognized by the Marine Corps as inconsistent with the high standards of conduct and performance of enlisted Marines and/or the professional standards expected of enlisted legal services personnel.

2. Before a Marine may be terminated from the program, the Marine will be notified in writing of the grounds for termination, and shall be afforded an opportunity to make a written reply within 5 working days of receipt of the notice. Such reply, if made, shall be considered by CMC (JA) in determining whether the Marine shall be

dropped from the program. The grounds for the final decision shall be set forth in writing and a copy thereof provided to the Marine concerned.

3. Marines terminated early from this program will normally be reassigned their former primary MOS, and be assigned to a duty station and billet consistent with the needs of the Marine Corps.

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APPLICATION INSTRUCTIONS

1. Form and Content. Applications shall be submitted on the Administrative Action Form, NAVMC 10274, via the chain of command, to CMC (JA-3). See figure 18-2. Applications must contain the following:

a. Personal information regarding the basic qualifications listed in paragraph 18003. Waivers of any of the basic qualifications may be requested, and will be considered on a case-by-case basis.

b. As enclosures:

(1) Written results of an interview by a stenotype reporter (MOS 4429), if available at the command. A Legal Services Chief (MOS 4421) or a Legal Administrative Officer (MOS 4430) may conduct this interview if a stenotype reporter is not available. The interview must address matters concerning the applicant's self-motivation, maturity, potential for successful completion of the course, and the applicant's full understanding of all aspects of the program.

(2) An official photograph as prescribed by MCO P1070.12J (IRAM).

(3) A signed and witnessed agreement as contained in figure 18-2. These forms may be locally reproduced.

c. Current PFT score to include height, weight and date of PFT.

d. DSN/commercial telephone number where applicant can be reached during normal working hours.

e. Information concerning any musical instrument background to include length and type of formal training.

f. Information concerning receipt of a selective reenlistment bonus for the current enlistment.

g. If stationed overseas, rotation tour date.

2. Command Endorsement. The forwarding endorsement shall certify that the commander has screened applicants to ensure that they:

a. Are financially secure;

b. Are physically and mentally capable of completing this course of instruction, in a civilian environment, without the normal Marine Corps supervision;

Figure 18-1.--Instructions for Submitting Applications for the Stenotype Program.

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- c. Are within Marine Corps weight/body fat standards; and
- d. Have completed all required military training prior to transfer.

3. General Information

a. All applications must be received at HQMC on or before the deadline for submission as set forth in the annual Marine Corps bulletin in the 1510 series announcing the program. Applications received after this deadline will not be considered.

b. Letters of recommendation are unnecessary and are not desired.

c. Upon receipt of each application and initial screening for eligibility, a battery of tests to be administered to applicants will be forwarded to designated testing officers. These tests consist of typing, grammar, vocabulary, punctuation, spelling, effective expression, vowel recognition, reading rate and reading comprehension. The scores achieved on these tests will assist in the selection of those applicants best qualified.

Figure 18-1.--Instructions for Submitting Applications for the
Stenotype Program--Continued.

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AGREEMENT FOR STENOTYPE PROGRAM

1. I, the undersigned, certify that I have read and understand chapter 18 of MCO P5800.16A (LEGADMINMAN) which governs the administration of the Marine Corps Stenotype Program, and am fully aware of all provisions of that chapter and their effect upon me if accepted for the program.

2. In consideration of being allowed to attend stenotype school at Government expense and qualify for designation as a Legal Services Reporter (Stenotype) (MOS 4429), I agree to the following:

FIRST: To comply will all requirements of LEGADMINMAN, chapter 18, while a stenotype student.

SECOND: If selected to attend stenotype school, upon acceptance of orders and prior to actual transfer for enrollment in the school, to reenlist for a sufficient period of time to meet the minimum 6-year active service obligation requirement. Such reenlistment is to be in my current MOS and I am not eligible for any bonus in MOS 4429, or other MOS, under this extension or reenlistment.

THIRD: By accepting orders into this program, during the initial 6-year period of obligated service, I am, for a period of 4 years following graduation from stenotype school, not eligible to apply for any other Marine Corps programs or "B" type billets; e.g., warrant officer, enlisted commissioning, degree completion, drill instructor duty, recruiting duty, etc., that would be inconsistent with performance of duties as a stenotype court reporter.

FOURTH: If in receipt of a selective reenlistment bonus for the current enlistment, I voluntarily agree to recoupment of that percentage of the bonus that represents the unexpired portion of the obligated service for which the bonus was paid.

FIFTH: That my assignment to stenotype school at Government expense may be terminated by CMC (JA) if I am unable or fail to maintain satisfactory grades, am unable or fail to make satisfactory progress in attaining required machine shorthand writing speed levels, or fail to maintain required standards of conduct or performance.

SIXTH: That my assignment to stenotype school at Government expense may be terminated by CMC (JA) for failure to comply with this agreement or when the best interests of the Marine Corps would be served by my termination. Such termination will not occur until I have received written notification and have been given 5 working days to make a statement concerning such termination.

Figure 18-2.--Format for Stenotype Program Agreement.

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Signed this ____ day of _____, ____ in the presence of the below witness.

(Signature of Applicant)
Typed Name of Applicant
Typed Grade, SSN, MOS

(Signature of Witness)
Typed Name of Witness
Typed Grade, SSN

Figure 18-2.--Format for Stenotype Program Agreement--Continued.

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CHAPTER 19

LAW EDUCATION PROGRAMS

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CHAPTER 19

LAW EDUCATION PROGRAMS

19000. BACKGROUND

1. Funded Law Education Program (FLEP). Pursuant to 10 U.S.C. 2004, as implemented by DoD Directive 1322.12 and SECNAVINST 1520.7_, commissioned officers of the Marine Corps, while continuing to draw full pay and allowances, may be ordered as students at Government expense to American Bar Association (ABA) accredited law schools located in the United States for education leading to the degree of Juris Doctor or Bachelor of Law.

2. Excess Leave Program (Law) (ELP(L)). Pursuant to 37 U.S.C. 502(b), commissioned officers of the Marine Corps may be permitted leave without pay and allowances in excess of that authorized by 10 U.S.C. 701(b), to attend ABA accredited law schools located in the United States at no expense to the Government for education leading to the degree of Juris Doctor or Bachelor of Law.

3. Satisfactory completion of either FLEP or ELP(L), coupled with successful completion of the Basic Lawyer Course and the Basic Operational Law Training Course, leads to designation as a Marine Corps judge advocate (MOS 4402).

4. Special Education Program (Law) (SEP(LAW)) and Advanced Degree Program (ADP). The Marine Corps has identified and validated several billets which are required to be staffed by officers who possess postgraduate level education. SEP(LAW) and ADP were established as a means of providing the Marine Corps with a sufficient number of qualified officers to fill these billets. Officers selected for participation in SEP(LAW) and ADP must complete all degree requirements within 1 calendar year. Failure to do so will result in separation from the program and may be treated as an academic failure. Attainment of a Masters of Law (LL.M.) degree in the specific area of law identified in the officer's orders is essential to the law expertise required by the Judge Advocate Division. Refer to MCO 1520.9_ (SEP(LAW)) and MCO 1560.19_ (ADP) for more information on these programs.

19001. SELECTION. A selection board will be convened by CMC annually to consider applications from commissioned officers and will recommend officers for participation in FLEP, ELP(L), SEP(LAW), and ADP.

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19002. QUALIFICATIONS

1. General. An applicant for FLEP/ELP(L) must possess the following qualifications:

a. Have graduated from an accredited college or university with a baccalaureate degree;

b. Have taken the Law School Admission Test (LSAT), prepared and administered by the Law School Admission Council, Box 2000, Newtown, PA 18940-0998, lsac@org. Such test shall be arranged for and taken by each applicant without expense to the Government;

c. Have satisfactory evidence of acceptance or conditional acceptance or admission to an ABA accredited law school located within the United States. Officers who have earned law school credits must submit a transcript of law school work completed; and

d. Be an unrestricted officer in the Marine Corps. Marine Corps Reserve officers must be offered augmentation, and must indicate an intent to accept a regular commission prior to being considered by the FLEP/ELP(L) selection board

2. Special FLEP Qualifications. An applicant must:

a. Be a citizen of the United States;

b. Be in the grade of captain or below;

c. Have a minimum of 2 years but not more than 6 years total active duty (commissioned and enlisted service combined) when law education begins; and

d. Be able to complete 20 years active service as a commissioned officer before the 55th birthday.

Note: Because these are statutory qualifications, they cannot be waived.

3. Special ELP(L) Qualifications. An applicant must have a minimum of 2 years of commissioned service, with no more than 8 years of total active duty when law education begins.

4. Special SEP(LAW)/ADP Qualifications

a. Unrestricted commissioned officers in the Marine Corps on active duty are eligible for the programs. Eligibility for the programs is limited to judge advocates in the grades of first lieutenant through major.

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b. Officers who have previously participated in the SEP, ADP, Voluntary Graduate Education Program, Secretary of the Navy Scholarship Program, International Affairs Officer Program (IAOP, formerly the Foreign Area Officer/Regional Area Officer Program), Olmsted Scholarship Program, or other full time post baccalaureate Marine Corps funded programs are not eligible.

c. Officers who have previously participated in the College Degree Program, Naval Enlisted Scientific Education Program, Marine Corps Enlisted Commissioning Education Program, FLEP, or ELP(L), are eligible after they have completed the obligation of service incurred as a result of participation in the subject programs.

d. Although officers will normally complete the prescribed tour length (see MCO P1300.8_) at their present duty station prior to being assigned to school, the SEP(LAW)/ADP selection board will have the authority to recommend a waiver. The board can also recommend a deferral of school commencement for 1 year to allow for an intervening overseas unaccompanied tour, or because of operational commitments which require the presence of the applying officer.

e. Officers that have orders to, or that have indicated an intent to accept orders to, Intermediate Level School (Command and Staff or The Judge Advocate General's Legal Center and School) are not eligible for the SEP (LAW) or ADP programs.

19003. APPLICATIONS. Figures 19-1 through 19-3 provide detailed instructions for completing applications for FLEP and ELP(L). SEP(LAW)/ADP applications will be prepared per MCO 1520.9_ and 1560. 19_.

19004. OBLIGATIONS UPON ACCEPTANCE

1. Participants in FLEP/ELP(L) will incur obligated active service, in addition to preexisting obligated service incurred prior to entering the program, in accordance with the following:

a. FLEP. Upon successful completion of FLEP, two years (24 months) for each year, or any part thereof, spent in the program;

b. ELP(L). Upon successful completion of ELP(L), one year (12 months) for each year, or any part thereof, spent in the program. In no case will the total period of obligated service under ELP(L) be less than 2 years.

c. Early Termination. One year (12 months) for each year, or any part thereof, spent in the program, not to exceed 3 years;

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d. For purposes of determining the foregoing obligated service, participation in FLEP/ELP(L) begins when the officer reports for duty under instruction with the organization to which assigned while attending law school and ends on the earliest of the following dates:

- (1) Conferral of a law degree;
- (2) Detachment from duty under instruction; or

(3) Admission to the practice of law before a Federal court of the United States or the highest court of a State, the District of Columbia, a U. S. Territory, or the Commonwealth of Puerto Rico.

e. For FLEP officers, temporary additional duty periods (summer assignments to legal offices, other such duty, hospitalization, etc.) or leave periods count against preexisting obligated service on a day-for-day basis. For ELP(L) students, all periods in a pay status similarly count. No other periods of participation in FLEP/ELP(L) may be counted against preexisting obligated service.

