DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
WASHINGTON, D. C. 20380

IN REPLY REFER TO
AD-ers
11 Jun 1969

MEMORANDUM FOR THE COMMANDANT

1. In summarizing this excellent study, I am concerned with several areas:

a. The differences in the legal concepts of the services. The Air Force on one hand is tending towards a separation of command and judicial functions. The Army/Marine concept continues to insure the authority of the Commander in all matters. The Navy concept is somewhere between.

b. Obviously, the Air Force concept is going to appeal to the legal fraternity and to advocates of centralization, uniformity and economy. Whatever your decision, we are going to get pressures towards the Air Force concept when the shooting is over.

c. If we accept the Navy JAG system, it will be the first step in the dilution of Command authority in the Marine Corps and a substantial step towards the Air Force system.

d. If we accept a Marine JAG Corps, it is a smaller step towards the same area, but is probably manageable. As the study points out, however, if we introduce such legislation, we stand a good chance of having a directed verdict towards a Navy Department JAG Corps for the Navy and Marine Corps.

e. From a purely military requirements point of view, the readiness and effectiveness of the Marine Corps could best be served by our present program of unrestricted officers with an appropriate legal MOS. It will be more costly in dual training, dual assignment and administrative overhead. We will probably have more difficulty in retaining good legal talent particularly if some of the incentive legislation now under consideration for the various JAG Corps is implemented. (It is doubtful that we could apply some of the monetary incentives applicable to "lawyers only" to our unrestricted law officers, without establishing a "legal only" Corps of officers.)

2. Everything indicates that our best course of action at this time is to hold out for what we have now. We might not be able to support such a program at some future date but until we are forced into a less desirable course of action we should avoid a change. I believe our present programs are supportable.

Very respectfully,

W. J. Van Ryzin

W. J. VAN RYZIN

One other point on the study creates an erroneous picture. The rank structure and promotion flow chart for lawyers are on the basis of the rest of the Army Corps. It should be on the basis of requirements. We cannot conceivably have requirements for 98% lieutenants and only one lawyer in each field ... I believe.

VR

Van Ryzin

Cushman

VII. ACTION RECOMMENDED

A. RECOMMENDED LEGAL SYSTEM/ORGANIZATION. It is recommended that the basic concept of the current legal system for providing legal services to Marines be continued as the most practicable procedures for providing future legal services to the Marine Corps.

B. ADDITIONAL RECOMMENDATIONS. To improve the current Marine Corps legal system/organization, it is recommended that the Commandant:

1. Direct that duties assigned to Judge Advocates in legal billets be limited to those which require the services of lawyers and that the collateral duties of JAs are kept to the minimum essential.

2. Direct a review of Annex D [Military Legal Service Functions Chart] by appropriate staff agencies for the purpose of isolating all legal services which non-lawyers can accomplish and taking appropriate action to effect such execution of these tasks by non-lawyer personnel.

3. Employ more Women Marines as lawyers and legal clerks in appropriate legal tasks.

4. Direct an examination of the potential of a program whereby enlisted college graduates, Regular and Reserve, would be given law training to qualify them for appointment to commissioned grade and designation as Marine Judge Advocates.

5. Utilize Marine Judge Advocates [Regular and Reserve, active and inactive] in the procurement of officers for law duties.

6. Actively promote, in coordination with the Navy, career compensation for lawyers in the form of a reasonable retention incentive pay and a variable continuation bonus to retain lawyers in the numbers as, and when, required.

7. Select a general officer especially qualified in law duties for assignment to Navy JAG.

8. Propose, in due course, to the Secretary of the Navy the assignment of a Marine general officer lawyer as Deputy JAG of the Navy.

9. Initiate action with Navy JAG to ensure that the Marine Corps is assigned its proportionate share of departmental supervisory billets in Navy JAG.

10. Direct that action be taken to invigorate, on a continuing basis, the program for the return to active duty of Reserve field grade lawyers to reduce the current and forecasted shortage.

11. Recommend to the Secretary of the Navy, in appropriate individual cases, that Regular Marine officer lawyers be continued on active duty beyond statutory retirement points.

12. Establish lawyer assignment procedures to accommodate professional interests insofar as practicable.

13. Promulgate directives to foster and actively support the professional development of Marine lawyers by:

a. Encouraging lawyers to become members of Bar Associations.

b. Affording them the opportunity to attend, at government expense, law seminars and meetings of Bar Associations.

14. Develop and maintain an aggressive counseling program specifically designed to ensure that all lawyers are fully aware of the benefits and satisfaction of a full military career.

15. Initiate action to remove the Appropriations Act Rider to permit reinstatement of postgraduate law training [and then cancel the Excess Leave (Law) Program.]

16. Provide the opportunity for those lawyers who desire to attend graduate or special legal schools/courses, with appropriate payback by guarantee of further active duty obligation.

17. Establish a policy of sending Marine lawyers, voluntarily, to military service schools to enhance their professional military development and qualifications.

18. Increase the emphasis on the program of military legal education/training for all non-lawyer unrestricted duty officers.

19. Direct action to update and incorporate Marine Corps Orders 1040.21 and 1040.24 into a single directive concerning Marine Corps Policies and Programs Relating to Marine Officer Lawyers by the inclusion of the recommendations of this Study.

o when practicable, at some future date, subject to study on Gen'l matters, and dependent on B-8.

MARINE CORPS LEGAL SERVICES STUDY REPORT

CMC DECISION ON: 13 18 JUN 1969

RECOMMENDATION	APPROVE	DISAPPROVE
VII A.	(✓)	
VII B. 1	(✓)	
2	(✓)	
3	(✓)	
4	(✓)	
5	(✓) (when practicable)	
6		(✓)* Not until off and/or
7	(✓)°	
8	(✓) (when practicable)	
9	(✓) (when practicable)	
10	(✓)	
11	(✓)	
12	(✓)	
13	(✓)	
14	(✓)	
15		(✓)+ Only if necessary
16	(✓)	
17	(✓)	
18	(✓)	
19	(✓)	

* only when such an incentive is available to all Marine officers.
+ only when other methods fail, and based on study and recommendation at that time. over

Further, I question whether "pay-back" from excess leave program is adequate. Examine and make recommendations

13 18 JUN 1969

C/S -

This is one of the best staff studies I have ever read. It has removed all my doubts, and I now unequivocally, without reservation, endorse and support our present system, with noted improvements. Let's go all-out to effect these approved improvements and fully perfect the system at the earliest practicable date. Meanwhile, in addition to the MCO in B-19, accomplish the following:

a. Staff SA to pass word informally to all our lawyers on approved concept and improvements.

b. Green LTR to Gen O's, embracing philosophy, concept, improvements and urging their support.

c. Gen O's Symposium coverage.

d. Post & Station release, or LTR to all CO's, or other means of getting basic info to all hands.

e. MC Peeler chart for tracking progress and future goals

L. F. CHAPMAN, Jr.

A. Information to all concerned.

B. 1 - AI
2 - G-1
3 - Personnel
4 - G-1
5 - Personnel - When practicable
6 - Disapproved
7 - G-1 - When practicable, at some future date, subject to study on General Officer matters, and dependent on B - 8
8 - Personnel - When practicable
9 - G-1 - When practicable
10 - Division of Reserve
11 - Personnel
12 - Personnel
13 - AI
14 - AI
15 - Disapproved
16 - G-1
17 - Personnel
18 - Personnel
19 - AI

Additional items

a - AI
b - AI
c - AI
d - AI
e - AI

HEADQUARTERS MARINE CORPS ROUTING
NAVMC HQ 335 (REV. 3-67)

DATE
6 June 1969

DATE IN	DATE OUT	INITIAL	ADDRESSEES
			COMMANDANT
			ASSISTANT COMMANDANT
			MILITARY SECY TO CMC
			CHIEF OF STAFF
			SECY OF GEN STAFF
			DC/S (PLANS & PROGRAMS)
			DC/S (MANPOWER)
			DC/S (R&D)
			DC/S (AIR)
			DC/S (ADMIN)
			G-1
			G-2
			G-3
			G-4
			DIRECTOR, ADMIN
			DATA SYSTEMS
			MCCC
			FISCAL
			INFORMATION
			INSPECTION
			PERSONNEL
			POLICY ANALYSIS
			RESERVE
			SUPPLY
			MANAGEMENT ANALYSIS GROUP
			LEGISLATIVE
			COUNSEL
			WOMEN MARINES
			STAFF DENTAL
			STAFF MEDICAL
			STAFF CHAPLAIN
			OP - 09M
			JUDGE ADVOCATE DIVISION
			SrMbr, MarCorLegSer Study Group

FROM Senior Member, Marine Corps Legal Services Study Group

TO Distribution List

SUBJECT Report of the Marine Corps Legal Services Study

REMARKS *(Entries to be dated and signed)*

C/S -

See comments & actions on pp. 108 & 109.

(For additional remarks attach plain paper)

ROUTING - Use numbers to show order of routing

OPERATION CODE

X - ORIGINATOR OR OFFICE AFFIXING ROUTING SHEET
A - FOR APPROPRIATE ACTION
B - FOR COMPLIANCE
C - PREPARE REPLY FOR SIGNATURE OF _____
D - FOR COMMENT
E - FOR RECOMMENDATION
F - FOR CONCURRENCE
G - FOR INFORMATION
H - RETURN TO _____
I - _____

INITIAL FOR FILE

DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
WASHINGTON, D. C. 20380

IN REPLY REFER TO

AK:dmb
6 June 1969

From: Senior Member, Marine Corps Legal Services Study Group
To: Commandant of the Marine Corps
Via: Chief of Staff

Subj: Report of the Marine Corps Legal Services Study

Ref: (a) CMC ltr AK:dmb of 28 Mar 1969

Encl: (1) Subject Study Report

1. The Study Group appointed by reference (a), consisting of the below officers and the undersigned, has conducted a review of future military legal services for the Marine Corps:

Major General Keith B. McCutcheon
Major General Wallace H. Robinson, Jr.
Brigadier General George C. Axtell
Brigadier General Webb D. Sawyer
Lieutenant Colonel Robert B. Thompson, Recorder

2. The Report of the Study Group is submitted herewith as enclosure (1).

L. B. ROBERTSHAW
Lieutenant General, U.S. Marine Corps

MARINE CORPS LEGAL SERVICES STUDY REPORT

OVERVIEW

A. PROBLEM. To determine the most practicable procedures for providing future legal services to the Marine Corps.

B. FACTS/DISCUSSION

1. Marine lawyer/legal services problems have been studied many times in past 13 years.

2. Similar problem areas have been repeatedly surfaced by these studies, but never fully resolved.

3. A major problem in the Marine Corps and other Armed Services has been to retain sufficient experienced lawyers to meet field grade lawyer requirements.

4. The Military Justice Act of 1968 effective 1Aug69 will further increase requirements for legal services, and for additional military lawyers, in the Armed Services.

5. Law Officers will be replaced by Military Judges who will have increased authority similar to civilian trial judges.

6. Lawyer trial and defense counsel and Military Judge will be required on SpCM BCD cases, with few exceptions.

7. Accused will be authorized to request trial by a one officer [Judge] court, both GCMs and SpCMs.

8. Navy JAG has two roles; as the DON departmental executive for legal matters and as the head of the organization which provides legal services to the Navy.

9. Marine lawyers are furnished to JAG to provide the Marine Corps' "fair share" of the overall DON legal overhead.

10. There are four flag billets in JAG; Marine lawyers are authorized by law to fill any of the billets.

11. None of the flag billets or supervisory billets in JAG are filled by Marine lawyers.

12. Laws and regulations require that legal services in the area of Military [justice] law, administrative law, legal

assistance and general counsel services be furnished for Marines and Commanders; the trend has been to further expand requirements for these services.

13. The Marine Corps court-martial workload increased by 62 percent in 1968 compared to 1965; while the Marine Corps strength increased 65 percent.

14. However, GCM cases in 1968 compared to 1965 increased 209 percent.

15. Legal assistance cases increased by 43 percent in 1968 over 1965.

16. There is a requirement for 156 additional lawyer [raw] billets, 116 additional enlisted [raw] billets and 15 civilian billets effective 1Aug69 to implement the new law during wartime [FYs 70 and 71] conditions; a total of 287 billets more than presently authorized.

17. The peacetime requirements for legal personnel will be reduced from that required 1Aug69. One hundred forty lawyers, enlisted and civilians, in addition to the present authorization, will be required.

18. Estimated present total cost of the Marine Corps legal system is almost $8,000,000. Under wartime requirements it is estimated to be slightly over $12,000,000. It will be reduced, in the post-RVN era (peacetime) to slightly under $10,000,000.

19. Military lawyers and other legal personnel must be provided to the Marine Corps from some source within DOD; the monetary costs of providing these personnel and legal services under various possible legal systems studied are not significantly different from a DOD viewpoint.

20. Lawyer procurement programs, especially the PLC (Law) Program, have been highly successful in regard to new lawyer input. There would not be an overall shortage of Marine lawyers as of 1Aug69 were it not for the new law which increased legal services required.

21. Because of the new law, there will be a Marine lawyer shortage estimated at 87 on 1Aug69 and in the range of 75-100 on 1Jul70, assuming no retention or other input, but can be reduced to about 25-40.

22. The OCC (Law) Program and other programs discussed cannot reduce the 1Aug69 shortage but can eliminate some of that anticipated on 1Jul70.

23. The input of 103 PLCs (Law) and 6 Majors from Excess Leave (Law) in FY 71 will eliminate the overall shortage and some of the field grade lawyer shortage by 1Jul71.

24. There are several lawyer retention proposals of the DOD Lawyer Study now under consideration by higher levels [DOD and the Congress]. These should materially assist in lawyer retention. Additional measures which can be taken internally by the Marine Corps can increase the retention rate.

25. The optimum legal system for the Marine Corps has certain characteristics, of which some are most vital, to the accomplishment of CMC's and the Commander's responsibilities of command.

26. Five possible Courses of Action were considered. Three were rejected after extensive consideration and deliberation of all their relative merits.

27. The other two Courses [#1-Current System and #2, All Navy System] were exhaustively analyzed and discussed.

28. Besides numerous advantages and disadvantages of each Course, several highly important key issues were surfaced and discussed as having the most influence on making a choice of legal systems.

29. Key issues are (1) legal personnel requirements; (2) lawyer procurement; (3) command, esprit and influence of lawyers on discipline; (4) leadership, and (5) effect on Marine lawyers.

30. The numbers of legal personnel will total about the same regardless of the legal system utilized.

31. If the Navy provided legal services to the Marine Corps and did not solve the lawyer procurement/retention problem, the shortfall would at the minimum be distributed to the Marine Corps.

32. Lawyers have substantial influence on the state of discipline, esprit, morale and accomplishment of the Commander's mission.

33. There is a distinct difference between the kinds of purely technical services furnished by medical officers, civil engineers and chaplains and those provided by lawyers.

34. In the execution of the responsibilities of leadership, Marine Commanders will be better able to accomplish this function so vital to the Marine Corps by advice from Marine lawyers

who think, are trained, have experienced field hardships throughout their careers the same as their Commanders.

35. The Marine Corps has a moral responsibility to keep good faith with its lawyers who have chosen to cast their careers with the Corps.

36. The Marine Corps legal system, procurement and retention programs, are functioning at least as good as that of the Navy which has serious difficulties of its own in this regard.

37. Important changes and improvements which have recently been made, will come into being in the near future, or can be made by the Marine Corps require more time to achieve favorable effects and should improve the present legal system and problems it has been experiencing.

C. KEY RECOMMENDATIONS

1. The present legal system, which can be improved by certain programs, provides the most practicable procedures for providing future legal services to the Marine Corps.

2. The duties of Marine lawyers in legal billets must be limited to those requiring a lawyer's services.

3. A general officer especially qualified in law duties should be selected for assignment to Navy JAG.

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MARINE CORPS LEGAL SERVICES STUDY GROUP
HEADQUARTERS, U. S. MARINE CORPS
WASHINGTON, D. C.

5 JUNE 1969

MARINE CORPS LEGAL SERVICES STUDY REPORT

INTRODUCTION

A. ON 28 MARCH 1969, THE COMMANDANT OF THE MARINE CORPS ESTABLISHED A STUDY GROUP TO CONDUCT AN IN-DEPTH STUDY FOR THE PURPOSE OF RECOMMENDING TO THE COMMANDANT THE MOST PRACTICABLE PROCEDURES FOR PROVIDING FUTURE LEGAL SERVICES TO THE MARINE CORPS. THE STUDY GROUP'S PRECEPT IS CONTAINED IN ANNEX A.

B. THE STUDY GROUP EMPLOYED SEVERAL METHODS IN CONDUCTING THIS STUDY.

1. DOD, DON AND MARINE CORPS STUDIES CONDUCTED FROM 1956-1969 WERE REVIEWED.

2. IN-DEPTH WRITTEN AND ORAL PRESENTATIONS WERE PROVIDED TO THE STUDY GROUP BY MARINE LAWYERS AND NON-LAWYERS COVERING A WIDE AND FULL SCOPE OF ALL THE ASPECTS BEARING ON THE PROBLEM UNDER STUDY.

3. THESE PRESENTATIONS WERE PREPARED AND GIVEN BY REPRESENTATIVES OF ALL STAFF AGENCIES WITH COGNIZANCE OVER MATTERS CONCERNING LEGAL SERVICES WITHIN THE HEADQUARTERS.

4. LAWYERS BOTH FROM THE HEADQUARTERS AND FIELD COMMANDS WERE INTERVIEWED BY THE MEMBERS OF THE FULL STUDY GROUP OR INDIVIDUAL MEMBERS.

5. NUMEROUS DOCUMENTS CONCERNING LEGAL SERVICES, AS WELL AS A WIDE RANGE OF STATISTICAL DATA, WERE STUDIED BY THE STUDY GROUP.

furnished one unless the GCM authority certifies that one is not reasonably available. Normally, if the accused is represented by a lawyer, the government should have a lawyer as the TC to ensure its interests are adequately represented.

a. Army. No significant difference.

b. Air Force. The only commander who normally convenes a SpCM is the base commander even though there may be one or more wings [commanded by colonels] resident on a base. The use of officer lawyers in the disciplinary function of the Air Force is so complete and exclusive that even the referral to trial by SpCM is done by order of the commander. The referral is actually signed by the Staff Judge Advocate wearing his other hat as the command's administrative officer. Unlike the Naval Service, Air Force SpCMs have always required the participation of officer lawyers as trial and defense counsel.

c. Navy. Procedural aspects are very much the same as those employed by the Marine Corps. There, of course, are physical differences in units of the Navy and Marine Corps. For example, small units, of which submarines and destroyer escorts are typical, are incapable of performing certain disciplinary [judicial] functions without support assistance from parent commands or other senior units whose reservoir of talent is made available. Ships at sea in the destroyer category have similar problems though less serious than in the smaller commissioned vessels. Both Navy and Marine Corps shore commands use basically the same procedures in disciplinary processing and referral to SpCM.

d. 1Aug69 Changes. In the event the GCM authority has supplied Judge Advocates as TC and DC and a Military Judge, the SpCM convening authority will supply at least a three officer court panel. After the accused and his counsel are aware of the identity of the Military Judge, the accused may request to be tried by the Military Judge alone, sitting as one officer court. If the Military Judge concurs, he will hear the case, determine guilt or innocence and if found guilty, adjudge an appropriate sentence. If the accused does not request to be tried by the Military Judge alone, the trial will be held under relatively the same procedures as pre-1 August 1969. Significant changes are in the rulings on motions, admission of evidence, acceptance of pleas and instructions to court, all of which will now be the responsibility of the Military Judge. The review process will be the same.

