



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
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20 FEB 2018

MARINE CORPS ORDER 5800.16

From: Commandant of the Marine Corps
To: Distribution List

Subj: LEGAL SUPPORT AND ADMINISTRATION MANUAL (SHORT TITLE: LSAM)

Ref: (a) 10 U.S.C. §§ 5041-5043
(b) DoD Directive 5100.01 of 21 December 2010
(c) U.S. Navy Regulations
(d) SECNAVINST 5430.7R
(e) 10 U.S.C. § 162
(f) SECNAVINST 5430.27D
(g) MCO 5430.2
(h) NAVMC DIR 5210.11E
(i) SECNAV M-5210.1
(j) SECNAVINST 5430.25E
(k) 5 U.S.C. 552a
(l) SECNAVINST 5211.5E

1. Situation. Pursuant to references (a) through (d), and consistent with the authority of the unified and specified commanders in reference (e), the Commandant of the Marine Corps (CMC) is directly responsible to the Secretary of the Navy for the well-being, morale, and discipline of the force, to include implementing and administering the Uniform Code of Military Justice. This includes the responsibility, and corresponding authority, to organize and supervise Marine Corps legal support and administration to assist in the day-to-day operations of the Marine Corps. The provision of legal support and the conduct of unit legal administration within the Marine Corps are decentralized to the extent possible, consistent with Marine Corps doctrine. Due to this decentralization there exists a need for unifying guidance to implement the various legal statutes and regulations that are applicable to the Marine Corps.

2. Cancellation. MCO P5800.16A.

3. Mission. To implement references (a) through (l) and provide the Marine Corps with direction regarding the provision of professional, effective, and efficient legal support and unit legal administration to the Marine Corps Total Force.

4. Execution

DISTRIBUTION STATEMENT A: Approved for public release; distribution is unlimited.

a. Commander's Intent and Concept of Operations

(1) Commander's Intent. This Order replaces MCO P5800.16A and provides guidance on the provision of legal support and unit legal administration throughout the Marine Corps.

(2) Concept of Operations. This Order promulgates uniform standards, policies, and procedures for the provision of legal support and unit legal administration in accordance with law, regulation, and policy.

b. Subordinate Element Missions. This Order shall be reviewed and applied by all commands in the provision of legal support and the conduct of unit legal administration.

5. Administration and Logistics

a. Distribution Statement A directives issued by CMC are published electronically and can be accessed online via the Marine Corps homepage at <http://www.usmc.mil> and MCPCL CD-ROM.

b. Additional information, forms, and resources are located at (<http://www.hqmc.marines.mil/sja/UnitHome.aspx>).

c. Records created as a result of this Order shall be managed according to the National Archives and Records Administration approved dispositions per references (h) and (i) to ensure proper maintenance, use, accessibility and preservation, regardless of format or medium.

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

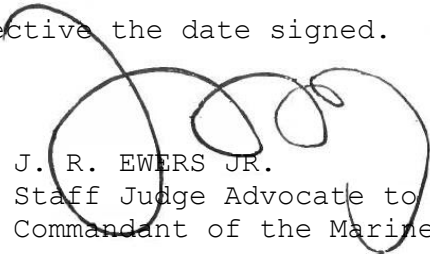
e. Privacy Act. Any misuse or unauthorized disclosure of Personally Identifiable Information (PII) may result in both civil and criminal penalties. The DON recognizes that the privacy of an individual is a personal and fundamental right that shall be respected and protected. The DON's need to collect, use, maintain, or disseminate PII about individuals for purposes of discharging its statutory responsibilities will be balanced against the individuals' right to be protected against unwarranted invasion of privacy. All collection, use, maintenance, or dissemination of PII will be in accordance with the Privacy Act of 1974, as amended (reference (k)) and implemented per reference (l).

6. Command and Signal

a. Command. This Order is applicable to the Marine Corps Total Force.

MCO 5800.16
20 FEB 2018

b. Signal. This Order is effective the date signed.



J. R. EWERS JR.
Staff Judge Advocate to the
Commandant of the Marine Corps

DISTRIBUTION: 10209190800

VOLUME 1**“LEGAL SUPPORT WITHIN THE MARINE CORPS”****SUMMARY OF VOLUME 1 CHANGES**

Hyperlinks are denoted by *[bold, italic, blue and underlined font](#)*.

The original publication date of this Marine Corps Order (right header) will not change unless/until a full revision of the MCO has been conducted.