2. ELP(L) students are not required to utilize their accrued leave prior to being placed in an excess leave status.

3. SEP(LAW)/ADP. Officers applying for SEP(LAW) and ADP must agree not to tender a resignation, or request separation or retirement, while participating in the program. Officers must further agree to remain on active duty after completion of training, or upon separation from SEP(LAW) or ADP for any other reason, for a period of 3 years. This obligated service is in addition to any preexisting obligation and must be served consecutively. The crediting of service against any preexisting service obligation will be suspended during the time assigned to SEP(LAW) or ADP.

19005. DURATION OF FLEP/ELP(L). Participants are authorized to remain in a student/excess leave status for up to 36 months while pursuing a basic law degree and admission to the bar. Student/excess leave status begins on the date of reporting to the unit to which assigned while attending law school.

19006. GENERAL INSTRUCTIONS

1. Upon acceptance into FLEP/ELP(L), and within a reasonable time before classes are to begin, officers will be transferred by permanent change of station orders to a Marine Corps activity convenient to the law school the officer will attend. At all times while in the program, they are under the command of the commanders/officers in charge of their respective permanent duty stations.

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a. During the academic year from the start of classes until the completion of the bar examination, a FLEP/ELP(L) officer's primary duty is as a law student.

b. Officers in FLEP/ELP(L) are ordinarily not required to report to their commands except in cases of necessary administrative processing, e.g., pay related matters, annual leave authorization, receipt of summer TAD orders, annual fitness reports, PFTs, etc. Officers are encouraged to maintain periodic contact with their commands, however, to ensure compliance with this chapter.

c. Commanders/officers in charge shall not require participation in the command; e.g., flag details, casualty calls, phone watch, inspections, recruiting, etc., except for an ELP(L) student performing duty in a pay status.

d. Commanders/officers in charge shall maintain appropriate liaison directly with the Director, Judge Advocate Division and shall forward to CMC (JAS) information that might affect the officer's ability to complete the course of study successfully or the desirability of continuing the officer in FLEP/ELP(L).

2. While in FLEP/ELP(L), officers are representatives of the Marine Corps. Their conduct, personal appearance, demeanor, life-style, and activities as law students and citizens reflect not only upon themselves but upon the Marine Corps as well. Each officer must project an image in both the civilian and legal communities which is in keeping with the highest traditions of the Marine Corps. Although civilian clothing may be worn while attending school, Marine Corps grooming standards shall be adhered to at all times.

3. Law School Attendance

a. A FLEP/ELP(L) officer's appointed place of duty during the academic year is the law school being attended. In particular, such officers shall attend all classroom periods of instruction in which enrolled (whether required by the law school or not) and all other activities, assemblies, sessions or the like required by the law school unless excused by competent authority.

b. In addition to taking those courses required by the law school, FLEP/ELP(L) officers shall elect courses that will be of most benefit to the Marine Corps, such as labor law, environmental law, trial advocacy, administrative law, etc. Additionally, if offered, students shall take trial advocacy clinics/internships ("hands on" training). Unless required for the state bar examination, students should avoid electing courses such as securities, corporation law, commercial paper, etc., that are not related to those areas of practice in which

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judge advocates normally engage.

c. To ensure that elective course selection is consistent with military law practice, CMC (JAS) will approve each student's proposed elective course selections prior to final registration for courses each semester.

(1) Each student will ensure that CMC (JAS) is provided a current course catalog from the law school being attended.

(2) Additionally, each student shall provide to CMC (JAS) a written or electronic list of proposed electives in advance of final course registration to allow for review and written approval or disapproval.

d. Scholarships, fellowships, grants or cash awards shall not be accepted by FLEP/ELP(L) students without prior approval of CMC (JAS)

e. Students are encouraged to participate in extracurricular activities of their law school or related to the law to the greatest extent that is not detrimental to their academic standing. Some activities which tend to enhance potential as a future Marine Corps judge advocate are law review, moot court, student bar associations, dean's committees, legal aid clinics, trial advocacy clinics, law fraternities, and law school publications.

4. Summer Vacation

a. All FLEP/ELP(L) officers must perform military duties during the law school summer vacation unless excused by CMC (JAS). Such duty normally will be served at a major Marine Corps command in an office involved in the practice of law. This duty is considered an integral part of the training included in FLEP/ELP(L).

b. Officers shall advise CMC (JAS) of the inclusive dates of the law school summer vacation not later than 60 days prior to the end of the academic year.

c. Assignments to summer duty will be made by CMC (JAS). Travel, transportation, allowances, and per diem will be authorized for TAD performed at a command other than the permanent duty station. Funding is included in the operating budget held by HQMC and appropriation data will be provided to commanding officers.

d. Annual leave is authorized during the summer law school vacation. However, leave requests should be reasonable and should be made for periods prior to and/or following summer TAD. Students shall advise CMC (JAS) of requested summer leave periods so that TAD dates can be adjusted.

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5. Summer School. In unusual cases, students may be authorized to attend summer school at no additional expense to the Government. Requests for summer school attendance should be addressed to CMC (JAS). If authorized, summer school attendance will be in lieu of part or all of summer duty at a major Marine Corps command.

6. The Director, Judge Advocate Division oversees FLEP/ELP(L). Therefore, students are authorized to communicate directly with that officer concerning any matter affecting their status, progress, or activities in the program. They are also encouraged to make frequent reports of their activities in the program by letter or e-mail to CMC (JAS).

19007. PAY STATUS ASSIGNMENT (PSA) FOR ELP(L) STUDENTS

1. At the request of an ELP(L) student, the commander of the unit to which the ELP(L) student is attached shall order the student into a pay status, except under the following conditions:

a. The student will not be ordered into a pay status on any day on which the student has a class or exam scheduled.

b. The student will not be ordered into a pay status if doing so will interfere with the student's academic study or the student is unavailable to perform duty. Actual performance of duty is not necessary (e.g., on weekends and holidays when the unit is normally on liberty). The commander may, however, assign appropriate duties during such periods. Students may be assigned any duties deemed appropriate by the commander, e.g., CACO, staff duty officer, participation in military training, inspections, etc.

2. Commanders are authorized to issue "continuing orders to PSA."

a. Continuing orders to PSA may be used for weekends, holidays, and weekdays on which the student does not have classes scheduled (e.g., Thanksgiving, Christmas, and post-examination semester breaks).

b. When on PSA, the student is entitled to pay and allowances at the daily rate of one-thirtieth of a month's pay and allowances. The 31st day of a calendar month shall not be excluded from such computation.

c. Specific PSA dates will be listed in the continuing orders, and this paragraph will be referenced as authority.

d. A consecutively numbered reporting endorsement will be prepared for each individual pay status period, below which the ELP(L) student will

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certify that no class or examination was scheduled on any of the dates on which the student was ordered into a pay status. Sample orders are shown in figure 19-4.

e. If properly excused from summer TAD, in accordance with paragraph 19006.4, an ELP(L) student may perform PSA duties locally.

19008. TERMINATION FROM FLEP/ELP(L)

1. Prior to graduation from law school, an officer may be terminated from FLEP/ELP(L) by CMC for deficiency in academic performance or conduct, abandonment of the study of law, or for other good cause.

a. Deficiency in academic performance shall include, but is not limited to, receipt of one or more failing grades, or failure to maintain a satisfactory minimum grade point average as determined by the law school.

b. Deficiency in conduct shall include, but is not limited to, conviction by court-martial or civilian court, nonjudicial punishment, or other behavior recognized by the Marine Corps as inconsistent with (1) the high standards of conduct and performance of the officer corps and/or (2) the ethical standards of the legal profession.

c. Abandonment of the study of law shall include, but is not limited to, voluntary disenrollment from law school.

2. Before an officer may be terminated from the program, the officer shall be notified in writing of the grounds for termination and shall be afforded an opportunity to make a written reply within a reasonable period of time. Such reply, if made, shall be considered by CMC in determining whether the officer shall be dropped from the program. The grounds for the final decision shall be set forth in writing and a copy thereof provided to the officer concerned.

19009. FITNESS REPORTS

1. Reports Concerning Academic Performance. The Branch Head or Deputy Branch Head, Judge Advocate Support Branch will serve as the reporting senior for FLEP participants. The commander of the organization to which assigned is the reporting senior for ELP(L) participants.

a. Student's Responsibility. Each student will submit directly to the reporting senior, as soon as practicable after the end of each academic year, the following documents and information:

(1) A transcript of grades for each course taken showing, if available, class standing.

(2) A narrative statement describing in detail all academic and

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extracurricular activities.

(3) Copies of any law review or other extracurricular writings.

(4) Statement or evidence of any honors or awards received.

(5) Upon graduation from law school, a consolidated transcript of all law school grades showing the date of graduation and degree conferred and, if available, final class standing.

b. Content of Reports. Reports pertaining to the student's performance during the academic year will be based upon transcripts, narratives, information provided by the student, and other relevant information available to the reporting senior.

c. Special Instructions for Completing Section A

(1) Item 1g. Enter "4401."

(2) Item 2a. Enter "K51" for FLEP students, "K17" for ELP(L) students "H99" for SEP students, and "K47" for ADP students.

(3) Item 2b. Enter the RUC of the student's parent organization.

(4) Item 2c. Enter the descriptive title of the student's parent organization.

(5) Item 4. Enter "Student Judge Advocate" or other appropriate title.

d. Guidance for the Reporting Senior. Due to the demands of law education on the time of the student and the geographical location of the student in relation to the reporting senior, the opportunities for observation may be infrequent or nonexistent. In such cases, a "not observed" report may be appropriate, with a narrative description of the student's academic performance and activities in section C.

2. Summer TAD Reports

a. During periods of summer TAD, the reporting senior is as defined in MCO P1610.7_, paragraph 2003.

b. Special Instructions for Completing Section A

(1) Item 1g; Enter "4401."

(2) Item 2a through 2c. Enter the MCC, RUC, and descriptive title of the student's TAD organization.

(3) Item 4. Enter "Student Judge Advocate" or other title

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appropriate to the duties performed.

19010. FLEP/ELP(L) COMPLETION

1. Completion of Law School. The date of the last course examination at the end of the third year of law school shall be provided to CMC (JAS) as soon as the final examination schedule is available. In addition, not less than 60 days prior to completion of law school, each student shall provide CMC (JAS) with the following information:

a. Date of law school graduation.

b. Name, location, and dates of the bar review course(s) the student plans to take.

c. Jurisdiction and dates of the bar examination the student plans to take. This must be the first scheduled bar examination following graduation from law school, either in the State in which the student's law school is located or in the student's domiciliary. Other jurisdictions must be approved by CMC (JAS).

2. Status While Awaiting the Bar Examination

a. During the period between graduation and the bar examination, the student's primary duty is to prepare for the examination.

b. FLEP. FLEP graduates will normally remain in a "duty under instruction" status until the bar examination is completed.

c. ELP(L). ELP(L) graduates will normally be retained at the parent/administrative command until the bar examination is completed. The excess leave status of an officer assigned to ELP(L) shall be terminated as of the day following the student's last examination at the end of the third year of law school. The ELP(L) student is then in a full pay status and is on duty at the permanent duty station. The ELP(L) officer is subject to assignment to any appropriate duties. However, commanders may not assign any duties which may interfere with the full and proper preparation for the bar examination, including taking a bar review course.

3. Bar Review/Examination

a. FLEP/ELP(L) students are authorized an administrative absence in accordance with chapter 5 of MCO P1050.3_ and, if travel is necessary, permissive TAD orders at no expense to the Government for the purposes of taking a bar review course, the bar examination, and a swearing-in ceremony.