6. CA and SA Action on SpCM. The SpCM is acted upon by the CA [after advice of his Battalion/Group Legal Officer, a non-lawyer]. The GCM authority takes SA's action on the case after advice by his Staff Judge Advocate [a lawyer]. In the case of non-BCD SpCMs, the SA's action is the final review.

a. Army. No significant difference.

b. Air Force. Each base, regardless of its size, has at least a staff judge advocate and may also have a fairly large complement of officer lawyers, depending on the size of the base. Air division commanders, although in the operational chain of command, do not participate in the court-martial review system. The first legal review occurs at the numbered Air Force command [GCM level] in the chain of review. Upon completion of a SpCM trial, convened by a base commander, there is a cursory legal review by the staff judge advocate. He does conduct, however, a very extensive clemency review, consisting of a sociological analysis of the particular offender and his future potential for service.

c. Navy. No significant difference, except that the case is processed at a Navy Law Center.

d. 1Aug69 Changes. None.

7. Appellate Review of SpCM. A BCD SpCM is then reviewed by a Board of Review [three or more lawyers] in the Office of the JAG of the Navy. Government and accused are represented, without cost to the accused, by lawyer appellate counsel. [In civilian criminal law cases, the accused bears the costs of counsel and transcripts for appellate reviews.] Marine lawyers serve on the Boards of Review as members and as Appellate Counsel. The case may then be appealed to the Court of Military Appeals [COMA] [three civilian judges appointed by the President for ten year terms.]

a. Army. Generally similar to the Marine Corps.

b. Air Force. The chain of review is from a base commander to a numbered Air Force and then to the JAG of the Air Force. Higher headquarters such as SAC and TAC are by-passed. Those commands play no role in the court-martial chain unless an offense occurs in one of their headquarters.

c. Navy. No difference from the Marine Corps.

d. 1Aug69 Changes. None.

8. Article 32 Investigation. In lieu of Article 15, SCM or SpCM, the SpCM CA may refer the case to an Article 32 Investigation. The investigating officer is a non-lawyer but is an experienced officer. The accused is represented by a lawyer counsel. The findings and recommendations of the Article 32 Investigation, with the CA's recommendation, are forwarded to the CM authority for disposition.

a. Ar y. Same as the Marine Corps.

b. Air Force. Same as the Marine Corps.

c. Navy. Same as the Marine Corps.

d. 1Aug69 Changes. None.

9. GCM Referral/Review. Should the GCM authority refer the case to trial by GCM, lawyers are assigned to the case as TC and DC. The case is heard by at least five officers, the majority of whom are senior officers, and a Law Officer [a lawyer] who advises the President and the other Court members and renders legal opinions and decisions. The Law Officer is an independent judiciary officer who works for JAG as part of the Navy-Marine Corps Judiciary Activity. Although he is based at, and logistically supported by, a Marine Corps field command, the GCM authority has no control over the Law Officer. His fitness reports are marked by the JAG of the Navy. The record of trial by GCM is reviewed by the Staff Judge Advocate [a lawyer] and, after the CA's action by the GCM authority, is forwarded to Navy JAG for review by a Board of Review which acts as the SA. Appellate review of a GCM is conducted by COMA. The government and accused are represented by counsel at both the Board of Review and COMA.

a. Army. Generally the same as the Marine Corps.

b. Air Force. GCMs are convened by a numbered Air Force. The chain of review is from the numbered Air Force to the Office of the JAG of the Air Force. The Air Force has not established a judiciary program under the UCMJ. Their establishment of a full time judiciary system under the 1968 Act is, therefore, a new experiment. The Air Force has, of course, the distinct advantage of immediate, rapid transport and the Air Force JAG intends to service all major air force commands from centralized judiciary offices. Judges for GCMs within CONUS, Greenland and Alaska will probably all be provided by the Judiciary Office at Bolling Air Force Base.

c. Navy. GCMs are convened, tried and processed at the Navy Law Center. No other major difference from the Marine Corps.

d. 1Aug69 Changes. There will be no changes to the referral to GCM. However, procedural rules for the trial of GCM will now allow trial by the one officer [Military Judge] court and vest the power to make rulings and hold pre-trial hearings in the Military Judge. The additional authority in the Military Judge will expedite both special and general courts-martial. At present, a percentage of all special and general courts-martial [estimated as high as 40% in some

commands] are guilty pleas wherein the accused expresses a desire for a punitive discharge. These individuals will normally request the one officer [Military Judge] court and the plea can be accepted rapidly. The number of stipulations between counsel can be expected to increase as counsel are aware that the issued will be settled by the trained Military Judge out of the hearing of court members and possibly even before the court is called.

C. MILITARY LEGAL SERVICES

1. General. Legal services are provided to Commanders, military tribunals, Marine Corps staff agencies, administrative boards and commissions, individual Marines, their authorized dependents and, on a selective basis, to retired servicemen and their dependents. These services can be generally grouped into four categories: (1) Military Law; (2) Administrative Law; (3) Legal Assistance, and (4) General Counsel Services to Commanders. Additional details on these services can be found in Annex D [Legal Service/Function Chart].

2. Military Law

a. Legal Advice. To persons accused of crime, to commanders on crime and to investigative agencies.

b. Counsel. For accused at Article 32 Investigations, at courts-martial [trial and defense], Boards of Review, Naval Clemency and Parole Board hearings, physical evaluation boards and disability retirement boards.

c. Investigations. Article 32 investigating officers and review of all types of investigations for the Commander. Counsel for court and parties at Courts of Inquiry.

d. Law Officers. Advice and legal opinions for GCM panels. [One-officer (Military Judge) trials, when requested by accused, after 1Aug69.]

e. Staff Judge Advocates. Review of courts-martial and appeals of NJP.

f. Boards of Review. Members on Boards of Review in JAG.

3. Administrative Law

a. Claims. Adjudicate foreign claims in overseas areas, Federal Tort claims up to $5,000, personal claims and military claims. Assert Medical Care Recovery Act claims in behalf of the United States.

b. Administrative Discharges. Recorder and counsel for the respondent before discharge boards. Review administrative discharge board reports for Commanders.

c. Legal Training. Provide general training lectures and legal handouts to members throughout commands. Conduct training lectures for non-lawyer counsel, battalion legal officers, CID and brig personnel. Provide OJT and

informal school training for court reporters and legal clerks concerning the conduct of trials and transcription of records.

d. Inspections. Inspect battalion/group legal records and procedures. Furnish advice to subordinate court-martial convening authority Commanders.

e. Review of Directives. Conduct review of proposed DOD and DON directives and prepare Marine Corps positions thereon. For all Commanders, review proposed command directives for legality. Draft directives relating to the law and related matters.

f. Hearings. Represent CMC in connection with legal matters, or as witness before appropriate committees at the DOD, DON, congressional and national levels, American Bar Association and local bar associations.

g. Legislation. Review legislation pending in Congress and prepare the Marine Corps position on each appropriate bill. Prepare proposed Marine Corps legislation, when directed.

h. Liaison. With national and local law enforcement agencies, prosecutors and attorneys.

i. Miscellaneous

(1) Review of drug abuse cases, sexual deviate cases, officer misconduct and punishment cases, letters of indebtedness, paternity cases and fraudulent enlistments.

(2) Process congressional inquiries relating to disciplinary matters.

(3) Administer and review absentee and deserter cases.

(4) Represent the Marine Corps on administrative committees such as Gun Control Study Group, Commercial Affairs Study Group, POW/MIA Committee, etc., both at HQMC and local command levels.

4. Legal Assistance

a. Wills. Preparation.

b. Powers of Attorney. Preparation.

c. Taxes. Assistance on federal and state tax returns.

d. Personal. Counselling on domestic relations, adoptions and other personal problems.

e. Advice. Legal advice concerning automobiles, chattels [personal property], installment sales contracts, estate administration, insurance, landlords and tenants, citizenship, insanity, real estate, personal injuries and property damage.

5. General Counsel Services to Commanders

a. Legal Advice

(1) Installation relations with all levels of local and state governments; regulatory bodies; Federal agencies in the local areas.

(2) Jurisdiction of installation over persons and property on and off the installation.

(3) Installation plans and policies regarding civilian employees.

(4) Personal financial transactions, automobile registration, state and local tax laws.

b. Boards

(1) Membership on, and advice to, base traffic courts, local brig clemency boards and labor-management boards.

(2) Counsel for nonappropriated fund activities.

(3) Navy Relief Society.

c. Liaison. With local courts, prosecuting attorneys, law enforcement agencies, and regulatory boards.

d. Civil Rights. Review of cases and reports under the Civil Rights Act.

e. General Law Services. Criminal, tort, commercial, legislative, regulatory, contract, conflicts of law, tax, real estate, motor vehicle and labor matters.

D. LEGAL WORKLOAD

1. Military Law

a. Investigations. An estimated 1,479 investigations were processed throughout the Marine Corps during CY 68. Assuming that each investigation was reviewed for the Commander by only two Marine Judge Advocates, this is an average of 13 investigations per year per each judge advocate. Review of investigations is, of course, only one function of a judge advocate. Similar data on investigations during prior years is not available.

b. Courts-Martial

(1) Quantity. Marine Corps Judge Advocates processed courts-martial cases during CY 65 - CY 68 as follows:

CY	GCM	SPCM (BCD)	SPCM (Non-BCD)	SCM	TOTAL CM
1965	204	1,073	3,547	3,516	8,340
1966	213	920	3,808	3,658	8,599
1967	382	1,041	5,668	5,056	12,147
1968	631	1,333	6,425	5,133	13,522

(2) Analysis of Courts-Martial Workload

(a) GCM

1. Assuming that every GCM required participation of five full time lawyers [Law Officer, Trial and Defense Counsel, Staff Judge Advocate and one of the other lawyers on his staff] for the major portion of each case, each Marine Judge Advocate was on the average involved in 10.8 GCM cases during CY 1968.

2. The total strength of the Marine Corps in 1965 was 190,000, while in 1968 it was 313,000; an increase of 65 percent. The GCM case workload in 1965 was 204 cases and in 1968 it was 631 cases; an increase of 209 per cent.

3. Based on the above data, there were 1.07 GCM cases per 1,000 Marines in 1965 compared to 2.02 GCM cases per 1,000 in 1968.

(b) SPCM

1. It is not possible to estimate the number of SPCMs in which JAs participated during 1968. JAs acted as DC in a large number of the more serious type of

SPCMs, when requested by the accused and when available.

2. SPCM (BCD) cases increased by only 24 percent over the four year period.

3. SPCM (non-BCD) cases tried in 1968 were almost double the number tried in 1965.

(c) SCM. JAs rarely, if ever, acted as the SCM officer - but each SCM was reviewed by at least one JA in the GCM authority Staff Judge Advocate's office prior to the SA's action. There was a 46 percent increase in SCMs in 1968 compared to 1965.

(d) All Types of Courts-Martial. The overall increase in the total number of courts-martial in 1968 as compared to 1965 was 62 percent.

2. Administrative Law

a. Workload data. Statistical summaries of the administrative law workload are not available, nor could most of this type of legal service be quantified due to the nature of the work.

b. Administrative Discharges. During the six months from 30Jun68 - 31Dec68, 2,535 enlisted Marines and 14 officers were administratively processed for separation. The 2,535 enlisted Marines were separated by reason of:

(1) Unsuitability. 1,927

(2) Unfitness. 293

(3) Misconduct/Undesirable. 315

3. Legal Assistance

a. Workload. Marine judge advocates and non-lawyer legal officers throughout the Marine Corps [less Marine activities furnished legal services by Navy commands] processed the following numbers of legal assistance cases during CY 65 - CY 68:

CY	Legal Assistance Cases
1965	51,602
1966	59,138
1967	62,996
1968	73,735

b. Details. See Annex E for detailed statistics.

c. Increase. There was an increase of 43 percent in such cases in 1968 compared to 1965.

4. General Counsel Services to Commanders. This type of law cannot be measured quantitatively.

E. LEGAL PERSONNEL REQUIREMENTS

1. Officers

a. General Officers

(1) Billets. There are four General officer lawyer billets which may be filled by Marine Corps Generals.

(a) Major General, Judge Advocate General of the Navy. Title 10, U.S. Code, Section 5148 [as amended] provides that the Judge Advocate General of the Navy shall be appointed from judge advocates of the Navy or the Marine Corps who are: members of the bar of a Federal Court or the highest court of a state or territory, and have had at least eight years of experience in legal duties as commissioned officers. The JAG of the Navy is entitled to the same rank as provided for chiefs of bureaus in Section 5133 of Title 10 [e.g. Rear Admiral (upper half) or Major General].

(b) Major General, Deputy JAG of the Navy. Public Law 90-179, 90th Congress, 8Dec67, stated that "a judge advocate of the Navy or Marine Corps who has the qualifications prescribed for the Judge Advocate General in Section 5148 (b).....[of this title] shall be detailed as Deputy JAG of the Navy. While so serving, he is entitled to the rank and grade of Rear Admiral [upper half] or Major General, as appropriate....."

(c) Brigadier General/Assistant JAG of the Navy. The same law which established the billet of the Deputy JAG of the Navy provides that "A judge advocate of the Marine Corps who has the qualifications prescribed for the Judge Advocate General....may be detailed as Assistant Judge Advocate General of the Navy. While so serving, he is entitled to the rank and grade of brigadier general.

(d) Brigadier General, Director, Judge Advocate Division, HQMC. HQMC T/O provides for one Brigadier General, MOS 9903, on line 77P, to fill the billet of Director, Judge Advocate Division. There is no statutory or other criteria established by regulation at present which prescribes the qualifications for this Brigadier General billet.

(2) Legislative Assistant. The billet of legislative Assistant to CMC [BGen] is not a specific lawyer billet but may be filled by any unrestricted brigadier general. However, the knowledge of law attained by a lawyer during his career would, of course, be especially valuable in this billet, providing he was otherwise qualified and selected for promotion as an unrestricted brigadier general.

(3) JAG Flag Billets. At present, none of the Navy JAG flag billets are filled by Marine General officer lawyers. The Navy JAG and Deputy JAG billets are filled by Navy Rear Admirals and the two Asst JAG billets are filled by Navy Captains. By his letter of 13 May 1968 to all Navy and Marine Judge Advocates, the JAG of the Navy stated that it is expected that a Marine Judge Advocate will be assigned to one of the Asst JAG billets when the Marine Corps has an officer of sufficient rank available for the position. The JAG also stated that "he hoped the ceiling on flag and general officers in the armed services will ultimately be amended to permit the assignment of Navy and Marine Corps officers to serve as Assistant JAGs with the rank of rear admiral and brigadier general."

(4) Director, JAD Billet. A Colonel is assigned to this billet.

b. Marine Lawyer Billets at Navy Activities

(1) T/O billets for Marine lawyers are established in the Office of JAG, the Navy Appellate Review Activity [as members and appellate counsel of Boards of Review] and the U.S. Navy-Marine Corps Judiciary Activity. A few T/O billets are also authorized at some Naval Districts and the Naval Justice School. A breakdown of T/O billets for Marine lawyers at Naval Activities, at present and to meet 1 Aug 69 [wartime], Military Justice Act of 1969, requirements is shown below:

NAVY ACTIVITY	Present T/O	1Aug69 T/O
(a) Office of JAG	10	7
(b) Navy Appellate Review Activity	6	6
(c) Navy-Marine Corps Judiciary Activity	6	6
(d) Naval Districts	6	16
(e) Naval Justice School	1	4
TOTAL	29	39

(2) There are 12 Law Officers in the Navy-Marine Corps Judiciary Activity System. They are located at Washington, D.C. and seven field offices [Norfolk, Camp Lejeune, Great Lakes, San Diego, Camp Pendleton, Yokosuka and Danang]. The Marine Corps provides 6 [para b.(1)(c) above] of the 12 Law Officers based on trial workload. Navy JAG is the fitness reporting senior for all 12 Law Officers.

(3) Internal assignments of Marine judge advocates assigned to JAG are controlled by the Navy JAG. At present, no Marine Judge Advocate is assigned to any supervisory billet over an element of JAG. [This has generally been the custom within JAG in the past.]

c. Judge Advocates

(1) Present Raw Billets/Inventory

(a) Total

1. Billets. Current Marine JA billet requirements total 219, not including sustaining [non-available and rotation] factors.

2. Navy JAG. The 29 Marine JA billets in Navy JAG are included in the 219 billets.

3. Breakdown. A breakdown by grade of the billets is in Annex F.

4. Inventory. As of 5May69, there were 292 designated judge advocates to fill the 219 billets - an overage [on paper] of 73 JAs.

(b) Field Grade Billets/Inventory. 109 field grade billets are included in the total. The 5 May 69 inventory of field grade lawyers was 79 - a shortage of 30.

(c) Company Grade Billets/Inventory. There are 212 Captains/Lieutenants, as of 5May69, to fill 109 billets - an overage of 103.

(2) 1Aug69 [Wartime] Requirements [Military Justice Act of 1968]

(a) Total

1. Requirements. Billet requirements for JAs to meet 1Aug69 requirements for legal services have been determined to be 375 [raw billets] plus 68 non-availables [to account for the required attendance of all Capt/Lt lawyers at the Basic School and Naval Justice School; and of field grade lawyers at professional schools]; and a factor of 19 additional lawyers [applied to lawyers who remain on active duty beyond their obligated service] for rotation out of legal billets on a one tour out of three basis. The total requirement is thus 462. The 375 raw billet requirement represents an increase of 156 over the present raw billet structure of 219.

2. Status of Increase. The approval of these additional 156 T/O structure spaces is currently the subject of classified memoranda dialogue between CMC, SecNav/ASD (SA) and DepSecDef. For purposes of this Study, it is sufficient to note that 108 of the additional 156 spaces are for non-SEA billets.

3. Projected Inventory. It is estimated that there will be 288 designated JAs on board on 1Aug69 to meet the total billet requirements for 375 JAs - a shortage of 87 JAs.

(b) Field Grade Requirements/Inventory. 165 field grade JAs are required beginning 1Aug69. The projected inventory is 70 field grade JAs - a shortage of 95.

(c) Company Grade Requirements/Inventory. 209 company grade JAs will be needed to meet the 1Aug69 requirements. An estimated 217 will be on hand; an overage of 8.

(3) Peacetime Requirements [Military Justice Act of 1968]

(a) Total

1. Requirements. 273 raw billets plus a sustaining factor of 78, for a total of 351 JAs of all grades, will be required to meet Marine Corps peacetime requirements for legal services. The 273 raw billets would require an increase of 54 over the present 219 raw billets.

2. Projected Inventory. Not available.

(b) Field Grade Requirements. 129 field grade JAs [12 additional raw billets over the present 109 billets plus a sustaining factor of 8] are needed to meet post-RVN requirements under the Military Justice Act of 1968.

(c) Company Grade Requirements. 221 company grade JAs [42 additional raw billets over the present 109 billets plus a sustaining factor of 70] will be required.

(4) Lawyer Ratio

(a) 1958 American Bar Ratio. In about 1958, the American Bar Association Committee on Lawyers in the Armed Forces indicated that the ratio of lawyers for armed services personnel should be about 1.5 lawyers per 1,000 personnel strength. This was based on considerations submitted by the Army, Navy and Air Force. This ratio probably is no longer valid since it was based on pre-Vietnam data and prior to enactment of the Military Justice Act of 1968 which will greatly increase the legal services performed by lawyers. The ratio also does not take into account subsequent judicial decisions and additional administrative law requirements subsequent to 1958 which have increased the legal services which lawyers must perform.

(b) Comparison. Nevertheless, as a point of comparison, the 1.5/1,000 ratio applied to present lawyer billet and on-hand strengths, 1Aug69 billet requirements and post-Vietnam peacetime billet requirements would result in the following:

Item	Lawyer Billets/Strength	MarCor Strength	Ratio Per 1,000
Present Billets	219	314,000	.697
5May on-hand JA Strength	292	314,000	.93
1Aug69 Billet Requirements	375	314,000	1.19
Peacetime Billet Requirements	273	203,600	1.34

The above computations indicate that the lawyer billet structure, in spite of the substantially increased requirements for legal services in the past 11 years, has not [and will not] exceed the 1958 American Bar Association ratio of 1.5/1,000.

d. Non-Lawyer Legal Officers

(1) Precise information on the number of non-lawyer legal officer billets throughout the Marine Corps is not readily available.

(2) However, approximately 22 full time unit legal officer billets and 40 part time unit legal officer billets have been identified.

(3) The 22 T/O legal officer [non-lawyer] billets are authorized primarily at small commands which do not have Staff Judge Advocates or other lawyer billets, with unusually large disciplinary workloads. The T/O billet of Legal Officer, MB, Brooklyn, as a primary duty is an example.

(4) The 40 part time billets are filled by non-lawyer legal officers, generally on an additional duty basis, with the primary duty usually being as the Unit S-1/Adjutant. The T/O billet of S-1/adjutant/Legal Officer in all Direct/Support Artillery Battalions in the FMF [11 such T/O billets] is an example. Another is that of the Unit Legal Officer for Hq & Hq Squadron, MCAS, El Toro, California.

2. Enlisted Legal Personnel

a. Present Billets/Inventory

(1) Total

(a) Billets. The present enlisted legal T/O raw billet structure authorizes 619 billets, divided between MOS 0121 [Legal Clerk] with 295 billets and MOS 0122 [Legal Reporter] with 324 billets.

(b) Breakdown. Annex F contains a breakdown by grade of the billets.

(c) Inventory. As of 22Mar69, there were 548 enlisted legal personnel to fill the 619 raw billets - a shortage of 71.

(2) SNCOs. Current T/Os authorize 143 SNCOs in MOSs 0121 and 0122. There were 116 SNCOs in these MOSs on hand as of 22Mar69 - a shortage of 27.

(3) SGTS/Below. There are 476 enlisted legal T/O raw billets for Sgts/below with 432 on hand to fill the billets - a shortage of 44. MOS 0121 has an overage of 128 Sgts/below. To fill 308 Sgts/below [raw] billets in MOS 0122, there are only 136 Sgts/below - a shortage of 172. This shortage is partially alleviated by utilizing much less skilled legal clerks, from the overage in that MOS, in court reporter billets.

b. 1Aug69 [Wartime] Requirements [Military Justice Acto of 1968]

(1) Total Requirements. 743 enlisted legal personnel [357 in MOS 0121 and 386 in MOS 0122] are required to implement the Military Justice Act of 1968 beginning 1Aug69.

(2) Increase. An increase of 116 enlisted [raw] billets [divided equally at 58 each for MOSs 0121 and 0122] and a sustaining factor of 8, total of 124 personnel, are required effective 1Aug69. The total requirement of 743 includes this 124 increase.

(3) Justification

(a) The increased requirements for legal services as a result of the Military Justice Act of 1968 coupled with the increasing workload of GCM and SpCM court-reporting requires that additional legal clerks and court reporters be authorized.

(b) Coinciding with this increased workload, the administrative and other clerical responsibilities of enlisted legal personnel are expected to expand to a substantial degree.

(c) The addition of Military Judges and counsel to handle the new trial responsibilities will increase court reporting requirements for enlisted legal personnel.

c. Peacetime Requirements

(1) Total Requirements. 690 enlisted legal

personnel [332 in MOS 0121 and 358 in MOS 0122] are required to assist judge advocates with handling the administration of military justice for the Marine Corps during peacetime conditions.

(2) Increase. An increase of 71 enlisted legal personnel [66 raw billets and a sustaining factor of 5] is required under peacetime conditions.

(3) Justification

(a) The substantially increased requirements, under the Military Justice Act of 1968, for legal services will preclude reduction of the enlisted legal structure completely back to the pre-war or even the currently existing levels after the Vietnam war ends.

(b) It is anticipated that the ever increasing court-martial, investigation, administrative discharge case and legal assistance workload will not decrease to pre-Vietnam levels after the war ends. The trend in court decisions and new legislation is to extend the protection of law [and increase legal services required] to additional areas, not reduce legal services, legal rights and benefits for military personnel.

3. Civilian Legal Personnel

a. Present Billets. The present civilian personnel allowance for the Marine Corps includes 65 civilian billets in the legal, or legal associated field. The 65 billets include 2 lawyer billets, both at HQMC [Judge Advocate Division and Personnel Department]. Fifteen of the billets are for Closed Microphone Reporters. The remainder of the civilian employees are utilized primarily as Legal Stenographers and Legal Clerk-Typists.

b. Grades and Locations. The Civil Service grades of these 65 employees range from GS-2 through GS-13 [See Annex F]. The billets are primarily authorized at HQMC and major commands [MCSC, Albany; MCSC, Barstow; MCRD, San Diego; MCB, Quantico; MCB, Camp Lejeune and MCB, Camp Pendleton.]

c. Increase. An additional 15 civilian legal billets have been requested to meet 1Aug69 requirements for legal services, for a total of 80 civilian legal billets.

4. Total Legal Personnel Requirements/Costs

a. a. General. A recapitulation of the below cost data is contained in Annex G. The Office of the Fiscal Director of the Marine Corps informed the Study Group that to the best knowledge of that office, similar cost data for another specific occupational field had never been computed.

b. Present Requirements/Costs

(1) Personnel. 219 lawyers [raw billets], 619 enlisted [raw billets] and 65 civilians, a total of 903 personnel, are required to provide all legal services to the Marine Corps.

(2) Costs

(a) P&A - Total P&A per year for the 903 personnel is $6,677,000.

(b) Procurement - Total cost of procuring 60 lawyers [@ $111.00 each] and 146 enlisted legal personnel [@ $165.10 each] per year [to replace attrition] is estimated at $24,104.60. Replacement cost of civilian legal personnel cannot be estimated; it is probably a very minor cost in view of the small numbers [65] of such employees and the usually longer tenure of each.

(c) Training - Total cost of training 60 PLCs (Law) [@ $3,105 each for PLC Jr. and Sr. Courses and $9,490 each for Basic School] and 146 enlisted legal personnel [@$2,036.30 per recruit trained] is $1,052,999 per year.

(d) Facilities - The estimated annual maintenance, custodial and utilities costs for legal offices, based on an estimated 101,561 sq.ft. of space required for 903 legal personnel, is $76,171.00.

(e) Cooks/Messmen. The Criteria Manual provides for 5 cooks to prepare 145 or less meals per day and for one PFC/PVT messmen per 30 Marines. Whether Marine legal personnel, Navy legal personnel, or some combination, were providing legal services, the messing facility would be required to provide approximately the same number of meals. In any event, since the number of personnel assigned to any one legal section is relatively small in proportion to the total size of the organization, it is not practicable to assign an imputed cost of legal personnel to the cooks/messmen requirement.

(f) Medical Support. Total cost of providing medical support for 903 personnel [estimated at $80.00 annually per individual - officer and enlisted only] is approximately $67,040 per year.

(g) Clothing Costs. Total cost of clothing issued to 60 PLCs (Law) at training courses is an estimated $6,120 per year. Similar information on enlisted [legal] recruits was not provided to the Study Group.

(h) Retirement Accrual. The annual retirement accrual cost factor for officer-lawyers [estimated 4 Colonel JAs @ $4,266 each and 3 LtColonel JAs @ $3,369 each] and enlisted legal personnel [estimated 4 MSgts @ $2,101 each and 6 GySgts @ $1,761 each] is approximately $46,141 per year.

(i) Travel Costs. The Fiscal Director of the Marine Corps provided average estimated costs per individual of travel, dependent's travel, transportation of household goods and dislocation allowance in five different categories to the Study Group. While a detailed study of the number of personnel, their marital status, duty stations and destinations, etc., could have been made, it was considered unnecessary and beyond the scope of this Study to conduct such a detailed, time-consuming analysis. It is considered sufficient to note that such travel expenses will have to be borne by DOD regardless of the Course of Action for providing legal services to the Marine Corps which is ultimately adopted.

(j) Total Costs. $7,949,575 per year.

c. 1Aug69 [Wartime] [Military Justice Act of 1968] Requirements/Costs

(1) Personnel. 375 lawyers [raw billets] 743 enlisted and 80 civilians; a total of 1198 personnel, are required effective 1Aug69 [during wartime conditions] to provide legal services.

(2) Costs

(a) P&A. Total P&A per year for the 1198 personnel is $10,103,000.

(b) Procurement. Total cost of procuring 100 [60 PLCs (L) and 40 OCs (L)] lawyers [@ $111.00 each] and 213 enlisted legal personnel @ $165.10 each] per year [to replace attrition] is estimated at $46,266.30

(c) Training. Total cost of training 60 PLCs (Law) [@ $3,105 for PLC (Jr. and Sr. Courses)]and 40 OCs (Law) [@ $4,215 for OCC] plus Basic School training for 100 officer-law ers [@ $9,490 each] and 213 enlisted legal personnel [@ $2,036.30 per recruit trained] is $1,737,631 per year.

(d) Facilities. The estimated annual maintenance, custodial and utilities costs for legal offices, based on an estimated 129,600 sq.ft. of space required, for 1198 legal personnel is $97,400.

(e) Cooks/Messmen. No imputed additional costs.

(f) Medical Support. Total cost of providing medical support for 1198 personnel [estimated at $80.00 annually per individual - officer and enlisted only] is approximately $89,440 per year.

(g) Clothing Costs. Total cost of clothing issued to 60 PLCs (Law) [@ $102 each] and 40 OCs (L) [@ $141 each] at training courses is an estimated $11,760 per year.

(h) Retirement Accrual. The annual retirement accrual cost factor for officer-lawyers [estimated 5 Colonel JAs @ $4,266 each and 10 LtCol JAs @ $3,369 each] and enlisted personnel [estimated 5 MSgts @ $2,101 each and 8 GySgts @ $1,761 each] is approximately $79,613 per year.

(i) Travel Costs. Not computed.

(j) Total Costs. $12,165,110 per year.

d. Peacetime [Military Justice Act of 1968] Requirements/Costs

(1) Personnel. 273 lawyers [raw billets], 690 enlisted and 80 civilians, a total of 1043 personnel, will be required during peacetime [post-RVN era] conditions.

(2) Costs

(a) P&A. Total P&A per year for the 1043 personnel is $8,610,000.

(b) Procurement. Total cost of procuring 60 lawyers [@ $111.00 each] and 172 enlisted legal personnel [@ $165.10 each] per year [to replace attrition] is estimated at $35,057.

(c) Training. Total cost of training 60 PLCs (Law) [@ $3,105 each for PLC Jr. and Sr. Courses and $9,490 each for Basic School] and 172 enlisted personnel [@ $2,036.30 per recruit trained] is $1,105,943 per year.

(d) Facilities. The estimated annual maintenance, custodial and utilities costs for legal offices, based on an estimated 110,039 sq.ft. of space required for 1043 legal personnel is $82,535.

(e) Cooks/Messmen. No imputed additional costs.

(f) Medical Support. Total cost of providing medical support for 1043 personnel [@ $80.00 annually per individual-officer and enlisted only] is approximately $77,040 per year.

(g) Clothing Costs. Total cost of clothing issued to 60 PLCs (Law) at training courses is an estimated $6,120 per year.

(h) Retirement Accrual. The desirable retention rate of lawyers in peacetime is 10 lawyers per year group. Therefore, in the future [peacetime], there would be approximately 10 lawyers per year eligible for retirement [assume 5 would retire as Colonels and 5 as LtColonels]. The peacetime enlisted legal structure provides a total of 56 GySgts through MGySgts. It is assumed that about 20% of these on the average retire each year [i.e. 10; 1 MGySgt, 4 MSgts and 5 GySgts]. Accordingly, the annual retirement accrual cost factor would be approximately $55,384.

(i) Travel Costs. Not computed.

(j) Total Costs. $9,972,079 per year.

F. LAWYER PROCUREMENT

1. Captain/Lieutenant Lawyers

a. General

(1) Current lawyer procurement results indicate that sufficient new lawyers can be obtained to meet the present billet reqiirements. The PLC (Law) Program is a highly attractive one, regardless of the requirement for these lawyers to obligate themselves for four years with a guarantee of assignment to legal duties, if the lawyer so requests.

(2) Projected lawyer procurement data is favorable. Some law school students are being turned down for enrollment in the PLC (Law) Program for accession to active duty during FYs 71-73. The present PLC (Law) quotas for FYs 71 and 72 are already over-subscribed by 50 percent per FY.

b. FY 70

(1) Quota. 100 [60 PLC (L) and 40 OC (L)].

(2) Results. 67 [65 PLC (L) commissioned and in law school, 2 PLC (L) under contract and in law school]. An additional 49 lawyers are being procured through the OCC (L) Program for the 61st OCC [convenes 1Sep69] through the 67th OCC [convenes 2Mar70]. Providing this quota is met, 116 lawyers [67 + 49] will become accessions. With a 16 percent attrition rate, a net of 100 new JAs should be designated during FY 70.

c. FY 71

(1) Quota. 60 [all PLC (L)]. [OC (L) quotas to be determined later.]

(2) Results. 103 [66 PLC (L) commissioned, 37 PLC (L) under contract.]

d. FY 72

(1) Quota. 60

(2) Results. 91 [50 PLC (L) commissioned, 41 PLC (L) under contract].

e. FY 73

(1) Quota. 60

(2) Results. 67 [1 PLC (L) commissioned, 66 PLC (L) under contract].

2. Field Grade Lawyers

a. Problem. An important problem in fulfilling requirements for legal services in the Marine Corps [and in the other services as well] is the procurement [and retention] of experienced field grade lawyers.

b. Procurement Programs

(1) Excess Leave (Law). In June 1967, MCO 1050.14 established the Excess Leave (Law) Program by which regular officers [or reserve officers who agree to accept regular commissions] could be granted up to 3 1/2 years excess leave, without P&A, to obtain law degrees.

(a) Results

1. Six Marine officers are now in the second year of law school. Estimated graduation is in June 70 and return to active duty as Majors in Nov 70.

2. Nine Marine officers are now in the first year of law school. Estimated graduation is in June 71 and return to active duty as Majors in about Nov 71.

3. Seven Marine officers [now on active duty] have applied for admission to the Excess Leave (Law) Program, to begin law school in Fall 69. All appear to be fully qualified and their participation in the program is pending selection results [review of their records] at the HQMC level.

(2) Return of Reserves to Active Duty. In Dec 68, a continuing program to request reserve officer lawyers to return to active duty was initiated. The reserve officer's choice of duty station is granted as an inducement, whenever practicable.

(a) Results. Six experienced reserve lawyers [one colonel, one lieutenant colonel, one major and three senior captains]have volunteered since Dec68 to return to active duty in response to this program.

c. Retention. The field grade retention problem will be covered below.

G. LAWYER RETENTION

1. Background. The matter of retaining experienced lawyers, after their initial tours of duty, has been repeatedly studied by AC/S, G-1, the former Discipline Branch, HQMC [now Judge Advocate Division], the DOD Lawyer Working Group [Study completed in Oct 68] and recently by the G-1 Study of Mar 69.

2. Retention Measures Implemented. A number of recommendations of these numerous study groups have already been implemented, insofar as Marine lawyers are concerned. These retention measures now in effect are:

a. Commissioned Service Constructive Credit. Constructive credit for time spent in law school is authorized for promotion purposes, but not for pay purposes.

b. Promotion. Selection opportunity is at least equal to that afforded other unrestricted officers. Selection Boards are given special instructions on lawyers which guarantee lawyers at least the same selection opportunity as unrestricted line officers.

c. Primary Legal MOSs. All officers with law degrees who request a primary legal MOS are given one. PLCs (L) are guaranteed that their first assignment will be in legal duties, if they so request. OCs (L) are guaranteed assignments to legal duties. Conversely, any law graduate is allowed to request non-legal duties.

3. DOD Lawyer Study Recommendations. Several of the recommendations of the DOD Lawyer Working Group are now in various stages of processing [i.e. legislation, etc.]. The more significant of these are:

a. Retention incentive pay.

b. Variable Continuation Pay.

c. Longevity Constructive Service Credit for pay purposes.

4. Retention Rate

a. Goal. The DOD Lawyer Study set a goal of 20 percent retention of first-term lawyers during peacetime.

b. Present Results. 11.9 percent of Marine lawyers [10 of 84 in year group 1961 who came on active duty in 1964] are being retained in the Marine lawyer career structure beyond their first tours [for a total of five years or more of active duty].