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b. Fees for one bar review course, one multi-state bar review course, and mandatory bar examination fees will be paid by the Marine Corps for all FLEP/ELP(L) students.

c. Upon completion of the bar examination, FLEP/ELP(L) students will be retained at their commands until such time as they are ordered to the Naval Justice School. They may be assigned any and all duties commensurate with their grade and experience.

4. Certification and Designation. FLEP/ELP(L) graduates will provide directly to CMC (JAS) an official final transcript of their law school record showing receipt of a law degree, and a certified copy of certification of admission to the bar. When these documents have been received and the officer has graduated from the prescribed course at the Naval Justice School, the Director, Judge Advocate Division will request the Judge Advocate General of the Navy to certify the FLEP/ELP(L) graduate under UCMJ, Article 27b, and to designate the officer a judge advocate of the Marine Corps. Upon designation, the officer will be assigned primary MOS 4402, Judge Advocate.

19011. EDUCATIONAL EXPENSES

1. Tuition and Fees

- a. FLEP. The Marine Corps will fund mandatory tuition and fees.
- b. ELP(L). Except as indicated in paragraph 19010.3, the Marine Corps will not fund tuition or fees.
- c. SEP(LAW). The Marine Corps will fund mandatory tuition and fees.
- d. ADP. The Marine Corps will not fund tuition or fees.

2. Book Allowance

- a. FLEP. Students are eligible for a book allowance to provide for essential books in connection with law school attendance. The book allowance will not exceed \$150.00 annually.
- b. ELP(L). No book allowance is authorized.
- c. SEP(LAW). A reimbursable allowance of up to \$100.00 per academic quarter is available for the purchase of required textbooks. Individuals are also entitled to a maximum of \$200.00 for the costs incurred in the typing of a required thesis.
- d. ADP. No book allowance is authorized.

3. Reimbursement/Payment. Request for reimbursement/payment of mandatory tuition and fees (FLEP and SEP(LAW) students only), book

LEGADMINMAN

expenses (FLEP and SEP(LAW) students only) and bar review/examination fees (FLEP and ELP(L) students) should be forwarded to the Commanding General, Training and Education Command, Financial Management Branch

C464, 3300 Russell Road, Quantico, Virginia 22134-5001. Requests should be submitted on an Administrative Action Form in the format shown in figures 19-5, 19-6, and 19-7. Requests for reimbursement of book expenses should include the required book list and receipts of payment.

19012. VETERAN'S EDUCATION BENEFITS

1. FLEP. In accordance with 38 CFR 21.7144, officers assigned to FLEP are not eligible for any Veterans Administration (VA) education benefits.

2. ELP(L). If otherwise eligible, officers assigned to ELP(L) are eligible for VA education benefits.

19013. TUITION ASSISTANCE. In accordance with DoD Directive 1322.25, FLEP/ELP(L) students are not eligible for tuition assistance provided by the armed forces.

19014. OUTSIDE EMPLOYMENT. FLEP/ELP(L) students shall not engage in outside employment unless specifically authorized by CMC(JAS). Requests from ELP(L) students will normally be approved if such employment, in accordance with 10 U.S.C. 973, does not interfere with the performance of military duties and the study of law.

19015. GOVERNMENT QUARTERS

1. FLEP. Officers in the FLEP program are eligible for assignment of Government quarters at or near their permanent duty station.

2. ELP(L)

a. Eligibility. In accordance with MCO P11000.22, officers in the ELP(L) program are eligible for Marine Corps family housing; however, officers will be charged a rental fee equal to the Basic Allowance for Housing and applicable Variable Housing Allowance rate of active duty personnel of comparable rank. When the officers are in an active duty status, any housing allowances forfeited while in that pay status will be deducted from the rental charge. Eligibility for housing aboard Navy, Army, and Air Force installations will be determined by the rules and regulations of those services.

19016. EXCHANGE, COMMISSARY, MEDICAL, AND DENTAL. Entitlement to these benefits is not affected by participation in FLEP/ELP(L).

19017. ALLOTMENTS AND INSURANCE FOR ELP(L) STUDENTS

LEGADMINMAN

1. General. Because ELP(L) students are not entitled to pay and allowances while in an excess leave status, all allotments in effect at the time of transfer into ELP(L) shall be terminated and no new allotments will be authorized. If ELP(L) students desire to continue Government (except SGLI) or commercial insurance, loan repayments, or saving bonds, they must make arrangements for direct remittance.

2. SGLI. ELP(L) students will continue to be covered by SGLI, unless they have elected not to be insured. Premiums in arrears for SGLI shall be deducted from the first regular pay following return to a pay status.

19018. MEDICAL DISABILITY. In accordance with 10 U.S.C. 1201, entitlement to medical disability pay is not affected by participation in FLEP/ELP(L).

19019. RETIREMENT CREDIT. Time spent in an excess leave status is counted in computing active service and total commissioned service.

19020. FLIGHT STATUS. An aeronautically designated officer is not considered to be performing aviation service on a career basis while in FLEP/ELP(L). Officers must agree to voluntarily terminate this status on the day training in FLEP/ELP(L) begins. Entitlement to Aviation Career Incentive Pay (ACIP) also ends on that date. Officers who are terminated from FLEP/ELP(L) may request reinstatement of their flight status and reinstate their entitlement to ACIP prospectively.

19021. SPECIAL AND HAZARDOUS DUTY INCENTIVE PAYS. Any special incentive pay an officer may be receiving by virtue of special qualifications or prior duty assignment will be terminated on the day training in FLEP/ELP(L) begins.

LEGADMINMAN

APPLICATION FOR LAW EDUCATION PROGRAMS

1. Form and Content. Applications shall be submitted to CMC (MMA-5) on the Administrative Action Form (NAVMC 10274) via the chain of command. See figure 19-2. All applications must be received at Headquarters Marine Corps prior to the deadline established in the MARADMIN announcing the convening of the board. Applications must contain the following:

a. Names of all colleges and universities attended and dates the baccalaureate and any other degrees were received. State class standing, if available.

b. Active duty base date (ADBD), overseas control date (OSCD) and rotation tour date (RTD) if overseas.

c. Statement that the applicant either holds, or has been offered and indicated an intent to accept, a regular commission.

d. Statement of legal education completed and any legal training or experience gained in civilian and military life.

e. The names of law schools accredited by the American Bar Association to which the applicant has been accepted, in priority order.

f. The resident and non-resident tuition rate for each law school, if applicable. Officers must indicate whether they are eligible for the resident tuition rate, and whether they are eligible for any scholarships. If eligible for a scholarship, include the amount and duration of the scholarship.

g. The date that the LSAT was taken.

h. Dates that anticipated law study will begin (i.e., the date law school classes begin) and be completed, including the anticipated date of the bar examination.

i. A statement of where the applicant intends to reside while attending law school and a statement of whether the applicant prefers to be assigned to a Marine Corps activity nearest the law school or nearest the applicant's anticipated residence while attending law school. CMC (MMA-1) will determine the Marine Corps activity to which selectees will be assigned.

j. DSN/commercial telephone number during working hours.

Figure 19-1--Instructions for Submitting Applications for Law Education Programs.

LEGADMINMAN

k. As enclosures:

(1) Copies of all college level and graduate level transcripts. An explanation of the grading system used at the institutions attended shall be included.

(2) Letters of acceptance or conditional acceptance from the law schools listed in the AA Form.

(3) A certified true copy of the LSAT score report form.

(4) A brief statement (500 words or less) indicating steps the applicant has taken to learn about a career as a Marine Corps judge advocate, and a statement of the reason for seeking such a career. This statement should refer to an interview with a senior judge advocate (see paragraph 2b of this figure).

(5) A signed and witnessed agreement as contained in figure 19-3 (select FLEP, ELP(L), or both). These forms may be reproduced locally.

(6) Official photograph as prescribed by MCO P1070.12_ (IRAM).

1. Except as required by paragraph 2b of this figure, letters of recommendation are not desired and, if received, will not be placed before the selection board.

2. Endorsement

a. The applicant's commanding officer shall include in the forwarding endorsement a specific recommendation concerning the applicant's future value to the Marine Corps as a judge advocate.

b. Where practicable, all applicants shall be interviewed by the staff judge advocate to the general court-martial command of which the applicant is a member. The staff judge advocate's comments and recommendations concerning the applicant shall be made an enclosure to the forwarding endorsement. Where not practicable, a senior judge advocate of any Armed Force who is available in the area shall be requested to conduct the interview and prepare this statement. The staff judge advocate should address the probability of the applicant's success in the study of law, the applicant's motivation to become a Marine Corps judge advocate, and the applicant's full understanding of all aspects of the program applied for.

3. Combined Application. Officers who intend to apply for acceptance into both the FLEP and the ELP(L) should submit one combined application which satisfies the requirement of both programs.

Figure 19-1.--Instructions for Submitting Applications for Law Education Programs--Continued.

ADMINISTRATIVE ACTION (5216)

NAVMC 10274 (REV. 3-93) (EF)

Previous editions will be used

SN: 0109-LF-063-3200 U/I: PADS OF 100

1. ACTION NO. ADMIN	2. SSIC/FILE NO. 1560
3. DATE 20040301	

4. FROM (Grade, Name, SSN, MOS, or CO, Pers. O., etc.) Captain Justin B. Advocate 123 45 6789/0302	5. ORGANIZATION AND STATION (Complete address) 1st Bn, 5th Mar, 1st MarDiv MCB Camp Pendleton, CA 92055
6. VIA (As required) (1) CO, 5th Mar (2) CG, 1st MarDiv	

7. TO: <table border="1"><tr><td>Commandant of the Marine Corps Manpower and Reserve Affairs Graduate Education MMOA-5 3280 Russell Road Quantico, VA 22134-5103</td></tr></table>	Commandant of the Marine Corps Manpower and Reserve Affairs Graduate Education MMOA-5 3280 Russell Road Quantico, VA 22134-5103	8. NATURE OF ACTION/SUBJECT Application for the Funded Law Education Program/Excess Leave Program (Law)
Commandant of the Marine Corps Manpower and Reserve Affairs Graduate Education MMOA-5 3280 Russell Road Quantico, VA 22134-5103		
	9. COPY TO (As required) CMC (JAS)	

10. REFERENCE OR AUTHORITY (if applicable) LEGADMINMAN, Chapter 19	11. ENCLOSURES (if any) (1) College Transcript (2) Law School Acceptance Letters and Tuition Rates (3) LSAT Score Report (4) Statement of Applicant (5) FLEP/ELP (L) Agreement (6) Official Photo
---	---

12. SUPPLEMENTAL INFORMATION (Reduce to minimum wording - type name of originator and sign 3 lines below text)

1. Colleges attended: University of New Orleans, BA 930520. Class Standing 12 of 223.
2. ADBD - 930801; OSCD - N/A; RTD (if overseas) - 040801
3. I hold a regular commission. or I have been offered and have indicated an intent to accept augmentation.
4. I have no prior legal experience or education.
5. Louisiana State University - Eligible for the resident tuition rate of \$11,403 per year.
University of Southern California - Tuition rate of \$35,394 per year.
University of Oklahoma - Eligible for the non-resident tuition rate of \$18,895 per year.
6. LSAT taken December 2003.
7. Anticipated law study will commence September 2004 and will be completed by May 2008. Anticipated bar examination will be in California in July 2008.
8. I intend to reside near the law school and prefer to be assigned to the Marine Corps activity nearest the law school.
9. DSN phone number: 224-3412; Commercial phone number: (703) 614-3412.