H. LEGAL TRAINING/EDUCATION

1. Quotas. Requirements for quotas to lawyer and legal courses are identified to the AC/S, G-3 by the Judge Advocate Division. The ACofS, G-3 requests quotas of the appropriate schools in the numbers required by JAD, except in the cases of the Camp Pendleton courses, for which quotas are fixed. Normally, quotas are allocated in the numbers requested, although the Chief of Naval Personnel allocated only 120 quotas for 150 identified requirements for FY 70 in the Military Justice Course [Lawyer] at Newport. Negotiations with BuPers are presently being conducted to obtain the additional 30 quotas.

2. Officer Courses. Judge Advocates and non-lawyer legal officers are given additional legal training by utilization of the below courses:

Courses	Location	Length(wks)	Quotas FY69	Quotas FY70
Military Justice Crs [Lawyer)	Naval Justice School Newport, R.I.	7	100	120
Military Justice Crs [Non-lawyer]	Naval Justice School Newport, R.I.	7	100	88
*Military Justice Crs [Non-lawyer]	Marine Corps Base Camp Pendleton, Calif	7	60	60
Defense Lawyer for Criminal Cases	Northwestern University	2	15	15
Prosecuting Attorney	Northwestern University	2	15	15
Law in Vietnam	US Army JAG School Charlottesville, Va.	1	7	
Military Judges	US Army JAG School Charlottesville, Va.	2	30	10

*Included 17 Lawyers in FY69

3. Enlisted Courses. The Marine Corps utilizes two legal courses for enlisted personnel:

Courses	Location	Length(wks)	Quotas FY69	Quotas FY70
Legal Clerk and Court Reporter	Naval Justice School Newport, R.I.	4	178	178
Legal Clerk and Court Reporter	Marine Corps Base Camp Pendleton	4	35	35

4. In-Service Law Education. Such education is prohibited by legislative appropriation riders. Platoon Leaders Course graduates who have been accepted for law school and express a desire to attend are commissioned in the Marine Corps Reserve upon receipt of a baccalaureate degree but are not ordered to active duty until they complete law school.

5. Off-Duty Law Education. Non-lawyer officers can attain law degrees through this voluntary, after-hours program which is available at most major universities. It is administered pursuant to regulations pertaining to off-duty education, which are promulgated by the ACofS, G-1.

6. Excess Leave (Law) Program. Regular officers [or reserve officers who agree to accept regular commissions and are qualified for same] may be authorized excess leave, not to exceed 3 1/2 years, without pay and allowances for the purpose of obtaining a law degree and being admitted to the bar. Applicants are required to agree to serve on active duty, upon completion of the excess leave, for at least three years, plus six months for each year or portion of a year of excess leave. Upon graduation from law school, admission to the bar and certification by the JAG of the Navy, the officer is assigned a primary legal MOS (4405).

V. DISCUSSION

A. LEGAL SERVICES

1. There is a requirement, by both law and administrative regulations of DOD and DON, to provide specific legal services to Commanders and to individual Marines. The provisions of the Military Justice Act of 1968 [effective 1Aug69] will greatly increase these requirements. All of these legal services have been identified and examined in detail by the Study Group. Annex D [Military Legal Service Functions Chart], which has been developed from this examination, portrays these many legal services. The services are also described and grouped into categories in Section IV, Paragraph C above.

2. The trend in the past twenty years has been by enactment of additional laws and by administrative regulations, to substantially expand the legal services required to be provided by the Armed Services. Considering the present state of law in the United States, the sociological temperament now existing in our country and the growing common awareness of American citizens of individual rights and protection under the law, it can be safely estimated that future requirements for legal services in the Armed Services will be further increased.

3. A counter-balance in the future to the expanding trend referred to above will be the removal of the personnel stresses inherent in our SEA commitment. This factor should result in a sharply reduced courts-martial and disciplinary workload. This should permit some, if only modest, reductions in legal service workload in the post-Vietnam era.

4. Some of the legal services identified by this Study Group can, and should, be performed by non-lawyer personnel [i.e. Administrative Officers, warrant officers trained in legal subjects in Legal Sections, etc.] in order to permit lawyers to perform only those duties required by law. Other services could be performed by non-lawyers under the supervision of lawyers, or by civilian lawyers [if adequate salaries could be provided to induce them to accept federal employment with the Marine Corps] in CONUS commands.

5. However, the majority of legal services for the Marine Corps must by the very nature of the services [i.e. administration of discipline], be furnished by military lawyers. These lawyers must be provided from some source within the Department of Defense - whether it be from the DOD level, or by the Navy JAG Corps, or by the Marine Corps, or by some combination of these sources.

6. One of the more important provisions of the 1Aug69 law which will have a distinct affect on the state of discipline in the Marine Corps is the designation of Military Judges, with the attendant implications of that provision. The new requirement for Military Judges on all SpCM BCD cases [as well as replacing the Law Officer function on GCMs by the Judge and providing additional lawyer counsel for SpCMs] is at the heart of our increased needs for lawyers. Significant benefits to the Marine Corps in streamlining courts-martial processing will, however, result from this new concept.

7. The unique position of the Military Judge must be carefully considered. The individual accused who is remorseful for his wrongful acts and wants to plead guilty, serve his punishment and go back to duty, can be expected to request the one officer, Military Judge, court. The Military Judge alone will make the decision on the accused's request. The accused's impression of military justice will be shaped by the experience, knowledge, demeanor and judicial temperament of the Military Judge. If by his actions or questions the Judge demonstrates little knowledge or experience with Marine Corps practices and traditions, these facts will not escape the attention of the accused. Further, such impressions will rapidly become widely known by all enlisted personnel in that area and especially by potential offenders.

B. PERSONNEL REQUIREMENTS

1. The Study Group believes that, regardless of the optimum legal organization recommended by this Study or decided by the Commandant for the provision of legal services to the Marine Corps, the proper representation of the basic best interests of the Marine Corps in legal matters requires one or more Marine general officer(s) qualified as a lawyer(s), assigned to the JAD, Headquarters, Marine Corps, or to DON JAG.

a. If the present Marine Corps legal organization is retained, the retention program for senior Marine lawyers would be handicapped without a career potential to general officer rank.

b. In the event a system of the Navy providing all legal services [or some combination whereby the Navy furnishes increased legal services with retention of some Marine lawyers] were adopted, a Marine brigadier general lawyer could be considered a necessity to protect the interests of the Marine Corps and ensure the highest possible representation of the Marine Corps at the Department of Navy JAG level.

2. The G-1 Study of March 69 determined that the Marine Corps has a requirement [raw billets] for 375 Marine lawyers to meet the provisions of the Military Justice Act of 1968 [effective 1Aug69], under wartime conditions, and 273 Marine lawyers [raw billets] in the post-Vietnam [peacetime] era.

3. An analysis of all the required legal services described in Section IV, paragraph C [and Annex D] and the legal workload outlined in Section IV, paragraph D, has been made in depth by the Study Group. Further, independent calculations to extrapolate the minimum number of lawyers required, and to validate the numbers determined by the G-1 Study, has been performed by the Study Group. In this connection, G-1 and the Judge Advocate Division, under guidance provided by the Study Group, have conducted an exhaustive review of all lawyer and other legal personnel billets from which the requirements for 375 lawyers [after 1Aug69] and 273 lawyers [in peacetime] were derived.

4. The total [and minimum] number of lawyers needed to provide required legal services for the Marine Corps under wartime conditions has been determined by the Study Group to be on the order of magnitude of 375, plus normal personnel planning factors for the pipeline [non-availables (training, leave, etc.) pl s rotational]. Addition of these planning factors results in a gross personnel requirement of 462 lawyers, during wartime, to meet the requirements of the Military Justice Act of 1968, effective 1Aug69.

5. In regard to the requirements for Military Judges [all included within the 375 (raw billets) lawyers] there will continue to be a requirement for six Marine Judges [present law officers] assigned to the Navy-Marine Corps Judiciary Activity [JAG]. These [senior] Judges will process Marine Corps GCM cases. Approximately 40 additional Marine Judge Advocate [primarily field grade officers and some senior Captains] will be designated, after training at the U.S. Army JAG School, Charlottesville, Va., as Military [junior] Judges. These Judges will be qualified to try SpCM cases which require judges. They will be assigned to the various GCM commands as part of [not in addition to] the normal T/O complement of Marine JAs for those organizations. The GCM authority will control the [junior] judges and their fitness reports will be prepared at that level to maintain them as a judiciary independent from the SpCM convening authorities. They will be made available as needed by SpCM convening authorities to try SpCM cases.

6. The total Marine Corps legal personnel situation for officer, enlisted and civilian requirements and on-hand inventory data is presented in Annex F [Legal Personnel Data] to provide the Commandant with a complete personnel picture of the legal field. Annex F was prepared by the Study Group from data developed during the Study and an intensive review of all legal personnel documents furnished to or obtained by the Study Group. It is believed that the requested number [743] of enlisted legal personnel and the 80 civilian employees for legal billets are the minimum number required by Marine Corps legal sections to accomplish the necessary legal, clerical and administrative workload involved in providing legal services during wartime.

7. In regard to the 1958 American Bar Association's recommended ratio of 1.5 lawyers per 1,000 personnel [as described in Section IV, paragraph E.1.c(4) above], if this ratio is applied against lawyer raw billets required 1Aug69 and in peacetime, the Marine Corps lawyer population in proportion to the total personnel strength is short. However, if the ratio is computed against gross lawyer personnel requirements [1Aug69, 462 lawyers gross, ratio 1.47/1,000 and peacetime, 351 lawyers gross, ratio 1.72/1,000] the Marine Corps lawyer strength favorably compares with this ratio but is not believed to be excessive in number.

8. Notice must be taken of the fact that legal services must, by provisions of law and regulations, be provided to the Marine Corps by the required number of lawyers who must be furnished by some agency. In the event the total responsibility for accomplishing legal functions were reassigned to some agency outside of the Marine Corps, a corresponding number of Marine Corps structure spaces now occupied by lawyers and other legal personnel would undoubtedly be reduced from our total strength and would be, of necessity, gained by the assuming agency.

C. PROCUREMENT

1. The post-1Aug69, wartime, [assumed to include FYs 70 and 71] requirement to implement the Military Justice Act of 1968 is 375 Marine lawyer billets. As shown in Annex F, there will be an estimated shortfall of 87 JAs on 1Aug69 and an anticipated shortfall in the range of 75 - 100 JAs on 1Jul70.

2. It must be noted that the projected shortfall of 75 - 100 JAs is based on the extremely conservative projection of 277 JAs on hand as of 1Jul70. This projection assumes a zero retention rate of JAs. It does not calculate the return to active duty of additional reserve lawyers. Further, the estimated 49 OCs (L) (gross) who are currently being recruited to fill OCC quotas for OC Program Classes during the period 1Sep69-2Mar70 are not included, as it cannot be definitely stated that all of these OCS(L) will in fact be procured.

3. Because of the long lead time involved in procuring lawyers, except for the OCC Program, it is not possible to completely eliminate the JA shortfall on 1Aug69. Utilization of the OCC Program, with its very short lead time, even cannot produce an immediate reduction of the shortage.

4. Procurement results of the OCC Program, the program for return to active duty of reserve lawyers and an increase in the retention rate of the 84 JAs, due for release from active duty from 1Aug69-1Jul70, can reduce the 1Jul70 shortage from the range of 75 - 100 to more manageable proportions in the area of 25 - 40.

5. Procurement results to date for FY 71 [the final FY of wartime conditions for planning purposes] are highly favorable. Ninety nine PLCs (Law) have already been signed up for accession during FY 71 and six JA Majors will return to active duty upon completion of the Excess Leave (Law) Program during Nov70. Procurement of a small number of OCs (Law) should be relatively easy to accomplish to make up any remaining overall JA shortage prior to 1Jul71.

6. Peacetime [FY 72 onward] requirements to meet the need for lawyers in the post-Vietnam era to implement the Military Justice Act of 1968 are 273 JAa. A projected inventory of JAs on board in FY 72 cannot be made.

7. Nine additional Majors will return to active duty from the Excess Leave (Law) Program about Nov71. Ninety one PLCs (Law) have already been procured and signed up to commence active duty during FY 72. Since peacetime procurement requirements are 60 JAs per year, it is evident that there will be more than sufficient JAs to meet Marine Corps needs during FY 72

and onward. The field grade shortage should begin to be substantially alleviated during FY 72.

8. It is noted that new lawyers are permitted by their contracts to request non-legal duties during their initial tours of active duty and a few are doing so. The additional maturity, education, and analytical ability normally found in a lawyer makes him an excellent potential candidate for troop leading [or other non-legal duties] providing he voluntarily requests same. Should the procurement of lawyers result in producing numbers of lawyers in excess of future requirements, it is considered that an active program to solicit the excess lawyers to request non-legal duties would be successful.

9. The potential impact of Project Volunteer on lawyer procurement in peacetime must be carefully considered. Providing that the draft is continued, and with the elimination of the pressures of the Vietnam War [and its associated requirements for frequent unaccompanied tours], it is estimated that sufficient numbers of new judge advocates can be obtained to meet total Marine Corps peacetime requirements for legal services. However, without the pressure of the draft, the attractiveness of civilian careers will make it extremely difficult to obtain and retain sufficient qualified officers in many professional disciplines, especially those with law degrees.

D. RETENTION

1. The problem of retaining sufficient lawyers has existed in the Marine Corps [and all of the other Armed Services] since the enactment of the UCMJ in 1951. The Administrative Plan of 1959 was designed to attempt to solve the problem within the Marine Corps. It has only partially alleviated the experienced lawyer shortage.

2. Retention of lawyers in the Armed Services was the subject of the recently (1968) completed DOD Lawyer Study. Twelve alternatives to increase retention were considered by the Study, with eleven of these alternatives recommended for implementation by the Study Group. CMC concurred, either in full, in part or with some exceptions, in eight of the eleven alternatives. Most of the eleven alternatives require congressional action to implement. Should any or all of these recommended alternatives be implemented, the retention program for experienced lawyers in the Marine Corps should be substantially assisted.

3. However, the Marine Corps itself can take positive steps to improve retention by directing concentrated efforts toward those judge advocates now on active duty. The Marine Corps needs and desires to retain only a small fraction of each lawyer year group. Experience has shown that officers who have augmented and those who express interest in augmentation are those who also have an interest in military duties in addition to duties which require legal training. The additional retention problem areas which the Marine Corps can attack internally are discussed in following paragraphs.

4. The primary lawyer retention programs currently in being in the Marine Corps which will partially alleviate the field grade JA problem in the years ahead are:

a. The Excess Leave (Law) Program will significantly reduce the shortage. Six officers in Nov 1970, nine officers in the fall of 1971 and an estimated seven officers in the fall of 1972 - all in the grade of Major with three or more years of prior active Marine Corps commissioned service - will return to active duty upon completion of law school and admission to the bar. These 22 additional Majors will materially reduce our field grade JA shortage by the end of 1972.

b. The program for return to active duty of reserve lawyers has had a fair measure of success in the six months since it was reinstated in Dec 68. The return to active duty of six reserve lawyers [all of them field grade officers or senior Captains who will soon be in the zone for Major] is a promising start in augmentation of our field grade JA ranks.

c. The major retention effort must be devoted to the junior JAs who are nearing the end of their obligated service periods. These JAs are senior Captains who would enter the promotion zone for Major in the next year or two, if they remained on active duty. To increase the retention rate of these young lawyers, the Judge Advocate Division, HQMC, and the SJAs of major commands are devoting maximum effort to motivate and inform them on the benefits of a military career.

d. The designation of Military Judge, effective 1Aug69, may serve as a retention incentive. Several junior JAs have expressed an interest to the Judge Advocate Division in extending their active duty to qualify for a Judgeship.

5. Motivation of junior JAs is an important area which must be given additional emphasis. Information received by the Study Group indicates that those Marine JAs who chose the Marine Corps for a career definitely want to be recognized as Marine officers and part of the Marine Corps team; not as a group of specialists outside the regular officer Corps. Marine JAs are also vitally interested in professional recognition as lawyers but not in a manner inconsistent with being part of the Marine Officer Corps. The opportunity to attend professional meetings and seminars of bar associations is one example of a measure that would provide increased recognition of Marine JAs as professional personnel. Improved leadership among the senior Marine JAs and establishment of better rapport between them and the junior JAs would improve the motivation of younger Marine lawyers. It is vitally necessary for seniors to motivate their junior officers by showing personal interest in them and keeping them well informed.

6. Pay is a major problem in retaining lawyers in that military pay does not compare with the lucrative income of a civilian lawyer who has an established practice. However, the disparity of the pay of military lawyers to that of their civilian counterparts should not receive excessive stress. While it is a significant factor, the Study Group reviewed substantial evidence which indicates that numerous areas other than pay are instrumental in influencing young lawyers to leave the service. The DOD Lawyer Study recommended, among other measures, the adoption of a variable continuation bonus whereby a lawyer would receive one month's pay for each year he agreed to remain on active duty [minimum 3, maximum 6] beyond his initial obligation. This proposal would be a definite retention program in itself. However, the adoption of such a program, while an incentive to lawyers, could produce a very definite adverse affect on all other Marine officers. A possible solution to the retention problem of lawyers [and all other officers with advanced degrees] might be to initiate legislation to pay a continuation bonus to any officer, completing his initial period of active service, with an advanced degree [to be based on the

number of years of advanced education achieved by the officer].

7. The assignments of the majority of lawyers are restricted at present because of the field grade lawyer shortage, and not because of a lack of Marine Corps policy, to major bases and commands in CONUS and overseas. Lawyers have no opportunity to perform I&I or Recruiting duty or to be assigned to posts and stations, such as Marine Barracks. The assignment of a few lawyers to non-legal duties at such posts and stations, although it would initially aggravate the lawyer shortage, might result in an overall improvement in the lawyer situation. To implement this program, judge advocates need only to be informed by assignment officers during Basic School that upon completion of an initial assignment in MOS 4405, they may request assignment to a billet which does not require a judge advocate. Marine Corps Order 1040.24 could be rewritten to reflect this change. If this policy were implemented, staff judge advocates could give the policy strong coverage to those who might be interested. This opportunity to serve in a line billet allows the junior judge advocate to further identify with the Marine Corps as a Marine and is in keeping with the Marine Corps' policy of requiring each lawyer to qualify as a Marine officer before being designated as a judge advocate.

8. The assignment of Marine JAs to non-legal duties has mixed benefits. Such assignments develop lawyers as much broader, well rounded regular Marine officers and also enable them to be better Marine lawyers. They also make lawyers feel part of the Marine Corps team. Lawyers do, however, lose some of their proficiency in the law during non-legal assignments. If involuntarily assigned to such duties, some Marine JAs will consider that their extensive education is being poorly utilized. This will result in a minus factor in the decision of a young lawyer to choose the Marine Corps for a career. As long as assignments to non-legal billets are made on strictly a voluntary basis, this program has excellent potential for lawyer retention and is of value to the overall needs of the Marine Corps.

9. To continue this indentification, further opportunity should be granted to the judge advocate for professional schooling. Quotas for Officer Professional Courses as set forth in MCO P1500.12 should be expanded. Additional professional schooling in law should also be made available. Although the shortage of field grade lawyers in recent years has precluded all but a very limited number of lawyers from such schools, the Marine Corps must utilize a part of its grain to seed the field if there is to be a crop in future years. The attendance of even a token amount of lawyers at such schools would serve notice to all lawyers that the Marine Corps regards them as an integral part of the regular officer Corps. It would also enhance the promotional opportunities of lawyers and should help alleviate the retention problem.

10. Additional assignments to prestige-type legal billets such as members and counsel for Boards of Review and in supervisory positions over elements of Navy JAG might be an aid to retention.

11. Promotional opportunities for lawyers appear to be adequate and at least equal [see Annex H] to that of other regular unrestricted officers, other than for a permanent outlet to general officer rank. There is a definite need for lawyers to have a possible career outlet to general officer. The Marine Corps is competing for lawyers who also have available highly attractive civilian law careers. The intentions of the Marine Corps regarding the professional recognition of lawyers will be readily apparent by the provision of a career outlet for lawyers to general officer rank.

12. The DOD Study clearly indicated that lawyers in civilian life utilize and benefit from participation in professional legal associations. Judge advocates in the service, and particularly in the Marine Corps, have had little, if any, participation in such associations. Marine judge advocates should be encouraged to join and participate in such associations to the extent of TAD and/or permissive travel orders for appropriate numbers. Participation on committees of the American Bar Association which are concerned with military law and the welfare of servicemen should be encouraged.

13. With respect to retention incentives for professional groups [i.e. Doctors, Dentists and Marine lawyers], Annex I portrays the disparity currently existing in the provision of inducements to retain Doctors and Dentists as compared to those available to lawyers.

14. The additional professional responsibilities and opportunities which will result from the provisions of the Military Justice Act of 1968 have increased the interest of some judge advocates now on active duty to extend their tours. However, the best single retention incentive will be the combination of circumstances which occur when the college student enters the PLC Program in his freshman year and subsequently (a) gains three years of longevity while in college; (b) is commissioned upon graduation; (c) enters the PLC (Law) Program; (d) gains longevity and increased rank in law school and (e) after graduation from law school completes four years of obligated active service. The combination rank of Captain [at present promotion ratio] and over seven years for pay purposes places the judge advocate in a position where he is reasonably well compensated for his law education and will soon be considered for selection to the grade of major. These circumstances combined with all or some of the previously discussed retention incentives which may eventually be approved will, in the opinion of this Study Group, retain sufficient judge advocates to supply the Marine Corps' requirements.

E. ORGANIZATION FOR LEGAL SERVICES

1. Criteria for the Optimum Organization

a. General Criteria [Objectives]

(1) To be acceptable as the optimum system for providing legal services to the Marine Corps, the legal organizational structure must provide an effective and efficient method of furnishing legal services, and also must ensure that several fundamental and vital general objectives are met by the system. Some of these objectives are that the organization for legal services should:

(a) Maximize the Commander's role, within the spirit and letter of laws, in discipline matters.

(b) Preclude attrition of the resources/capabilities available to CMC and Commanders to execute the responsibilities of a military commander with respect to command/management/discipline of their personnel.

(c) Be responsive to provide all legal services required by present [and future] laws and regulations.

(d) Be sufficiently flexible to phase down the numbers of lawyers and other personnel in the legal structure in the event the requirements for legal services are reduced in the future [post-Vietnam era].

(e) Minimize the use of lawyers and maximize the use of non-lawyers to perform all services and administrative functions which, by law or regulation, do not actually require the services of a lawyer.

(f) Ensure that the Commander retains in an unimpaired state his ability to accomplish his responsibilities to maintain a high state of discipline and morale within his command.

(g) Recognize limitations of present personnel situation and outlook.

(h) Provide for continuing military as well as legal training.

b. Specific Criteria

(1) Procurement/Retention. The new legislation which has been enacted and goes into effect 1Aug69 greatly increases the requirements of all the Armed Services for legal personnel. Procurement of a sufficient number of personnel and retention of the required numbers are two prime requirements for any legal organization. To enhance procurement and retention, the optimum organization should:

(a) Provide diversity in practice of law.

(b) Provide equitable promotion opportunity.

(c) Provide possibility of achieving general officer rank.

(d) Provide prestige and stature at least equal to civilian counterparts.

(e) Keep best possible faith with the Marine legal community.

(f) Satisfactorily meet individual legal professional ambition.

(g) Provide billets at all echelons [for diversity of law practice and stature] from the top to bottom of the DON.

(h) Retain identity of the lawyer as being "on the team."

(2) Command Responsibility

(a) Provide for close relationship between Commander and legal officer.

(b) Promote traditionally close relationship existant between Marine officers and their troops, with respect to discipline.

(c) Provide for legal services to move with the command.

(d) Maximize the simplicity of administration of discipline for the Commander.

(e) Provide best assurance for protection of the individual's rights and interests of all Marines, Regulars and Reserves.

(3) Overall Marine Corps Best Interests

(a) Maximize number of Marine combat/combat support billets.

(b) Minimize appearance of or actuality of a "special corps" within the Corps.

(c) Maximize effective utilization of manpower.

(d) Provide legal experience for non-lawyer unrestricted ground and aviation officers.

(e) Provide environment to develop competent, highly professional military lawyers.

(f) Minimum restraints or restrictions on assignment of legal personnel.

(g) Provide legal services at the minimum overall cost to DOD.

(h) Be conducive to smooth and orderly transition from current system.

(i) Be applicable to the Marine Corps Reserve.

2. Description of Possible Organizations

a. There are two extremes in the spectrum of possible ways to organize for providing legal services. At one extreme all legal services for the Marine Corps could be provided by the Navy Judge Advocate General Corps utilizing Navy lawyers and Navy legal personnel. On the other end of the spectrum, the Study Group visualized that the Marine Corps could organize a Marine Corps Judge Advocate General Corps and provide all legal services to Marines by Marines. The relationship of this Marine Corps JAG to the Navy JAG in its functioning as a departmental JAG would have to be spelled out. Since new legislation would undoubtedly be required, at least to make this scheme permanent, and since such an organization would be more costly than the present one and would make permanent a "special corps" within the Marine Corps, the Study Group dismissed it from further consideration.

b. Somewhere approximately halfway between these two extremes is the present legal structure which provides legal services for the Marine Corps. It is a combination of Marine Corps judge advocates who provide legal services for Marines at all Marine Corps commands less the small percentage of Marines assigned to Navy commands and the utilization of Navy lawyers. The Navy lawyers, supported by Marine lawyers assigned to Navy JAG to share our portion of the overall departmental legal overhead, provide legal services for smaller Marine posts and stations such as Marine Barracks, Marine Detachments, I&Is and Recruiting Stations. The Navy JAG also provides specialized law services such as international law, promotion and retirement, litigation and claims for the Marine Corps at the departmental level, conducts final SecNav level review of Marine Corps investigations and accomplishes first appellate level review [Board of Review] of courts-martial.

c. The Study Group recognized that between the mean position and the extremes that a number of combinations of organization were possible. In order to evaluate these qualitatively, the Study Group looked at three.

d. One such organization would lie between the pure Navy solution and the one currently in effect. Such a system would maximize the use of Navy JAG but provide for some Marine Corps participation. This participation could be on a functional [vertical] or organizational echelon [horizontal] basis or some combination thereof. For example, all those services which directly affect the administration of discipline, such as military charges, courts-martial, trial and defense counsels and administrative discharge processing could be performed by Marine lawyers with other legal services turned over to Navy lawyers.

e. One special course of action that lies between the current system and the pure Marine system would be to modify the present system to provide law duty only judge advocates primarily for assignment as military judges. The remaining judge advocates not designated law duty only would be used to perform all other legal tasks.

f. Another course of action would be to go beyond that just stated and establish a judge advocate duty only corps of lawyers within the Marine Corps. Under this course of action all legal services would be provided by law duty only specialists.

g. Each of these five courses of action, summarized below, is discussed in some detail in the following paragraphs and, for each, the advantages and disadvantages are listed generally utilizing the criteria established in paragraph V.E.1 above.

(1) Course of Action #1 - Continue present system for providing legal services [E.2.b above].

(2) Course of Action #2 - Utilize only Navy lawyers for providing legal services [E.2.a above - one of the two extremes].

(3) Course of Action #3 - Establish judge advocate duty only corps of Marine lawyers [E.2.f above].

(4) Course of Action #4 - Maximize use of Navy lawyers, but continue having Marine lawyers provide military justice legal services [E.2.d above].

(5) Course of Action #5 - Modify present system by designation of limited group [Military Judges] of Marine lawyers for law duty only [E.2.e above].

3. COURSE OF ACTION #1 - CONTINUE PRESENT SYSTEM FOR PROVIDING LEGAL SERVICES TO THE MARINE CORPS

a. Description. The present Marine Corps system for providing legal services basically has the following characteristics:

(1) The Marine Corps provides lawyers and supporting technical personnel for the Fleet Marine Forces, Posts, Stations, Recruit Depots, Centers, major bases and Headquarters, Marine Corps from its own resources.

(2) The Marine Corps provides its "proportionate share" of legal talent for the Department of the Navy "overhead" to JAG, the Navy-Marine Corps Judiciary Activity, the Navy Appellate Review Activity, the Security Forces and Marines on independent duty with other organizations.

(3) The Department of the Navy Offices of General Counsel and Legislative Affairs provide legal services as required by their roles/functions. The Offices of Counsel to CMC and Legislative Assistant to CMC provide appropriate types of legal services directly to CMC as required by their functions.

(4) Officers commissioned in the Marine Corps are trained and qualified as unrestricted officers as their primary role. Their technical specialities are secondary. They are assigned to their technical specialities as primary duty whenever it is to the paramount interest of the total requirements of the Marine Corps.

(5) Qualified officers [Marine judge advocates] assigned to legal duties are unrestricted officers who by request and by administrative regulations, are normally assigned legal duties only.

(6) Marine officers qualified as lawyers may alternate between legal and other assignments as a result of requests by the individuals and the current needs of the Marine Corps.

b. Discussion

(1) The foregoing concept provides for a versatile officer corps representing the various disciplines and skills representative of our society. The resultant officer corps provides the leadership and technical skills which enable the Corps to meet assignment requirements that must accommodate to ever changing demands. It permits the Corps to assess its requirements, internally, for skills and adjust its procurement and assignment [or allocation of resources] within those authorized by the changing annual budgets and the capabilities of the

procurement/retention programs. The fact that one time or another the Corps possesses lawyers in excess of its then current requirements is not a disadvantage as they are trained and qualifed for most other type duties. It may be noted here that the basic problem of procurement/retention is not unique to the lawyer skill or to the Marine Corps. It appears that the Marine Corps can procure lawyers as well as the other Services and that the potential procurement is equal to that attained for other officers from the pool of college graduates.

(2) The primary problems cited elsewhere in this Study are the procurement/retention capability and the requirement to minimize the number of personnel in the support role. It is reasoned that the Marine Corps has the capability to design programs at least equal to the other Services to solve the procurement/retention problems.

(3) Therefore, it appears that the basic problem evolves around the equation of providing the most effective legal services to execute the responsibilities of the Corps at the minimum total package cost to the Department of Defense. In assessing the cost aspect, it has been previously illuminated that the Marine Corps pays for the services of personnel from other services assigned to duty with the Marine Corps. The "costs" that could be saved appear to be limited to those which are in the training line, and only that portion of TP&P line where personnel are assigned to or from the parent service providing legal services to the Corps, and not to internal reassignments to respective Marine Corps duty assignments.

(4) The extra financial costs to DOD should the Marine Corps retain its current system, when compared to tasking the Department of the Navy JAG to assume a portion or the total function, are isolated to those officers in the training line where lawyers [JAs] attend military schools. The extra cost attendant to the portion of the lawyer slice of the TP&P line is illusionary as it must be absorbed by whatever agency furnishes these services. Off-setting the small direct costs are the intangible extra output that flows from personnel who are active participants of a producing unit when compared to another organization that is tasked to provide specific/detailed services and none other to the producing unit. It is suggested that further discussion in comparing the alternatives that these costs more than cancel each other out.

(5) The adoption of this course of action provides lawyers [JAs] who are trained as professional Marines and are personnel who know and understand the total working mechanisms of the Corps [military, sociological and psychological]. Their presence in Marine uniforms and their demeanor will greatly assist in maintaining the image of the Commander, discipline and justice. The Commandant will have full and

direct control of the resources that are absolutely essential to be available so that he and his commanders can effectively field a highly disciplined and motivated military organization. The legal workload will significantly vary from year to year and will be influenced by many factors not controllable by the Corps. By possessing sufficient skills to meet a high percent of peak workloads within the total Officer Corps, understanding that personnel in the Officer Corps cannot be hired and fired in direct relationship to workloads, this talent can be readily assigned/reassigned to meet the most pressing needs of the Corps.

(6) The Marine Corps lawyer under this course of action is qualified for most all of the duties of an unrestricted officer. In addition, non-lawyer officers who have limited training in legal subjects can be employed to perform many tasks under the supervision of an officer lawyer [qualified under the law]. Lawyers under this course of action can by administrative means and by the manifest self-interest of Officer Corps be assured of equitable promotional opportunities, an outlet to General Officer rank, and of diversity in duty assignments and the practice of law.

(7) The Marine Corps should insist and can do so under this course of action, that steps be taken to ensure that Marine lawyers are assigned their proportionate share of supervisory billets in the Department of the Navy JAG. Such action should enhance the prestige and stature of Marine lawyers in the military and civilian legal community. It would be a bold step that would be striking evidence that the Marine Corps is keeping the best possible faith and providing equal support to the segment of the Officer Corps. As an attendant spinoff, billets for qualified Marine Officer lawyers would be provided at all echelons of the Department of the Navy legal structure, ensuring diversity of law practice and stature within this community.

(8) In summary, this course of action supports to a high degree the criteria tabulated earlier of the consensus of this Study Group as to the optimum legal organization and its characteristics. It takes full cognizance of the current personnel situation and the projected outlook. It minimizes the appearance of a "special corps" within the Corps. It supports the Marine Corps family concept of taking care of its own. It ensures that the person who is providing this most essential and vital service, considers himself and is actually committed to complete involvement in the military community for whom he serves. This is reflective of the highest order of public service that is expected of the Bar in supporting the communities of our American society.

c. Advantages

(1) The resources/capabilities for management/command/discipline responsibilities inherent in the functions of CMC and command would continue to reside within the Marine Corps officer professional body.

(2) The loss of structure billets would be precluded.

(3) The Marine Corps would be provided with a professional lawyer source which is knowledgeable pertaining to all the unique standards of discipline, management, mores and environmental factors within the Marine Corps.

(4) A Marine Corps image for disciplinary purposes would be provided in the legal environment in the post-August 1969 era [i.e. with one officer (judge) courts at all levels, an accused will be tried and judged by one of his own].

(5) The image of the Marine Corps as a separate service within the Department of the Navy would be strengthened.

(6) The lawyer would be a member of the Marine Corps team by education, training and espirit de corps and could be counted on to provide the special effort which separates superior accomplishment from only excellent.

(7) Overall lawyer procurement opportunities within DON would be enhanced as certain young Americans, including lawyers and other professionally trained personnel, are attracted by the high standards, edication and reputation of the Corps; their ability to qualify as a Marine officer is a source of a highly intangible personal benefit.

(8) The Marine Corps system of discipline will continue to "move" with the command and be highly responsive to the then current requirements of the Marine Corps.

(9) The most value for our investment would be obtained as the Marine Corps reimburses other agencies for costs of personnel serving with the Corps.

(10) An officer corps with a variety of skills which can be readily adapted to changes in skill requirements/patterns would be provided [i.e. flexibility in making assignments].

(11) Legal personnel would be trained as Marines and be qualified for combat duties in exigencies.

(12) Promotional opportunities to General Officer rank and for challenges in assignments outside of the law profession would be provided.

(13) Marine lawyers would be afforded the opportunity to be assigned to supervisory billets in the Department of the Navy JAG.

(14) The Marine Corps will be enabled to distribute the legal workload between lawyers and other officers who have some training in legal subjects.

(15) The traditional Marine Corps concept that the Marine Corps be composed of officers from various professional sources and disciplines will be maintained.

(16) Legal experience for and participation in legal matters by unrestricted grround and aviation officers would continue to be provided.

(17) The applicability of the system to the Marine Corps Reserve would be continued and a mobilization base within the Reserve of lawyers which can be utilized to meet mobilization requirements will continue to be formed.

d. Disadvantages

(1) The burden of procurement, retention and military education of its lawyers is retained in the Marine Corps.

(2) Statutory guarantee for lawyers, with respect to promotions, assignments and career opportunities is not provided.

(3) Marine lawyers would be restricted from participation in certain aspects of law available elsewhere in DOD.

(4) Marine lawyers are not identified as a separate specialist group and thus their status in the legal community tends to be reduced.

(5) A different organization/concept from that of the Navy is continued.

(6) The assignment of Marine lawyers to supervisory positions in the Department of the Navy JAG is not readily assured.

(7) The Marine Corps is required to provide a skill that could conceivably be provided by the DON.

(8) Opportunities for professional legal education are restricted.

(9) By assignment practice, a lawyer officer corps is required to perform the legal services for this system.

4. COURSE OF ACTION #2 - UTILIZE ONLY NAVY LAWYERS FOR PROVIDING LEGAL SERVICES TO THE MARINE CORPS

a. Description. The Marine Corps would utilize the Navy JAG Corps to provide all legal services for all Marines and the Marine Corps would not retain any officer lawyers.

b. Discussion

(1) This course of action has certain logic in that it follows the precedent already utilized for securing certain other professional services for the Marine Corps and it would not require any new legislation. Doctors, dentists and chaplains are members of established Navy corps and are detailed to duty on a regular basis to fill Marine requirements. Lawyers could be similarly detailed.

(2) There is one fundamental difference which must be given due consideration. Doctors, dentists and chaplains all are required to advise Marine Commanders on problems within their field of knowledge. However, by and large, their main effort is to assist individual Marines and their assistance is more or less final. Marine Commanders do not have much option to modify, set aside or otherwise take action on their professional actions.