JUSTIN B. ADVOCATE

13. PROCESSING ACTION. (Complete processing action in item 12 or on reverse. Endorse by rubber stamp where practicable.)
--

Figure 19-2.-Sample Application for FLEP/ELP(L)

LEGADMINMAN

AGREEMENT FOR FUNDED LAW EDUCATION PROGRAM

1. I, the undersigned, a commissioned officer of the United States Marine Corps (Reserve) presently serving on active duty, certify that I have read and understand chapter 19 of MCO P5800.8_ (LEGADMINMAN) which governs the administration of the Funded Law Education Program, hereinafter referred to as FLEP, and am fully cognizant of all provisions of that chapter and their effect upon my status as an officer if accepted for FLEP.

2. In consideration of being allowed to pursue the full-time study of law at Government expense and qualify for admission to the bar and designation as a judge advocate of the Marine Corps (MOS 4402), I agree to the following:

FIRST: To comply with all requirements of LEGADMINMAN, chapter 19, as a FLEP student.

SECOND: That my assignment to law school at Government expense may be terminated by CMC if I am unable or fail to maintain satisfactory grades in law school, or abandon the study of law for any reason.

THIRD: That my assignment to law school at Government expense may be terminated by CMC for failure to comply with this agreement or when the best interests of the Marine Corps would be served by my termination. Such termination will not occur until after written notification is received by me and a 30-day period is provided for me to make a statement concerning such termination.

FOURTH: To make due and timely application to take the bar examination and to apply for admission to practice law before the highest court of a State or a district court of the United States as soon as practicable after graduation from law school.

FIFTH: To accept designation as a judge advocate of the Marine Corps and assignment of MOS 4402, Judge Advocate.

SIXTH: To serve on active duty, if I graduate from law school, for a period of 2 years for each academic year or portion of a year spent in FLEP in addition to any preexisting service obligation, computed from the earliest of the following dates:

(1) admittance to practice law before a Federal court or the highest court of a State or the District of Columbia;

(2) detachment from duty under instruction as a FLEP student; or

Figure 19-3.--Format for FLEP/ELP(L) Agreements.

LEGADMINMAN

(3) conferral of a law degree.

SEVENTH: To serve on active duty, if my assignment to law school at Government expense is terminated for any reason prior to graduation from law school, for a period of 1 year, commencing from the date of my termination, for each academic year or portion thereof (not to exceed 3 years) spent in FLEP in addition to any preexisting service obligation; in the case of such early termination my MOS of 4401, Student Judge Advocate, will be voided and my former primary MOS will be reassigned.

EIGHTH: That the crediting of service against any preexisting service obligation I may have will be suspended during the time I am assigned to this program, except that (1) periods of time spent at assigned duty stations during summer vacation (when not attending law school) and (2) the time between my completion of law school and designation as a Marine judge advocate/certification under Article 27b, UCMJ, will count toward satisfaction of any period of obligated service other than that incurred as a result of assignment to the law school under this program.

3. It is now requested that, upon my so qualifying, I be designated a Marine Corps judge advocate and that I be assigned primary MOS 4402 Judge Advocate.

Signed this ____ day of _____, 200__ in the presence of the below witness.

(Signature of Applicant)

Typed Name of Applicant
Typed Grade, SSN, MOS

(Signature of Witness)

Typed Name of Witness)
Typed Grade, SSN

Figure 19-3.--Format for FLEP/ELP(L) Agreements--Continued.

LEGADMINMAN

EDUCATION PROGRAM AGREEMENT FOR EXCESS LEAVE PROGRAM (LAW)

1. I, the undersigned, a commissioned officer of the United States Marine Corps (Reserve), certify that I have read and understand chapter 19 of MCO P5800.8_ (LEGADMINMAN) which governs the administration of the Excess Leave Program (Law), hereinafter referred to as ELP(L), and am fully cognizant of all provisions of that chapter and their effect upon my status as an officer if accepted for ELP(L).

2. In consideration of being allowed to pursue the full-time study of law and qualify for admission to the bar and designation as a Marine Corps judge advocate, I agree to the following:

FIRST: To comply with all requirements of LEGADMINMAN, chapter 19, as an ELP(L) student.

SECOND: That my participation in the ELP(L) shall be terminated by CMC if I am unable or fail to maintain satisfactory grades in law school or abandon the study of law for any reason.

THIRD: That my participation in ELP(L) may be terminated by CMC without prior notice to me, in the best interests of the Marine Corps.

FOURTH: To make due and timely application to take the bar examination and to apply for admission to practice law before the highest court of a State or a Federal court as soon as practicable after graduation from law school.

FIFTH: To accept designation as a Marine Corps judge advocate and assignment of MOS 4402, Judge Advocate.

SIXTH: To serve on active duty, regardless of whether I graduate from law school or am admitted to practice law and regardless of whether I complete the requirements of ELP(L) or am earlier terminated or withdraw from ELP(L), for a period of 1 year for each year or portion of a year spent in ELP(L), but not less than 2 years. Active duty creditable towards my obligation will begin the day after the earlier of the following dates: (1) my admittance to practice before the highest court of a State or the District of Columbia or a district court of the United States; (2) my detachment from duty under instruction in ELP(L); or (B) my receipt of a law degree. This obligated active service is in addition to any period of obligated service I may have acquired other than as result of my participation in ELP(L), but in no case will my total cumulative active duty obligation, including the obligation resulting from participation in ELP(L) and my preexisting obligation, be less than 2 years nor more

Figure 19-3.--Format for FLEP/ELP(L) Agreements--Continued.

LEGADMINMAN

than 5 years after the date my ELP(L) obligation begins or the date of my early termination from ELP(L).

3. It is now requested that, upon my so qualifying, I be designated a Marine Corps judge advocate and that I be assigned primary MOS 4402, Judge Advocate.

Signed this ____ day of _____, 200__ in the presence of the below witness.

(Signature of Applicant)

Typed Name of Applicant
Typed Grade, SSN, MOS

(Signature of Witness)

Typed Name of Witness)
Typed Grade, SSN

Figure 19-3.--Format for FLEP/ELP(L) Agreements--Continued.

LEGADMINMAN

UNITED STATES MARINE CORPS
Inspector-Instructor Staff
Company I, 3d Battalion, 24th Marines
160 White Bridge Road
Nashville, TN 37209

1300
ADMIN
1 Aug 04

From: Inspector-Instructor
To: Captain Justin B. Advocate 123 45 6789/4401 USMC
1313 South Mockingbird Lane, Nashville, TN 37205

Subj: CONTINUING ORDERS TO PAY STATUS ASSIGNMENTS WHILE
PARTICIPATING IN THE EXCESS LEAVE PROGRAM (LAW) (ELP(L))

Ref: (a) LEGADMINMAN, par. 19007

1. As authorized in the reference, you are assigned to a pay status with this unit during the following periods:

- a. During Sep 2005: 5-6, 12-13, 19-20, 26-27.
- b. During Oct 2005: 3-4, 10-11, 17-18, 24-25, 31.
- c. During Nov 2005: 1, 7-8, 14-15, 21-22, 28-29.
- d. During Dec 2005: 5-6, 12-13, 19-20, 26-27.
- e. During Jan 2006: 2-3, 9-10, 16-17, 23-24.
- f. During Feb 2006: 6-7, 13-14, 20-21, 27-28.
- g. During Mar 2006: 6-7, 13-14, 20-21, 27-28.
- h. During Apr 2006: 3-4, 10-11, 17-18, 24-25.
- i. During May 2006: 19-3, 8-9, 15-16, 22-23, 29-30.

2. You will return to an excess leave status as of 0001 of the day following the final date of each pay status period and resume participation in ELP(L).

3. You may be excused from performing duty in a pay status on any of the above dates upon oral or written request to the Inspector-

Figure 19-4.--Sample Orders for Pay Status Assignments for ELP(L)
Students.

LEGADMINMAN

Subj: CONTINUING ORDERS TO PAY STATUS ASSIGNMENTS WHILE
PARTICIPATING IN THE EXCESS LEAVE PROGRAM (LAW) (ELP(L))

Instructor. Upon approval of any such request, you will remain in an excess leave status on that date.

4. Should the law school you are attending under ELP(L) schedule a class or examination for you on any of the above dates, this order is revoked as it applies to that date. You are cautioned that you may not perform duty in a pay status on any date on which your law school schedules a class or examination that you are required to attend.

5. This order will be revoked as to any date that there is a likelihood that such assignment to pay status may adversely affect your academic standing in law school.

6. No travel, proceed or per diem is involved in the execution of these orders and none is authorized.

H. CAMPER

Copy to:
DisbO

Figure 19-4.--Sample Orders for Pay Status Assignments for ELP(L)
Students--Continued.

LEGADMINMAN
UNITED STATES MARINE CORPS
Inspector-Instructor Staff
Company I, 3d Battalion, 24th Marines
160 White Bridge Road
Nashville, TN 37209

1300
ADMIN
1 Aug 04

From: Inspector-Instructor
To: Captain Justin B. Advocate 123 45 6789/4401 USMC
1313 South Mockingbird Lane, Nashville, TN 37205
Subj: CONTINUING ORDERS TO PAY STATUS ASSIGNMENTS WHILE
PARTICIPATING IN THE EXCESS LEAVE PROGRAM (LAW) (ELP(L))

Ref: (a) My ltr 1300 ADMIN of 11 Aug 98

1. As directed by the reference, you reported to duty in a pay status with this unit at 0800, 1 September 1998.
2. As of 0001 of the day following this date your pay status is terminated and you will return to an excess leave status and resume your participation in ELP(L).

H. CAMPER

C E R T I F I C A T I O N

I certify that no class or examination was scheduled for me by the law school in which I am enrolled as a participant in the Excess Leave Program (Law) on any of the above dates during which I performed duty in a pay status.

JUSTIN B. ADVOCATE

Copy to:
DisbO

Figure 19-4.--Sample Orders for Pay Status Assignments for ELP(L)
Students--Continued.

ADMINISTRATIVE ACTION (5216)

NAVMC 10274 (REV. 3-93) (EF)

Previous editions will be used

SN: 0109-LF-063-3200 U/I: PADS OF 100

1. ACTION NO. ADMIN	2. SSIC/FILE NO. 7431
3. DATE 20040801	

4. FROM (Grade, Name, SSN, MOS, or CO, Pers. O., etc.) Captain Justin B. Advocate 123 45 6789/4401		5. ORGANIZATION AND STATION (Complete address) Inspector-Instructor CO I, 3d Bn, 24th Mar 160 White Bridge Road Nashville, TN 37209		
6. VIA (As required)				
7. TO: <table border="1" style="display: inline-table; vertical-align: middle;"><tr><td>Commandant of the Marine Corps Training and Education Command Financial Management Branch C464 3300 Russell Road Quantico, VA 22134-5103</td></tr></table>		Commandant of the Marine Corps Training and Education Command Financial Management Branch C464 3300 Russell Road Quantico, VA 22134-5103	8. NATURE OF ACTION/SUBJECT Tuition Payments in Connection with the Funded Law Education Program	
Commandant of the Marine Corps Training and Education Command Financial Management Branch C464 3300 Russell Road Quantico, VA 22134-5103				
		9. COPY TO (As required)		
10. REFERENCE OR AUTHORITY (if applicable) LEGADMINMAN, Chapter 19		11. ENCLOSURES (if any) (1) Statement of Tuition and Fees		

12. SUPPLEMENTAL INFORMATION (Reduce to minimum wording - type name of originator and sign 3 lines below text)

1. Per the reference, the enclosure is forwarded for your action.

JUSTIN B. ADVOCATE

13. PROCESSING ACTION. (Complete processing action in item 12 or on reverse. Endorse by rubber stamp where practicable.)

ADMINISTRATIVE ACTION (5216)
NAVMC 10274 (REV. 3-93) (EF)

Previous editions will be used
SN: 0109-LF-063-3200 U/I: PADS OF 100

1. ACTION NO. ADMIN	2. SSIC/FILE NO. 7431
3. DATE 20040801	

4. FROM (Grade, Name, SSN, MOS, or CO, Pers. O., etc.) Captain Justin B. Advocate 123 45 6789/4401	5. ORGANIZATION AND STATION (Complete address) Inspector-Instructor CO I, 3d Bn, 24th Mar 160 White Bridge Road Nashville, TN 37209
--	---

6. VIA (As required)

7.