(3) Lawyers too advise Marine Commanders and give individual assistance to Marines. Marine Commanders, however, have historically taken an essential role in this functional area. In most cases, they take action both before and after that of their Staff Legal Officers. For example, they decide whether or not to investigate, they hold the Article 15 powers, and they review and act on court proceedings and may reduce or mitigate sentences if they convene the court or are superiors in the chain of command.

(4) Certain aspects of legal functions have a direct and decided bearing on discipline and morale. A commander must be more knowledgeable in law than he need be in medicine or theology. Since the Marine Corps has historically placed great responsibility on its commanders for maintaining a high state of discipline and morale, it is natural that Marine officers who aspire to command should have some knowledge of military law.

(5) It is also natural and logical to believe that Marine officer lawyers who serve full time with Marines, have the same customs and traditions, and live and work under same conditions will probably be a better staff lawyer for a Marine Commander than a lawyer from another service, regardless of his legal qualifications.

(6) The point was made by officers interviewed by the Study Group that Marine lawyers are usually in a better position to defend Marines in legal actions since they have been exposed to the Marine environment and know the Marine way of life better than an officer from another Service could.

(7) During interviews with several Marine lawyers, it was highlighted to this Study Group that the Navy follows the concept of "dockside" legal functioning while the Marine Corps follows the concept of "lawyers go where Marines go." In Vietnam, lawyers went forward to battalions as required to perform legal services. Furthermore, Marine lawyers were called upon many times to perform duties expected of all Marine officers. Several even commanded infantry units when the situation required it. This concept would have to be modified if Navy lawyers were assigned. Eventually, even the basic Navy concept might be adopted by the Marine Corps either by fiat or by evolution.

(8) Most of these purported objections could be overcome, however, if some Navy lawyers were detailed habitually to serve with Marines. They could even wear same working uniforms except for their Corps device in the same way many doctors have in the past.

(9) The transfer of all Marine lawyers to Navy JAG Corps would undoubtedly result in some small savings in total lawyer numbers in Navy and Marine Corps. It would centralize the problem of recruiting and retaining lawyers in one place vice two and it is a fact that procurement and retention of these professionally qualified men is a problem.

(10) Such a use of the Navy JAG Corps would preclude the need for the Marine Corps to maintain a separate class of officer specialists and once again make every Marine officer [except for LDOs] a generalist first.

(11) The transfer of all Marine personnel involved in legal specialty duties to the Navy JAG would not necessarily mean that the Marine Corps could retain the personnel numbers and use those for other critical personnel skills. In fact, the probability appears high that any transfer of legal responsibilities to the Navy would be accompanied by a transfer of personnel billets and numbers. Hence, the total Marine Corps strength, officer and enlisted, would be reduced.

(12) It is a fact that Navy lawyers have a greater opportunity to participate in more aspects of law than do Marine lawyers. This might be used advantageously to improve the procurement and retention of officer lawyers.

(13) Past studies on the subject of military lawyers have highlighted several problems. These are mainly administrative in nature and include the following: constructive service, promotion opportunity, assignment policies, career management, professional recognition, and other incentives for professional development. Use of one JAG Corps for both Services might assist in this area and would certainly remove any competitive advantage that would otherwise accrue to one Service over the other if they did one task more effectively.

(14) Implementation of this course of action would take time. It is doubtful that all Marine lawyers would want to transfer to the Navy. Thus, initially at least, it might be necessary to simply assign Marine lawyers and other legal personnel to Navy JAG and let them serve out their obligated time as Marines vice Navy officers. New procurement would, of course, be only in the Navy and the Marine Corps would cease recruiting lawyers and other personnel for legal duties.

(15) Finally, this course of action might reduce direct Marine Corps costs and it might reduce support personnel thus increasing the percentage of direct Marine combat/combat support strength.

c. Advantages

(1) An already established precedent for the use of professional assistance [i.e., doctors, dentists, chaplains] is followed.

(2) The need of the Marine Corps to establish a separate specialist group of personnel who would or could be subject to different administrative treatment than the remainder of the Corps is precluded and avoided.

(3) Procurement and retention problems would be centralized in one Service vice two.

(4) A broader spectrum of legal duties and greater flexibility in assignments would be offered to officer lawyers.

(5) Any competitive or controversial administrative problems that might otherwise occur if both Navy and Marine Corps had legal personnel would be eliminated.

(6) New legislation would not be required.

(7) Direct Marine Corps appropriations and costs would be reduced.

(8) Incentives for excellence and an environment to develop competent, high professional military lawyers should be provided.

(9) The Marine Corps ratio of combat/combat support troops to total strength would be improved by reducing Marine Corps staff legal assistance.

(10) This concept would provide for all services from one Service.

(11) The Marine Corps might be provided with some additional personnel spaces which could be used for other urgent personnel requirements.

(12) A lesser total requirement of lawyers for the Navy and the Marine Corps because of centralized administration would probably result.

d. Disadvantages

(1) The total reliance of the Marine Corps in a vital functional area which affects discipline and morale is assigned to the Navy.

(2) A change in administration of legal services within the Marine Corps from a concept of "go-with-the-troops" to "dockside" might result.

(3) A period of 3 - 5 years would be required to complete transition to this system.

(4) Marine officers' interest/knowledge in legal matters may have a tendency to be reduced and an adverse affect on esprit, morale and discipline may result.

(5) Lawyers of another Service, who have limited knowledge of the Marine Corps structure, missions, functions, personnel administration and supply system, which might make them less effective in the administration of discipline in the Marine Corps, would be utilized.

(6) Procurement and retention of lawyers would, from a DON viewpoint, be further handicapped in that a source of some law students who are attracted to the Marine Corps by a desire to be Marine officers would no longer be available to the DON for procurement/retention to provide legal services to the two Services.

5. COURSE OF ACTION #3 - ESTABLISH JUDGE ADVOCATE DUTY ONLY CORPS OF MARINE LAWYERS

a. Description. A program would be established within the Marine Corps which would approximate the Navy JAG Corps concept in that a group of lawyers would be created, by legislation, as specialists to perform their duties only within the law field for their entire careers.

b. Discussion

(1) Under this course of action it is envisioned that Marine lawyers would be organized into a group which might be called "Judge Advocate Duty Only" officers. These "JADOS" would be procured as lawyers but would attend Basic School and other regular career training at appropriate times. Although contained on the regular lineal list in their proper order among unrestricted officers, they would compete only among themselves for promotion - at the same percent attrition rates as their unrestricted contemporaries. They would perhaps wear distinguishing devices such as the old Quartermaster device on the lapel of the coat and left collar of the shirt.

(2) This concept considers that JADOS would fill all judge advocate billets within the Marine Corps and the Marine Corps' fair share of judge advocate billets in Navy JAG. It is not envisioned that any separate overhead would be established within the Marine Corps for the administration of the JADO program; nor would any attempt be made to duplicate or establish any counterpart of the Navy JAG Office in the Marine Corps. Rather, the net overall lawyer requirements of the Marine Corps would remain essentially as at present. The major difference from the current system would be that the JADOS would be created as a permanent group through legislation.

(3) Throughout their careers, these officers would receive training appropriate to the law. They also would be required to attend certain Bar functions, in addition to being encouraged and permitted to attend other appropriate meetings and conventions relative to the practice of law.

(4) Inter-service coordination and cross-fertilization with the lawyers in the other Armed Services would be emphasized and every possible action taken to develop the JADOS into leaders in military law.

(5) Duties of JADOS would always be law only. However, their training, duty stations [except tours would be longer], positions on staffs, etc., would be designed to maximize the JADO's feeling of complete identification as a Marine officer. In this regard, legislation to establish the designation of JADOs should provide that these officers should not be precluded from command duties. This authorization would provide for using JADOs in command capacity during emergencies,

or unusual situations.

(6) At least one, but preferably two, general officer billets should be maintained to which all JADOs might aspire. One billet should be in JAG and one at HQMC on the CMC staff. Only "best fitted" JADOs would be selected for general officer rank to fill these billets.

(7) The JADO concept would also extend into the Marine Corps Reserve; thus, an additional source of careerists or officers to augment careerists as well as a mobilization base would be maintained.

(8) In many ways this plan would be similar to the old "SDO" program. But, it may be reasoned that the JADOs would be held in higher regard [and thus the program may be more successful] due to their close contact with discipline and the greater direct dependence of commanding officers on them. Also, the "Military Judge" connotation will foster additional respect for JADOs.

(9) This course of action would maximize professionalism [law] potential while still maintaining lawyers who are Marines. The benefits to be derived from having Marines tried, defended and advised by Marines have been discussed elsewhere in this Study. It is the general consensus of the Study Group that this situation, while assuring the greatest service to Marines and protecting the rights and interests of those accused, also aids in fostering esprit de Corps, materially assists in maintaining the highest state of discipline and maximizes the prestige of the commander. In addition, these Marine lawyers, having lived and worked under the same conditions as all other Marines, and understanding the same customs and traditions, will doubtless be better staff lawyer advisors to commanders than would be lawyers from another Service.

(10) It would be essential in implementing the JADO program to maintain a policy of sending JADOs to various levels of non-legal service schools such as the Amphibious Warfare School, Armed Forces Staff College and the National War College. Based on interviews with Marine lawyers conducted in the course of this Study, it is concluded that a policy of sending Marine lawyers to non-legal service schools would improve the lawyer retention rate. It would also maintain their feeling of being on the Marine Corps team.

(11) It appears that this course of action would be no more costly to the Marine Corps than the present system since there does not appear to be any requirement for an increase in legal personnel. On the other hand, it seems possible that the total number of lawyers and costs of the legal field may be reduced.

(12) The question arises of how a reduction in the number of JADOs would be effected, under this plan, if the overall strength of the Marine Corps were reduced along with an attendent reduction in requirements for legal services. It is envisioned that, similar to the old SDO Program, the legislation would provide that JADOs must be so designated by the Secretary of the Navy. Thus, the designation could conceivably be revoked by the Secretary, either upon a request by the JADO, or for some need of the Marine Corps, such as a reduction in lawyer requirements. However, while this would resolve this problem area, this provision of the law would no doubt tend to counter some of the procurement and retention advantages offered by the protective legislation features of this program.

c. Advantages

(1) The Marine Corps would have legal services furnished by highly proficient lawyers.

(2) Marine Corps lawyers would be Marines.

(3) Stronger procurement and retention incentives, such as those stated below, than in any other lawyer program using Marines as lawyers, are provided.

(a) The assignments of legal personnel within the legal system have maximum flexibility.

(b) There is a diversity for a lawyer in the practice of law.

(c) Marine lawyers would have a clear channel of promotion with equitable promotion opportunity amongst themselves.

(d) General officer rank incentive for those "best fitted" would be available for lawyers.

(e) The "legal environment" for lawyers would be maximized and, by statute, Marine lawyers would be assured of continuous law duty throughout their careers.

(4) The JADO concept can be applied within the Marine Corps Reserve.

(5) This course of action is simple to administer. Changeover from the present system could probably be effected in about one year.

(6) This program would be no more costly than the present system.

(7) There would be no adverse impact on the number of combat/combat support billets.

(8) A continuing close relationship between commanders and their Staff Legal Officers would be provided.

(9) Legal services could continue to "move" with the command.

(10) Continuing military, as well as legal, training could be provided under this plan.

(11) Billets for Marine lawyers at all echelons of DON would continue to be available.

(12) The authority of Marine lawyers to command could be maintained.

d. Disadvantages

(1) Legislation would be required to implement the concept.

(2) A "Corps" within the Corps would be established.

(3) The continuing problems of lawyer procurement and retention would remain as a burden for the Marine Corps.

(4) A service to the Marine Corps could conceivably be provided from another source; the Navy.

(5) Legislation would be necessary to eliminate or revise the concept, if it proved to be deficient after implementation, or if a future CMC did not desire to continue the program.

(6) Marine lawyers would be restricted from participation in certain aspects of the law available elsewhere in the Department of Defense.

(7) The sphere of legal experience available to the unrestricted officer with legal training and background would be reduced.

(8) Diversity in making officer assignments within the total Marine Corps officer structure would be restricted.

(9) There would be only limited flexibility in reducing the JADO strength during times of downward changes to the total force structure.

6. COURSE OF ACTION #4 - MAXIMIZE USE OF NAVY LAWYERS BUT CONTINUE HAVING MARINE LAWYERS PROVIDE MILITARY JUSTICE LEGAL SERVICES

a. Description

(1) The present legal system would be modified to provide an organization for legal services for the Marine Corps which is manned jointly by Marine lawyers and by lawyers of the Navy JAG Corps.

(2) Marine lawyers would be assigned primarily to billets in the field of Military Justice, while the Navy lawyers would generally occupy the billets providing other legal services.

(3) Marine officers would be authorized to have the lawyer MOS as primary and would be assured continuous legal duty assignments with the option of tours in a secondary OF.

b. Discussion

(1) The composite system proposed by this course of action would require a delineation of the functions to be accomplished by the Marine component and those to be done by the Navy JAG Corps. Functions would be assigned by a variety of methods i.e., horizontally-echelon at which functions accomplished [Navy provide all lawyers for JAG office]; vertically-assumption of certain services under the four categories -- military law, administrative law, legal assistance and general counsel services; and by base or station [Navy provides legal services on naval bases in a manner similar to that which is presently being done].

(2) The general criterion for the separation or division of legal services would be principally the area of administration of discipline. Marine Corps lawyers would be assigned primarily to legal duties in the Military Justice field where their Marine Corps training and background would be of the most assistance to the Commander. In essence, Marine Corps lawyers would occupy those lawyer billets within the Division, Wings, and major posts and stations that were principally involved in Military Justice cases. Marine lawyers would also occupy most of the Military Judge positions required by the Marine Corps. Specialization would result in proficiency of the highest order.

(3) The officers of the Navy JAG Corps would be assigned legal duties in those areas other than the Military Justice field. They would be assigned duty within the Divisions, Wings and major posts and stations just as doctors,

dentists, and chaplains are assigned at present. Such assignments of Navy lawyers would soon assure the greatest of competence in the areas of administrative law and legal assistance.

(4) The assignment of officers of the Navy JAG to duties as above would constitute a "vertical" designation of legal functions within the Marine Corps and could be expanded to encompass those duties at practically all levels within the structure of the corps.

(5) In addition to the "vertical" designation of legal functions, "horizontal" functions could be assigned to officers of the Navy JAG. This would take place principally at the higher echelons where little or no administration of discipline would be involved. In fact, at the higher levels the "vertical" and "horizontal" functions often appear to merge.

(6) Billets other than those relating to Military Justice now occupied by Marine lawyers in the JAG office would be vacated and filled by officers of the Navy JAG Corps. The Navy would continue to provide legal services to those Marines at Naval bases, stations, aboard ship, etc., in relatively the same manner as is accomplished now.

(7) An analysis of the above system which divides the legal duties between the Marine Corps and the Navy reveals certain benefits to the Marine Corps. The reduction in the number of Marine officers required should result in the Marine Corps receiving an even better qualified and motivated officer than at present. Since quantity is no particular problem, the overall affect could only be to the Marine Corps' advantage.

(8) The reduction in field grade officer billets due to the assignment of officers of the Navy JAG Corps throughout the Marine Corps structure, particularly in those higher echelons where the percentage of field grade billets are disproportionate to the number of billets involved, should result in a reduction in requirements for Marine Corps field grade lawyers. Any system that is retaining only 11.9% of its lawyers should benefit from a system that would lower requirements.

(9) One disadvantage might appear to be that the personnel pyramid would seem to lack the height to be capable of supporting a general officer selected as especially qualified for legal duty. Since there is not now one so designated [in actuality] and since the field grade officer requirements will be reduced, this does not appear to be of significance as far as retention is concerned, particularly since

the affects of the billet on retention have not been proved.

(10) In summary, from the Marine Corps viewpoint, prospective Marine lawyers would be available to join the Corps in more than sufficient numbers [since requirements would be reduced], and, as now, approximately 90% would serve their 4 years of service then return to civilian life while about 10 to 12% would remain to make a career of the Marine Corps. Additional retention incentives required for all programs should have approximately the same relative affect on this program. In fact, the affect might be enhanced if the knowledge of remaining in criminal law throughout a career serves as a lure.

(11) The additional requirement for Navy JAG Corps officers would result in an increase in the overall size of that body which it undoubtedly would favor if past actions are any criteria. The assignment to legal areas other than in the field of Military Justice would provide an additional outlet for those Naval officers who have legal interests in other than the Military Justice field. The assumption of certain of the Marine Corps billets in JAG and, perhaps others, at Headquarters, Marine Corps and other major headquarters would also have an appeal. Factors which might be objected to by the JAG are difficult to ascertain, particularly in view of the fact that the record shows that the JAG Corps has been eager to take over the entire legal burden of the Marine Corps.

(12) The provision of legal advice to the Commandant and Commanders by other than Marine Corps lawyers is not considered of particular importance, except in certain sensitive areas. In these areas, Marine lawyers could be assigned as desired.

(13) A legal system comprised of lawyers of different military services which, in essence, have different legal and personnel policies and systems would be more complicated to administer than a system manned by just one military service. Difference in personnel administrative methods, promotion and assignment policies, relative rank and seniority and the administrative chain could not only be a source of additional administrative complexity but also of jealousy and friction. In addition, a system which stresses the specialization of lawyers could reduce the overall effectiveness of the local military law office by restricting the flexibility for assignment of the individual lawyers. This could result in less than maximum utilization of the lawyers, both Marine and Navy, since neither would be well rounded in legal matters.

c. Advantages

(1) This course of action provides for the best

qualified, most competent lawyers - Marine lawyers specializing in the criminal law, Navy lawyers specializing in other fields.

(2) An equitable promotion opportunity is provided.

(3) New legislation is not required.

(4) This system is applicable to the Marine Corps Reserve.

(5) Overall costs should not differ significantly from those of other systems. Costs to Marine Corps would be less than in some systems manned solely by Marines.

(6) Disruption to the major traditional service of administration of discipline is avoided.

(7) System is conducive to smooth and orderly transition from current system.

(8) All lawyers can continue military as well as legal training.

(9) The number of Marine lawyers is reduced and, consequently, overall support billets are reduced.

(10) The appearance, or actuality, of a "special Corps" within the Corps is minimized.

(11) This system would continue to promote the close relationship that traditionally has existed between Marine officers and their troops.

(12) Legal services would continue to move with the Command.

(13) The opportunity for command by Marine lawyers could continued to be provided.

d. Disadvantages

(1) Maximum flexibility in assignment of legal personnel is not provided.

(2) Most diversity in the practice of law is not provided.

(3) Promotion opportunity for lawyers is limited to maximum rank of colonel.

(4) The system would be much more complicated to administer than a system which relies primarily on the members of one military service.