TO: [Commandant of the Marine Corps
Training and Education Command
Financial Management Branch C464
3300 Russell Road
Quantico, VA 22134-5103]

8. NATURE OF ACTION/SUBJECT
Reimbursement in Connection with the
Funded Law Education Program

9. COPY TO (As required)

10. REFERENCE OR AUTHORITY (if applicable)
LEGADMINMAN, Chapter 19

11. ENCLOSURES (if any)
(1) Required Book List
(2) Book Payment Receipts

12. SUPPLEMENTAL INFORMATION (Reduce to minimum wording - type name of originator and sign 3 lines below text)

1. Per the reference, I request reimbursement for book payments for the 2004 Fall semester in the amount of \$96.35.
2. Upon reimbursement of the required amount, the balance reimbursable for the 2004-2005 school year will be \$53.65.
3. Enclosure (1) verifies the necessity of payments shown in enclosure (2).

JUSTIN B. ADVOCATE

13. PROCESSING ACTION. (Complete processing action in item 12 or on reverse. Endorse by rubber stamp where practicable.)

Figure 19-6.--Sample for Book Payments for FLEP Students

ADMINISTRATIVE ACTION (5216)

NAVMC 10274 (REV. 3-93) (EF)

Previous editions will be used

SN: 0109-LF-063-3200 U/I: PADS OF 100

1. ACTION NO. ADMIN	2. SSIC/FILE NO. 7431
3. DATE 20040801	

4. FROM (Grade, Name, SSN, MOS, or CO, Pers. O., etc.) Captain Justin B. Advocate 123 45 6789/4401		5. ORGANIZATION AND STATION (Complete address) Inspector-Instructor CO I, 3d Bn, 24th Mar 160 White Bridge Road Nashville, TN 37209		
6. VIA (As required)				
7. TO: <table border="1" style="display: inline-table; vertical-align: middle;"><tr><td>Commandant of the Marine Corps Training and Education Command Financial Management Branch C464 3300 Russell Road Quantico, VA 22134-5103</td></tr></table>		Commandant of the Marine Corps Training and Education Command Financial Management Branch C464 3300 Russell Road Quantico, VA 22134-5103	8. NATURE OF ACTION/SUBJECT Payment and/or Reimbursement for Bar Review and Examination Fees	
Commandant of the Marine Corps Training and Education Command Financial Management Branch C464 3300 Russell Road Quantico, VA 22134-5103				
		9. COPY TO (As required)		
10. REFERENCE OR AUTHORITY (if applicable) LEGADMINMAN, Chapter 19		11. ENCLOSURES (if any) (1) Bar Review Invoice (2) Bar Examination Invoice		

12. SUPPLEMENTAL INFORMATION (Reduce to minimum wording - type name of originator and sign 3 lines below text)

1. Per the reference, the enclosures are forwarded for your action.

JUSTIN B. ADVOCATE

13. PROCESSING ACTION. (Complete processing action in item 12 or on reverse. Endorse by rubber stamp where practicable.)

Figure 19-7.--Sample for Bar Review/Examination Fees for FLEP/ELP(L) Students

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CHAPTER 20

CERTIFICATION AND DESIGNATION OF JUDGE ADVOCATES; EVIDENCE OF GOOD
STANDING

	PARAGRAPH PAGE
CERTIFICATION OF OFFICERS UNDER UCMJ, ARTICLES 26 AND 27	20000
DESIGNATION OF MARINE CORPS OFFICERS AS JUDGE ADVOCATES.	20001
EVIDENCE OF GOOD STANDING WITH LICENSING AUTHORITY	20002

LEGADMINMAN

CHAPTER 20

CERTIFICATION AND DESIGNATION OF JUDGE ADVOCATES; EVIDENCE OF GOOD
STANDING

20000. CERTIFICATION OF OFFICERS UNDER UCMJ, ARTICLES 26 AND 27. For instructions concerning certification of officers under the UCMJ, Articles 26 and 27, see SECNAVINST 1120.9_.

20001. DESIGNATION OF MARINE CORPS OFFICERS AS JUDGE ADVOCATES. For instructions concerning designation of officers as judge advocates of the Marine Corps, and for policy concerning granting of service credit, thereto, see SECNAVINST 1120.9_.

20002. EVIDENCE OF GOOD STANDING WITH LICENSING AUTHORITY

1. Judge advocates have a duty to maintain a status with the licensing authority admitting that officer to the practice of law before the highest court of at least one State, Territory, Commonwealth, or the District of Columbia, such that the individual officer is considered to be in good standing with that licensing authority at all times. At a minimum, good standing means the individual: (1) is subject to the jurisdiction's disciplinary review process; (2) has not been suspended or disbarred from the practice of law within the jurisdiction; (3) is up-to-date on the payment of all required fees; (4) has met applicable continuing legal education requirements which the jurisdiction has imposed (or the cognizant authority has waived); and (5) has met any other requirements the cognizant authority set for eligibility to practice law. So long as these conditions are met, a judge advocate may be "inactive" as to the practice of law within a particular jurisdiction and still be in good standing.

2. Pursuant to JAGINST 5803.2_, every two years, all Marine Corps judge advocates are required to provide proof of good standing with their licensing authority to the Marine Corps Rules Counsel, Director, JA Division, HQMC. The next required reporting period of good standing is 15 January to 1 April 2006.

3. A judge advocate shall immediately report to the Marine Corps Rules Counsel, Director, JA Division, HQMC, if any jurisdiction in which the judge advocate is or has been a member in good standing commences disciplinary investigation or action against him or her or if the judge advocate is disciplined, suspended, or disbarred from the practice of law in any jurisdiction. Failure of a judge advocate to

LEGADMINMAN

comply with these requirements may result in professional disciplinary action under JAGINST 5803.1, loss of certification under Articles 26 and/or 27(b), UCMJ, adverse entries in military service records, processing for administrative separation, or court-martial.

4. Student judge advocates (MOS 4401) are required to submit either an original letter of good standing or original certificate of admission from their licensing authority to the CMC (JAS). The deadline for submission for PLC and OCC (Law) student judge advocates is prior to TBS graduation. The deadline for FLEP and ELP student judge advocates is within 2 weeks of receiving their notification of admission to the practice of law from their licensing authority.

5. Supervisory judge advocates may require any officer over whom they exercise authority to establish that s/he continues to be in good standing with that officer's licensing authority.

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CHAPTER 21

JUDGE ADVOCATE SUPPORT AND PERSONNEL

	<u>PARAGRAPH</u>	<u>PAGE</u>
SCOPE	21000	21-3
OCCUPATIONAL FIELD SPONSOR.	21001	21-3
CONTINUING LEGAL EDUCATION.	21002	21-4

LEGADMINMAN

CHAPTER 21

JUDGE ADVOCATE SUPPORT AND PERSONNEL

21000. SCOPE

1. This chapter clarifies the relationship between individual judge advocates, the occupational field sponsor, and the Personnel Management Division (MM), Headquarters, U.S. Marine Corps.
2. Additionally, this chapter details the Marine Corps program for continuing legal education courses.

21001. OCCUPATIONAL FIELD SPONSOR

1. The 4400 occupational field sponsor is the Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC). As such, the SJA to CMC is responsible for representing the interests of the judge advocate community. This includes recommendations to the monitors at MM regarding the number of lawyers, legal administrators and legal clerks at each command, as well as who, specifically, should fill each billet. In order to fulfill this responsibility effectively, the SJA to CMC has designated MOS specialists.
2. The Judge Advocate Support (JAS) Branch Head is the occupational field manager and is responsible for coordination of the personnel management efforts of the entire community, as well as the MOS specialist for the field grade 4402s. The Deputy Branch Head, JAS, handles all company grade judge advocates. The Law Office Manager/Senior Legal Administrative Officer (JA-2) is the warrant officer and chief warrant officer MOS specialist. The Legal Services Chief (JA-3) is the MOS specialist for the 4400 enlisted community.
3. The MOS specialists provide expert advice to the monitors at MM on optimum staffing levels at the various commands and law offices around the Marine Corps. Moreover, the MOS specialists work closely with the monitors, making specific recommendations concerning personnel to fill each billet.
4. Marines are strongly encouraged to contact their MOS specialist to discuss career options both in the short and long terms. MOS specialists need all relevant information concerning a Marine's interests, family situation, and experience levels to effectively advise the monitors regarding PCS moves.
5. In addition to manning, the MOS specialists have responsibility for structure. In conjunction with Total Force Structure Division, Marine Corps Combat Development Command, MOS specialists optimize the table of organization of Marine Corps legal offices.

21002. CONTINUING LEGAL EDUCATION

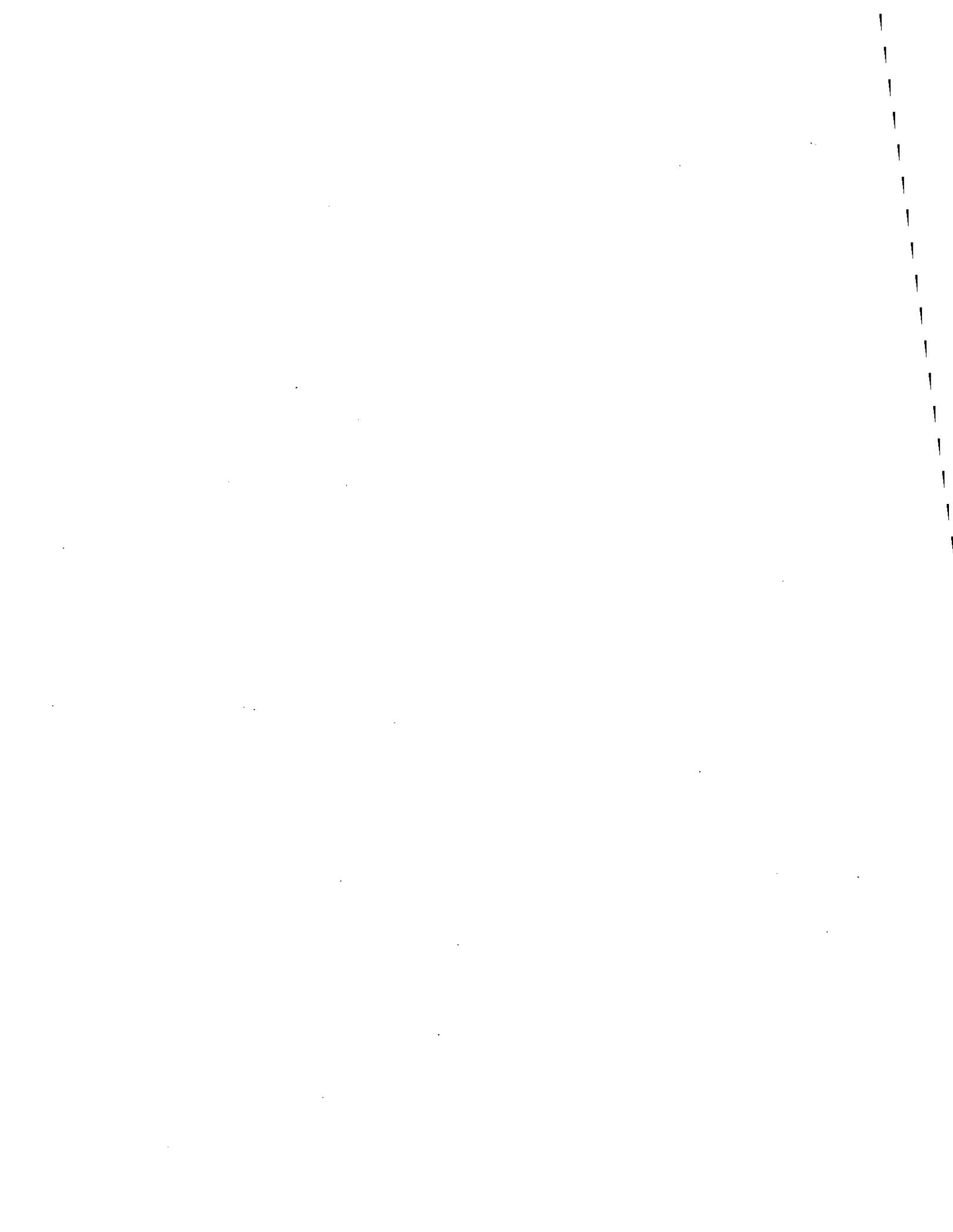
1. JAS is responsible for the Marine Corps continuing legal education efforts. JAS works with the Training and Education Division (T&E), Marine Corps Combat Development Command, to validate courses for inclusion on the Training Input Plan (TIP). Courses at the Naval Justice School, the Army Judge Advocate General's School, the Air Force Judge Advocate General's School and various civilian institutions are included in the TIP, and become officially sanctioned training classes.
2. T&E provides funding for a specific number of quotas for selected courses. However, not all courses on the TIP have funded quotas. JAS works closely with T&E to obtain quotas for courses, and to see that an efficient distribution of quotas is made over the selected courses.
3. Each of the schoolhouses has a different reservation system for seats in its courses. JAS is the Marine Corps point of contact for each schoolhouse. All Marines must go through JAS to make reservations in the various courses on the TIP. This is imperative in order to maintain the validation of the courses with T&E. The accounting data for T&E-funded quotas is obtained from T&E and then distributed to the field by JAS. A T&E-funded quota is not necessary to attend a course. Indeed, many courses on the TIP do not have T&E-funded quotas allocated. An individual command must fund the attendance of a Marine at a school for which no T&E-funded quota is available. In any case, JAS will make the reservations with the schoolhouse, upon request by the field.
4. T&E will fund attendance by Marines stationed overseas, if two conditions are met. First, the course must be more than 14 calendar days in length, including any weekends or holidays. Second, the Marine attending must have more than 1 year left on station overseas. For purposes of this paragraph, Hawaii duty stations are not considered overseas.
5. Suggestions for new courses to be added to the TIP should be forwarded to JAS not later than 1 February each year.

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CHAPTER 22

ORGANIZATION OF LEGAL SERVICES IN THE DEPARTMENT OF THE NAVY

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2000. SCOPE. This chapter identifies the organizations responsible for providing legal support within the Department of the Navy (DON) and summarizes their areas of responsibility.

22001. GENERAL COUNSEL OF THE NAVY. The General Counsel (GC) is a Civilian Executive Assistant appointed by and directly responsible to the Secretary of the Navy (SecNav) and is in the statutory line of succession for SecNav. The GC is the principal legal advisor to SecNav and is the Designated Agency Ethics Official (DAEO) for the DON. The GC provides legal advice, counsel, and guidance to SecNav and DON civilian executive assistants and their staffs, and provides services in the areas of business law, acquisitions, environmental law, civilian personnel law, real, personal, and intellectual property law, and litigation involving these issues. In appropriate cases, the GC shares responsibility with the Judge Advocate General of the Navy for liaison with the Attorney General and Department of Justice. There is a considerable overlap of responsibilities at both the headquarters level and in the field. Specific duties of the GC are set forth below as established by SECNAVINST 5430.25D and U.S. Navy Regulations, 1990, article 0327.

1. Business and Commercial Law. The GC provides legal services throughout the DON for business and commercial law including the following:

a. The acquisition, custody, management, transportation, taxation, and disposition of real and personal property;

b. The procurement of services, including the fiscal, budgetary and accounting aspects thereof (except tort and admiralty claims arising independently of contract);

c. Operations of the Military Sealift Command, the Office of the Comptroller of the Navy, and the Naval Data Automation Command;

d. All matters in the field of patents, inventions, trademarks, copyrights, royalty payments and related matters; and

e. Procurement aspects of foreign military sales, issues related to research and development, NATO standardization agreements, and Arms Export Control Act issues.

2. Civilian Personnel Law. The GC provides legal services in the field of civilian personnel law, including labor-management relations and equal employment opportunity matters at Headquarters, DON, and in coordination with the Navy JAG, throughout the remainder of the Navy.

3. Contract Claims and Litigation. The GC provides guidance to DON procuring activities in the proper method of evaluating, processing and documenting contract claims asserted by or against the DON.

4. Litigation. The GC is responsible for:

a. All DON litigation before the Armed Services Board of Contract Appeals.

b. With the concurrence of the Attorney General, the conduct of all other Navy litigation arising out of business, patent, or civil personnel matters.

22002. Judge Advocate General of the Navy. The JAG provides services in the areas of military justice, operational and international law, administrative law, military personnel law, special programs, claims, legal assistance, admiralty, health care and litigation involving such issues. The JAG oversees the professional ethics of all Navy and Marine Corps judge advocates including civilian attorneys who practice under JAG supervision. The JAG may decertify a judge advocate if s/he determines that the judge advocate is not competent to act as an attorney on behalf of the Navy. The Deputy Judge Advocate General (DJAG) assists the JAG in his/her duties and commands the Naval Legal Service Command which provides military justice, claims and legal assistance services to the Fleet. The DJAG is also designated as a Deputy DAEO for the Navy. Specific duties of the JAG are set forth below as established by SECNAVINST 5430.27A and U.S. Navy Regulations, 1990, article 0331.

1. Litigation. The JAG keeps the GC informed of the status of all litigation under the JAG's cognizance, including all proposed Navy appeal recommendations to the Department of Justice. In cases designated "of major and continuing concern to the Secretary," the GC and JAG share the responsibility for liaison with the Attorney General and Department of Justice.

2. Supervision of Legal Services. In consultation with the JAG, DJAG sets the policy governing the structure, maintenance and performance of duties of the Navy Legal Service Command.

22003. Office of the Counsel for the Commandant of the Marine Corps. The Counsel for the Commandant (CL) advises, provides legal services, and renders legal decisions to CMC, HQMC staff agencies, and field commands regarding business and commercial law, including all matters within the cognizance of the GC for DON, of which the office is a part. The CL's duties as a Deputy DAEO for the Marine Corps are set forth in chapter 11. Other duties of CL are set forth below.

1. Acquisition. CL plans and develops comprehensive legal programs to support the Marine Corps relating to the acquisition of services, supplies, facilities, and other property for the Marine Corps.

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2. Business and Commercial Law. CL provides legal advice and services to the CMC, HQMC staff agencies, and field activities in business and commercial law, standards of conduct and conflicts of interest. CL represents the Marine Corps in relations with other departments and activities of the Government, professional associations, industry associations, contractors and other business concerns relating to:

a. The acquisition, custody, management, transportation, taxation, and disposition of real and personal property, and the procurement of services including the fiscal, budgetary, and accounting aspects thereof (except tort claims that arise independently of contract);

b. Procurement matters in the field of patents, inventions, trademarks, copyrights, royalty payments and similar matters;

c. All aspects of environmental law, civilian personnel law, and industrial security; and

d. Serves as a legal consultant and advisor to CMC and other Marine Corps officials on policy proposals and program operations relating to the commercial interests of the Marine Corps.

22004. Staff Judge Advocate to the Commandant of the Marine Corps. The SJA to CMC acts as legal advisor to CMC on military justice matters, administrative law, operational law and legal assistance matters. The SJA to CMC is also the Director of the Judge Advocate Division (JA). The SJA to CMC provides supervision and management of the Military Law, Operational Law, Research and Civil Law, Legal Assistance, Judge Advocate Support, and Information, Plans and Programs branches of JA, and of the Chief Defense Counsel of the Marine Corps. The duties of the SJA to CMC as a Deputy DAEO for the Marine Corps are set forth in chapter 11. Pursuant to JAGINST 5803.1, the SJA to CMC also acts as "Rules Counsel" in legal professional ethics and complaints against Marine judge advocates. Also per agreement with JAG and CMC, the SJA to CMC conducts UCMJ, Article 6 visits to Marine Corps commands on behalf of the JAG.

1. Military Law Branch (JAM). JAM provides legal advice and assistance to HQMC staff agencies and the field on military law and related matters, to include military justice, administrative law matters related to military justice, promotions and reductions, appeals of competency review boards and complaints of wrongs or redress of wrongs submitted pursuant to Article 138, UCMJ, or Article 1106, U.S. Navy Regulations, 1990. JAM provides a working and voting group member to the Joint Service Committee, which conducts the annual review of the Manual for Courts-Martial and reviews legislative and regulatory proposals affecting military justice. JAM also reviews and provides comment on appeals of nonjudicial punishment and matters

forwarded by the Board for Correction of Naval Records and Naval Discharge Review Board.

2. Operational Law Branch (JAO). JAO provides legal advice and assistance on operational law and related matters, to include international law/relations and the legal aspects of military plans, operations and training; law of war; rules of engagement; combined, joint, multiservice and service doctrine; security assistance technology transfer; personnel exchange program; host nation support of U.S. forces; foreign tax issues; environmental matters related to operations and operating forces; support to other governments; international agreements; noncombatant evacuation operations; base rights overseas; pre-deployment training and preparation; and mobilization.

3. Research and Civil Law Branch (JAR). JAR provides legal advice and assistance to HQMC staff agencies and to the field on administrative law matters, to include personnel law, environmental law, Reserve establishment, physical disability, standards of conduct and Government ethics, Privacy Act, Freedom of Information Act, retired and veterans' affairs, decedent and casualty affairs, legislation, claims, off-duty employment, gifts, trademark, dependency determinations, and related matters.

4. Legal Assistance Policy Branch (JAL). The mission of JAL is to (1) to assist and advise the SJA to CMC on all legal assistance policies, procedures and related matters, implement and supervise the Marine Corps Legal Assistance and Tax Programs, provide guidance to legal assistance attorneys and staff in the field, formulate and disseminate legal assistance and tax policies and procedures, inspect the effectiveness of legal assistance programs, coordinate and oversee the Regional Legal Assistance Councils, prepare legal assistance legislative initiatives, and act as the Marine Corps and JA representative on the Armed Forces Tax Council, the Marine Corps Quality of Life Working Group, the American Bar Association Standing Committee on Legal Assistance for Military Personnel and other legal assistance related agencies; and (2) supervise the operation of the Henderson Hall Legal Assistance Office and the Individual Mobilization Augmentee (IMA) Reserve Detachment assigned to JAL.

5. Information, Plans and Programs Branch (JAI). JAI provides legal office management to the Marine Corps legal community in the field by incorporating business practices through proper structuring and employment of personnel, improved implementation of information technology, improved management of information systems, development and implementation of programs to increase the quality and efficiency of legal services. JAI also maintains and operates the legal reference library.

6. Law Office Manager (JA-2)/Legal Management Branch (JAA). JA-2 provides advice and assistance to HQMC staff agencies and the field on

enlisted administrative separations; reviews non-criminal investigations received from the field; and advises the field on publications and the Performance Evaluation System. JAA provides daily office management for JA through correspondence tracking; budget preparation and execution; internal information systems coordination and support; appointment scheduling; and processing of personnel matters for those working within the division.