(5) Legal services, other than military justice law would be assigned to Navy officers, thus disrupting traditional processes.

(6) Marine lawyer representation is not provided at all echelons throughout the structure.

(7) Structure spaces vacated by Marine lawyers would undoubtedly be reprogrammed to the Navy.

(8) Specialization does not provide for the most efficient military officer lawyers.

(9) Restriction to practice of military justice law might lessen attractiveness of a career in Marine Corps legal field.

(10) The overall professional skill level of the Marine Officer Corps is diluted.

7. COURSE OF ACTION #5 - MODIFY PRESENT SYSTEM BY DESIGNATION OF LIMITED GROUP [MILITARY JUDGES] OF MARINE LAWYERS FOR LAW DUTY ONLY

a. Description. The present system of providing legal services in the Marine Corps would be modified to provide legal duty only judge advocates, primarily for military judges. The other unrestricted judge advocates would continue to perform all other legal duties and be available for non-legal assignments, depending upon the request of the individual and the overall needs of the Marine Corps.

b. Discussion

(1) This course of action would most closely parallel the present system of providing legal services. There would be no change in procurement requirements. Retention would probably be improved by officially recognizing that some judge advocates want to specialize in military law to the exclusion of all other elements of a military career while others want to include line and aviation duty in their career. This system does offer a reasonable degree of law career management and diversity. Also, it could be developed in certain directions of interest to the judge advocate community.

(2) The determining factor is the military judge requirement effective 1 August 1969. This new concept can act to further raise the stature of judge advocates who serve in that capacity. The creation of even a small corps of specialists is contrary to Marine philosophy regarding organization but it ensures the advantages of specialization within the legal field. Relationship between the Commander and his legal officers would continue to be good and no more limited than in any other feasible legal system under the restrictions of the new judicial concept.

(3) In that under the Military Justice Act of 1968 the Military Judge replaces the law officer on all General Courts-Martial, he rather than the "president," is the presiding officer of the court. The requirement that these judges of Courts of Review and General Courts-Martial be of an independent judiciary establishes a General Court and Court of Review concept very similar in nature and concept to present civilian judiciary structure and practice, particularly that of the upper courts. This mostly applies to General Courts-Martial.

(4) While a military judge is not required on all Special Courts-Martial, it will be good practice to appoint a military judge to all Special Courts-Martial. This will avoid the appearance of unlawful command influence and obviate the possibility of the court concluding from such appointment, when not obviously required, that the convening authority desires a punitive discharge.

(5) The Military Judge must be an expert in his field. He alone is responsible for certifying the record of trial. Furthermore, he is authorized to conduct a trial without court members if the accused so requests, in which case he is solely responsible for the determination of issues of fact as well as law, and for adjudging the sentence. Under these circumstances, it is quite obvious that the military judge cannot be assigned to the command involved. Therefore, by the very nature of this limitation, the influence of the Commander in discharging his responsibility for the discipline of his command can, in no way, be affected through his relationship with the military judge at the General Court-Martial level. Nor should this be any different at the Special Court-Martial level.

(6) The military judge, as the presiding officer in fact, should be at least equal to, if not senior in rank to, the ranking member of the court. This will not always be possible but in any case, the military judge should be responsible to the Commandant of the Marine Corps for direction and control and his Fitness Report should not be marked by the Court-Martial authority in the best interests of all concerned. This gives food to the thought that all military judges should be administered by Headquarters Marine Corps and that this could be done best by designating certain judge advocates for legal duties only.

(7) In that the military judge for General Courts-Martial equates, in stature, to that of the Federal District Judge with judicial experience commensurate to his measure of authority, it is not anticipated that officers below the rank of Lieutenant Colonel should be used for military judges of General Courts-Martial. Further, field grade military judges should be used in any court proceeding involving punitive discharge. However, the judge may not always be senior to the senior member of the court with which he sits.

(8) The Marine Corps cannot afford to develop and then dissipate, by assignment to duties other than legal duties, the kind of expertise developed and used for judgeship. In civilian life judgeship is a career in itself. It, therefore, behooves the Marine Corps to protect and preserve military judges by designating them for legal duty only.

(9) This arrangement would continue the use of unrestricted judge advocates with law MOSs to meet the myriad of legal requirements for which they are assigned today. This would open two possible careers to lawyers in the Marine Corps. One course could continue to lead to the participation in line and aviation duties resulting in the production of outstanding unrestricted general officers such as Major General E. E. ANDERSON and Brigadier General George AXTELL. The other

course could lead to the general officer billets in Navy JAG and Marine Corps JAD. These two career patterns would make it very possible for both the strictly law oriented officer and the unrestricted judge advocate to realize their personal professional ambitions. It would certainly be good for the Marine Corps.

c. Advantages

(1) All judge advocates would be identified as Marines.

(2) The feature of assuring legal duty only and unrestricted duty as well for lawyers would add an attractive feature enhancing lawyer procurement.

(3) Those judge advocates aspiring to law duties only would not be subject to promotional discrimination.

(4) Flag rank could be attainable by a greater number and no lawyer group need be excluded from the possibility.

(5) The Marine military judge is given optimum stature paralleling that of Federal court judges.

(6) The possibility of taking advantage of maximum number of billets in Navy JAG and Marine Corps could continue.

(7) The best qualified military judges are provided.

(8) The advantages of Marine relationships that are characteristic of any all Marine system are preserved.

(9) A source of commanders for emergencies, though limited in numbers, is provided.

(10) The best assurance for protection of the rights and interests of the Marine accused is provided.

(11) The most versatile use of legal personnel while putting expert emphasis where it is most appropriate and needed [the judgeship] is probably provided.

(12) Most problems of seniority among courts-martial members are answered.

(13) Except for continuing the present concept of legal proce· es, the least radical change is provided.

(14) Two career patterns for judge advocates which accommodate the two most distinctive ambitions which exist among Marine judge advocates are provided.

(15) The opportunity to include legal experience, a very desired and useful attribute, in the career development of unrestricted Marine officers is continued to be provided.

(16) Best good faith with all legal personnel presently in the Marine Corps and those Marine students aspiring to legal duties is maintained.

(17) Stability among judges which could reduce transient time losses is provided.

d. Disadvantages

(1) The burden of lawyer procurement and judge advocate retention is continued in the Marine Corps.

(2) A limited duty specialist corps, though small in number, is created.

(3) The feature of normally excluding unrestricted judge advocates from sitting as military judges would adversely affect procurement and retention.

(4) Diversity would be limited in field grade assignments of legal duty only judge advocates primarily to military judgeship.

(5) Unrestricted judge advocates are precluded from sitting as military judges except when no legal duty only military judge is available.

(6) The total number of unrestricted officers available to meet surge or other unusual demands for combat or other emergencies is reduced.

(7) The shortage of experienced judge advocates is probably aggravated.

(8) The comparative number of support personnel to combat/combat support personnel is aggravated.

(9) Specialization among Reserve judge advocates would be required.

(10) The field grade judge advocate shortage problem is not resolved and may even be aggravated to some degree.

(11) The administration of legal personnel is complicated.

(12) The sphere of legal experience available to the unrestricted officer with legal training and background would be reduced.

(13) The Military Judge would be handicapped in keeping abreast of the purely military side of the Marine Corps.

(14) Military Judges' careers would be mainly in the separate judiciary channels and could avoid close and frequent individual observation by a commander, in the sense of a reporting senior, for example.

(15) The development of an ever increasing imbalance between compassion and appropriate justice on the part of military judges could result.

8. Discussion and Elimination of Courses of Action

a. General. After considering the criteria for the optimum organization for legal services [outlined in V.E.1 above] and all of the advantages and disadvantages of the five courses of action under deliberation, the Study Group decided to eliminate courses of action #3, 4 and 5 from further consideration on the basis of the following:

b. Course of Action #3

(1) The Study Group believes that, overall, this plan would be the most attractive from the lawyers' viewpoint, of any other plan under which lawyers would be Marines. Further, it is considered that, by and large, the Marine lawyers so produced would be of the highest professional [legal] level of any such plan. The Study Group also believes that due to the many advantages previously enumerated in the various courses, it would be preferable that legal services be provided to Marines by Marines.

(2) However, there are two overriding disadvantages to this plan that are believed by the Study Group to be fatal; the requirement for legislation and the creation of a special group covered by special regulations - a group apart from the rest of the officer corps - a "Corps" within the Corps.

(3) The requirement for legislation is replete with hurdles and pitfalls.

(a) First, much manpower, time and effort would be required to draft the legislation. This would involve the time of personnel already pressed with heavy workloads, and also would delay even the start of the action to implement the plan.

(b) Second, there would be unpredictable delays involved in getting the legislation before the Congress after it is drafted. These delays would be incurred both at the DOD and DON levels. There would be further unpredictable delays attendant with congressional hearings and getting the bill introduced and voted. The whole process could take, conceivably, two or more years.

(c) Third, even considering the delays, the outcome would be uncertain. The proposal could be stopped at the various intermediate levels, or finally in Congress itself through defeat of the bill.

(d) Fourth, and perhaps most undesirable, focus would be placed on the Marine lawyer problem, specifically,

and the entire question of the Marine Corps concept of non-specialization in general. Where would it stop? Would the Marine Corps need special legislation for its engineers? Its electronics officers? Its supply officers? The question may also have to be aired as to why the Navy or some other service should not handle not only the legal services, but also the engineer, the electronics or the supply services as well.

(e) And finally, fifth, there will be those along the line,even in the Congress, who will recall that the Marine Corps successfully justified within this decade that a similar plan [i.e. the Supply Duty Only legislation] had not worked, was undesirable, and needed to be revoked, which it was. Indeed, were this plan implemented and found to be deficient, more legislation would again be required to substantially change it.

(4) The other characteristic of this plan believed by the board to be fatal would be the creation of a separate "Corps" within the Corps.

(5) There is also the esprit and morale of the non-lawyers to be considered. SDO officers were thought of as a group apart - with special treatment and relatively non-competitive promotion opportunity - a group not as subject to the hazards of combat but yet more likely achievable of the fruits of pleasant duty stations and almost assured promotion to nearly the highest ranks. Moreover, the JADO will probably be getting more pay than other Marine officers. While the Study Group believes that the JADO would doubtless be held in somewhat higher esteem because of the nature of the duties involved, it is also believed that these adverse elements are real and contrary to the best interests of the Marine Corps as a whole.

(6) In this regard, JADOs could develop stronger loyalties among themselves, to the law, or to the Navy JAG or DOD legal community, than to the Marine Corps. The feelings of the JADOs themselves are also to be considered. Interviews of officer lawyers by the Study Group consistently revealed that these officers wanted to be regarded as full and completely accepted members of the Marine Corps team - lawyers yes, but Marines first. This appeared to be a strong and universal feeling among all the lawyers. In no case did the individuals want to be placed apart as second class Marines. Peripheral disadvantages could certainly accrue, such as the development of "prima donnas."

(7) Further, since longer tours could possibly result, especially in the case of the more senior officers, these officers could develop personal ties, and establish

fruitful contacts within the local areas which might result in their reluctance to ever move. This could also result in inducement of more officers to resign or retire if faced with transfer.

(8) Finally, not to be overlooked, is the unique position of strength in which JADOs, as a corps protected by legislation, would be placed vis-a-vis the Commanders. As "powers behind the throne," these officers could very well develop into a group with great influence over policy, discipline, morale, and the many other areas of responsibility for performance that must rest, unencumbered, solely with CMC and Commanders.

(9) For the aforementioned reasons, the Study Group considers this plan, with full consideration of its many advantages, to be undesirable to the degree that it should be eliminated as a feasible course of action to consider further in this Study.

c. Course of Action #4

(1) This course of action was considered to have certain desirable attributes. However, it also appeared to pose many problems in the areas of assignment, profitable utilization of personnel, flexibility of the system and, in general, overall administration.

(2) In many areas of the law practice, there is a considerable overlap in the lawyer's performance of duties. A defense counsel for GCMs involved in military justice one day may be the Recorder on an administrative discharge board or in the adjudication of foreign claims [both administrative law] the next day. To establish a system whereby Marine and Navy lawyers in one legal office would be further highly specialized in specific areas of law would unduly complicate the already complex accomplishment of legal services.

(3) In addition, restriction of Marine lawyers in the practice of law to only military justice law might adversely affect the experienced lawyer retention rate.

(4) The predominant advantage of this course of action was that it did result in a reduction in Marine personnel assigned to the legal field. However, a weighing of the accrued savings versus the complicated two-Service system required to achieve them resulted in the determination that the gains were not remunerative. Therefore, it was decided that the course of action should be rejected.

d. Course of Action #5

(1) This course of action includes certain very attractive features for possible future use and is considerably less drastic in change than the creation of a legal duty only highly specialized corps within the Corps. However, it is not considered significantly different from the present legal system to warrant further analysis or comparison with Courses of Action 1 and 2 in this Study.

(2) While its advantages include many good possibilities, its affect on retention of the judicially inclined officer could very well be at the expense of retaining the more versatile unrestricted judge advocate and legally trained line or aviation officer.

(3) It is also considered that any movement toward specialization in any way other than on a voluntary basis departs from basic Marine Corps manpower utilization philosophy and should be considered most thoroughly before formal adoption.

(4) If the Navy Judge Advocates efforts to have Navy and Marine Corps Judges wear the historic black robe as a badge of prestige, stature and authority is any indication of the future, the Marine Corps may well be faced, sooner or later, with many special considerations regarding Marine Judges.

(5) There are some crucial flaws in this course of action. The administration of legal personnel would be unnecessarily complicated, without any apparent corresponding benefits. The field grade lawyer shortage would not be solved and, in fact, would probably be aggravated to some degree. The stated advantages do not provide sufficient compensation to the major disadvantage that a specialist group of officers, although a limited one, would be created.

9. Comparison of Courses of Action

a. General

(1) Having eliminated Courses of Action #3, #4 and #5, the Study Group analyzed in detail the two remaining Courses of Action, #1 [Continue Present System for Providing Legal Services to the Marine Corps] and #2 [Utilize only Navy Lawyers for Providing Legal Services to the Marine Corps].

(2) Each of the two Courses of Action provides for meeting most of the criteria set forth in paragraph V.E.1 above for an optimum system for providing legal services to the Marine Corps, but not necessarily equally in respect to each criterion.

b. Course of Action #1. This system clearly scores higher than #2 with respect to the following criteria:

General Criteria [Objectives]

(1) Maximizes the Commander's role, within the spirit and letter of law, in discipline matters.

(2) Precludes attrition of the resources/capabilities available to CMC and Commanders to execute the responsibilities of a military commander with respect to command/management/discipline of their personnel.

(3) Is sufficiently flexible to phase down the numbers of lawyers and other personnel in the legal structure in the event the requirements for legal services are reduced in the future [post-Vietnam era].

(4) Ensures that the Commander retains in an unimpaired state his ability to accomplish his responsibilities to maintain a high state of discipline and morale within his command.

(5) Provides for continuing military, as well as legal training.

(6) Keeps best possible faith with the Marine legal community.

(7) Retains identity of the lawyer as being "on the team."

(8) Provides for close relationship between Commander and legal officer.

(9) Promotes traditionally close relationship existant between Marine officers and their troops, with respect to discipline.

(10) Provides for legal services to move with the command.

(11) Maximizes effective utilization of manpower.

(12) Imposes the minimum restraints or restrictions on assignment of legal personnel.

c. Course of Action #2. This Course of Action was considered to be clearly better in regard to the below criteria:

General Criteria [Objectives]

NONE

Specific Criteria

(1) Provides diversity in practice of law.

(2) Satisfactorily meets individual legal professional ambition.

(3) Provides responsible legal billets at all echelons [for diversity of law practice and stature], from the top to bottom of the DON.

(4) Minimizes the number of Marine non-combat/combat support billets.

(5) Minimizes appearance, or actuality, of "special corps" within the Corps.

d. Equality in Criteria. Additional analysis revealed that neither Course of Action held an evident advantage in all of the remaining criteria, listed below, which were examined:

General Criteria [Objectives]

(1) Responsiveness to provide all legal services required by present [and future] laws and regulations.

(2) Minimizing the use of lawyers and maximize the use of non-lawyers to perform all services and administrative functions which, by law or regulation, do not actually require the services of a lawyer.

(3) Recognizing limitations of present personnel situation and outlook.

Specific Criteria

(4) Providing equitable promotion opportunity.

(5) Providing possibility of achieving General/Flag officer rank.

(6) Providing prestige and stature at least equal to civilian counterparts.

(7) Maximizing the simplicity of administration of discipline for the commander.

(8) Providing best assurance for protection of the individual's rights and interests of all Marines, Regulars and Reserves.

(9) Providing legal experience for unrestricted ground and aviation officers.

(10) Providing environment to develop competent, highly professional military lawyers.

(11) Providing legal services at the minimum overall cost to DOD.

(12) Being conducive to smooth and orderly transition from current system.

(13) Being applicable to the Marine Corps Reserve.

e. Key Issues. It was not possible to quantify the relative ability of each Course of Action to meet the proposed criteria. It was possible to identify some of the key issues, however, that would have the most influence on making a choice. These are shown below and discussed in some detail in succeeding paragraphs:

(1) Legal Personnel Requirements.

(2) Lawyer Procurement.

(3) Command, Esprit, and Influence of Lawyers on Discipline.

(4) Leadership.

(5) Effect on Marine Lawyers.

f. Legal Personnel Requirements

(1) First, there is the question of the numbers of legal personnel required, basically, to be lawyers. The number required to perform legal services for the Navy and the Marine Corps will total about the same regardless of the legal system utilized except for a small savings that possibly could accrue in overhead if the systems merged into one single Navy JAG system.

(a) The number of Marine officer lawyer billets and personnel required to support Course of Action #1 are:

	Wartime	Peacetime
1. Billets	375	273
2. Schools	68*	67**
3. Non available	19	11
4. Total	462	351

*60 attending Basic School
**59 attending Basic School

(b) Adoption of Course of Action #2 would eliminate the requirement or cost to support from Marine Corps funds personnel attending schools [68 and 67 respectively] and a minor portion of the non-available line.

(c) The number of enlisted billets and personnel required to support Course of Action #1 are:

	Wartime	Peacetime
1. Billets	743	690
2. Overhead*	154 MY	103 MY
3. TPP	119 MY	59 MY

*Recruit Training/ITR overhead, Schools [legal training].

(d) Adoption of Course of Action #2 would eliminate the requirement or cost to support from Marine Corps funds the personnel attending Schools and Recruit Training [154 MY and 103 MY respectively] and a minor portion of the TPP line.

(2) Since a sizeable increase is necessary in all Services as the result of increased requirements of legislation, competition will be keen to recruit lawyers. This plus the change in draft law environment will increase procurement difficulties. Once procured, retaining these professionally trained young men will undoubtedly be even more difficult.

(3) The number of billets and associated end strength authorized the Navy and Marine Corps for these legal personnel will be viewed by OSD as a departmental number and any change in legal organization will no doubt be accompanied by a shift in personnel. If Course of Action #2 were adopted, the Marine Corps should expect to lose the billets and end strength it has now for legal personnel plus any additions that may be authorized specifically to cover the additional requirements imposed by new legislation.

g. Lawyer Procurement

(1) If Course of Action #2 is adopted, the Navy would assume the Marine Corps' problems; the tasks of procuring and retaining legal personnel. If the Navy is successful, all problems will disappear. If the Navy is not successful, any shortfall will at the minimum be distributed equally to the Marine Corps.

(2) Maintaining the option to join the Marine Corps, even for legal duty, and but for only a few years, should continue to attract young men who would not otherwise enter the Service. It would at least give one more choice to any of those who choose to serve.

h. Command, Esprit and Influence of Lawyers on Discipline. An issue of utmost importance propounds the question that "Which Course of Action better fits the Marine Corps concepts of command, esprit, discipline and morale?"

(1) The great influence of the courts in the way of life in our society is growing more apparent every day. This gives rise to concern with respect to a conceivable, possibly remote, but serious long term effect that could result from Course of Action #2. Navy JAG officers, as a corps protected by legislation, would be placed in a unique position of strength vis-a-vis the Marine Corps commanders. As "powers behind the throne," these officers could very well become a group with great influence over policy, discipline, morale, and the many other areas of responsibility for performance that must rest, undiluted, with CMC and individual Commanders.

(2) In this connection, under Course of Action #2, the Marine Corps would have to rely, for matters absolutely vital to the discipline, good order, morale and overall well being of each command, upon a specialist from another Service whose roots and professional ties are essentially with his organization (JAG) and who is fully responsive in professional matters to his organization head and not to CMC. Sound, highly competent legal services will most certainly be provided by these officers Obviously also, undue command influence over military justice would never be tolerated within the Marine Corps

in any system. But a significant weakness in the long run lies in the fact that the JAG officer, even though on tour with the Marine Corps, could have stronger loyalties to the practice of law, or to the Navy JAG, or to the DOD Legal community, than to the Marine Corps.

(3) The Navy legal system utilizes a "dockside" law center concept of organization for rendering legal services to the fleets. This is due to a combination of reasons including economical use of legal resources. The Marine Corps on the other hand follows the concept of providing for legal services to "follow the command" or "move with the troops." This is also true with medical and religious services and Navy personnel assigned to carry out those services go right to the front as required.

(4) The Study Group considered another question: "Could not Navy lawyers do likewise when assigned to the Marine Corps?" It was concluded that Navy lawyers probably could. However, there is a distinct difference in the kinds of services provided between lawyers on the one hand and doctors, dentists and chaplains on the other. The latter essentially have complete jurisdiction in their sphere of professional competency, whereas lawyers are in fact rather more special staff type officers. Except when on duty in a court, they make recommendations to their Commanders who may or may not agree or concur on all points. Furthermore, the case load of the courts is directly in the hands of the Commanders, for it is they who determine those who will be referred to trial and those who will not.

(5) It must be emphasized that the Commandant is responsible directly to the Secretary of the Navy for the administration of discipline, internal organization, training, requirements, efficiency, readiness and total performance of the Marine Corps. This includes planning and determining the present and future personnel needs, both quantitative and qualitative, of Regular and Reserve personnel. In addition, the maintenance of a high degree of competence among Marine Corps specialists through education, training and equal opportunity for personal advancement is inherent in the required leadership. This leadership for which the Commandant is solely responsible, includes maintaining the morale and motivation of Marine Corps personnel and the prestige of a Marine Corps career. These responsibilities can be best assured by Course of Action #1.

(6) In considering the merits of Courses of Action #1 and #2, the need to grasp every opportunity to perpetuate and strengthen the Marine Corps image as a separate Service should not be overlooked. The Marine Corps has traditionally and very successfully been provided what are really purely technical services, such as Medical and Dental, Civil

Engineer [Public Works Officers, and Sea Bees when appropriate]. Also, the spiritual needs of Marines have been well provided by the Chaplains. But can the Corps accept the furnishing by others of a service so close to command and so vital to discipline and the fostering and maintenance of the highest prestige of, and respect for, the Commander? After thorough and lengthy deliberation, the Study Group considers that the Marine Corps indeed cannot.

i. Leadership. Fundamental to the discipline process is the traditional Marine Corps philosophy of leadership. Marine Commanders are expected to know their men and to attend to their every need. To do this, the Commander must be with his troops, experience what they experience and be alert to detect potential trouble spots and problems. In the same vein, staff legal officers will be better able to perform their staff functions, and the Commanders will be more receptive to this legal advice, if the lawyers are of the same Service, have gone to the same professional military schools, attended the same duty stations, and shared the same hardships in the field.

j. Effect on Marine Lawyers

(1) Some small [but hopefully repairable] damage has already been done to the prestige of Marine judge advocates by public expressions and conjectures regarding the future of the Marine legal system. While this, in itself, is probably of little overall consequence, the fact that the Marine Corps has stated that "designation as Marine Corps judge advocate does not operate, either directly or by implication, to place Marine Corps judge advocates within the structure of the Judge Advocate General's Corps of the Navy" serves to recognize officially that Marine lawyers do not particularly desire to be identified with the Navy JAG Corps. Any action which would do so, "directly or by implication" could be considered, at least, a breach of good faith.

(2) Further, officers in the Excess Leave (Law) Program are attending law school at their own expense and without pay or allowances for the sole purpose of becoming Marine Corps lawyers. In the case of Reserves, they, Marine lawyers, must accept a Regular commission if tendered same. This is a rather strong indication of how vital it has been to have these officers cast their lot with the Marine Corps. What can they rightfully expect in return, a career in the Navy?

(3) It is doubtful that the Marine Corps could handle these delicate situations without damaging the prestige of the officers concerned - or for that matter, its own prestige, if it turns its organic legal system over to the Navy.

k. Other Considerations

(1) The Study Group believes that, even were all other factors and considerations equal, the disruptive influence, and the resources which must be devoted, both initially and throughout several years, of a major change in Marine Corps personnel policy and procedures away from a system that is already working as well as any in the other Services, would be most undesirable.

(2) It could certainly be argued, however, that moving the problems of procurement, retention, and training of lawyers out of the Marine Corps and into the Navy would be clearly advantageous to the Marine Corps. But would the returns be worth the cost?

(a) First of all, the Marine Corps today is procuring adequate numbers of young lawyers without significant difficulty. Within the Marine Corps, lawyers are being retained at least as well as in the Navy, which is in fact having serious difficulties in that regard.

(b) Secondly, if JAG were responsible for furnishing all legal services for the Marine Corps, most certainly the "fair share" of any shortages would be distributed among the commands within the Marine Corps. The decision as to the amount of this "fair share" - and the quality of personnel provided would not rest with CMC. Thus, indirectly, the JAG could dictate how the lawyers assigned to the Marine Corps should be organized and, to "promote more efficient use of the limited number of lawyers available," decree that law centers be created, dockside procedures be established in lieu of law services moving with command, and other systems, not palatable to the Marine Corps. Thus, CMC may have to resort too frequently to Secretarial intervention in issues not heretofore controversial and which the Marine Corps could not afford to lose.

(c) Further, the Department of the Navy as a whole would be denied a significant part of the lawyer market by denying a career for lawyers in the Marine Corps. Those students who are particularly attracted to the Marine Corps, or indeed that just do not desire to go into the Navy, would doubtlessly turn to the Army or Air Force. The Study Group is of the opinion that many would want the Marine Corps or no Service at all. Thus, not only the Marine Corps, but the Department of the Navy as a whole, would be denied this part of the solution to the overall lawyer procurement/retention problem in the Armed Services.

(3) Finally, it may also be argued that, unless some drastic change is made in the way legal services are provided within the Marine Corps, the problems of procurement

and retention cannot be solved. In other words, since the problems are with us as a result of our present system, how can they be solved if we continue along the same lines? The answer is that countless young men are attracted to the Marine Corps, including those who are, or desire to be, lawyers. There have been recent changes in the Marine Corps lawyer program which require more time to achieve favorable effects. In addition, there is a need for greater publicity on the Marine Corps lawyer program, concerning such areas as the creation of the Judge Advocate Division in 1968 and the various Marine Corps lawyer procurement and incentive programs which now exist and are discussed elsewhere in this Study. Add to this the various other improvements which can be made administratively within the Marine Corps, such as a clear promotion channel and a demonstrated route to general officer rank. Also, the Military Judgeship Concept is a strong incentive force; further, add the implementation of the many sound proposals [8 concurred in by the Marine Corps], when effected, contained in the DOD Study of 1968. The Study Group is convinced that under these conditions Course of Action #1 would result in a successful, fruitful, and viable program.

1. Selection of a Course of Action. For all the reasons stated, the Study Group contends that the Commadant can best meet his responsibilities and best exercise the authority vested in his office by the Secretary of the Navy by retaining an organic, Marine oriented and manned, legal system. Thus, it is the opinion of the Study Group that Course of Action #1 is clearly superior to all other alternatives.

VI. CONCLUSIONS

THE STUDY GROUP ADDRESSING EACH ELEMENT OF THE PROBLEM CONCLUDES THAT:

A. LEGAL SERVICES. "TO DETERMINE WHICH LEGAL SERVICES MUST BE PROVIDED FOR MARINES."

1. All of the legal services in the four areas of military law, administrative law, legal assistance and general counsel services to Commanders must be furnished to individual Marines and to the Marine Corps.

2. Requirements for legal services in the Marine Corps will continue to expand.

3. Legal workloads in the future cannot be accurately projected.

4. Actual workloads will vary significantly from year to year, generally on a per capita strength basis as well as the impact of forces beyond Marine Corps control.

B. PERSONNEL REQUIREMENTS. "TO FORMULATE GUIDANCE ON THE MAGNITUDE OF SERVICES FROM WHICH TOTAL PERSONNEL REQUIREMENTS CAN BE COMPUTED."

1. There is a requirement for 375 lawyers, 743 enlisted legal personnel and 80 civilian legal employees under post-1Aug69, wartime conditions, and for 273 lawyers, 690 enlisted and 80 civilian employees during peacetime [post-Vietnam era] conditions to provide legal services for the Marine Corps in implementation of the provisions of the Military Justice Act of 1968.

2. Some administrative tasks now being performed by lawyers can be satisfactorily accomplished by non-lawyer personnel with limited legal training working under the supervision of lawyers.

3. The monetary costs of Courses of Action 1 or 2, assuming the Marine Corps will be assessed indirect training costs by some means, are approximately the same.

4. The number of military lawyers required under either Course of Action 1 or 2 [except for the extra personnel in the training line and the few lawyers serving in non-legal billets under Course of Action #1] is approximately the same.

5. The Marine Corps should employ more Women Marines as lawyers and legal clerks in appropriate legal tasks.

6. The ever growing legal workload and the dynamic nature of today's society demands that at least annual reviews of any lawyer program must be conducted with a view to revision of program elements as required. In this regard, appropriate statistics will always be needed.

7. The enlisted and civilian legal billet requirements do not pose a great problem and can be satisfied within the Marine Corps. An enlisted person in legal work may be potentially a law officer, and should be so motivated by his superiors.

C. PROCUREMENT/RETENTION PROGRAMS. "THE PROGRAMS NEEDED TO PROCURE AND RETAIN THE REQUIRED NUMBERS OF PERSONNEL.

1. All services face quite similar procurement and retention problems.

2. Lawyers selecting the Marine Corps are particularly motivated to be recognized as Marine Officers as well as military lawyers.

3. The Marine Corps can meet its initial procurement quotas. By FY 72, overall lawyer requirements should be met.

4. Qualified Marine officer lawyers [Regular and Reserve, active and inactive] should be employed in recruiting law students.

5. Compensation is a major factor in the procurement and retention of Marine lawyers.

6. The lawyer retention rate, as well as that of other technically or professionaly qualified personnel, must be improved.

7. The current field grade lawyer shortage is the composite of many factors of which the Marine Corps can influence some.

8. Promotion and general officer rank potential are major retention incentives.

9. The opportunity to serve as a Military Judge is an attractive inducement.

10. Marine lawyers should be provided the opportunity to serve in supervisory billets in Navy JAG.

11. Marine lawyers must be afforded the opportunity to participate in professional legal activities, both military and civilian.

12. The fact that the Marine Corps is held in high regard, and holds a unique position with respect to the American public, is a valuable incentive, in itself, for procurement and retention of military lawyers.

D. LEGAL SYSTEM/ORGANIZATION. "TO DETERMINE THE OPTIMUM LEGAL SYSTEM/ORGANIZATION WITHIN WHICH THE SERVICES CAN BEST BE FURNISHED."

1. Assignment of Marine Corps legal responsibilities to Navy JAG is inconsistent with General Orders 5 and 19, particularly since the thrust of recent Headquarters Marine Corps actions has been to ensure that all Marine Corps programs are provided visibility.

2. The type of legal system employed to provide legal services to the Marine Corps is of utmost importance to the accomplishment of command functions.

3. The military lawyer can perform, overall, most effectively for individuals, and for the Service as a whole, when he is a member of the same Military Service as those he is serving.

4. The Marine Corps would benefit and the legal field would be enriched through the infusion of post-graduate legal trained officers.

5. The Marine Corps position as a separate service within the DOD community is supported by retaining its own lawyer program.

6. The Marine Corps would receive little, if any, economic or manpower benefits if its legal service requirements were satisfied by another Service. In the event another Service performed the function, however, all billet spaces involved in this function would undoubtedly be transferred to the other agency and the total end strength of the Corps would be reduced.

E. DISCIPLINE. "TO REVIEW THE MARINE CORPS CONCEPTS PERTAINING TO DISCIPLINE."

1. The role of the military lawyer in general, and the Military Judge in particular, unlike doctors and dentists, places these officers in critical positions of great influence with respect to the maintenance of discipline and good order within each command, and in the Marine Corps as a whole.

2. The manner in which the Military Judge's function is exercised will have great influence on the attitude, smartness and overall disciplinary tone of a command.

3. Within the spirit and letter of the law, the paramount role of the Commander in discipline matters must be maintained.

4. The legal system must provide lawyers who know and understand the total working mechanisms [military, sociological and psychological] of the Corps.

5. The presence of lawyers/Military Judges in Marine uniforms and their demeanor will enhance the image of the Commander, with respect to discipline and justice.

6. All officers need training in military justice.

F. SPECIALIZATION. "TO REVIEW THE MARINE CORPS CONCEPT PERTAINING TO LAWYER SPECIALIZATION."

1. The Marine Corps requires a versatile officer corps representing the various disciplines and skills representative of our society.

2. The best interests of the Corps can be met by continuing the policy of non-specialization insofar as possible.

3. Marine lawyers should remain as unrestricted officers.

4. Better military lawyers will result when these officers are also intimately familiar with non-lawyer, strictly military functions, procedures and environments.

G. PROCEDURES. "TO RECOMMEND TO CMC THE MOST PRACTICABLE PROCEDURES FOR PROVIDING LEGAL SERVICES."

1. The present system of providing legal services to Marines [Course of Action #1] provides the most practicable procedures for providing future legal services to the Marine Corps and can be improved by certain programs.

VII. ACTION RECOMMENDED

A. RECOMMENDED LEGAL SYSTEM/ORGANIZATION. It is recommended that the basic concept of the current legal system for providing legal services to Marines be continued as the most practicable procedures for providing future legal services to the Marine Corps.

B. ADDITIONAL RECOMMENDATIONS. To improve the current Marine Corps legal system/organization, it is recommended that the Commandant:

1. Direct that duties assigned to Judge Advocates in legal billets be limited to those which require the services of lawyers and that the collateral duties of JAs are kept to the minimum essential.

2. Direct a review of Annex D [Military Legal Service Functions Chart] by appropriate staff agencies for the purpose of isolating all legal services which non-lawyers can accomplish and taking appropriate action to effect such execution of these tasks by non-lawyer personnel.

3. Employ more Women Marines as lawyers and legal clerks in appropriate legal tasks.

4. Direct an examination of the potential of a program whereby enlisted college graduates, Regular and Reserve, would be given law training to qualify them for appointment to commissioned grade and designation as Marine Judge Advocates.

5. Utilize Marine Judge Advocates [Regular and Reserve, active and inactive] in the procurement of officers for law duties.

6. Actively promote, in coordination with the Navy, career compensation for lawyers in the form of a reasonable retention incentive pay and a variable continuation bonus to retain lawyers in the numbers as, and when, required.

7. Select a general officer especially qualified in law duties for assignment to Navy JAG.

8. Propose, in due course, to the Secretary of the Navy the assignment of a Marine general officer lawyer as Deputy JAG of the Navy.

9. Initiate action with Navy JAG to ensure that the Marine Corps is assigned its proportionate share of departmental supervisory billets in Navy JAG.

10. Direct that action be taken to invigorate, on a continuing basis, the program for the return to active duty of Reserve field grade lawyers to reduce the current and forecasted shortage.

11. Recommend to the Secretary of the Navy, in appropriate individual cases, that Regular Marine officer lawyers be continued on active duty beyond statutory retirement points.

12. Establish lawyer assignment procedures to accommodate professional interests insofar as practicable.

13. Promulgate directives to foster and actively support the professional development of Marine lawyers by:

a. Encouraging lawyers to become members of Bar Associations.

b. Affording them the opportunity to attend, at government expense, law seminars and meetings of Bar Associations.

14. Develop and maintain an aggressive counseling program specifically designed to ensure that all lawyers are fully aware of the benefits and satisfaction of a full military career.

15. Initiate action to remove the Appropriations Act Rider to permit reinstatement of postgraduate law training [and then cancel the Excess Leave (Law) Program.]

16. Prove the opportunity for those lawyers who desire to attend graduate or special legal schools/courses, with appropriate payback by guarantee of further active duty obligation.

17. Establish a policy of sending Marine lawyers, voluntarily, to military service schools to enhance their professional military development and qualifications.

18. Increase the emphasis on the program of military legal education/training for all non-lawyer unrestricted duty officers.

19. Direct action to update and incorporate Marine Corps Orders 1040.21 and 1040.24 into a single directive concerning Marine Corps Policies and Programs Relating to Marine Officer Lawyers by the inclusion of the recommendations of this Study.

MARINE CORPS LEGAL SERVICES STUDY REPORT

CMC DECISION ON:

RECOMMENDATION	APPROVE	DISAPPROVE
VII A.	_____	_____
VII B. 1	_____	_____
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