7. Judge Advocate Support Branch (JAS). JAS coordinates personnel support of active duty and Reserve judge advocates by providing advice and assistance on matters such as judge advocate certification, recruitment, training, assignments, and personnel administration; legal review of Marine Corps policies, directives, procedures, and practices concerning judge advocate support matters; coordination and supervision of programs for Reserve judge advocates not on active duty; and advice on adequacy of judge advocate billets within tables of organization.

8. Chief Defense Counsel of the Marine Corps. Exercises general supervision over the professional development of Marine Corps judge advocates and support personnel engaged in performing defense functions. Maintains liaison with Headquarters staff agencies and with field commands on matters pertaining to personnel administration of defense counsel to include their assignment, training, and career planning.

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CHAPTER 23

INTERNATIONAL AND OPERATIONAL LAW

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CHAPTER 23

INTERNATIONAL AND OPERATIONAL LAW

23000. SCOPE. Due to the broad range of International and Operational Law issues and availability of other resources, this chapter provides only limited guidance on a select number of common International and Operational Law issues. Reference is made to more detailed guidance, where available - many of these resources are available online. Most importantly, units should always consult their assigned Staff Judge Advocate for International and Operational legal advice. Some of the best overall International and Operational Law resources include:

1. Operational Law Handbook (published annually by The Judge Advocate General's Legal Center and School, U.S. Army (TJAGLCS)), available online at <http://www.jagcnet.army.mil/JAGCNETINTERNET/HOMEPAGES/AC/TJAGSAWEB.NSF/Main?OpenFrameset> under "Other Publications", and on the HQMC Judge Advocate Division (JAO) website (url below).

2. Deployed Judge Advocate Resource Library CD (published annually by the Center for Law and Military Operations (CLAMO)).

3. Deployed MAGTF JA Handbook (published by CLAMO).

4. Domestic Operational Law (DOPLAW) Handbook for Judge Advocates (published by CLAMO).

5. Websites:

a. CLAMO (access requires registration through the website) unclassified / classified: www.jagcnet.army.mil / www.usarmy.smil.mil.

b. HQMC Judge Advocate Division (JAO) unclassified / classified: sja.hqmc.usmc.mil / www.hqmc.usmc.smil.mil/JA/JA_Home.htm.

c. Joint Electronic Library (DOD/CJCS directives, joint and other publications): www.dtic.mil/doctrine/index.htm.

d. TJAGLCS "Other Publications" at <http://www.jagcnet.army.mil/JAGCNETINTERNET/HOMEPAGES/AC/TJAGSAWEB.NSF/Main?OpenFrameset> has online, downloadable publications in numerous areas of military law, including International and Operational Law.

e. Naval Justice School, Newport, Rhode Island (NJS) publications are available at <http://www.jag.navy.mil/html/njsnpthome.htm> (requires logon and password for access - request through the site).

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23001. OPERATIONAL LAW - GENERAL.

1. Operational Chain of Command. Upon deployment, units must be cognizant of the operational chain of command. With few exceptions, deployed Marine units fall under the operational command of the Marine component of the combatant command in whose theater they are deployed. For example, Marine units in the U.S. Central Command (USCENTCOM) Area of Responsibility (AOR) fall under Marine Forces Central Command (MARCENT). Most combatant commands have their own regulations, policies, and guidance on numerous issues, such as release authority on Freedom of Information Act (FOIA) requests, Law of War violation reporting and investigations, and media inquiries. In addition, the combatant command SJA usually issues legal guidance on a variety of topics. A legal annex is normally found in Annex E, and Rules of Engagement in Annex C, of the Combatant Command's Operation Orders (OpOrds). Combatant commands, their Marine components, cognizant SJAs, and websites are listed in Table 23-1. Most of the classified websites have links to the combatant command SJA sites, which have useful resources.

Combatant Command	Marine Component	Cognizant SJA	Combatant Command Website Unclassified / Classified
Regional Commands			
CENTCOM	MARCENT	MARCENT SJA	www.centcom.mil / www.centcom.smil.mil
EUCOM	MARFOREUR	MARFOREUR SJA	www.eucom.mil / www.eucom.smil.mil
NORTHCOM	MARFORNORTH	MARFORRES SJA (dual-hatted)	www.northcom.mil / www.northcom.smil.mil
PACOM	MARFORPAC	MARFORPAC SJA	www.pacom.mil / www.pacom.smil.mil
SOUTHCOM	MARFORSOUTH	MARFORSOUTH SJA	www.southcom.mil / www.southcom.smil.mil
Functional Commands			
JFCOM	MARFORLANT	MARFORLANT SJA	www.jfcom.mil / www.jfcom.smil.mil
SOCOM	MCSOCOM DET ONE	TBD	www.socom.mil / www.socom.smil.mil
STRATCOM	MARFORSTRAT	MARFORLANT SJA (pending MCCDC SJA)	www.stratcom.mil / www.stratcom.smil.mil
TRANSCOM	Not applicable		www.transcom.mil / www.transcom.smil.mil

Table 23-1

2. Friendly Fire Investigations. Under DOD Instruction 6055.7, *Accident Investigation, Reporting, and Record Keeping*, the combatant commander convenes a legal investigation on friendly fire incidents (par E4.7). Service or other commanders may still convene a safety investigation into friendly fire incidents, in consultation with the combatant commander. However, the combatant commander is the release authority for information in the legal investigation for media

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queries, Freedom of Information Act requests, and next of kin notifications. Refer to Chapter 8 for further guidance on investigations.

3. Claims. Refer to the following:

a. DOD Directive 5515.3 - Settlement of Claims Under 10 USC 2733 and 2734

b. DOD Directive 5515.6 - Processing Tort, Contract and Compensation Claims Arising out of Operations in Nonappropriated Fund Actions

c. DOD Directive 5515.8 - Single Service Assignment of Responsibility for Processing of Claims

d. DOD Directive 5515.9 - Settlement of Tort Claims

e. JAGINST 5890.1 - Administrative Processing and Consideration of Claims on Behalf of and Against the United States

f. Chapter VIII, JAGMAN - General claims provisions, including foreign claims

g. Chapter X, paragraph 1010g, JAGMAN - Solatia payments

h. Chapter XII, JAGMAN - Admiralty claims

i. Chapter 13 - Claims, LEGADMINMAN

j. Claims Course Deskbook, published by The Judge Advocate General's Legal Center and School, and available online at <http://www.jagcnet.army.mil/JAGCNETINTERNET/HOMEPAGES/AC/TJAGSAWEB.NSF/Main?OpenFrameset> under "Other Publications."

4. Fiscal Law. The complexities of fiscal law continue in a deployed environment. If at all possible, a judge advocate trained in fiscal law should be available to provide legal advice during a deployment. The Operational Law Handbook published by TJAGLCS discusses fiscal law, but more detail is provided in the Fiscal Law Course Deskbook, also published by TJAGLCS, and available online at <http://www.jagcnet.army.mil/JAGCNETINTERNET/HOMEPAGES/AC/TJAGSAWEB.NSF/Main?OpenFrameset> under "Other Publications."

23002. RULES OF ENGAGEMENT AND RULES FOR THE USE OF FORCE.

1. Rules of Engagement. On deployment, the judge advocate, in coordination with the operations and intelligence officers, is usually the primary action officer for developing Supplemental Rules of Engagement requests and for briefing the commander, staff and Marines on Rules of Engagement. Refer to Chairman of the Joint Chiefs of

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Staff Instruction (CJCSI) 3121.01A, *Standing Rules of Engagement for U.S. Forces*. In its entirety, the document is classified SECRET and available at the Judge Advocate Division's classified homepage: www.hqmc.usmc.smil.mil/JA/JA_Home.htm (linked from HQMC's homepage). Enclosure (A) is unclassified and reprinted in the Operational Law Handbook's Rules of Engagement chapter.

2. Rules for the Use of Force (RUF). For the use of deadly force and the carrying of firearms by DOD/DON personnel performing law enforcement, security duties, or personal protection, refer to DOD Directive 5210.56, SECNAVINST 5500.29C, and MCO 5500.6F. For Rules on the Use of Force by DOD Personnel Providing Support to Law Enforcement Agencies Conducting Counterdrug Operations in the United States, see CJCSI 3121.02. For Counterdrug Support Operations, and Domestic Support Operations, refer also to Enclosures H and I of CJCSI 3121.01A, *Standing Rules of Engagement for U.S. Forces*.

23003. DOMESTIC OPERATIONAL LAW. Refer to: (1) the Domestic Operations chapter in the latest Operational Law Handbook, (2) the Domestic Operational Law (DOPLAW) Handbook for Judge Advocates, and (3) Enclosure I - Domestic Support Operations of CJCSI 3121.01A, *Standing Rules of Engagement for U.S. Forces*. Since USNORTHCOM was created, many domestic deployments now require a deployment order approved by the Secretary of Defense when assigned forces are transferred from one combatant command to another, e.g., USJFCOM to USNORTHCOM. In addition, Realistic Urban Training (RUT) in civilian urban settings must comply with the DOD Policy for Realistic Training Off Federal Facilities contained in Secretary Defense Memorandum of 26 April 2000, posted on the JAD (JAO) website.

23004. WOMEN IN COMBAT.

Refs: (a) FY94 NDAA (PL 103-160, sec 541-542)
(b) SECDEF Memo 13 Jan 94 - Direct Ground Combat Rule
(c) SECNAVINST 1300.12B - Assignment of Women
(d) MCO P13008R, Chapter 5 - Women Marines Classification, Assignment, and Deployment Policy

1. Law. The National Defense Authorization Act for Fiscal Year 1994 (ref (a)) repealed the statutory limitation on women in combat, the "combat exclusion law" (formerly in 10 USC 6015). Congress authorized the Secretary of Defense (SECDEF) to change policy to assign women to any combat unit, vessel or platform.

2. Policy. SECDEF established DOD policy, the Direct Ground Combat Rule, in SECDEF Memorandum of 13 Jan 94, entitled "Direct Ground Combat Definition and Assignment Rule" (ref (b)). The Rule is that "Service members are eligible to be assigned to all positions for which they are qualified, except that women shall be excluded from

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assignment to units below the brigade level whose primary mission is to engage in direct combat on the ground...Direct ground combat is engaging an enemy on the ground with individual or crew served weapons, while being exposed to hostile fire and to a high probability of direct physical contact with the hostile force's personnel." Navy and Marine Corps policy is in references (c) and (d).

23005. INTERNATIONAL LAW - GENERAL. International Law is generally the law governing relations between nations, international organizations, and persons. The most common areas of international law in which a judge advocate practices are the Law of War and International Agreements, in particular Status of Forces Agreements, discussed below. See also Chapter X, International Law, of JAGINST 5800.7D (JAGMAN) for a discussion of select International Law topics.

23006. LAW OF WAR.

1. Marine Corps Law of War Program. Refer to MCO 3300.4, and MARADMIN 182/04, for details on the Marine Corps Law of War Program. This Program fulfills training requirements mandated by the Law of War and DOD policy. As a matter of DOD policy, U.S. Armed Forces are to comply with the Law of War during all armed conflicts, however such conflicts are characterized, and to comply with the principles and spirit of the Law of War during all other operations. Judge advocates should ensure that deploying units receive follow-on Law of War training prior to deployment, that key personnel receive specialized training, and that judge advocates receive detailed training in accordance with the Program.

2. Law of War Reporting and Investigation Requirements. The Law of War and DOD policy have a low threshold for mandatory reporting and investigation of reportable incidents. Reportable incidents are defined as possible, suspected, or alleged violations of the Law of War. All reportable incidents should be reported and investigated in accordance with such requirements, and per guidance provided by the operational chain of command. See Enclosure 6 of MCO 3300.4.

3. Property Captured from the Enemy.

a. Individual War Souvenirs. Pursuant to 10 USC 2579, the Deputy SECDEF issued interim guidance on individual war souvenirs that applies to enemy material in Iraq. The memorandum, dated 11 February 2004, is available on the JAD (JAO) website, and remains effective until a DOD Directive is implemented.

b. Unit War Trophies and Historically Significant Trophies. SECDEF and Service Secretary approval is required for importation of unit war trophies and historical artifacts per the Defense Transportation Regulations, DOD Directive 4500.9R, Chapter 503,

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paragraph C(8). Requests for approval should be submitted through the operational chain of command. SECDEF delegated to the Commander, USCENTCOM, authority to approve importation of historical artifacts from Iraq to service component museums (per SECDEF WASH DC message 210145Z FEB 04, posted on JAD (JAO) website).

4. Child Soldiers. Per the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (Child Soldier Protocol), the U.S. and other State parties shall take all feasible measures to ensure members of their Armed Forces under 18 years of age do not take a direct part in hostilities. MARADMIN 030/03 is the U.S. Marine Corps policy that implements this requirement. The commander should weigh the mission requirements against the practicability of diverting 17 year-old Marines from combat. Factors to consider may include, but are not limited to: the tactical situation; the manpower needs of the unit; the danger to the service member; the impact on unit cohesion if the service member were to be removed from the unit; the reasonable ability of the unit to exclude the 17 year-old Marine from taking a direct part in hostilities; and any other relevant criterion. Nothing shall be construed to limit the commander's inherent authority and obligation to use all necessary means available and to take all appropriate actions for unit self-defense. Regarding child soldiers of the enemy, the age of an enemy soldier does NOT render him an unlawful target if he can otherwise be lawfully engaged in accordance with the rules of engagement.

5. Law of War References.

- a. MCO 3300.4, *Marine Corps Law of War Program*, of 20 Oct 03.
- b. MARADMIN 182/04, *Marine Corps Law of War Program*, (202020Z Apr 04).
- c. *Treaties Governing Land Warfare*, DA PAM 27-1, 1956.
- d. *The Law of Land Warfare*, FM 27-10, 1956.
- e. *War Crimes Investigations*, MCRP 4-11.8B, 1998.
- f. *Enemy Prisoners of War and Civilian Internees*, MCRP 4-11.8C, 1998.
- g. *Enemy Prisoners of War, Retained Personnel, Civilian Internees, and Other Detainees*, AR 190-8/OPNAVINST3461.6/AFJI 31-304/MCO 3461.1, 1997.
- h. *DOD Law of War Program*, DODD 5100.77, 1998.
- i. *DOD Enemy POW Detainee Program*, DODD 2310.1, 1994.
- j. *Implementation of the DOD Law of War Program*, CJCSI 5810.01B, 25 March 2002.
- k. *Interim Guidance on Individual War Souvenirs*, Deputy Secretary of Defense Memorandum, 11 February 2004.
- l. MARADMIN 030/03, *17 Year Old Marines in Combat*, (231139Z Jan 03).

23007. INTERNATIONAL AGREEMENTS. Prior to deployment to a foreign country, US forces should be aware of and understand the meaning of

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any applicable international agreements, particularly those governing their status and jurisdiction while in the host nation.

1. Websites. International Agreements are posted on CLAMO, JAD, and some Combatant Command websites (urls provided above in Scope and Operational Law paragraphs). The classified websites are the most comprehensive, as many agreements are classified.

2. Status of Forces Agreement. A Status of Forces Agreement (SOFA) is an international agreement that defines the legal position of a visiting military force in a foreign country. A SOFA may be bilateral (between two nations) or multilateral (between many nations, such as the NATO SOFA). SOFAs set forth criminal and civil jurisdiction, claims, taxes, entry and exit, licenses, registration, customs, etc. Types of jurisdiction can vary - in many instances, US forces can be subject to host nation criminal law and process - which is why a SOFA should be understood before deployment. In addition, several NATO countries have supplementary bilateral agreements with the US, in addition to the NATO SOFA. SOFAs and Foreign Criminal Jurisdiction are also discussed in paragraphs 1009 and 1010 of the JAGMAN.

3. International Criminal Court. Most SOFAs do not afford any protection from prosecution by the International Criminal Court (ICC). The ICC purports to exercise jurisdiction over US persons who commit offenses covered by the ICC Treaty, if those offenses are committed in the territory of an ICC Party or in the territory of a non-Party State, if that State consents to ICC jurisdiction. Moreover, ICC Parties are obligated to abide by an ICC request to surrender anyone suspected of an ICC crime. Thus, US service members suspected of a war crime and deployed to a country that is an ICC Party, are at risk of surrender by that country to the ICC. To help overcome this problem, the USG is aggressively pursuing Article 98 Agreements. An Article 98 Agreement precludes a country from turning over a US citizen to the ICC without USG consent. A by-country listing of Article 98 Agreement status is posted on the JAD (JAO) classified website.

4. Acquisition and Cross-Servicing Agreements (ACSA). 10 USC 2342 provides authority for government-to-government acquisitions and cross-servicing agreements for mutual logistics support between US forces and eligible countries' forces. Eligible countries are NATO countries and SECDEF-designated non-NATO countries. Under an ACSA, support, supplies, and services between countries may be reimbursed in kind, by trade of equal value, or by cash. Additionally, ACSAs eliminate the requirement for certain contractual paragraphs that are otherwise required by the Federal Acquisition Regulations. ACSA restrictions include: (1) the total number of liabilities the US may accrue under Title 10 is limited, except during a period of active hostilities; (2) the amount of acquisitions and cross-servicing that a service component may conduct annually is allocated by the cognizant Combatant Commander; (3) ACSAs cannot be used as a substitute for normal sources of supply, or as a substitute for foreign military

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sales procedures; and (4) "Major end items" may not be transferred under an ACSA. DOD Directive 2010.9 applies to ACSAs.

5. Negotiation and Conclusion. DOD personnel shall neither negotiate nor conclude an international agreement, nor request another USG organization to negotiate or conclude an international agreement, without prior written approval by the DOD official who is assigned approval responsibility per DOD Directive 5530.3, *International Agreements*, of 11 Jun 87 (with Ch. 1, dated 17 Aug 91). SECNAVINST 5710.25A, *International Agreements*, of 2 Feb 95, sets forth the authorities that may approve the negotiation and conclusion of international agreements within the DoN. SECNAV has delegated the authority to negotiate and conclude certain international agreements to CMC. CMC has not re-delegated this authority except in the case of the Marine Corps Foreign Personnel Exchange Program. DC PP&O has been delegated the authority to negotiate and conclude these international agreements. CMC retains the authority for all other international agreements for which CMC has authority to negotiate and conclude.

6. Case Act Reporting. Pursuant to the Case-Zablocki Act (Pub. L. 92-403; 1 U.S.C. 112b) (the Case Act), any department or agency of the USG that enters into any international agreement on behalf of the USG shall transmit to the Department of State the text of such international agreement not later than 20 days after the international agreement has been signed. DoS must transmit all international agreements, other than treaties, to Congress no later than 60 days after the international agreement enters into force. SECNAVINST 5710.25A, *International Agreements*, of 2 Feb 95, designates the Navy JAG as the Central Office of Record and the Central Repository for all DoN international agreements, including those CMC has negotiated and concluded. Navy JAG also is tasked with conducting all Case Act notifications. SECNAVINST 5710.25A tasks the SJA to CMC (JAO) to provide required legal support to CMC for all efforts associated with those international agreements CMC is authorized to negotiate and conclude. Therefore, all international agreements concluded by CMC, or pursuant to a CMC grant of authority, should be forwarded to the SJA to CMC (JAO) as soon as possible after they have been concluded, to assist in meeting the 20-day notification period imposed by the Case Act. The Case Act requires all related documents, including all accompanying papers, such as agreed minutes, exchanges of notes, or side letters and background statements. Congress also has requested background statements that include information explaining the agreement, the negotiating history, the effect of the agreement, and a precise citation of legal authority to be submitted.

23008. WEAPONS.

1. Weapons Reviews. Weapons and ammunition must pass a legal review before they can be used in operations. Weapons and ammunition issued through regular military procurement and supply channels undergo legal review. In contrast, there have been instances when units have obtained items without legal reviews, e.g., they bought items "off the

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shelf" or obtained them directly from vendors without going through Marine Corps Systems Command (MCSC). Such items should not be used in operations.

a. Legal Review. DOD Directive 5000.1 and SECNAVINST 5000.2B require the Navy Judge Advocate General (JAG) (Code 10) to conduct legal reviews of all weapons, weapon systems, and ammunition before procurement by the Department of the Navy or Marine Corps. The review ensures that the items are consistent with domestic and international law, particularly the law of war. For Marine Corps items, Marine Corps Systems Command forwards requests for legal reviews to the Navy JAG (Code 10) via SJA to CMC (JAO) for endorsement. The legal review determines whether the item complies with the law of war principles of unnecessary suffering and distinction: (1) the item cannot cause injury or death that is manifestly disproportionate to its intended use, and the military advantage or military effectiveness expected to be gained from its use; and (2) the item must be controlled to ensure it can be applied against lawful military objects, and not indiscriminately affect the civilian population, or civilians not taking an active part in hostilities. The legal review also addresses whether any other rule of law, domestic or international, would preclude or restrict the item's use.

b. Arms Control Treaty Review. DOD Directive 2060.1 and SECNAVINST 5710.23C require that all DOD activities undergo an arms control treaty review, separate and distinct from the Navy JAG legal review. The Naval Treaty Implementation Program (NTIP) conducts this review for DoN activities. If NTIP believes the activity, such as use of a particular weapon or ammunition, reasonably raises an arms control issue, the matter must be brought to an Office of the SECDEF (OSD) Compliance Review Group for approval.

2. US Landmine Policy and Law.

a. On 27 February 2004, the Administration announced (via a DoS White Paper and fact sheet) the new US landmine policy that will eliminate from the US arsenal persistent (dumb) landmines of all types (i.e., anti-personnel (APL) and anti-vehicle). Until 2010, persistent APLs are stockpiled for use *only* in the Republic of Korea and persistent anti-vehicle landmines may be used outside of Korea only when authorized by the President. After 2010, the US will not employ any type of persistent landmine.

b. The new US mine policy will not impact the following USMC mines: M692/731 Area Denial Anti-personnel Mine (ADAM) (smart APL); M718/741 Remote Anti-armor Munition (RAAM) (smart anti-vehicle); and CBU-78 "Gator" (air delivered, smart mixed). The new US mine policy will impact the following USMC mines: M15/19/21 anti-vehicle mines (neither self-destructing nor self-deactivating); and M16/18 APLs (neither self-destructing nor self-deactivating).

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c. The M18 claymore is still authorized when employed in a manner consistent with a self-destructing, self-deactivating (smart) mine (i.e., command detonated or trip wire mode not exceeding 72 hours while monitored and in proximity of emplacing unit). This use is in accordance with the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to be Excessively Injurious or To Have Indiscriminate Effects (CCW of 1980), and its Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices As Amended on 3 May 1996 (Protocol II - Amended 1996; also known as the Amended Mine Protocol). The US is a party to the Amended Mine Protocol (ratified by the President in 1999 with the advice and consent of the Senate). However, the US is neither a party nor signatory to the Ottawa Mine Ban Treaty of 1997, which bans all APLs (including smart), but does not prohibit anti-vehicle mines (smart or dumb).