The date denoted by *blue font* (left header) will reflect the date this Volume was last updated.

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VOLUME VERSION	SUMMARY OF CHANGE	ORIGINATION DATE	DATE OF CHANGES
ORIGINAL VOLUME	N/A	DD MMM YYYY	N/A

Submit recommended changes to this Volume, via the proper channels, to:

CMC (JA)
3000 Marine Corps Pentagon
Washington, DC 20350-3000

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VOLUME 1: LEGAL SUPPORT WITHIN THE MARINE CORPS

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REFERENCES

- (a) SECNAVINST 5430.7R
- (b) SECNAVINST 5430.27D
- (c) SECNAVINST 5430.25E
- (d) 10 U.S.C. §§ 806, 1044, 1044e, 1059, 1072, 1565b, 1588, and 5046
- (e) MCO 5430.2
- (f) JAGINST 5803.1E
- (g) Manual for Courts-Martial, (2016 ed.)
- (h) U.S. Navy Regulations, (1990)
- (i) MCO 5800.14
- (j) MCO 1001.62A
- (k) MCO 1200.17E
- (l) JAGINST 5803.2B
- (m) SECNAVINST 1920.6C
- (n) Uniform Code of Military Justice, (2016)
- (o) MCO 1610.7
- (p) MCO 1300.8
- (q) MCO 1000.6
- (r) JAGINST 5800.7F
- (s) SECNAVINST 5211.5E
- (t) 5 U.S.C. §§ 101, 552a, and 3111
- (u) JAGINST 5801.2
- (v) 37 U.S.C. §§ 601-604
- (w) 38 U.S.C. §§ 4301-4334
- (x) DoD Instruction 1205.12
- (y) 31 U.S.C. § 1342
- (z) DoD Instruction 1100.21
- (aa) 8 U.S.C. § 1400
- (bb) Executive Order 13269, (July 3, 2002)
- (cc) DOD Directive 2311.01E
- (dd) MCO 3300.4A
- (ee) DoD Directive 2310.01E
- (ff) DoD Directive 5146.13
- (gg) Executive Order 12333, (December 4, 1981)
- (hh) DoD Directive 5240.01
- (ii) DoD 5240.1-R
- (jj) DoD Instruction 3025.21
- (kk) DoD Instruction 5525.03
- (ll) SECNAVINST 5710.25B
- (mm) 1 U.S.C. § 112b
- (nn) 22 CFR Part 181
- (oo) DoD Directive 5530.3
- (pp) DoD 5500.07-R
- (qq) 18 U.S.C. § 202
- (rr) 5 C.F.R. § 2634

“REFERENCES”

As changes are made within this MCO Volume, the References list will also update.

Annotation of each update/change/addition to the References list is required.

The original publication date this MCO (right header) will not change unless/until a full revision of the MCO has been conducted.

The date denoted by **blue font** (left header) will reflect the date these References were last updated as changes/revisions are made within this MCO.

<p style="text-align: center;">VOLUME 1: CHAPTER 1</p> <p style="text-align: center;">“STAFF JUDGE ADVOCATE TO THE COMMANDANT OF THE MARINE CORPS AND JUDGE ADVOCATE DIVISION”</p> <p style="text-align: center;">SUMMARY OF SUBSTANTIVE CHANGES</p> <p style="text-align: center;">Hyperlinks are denoted by <i><u>bold, italic, blue and underlined font.</u></i></p> <p style="text-align: center;">The original publication date of this Marine Corps Order (MCO) Volume (right header) will not change unless/until a full revision of the MCO has been conducted.</p> <p style="text-align: center;">All Volume changes denoted in blue font will reset to black font upon a full revision of this Volume.</p>			
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CHAPTER 1

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

0101. GENERAL ROLES

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

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

010102. Judge Advocate Division Branches

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

010103. Applicability

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

0102. LEGAL SUPPORT WITHIN HEADQUARTERS MARINE CORPS

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

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

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

B. Director, Judge Advocate Division (JAD)

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

C. Functional Proponent

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

D. Functional Supervision

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

E. Professional Responsibility Oversight

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

010202. Additional Guidance

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

0103. Organization of Judge Advocate Division (JAD)

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

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

010302. Administrative Support Branch (JAA)

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

010303. Civil and Administrative Law Branch (JCA)

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

010304. Military Personnel Law Branch (JPL)

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

010305. International and Operational Law Branch (JAO)

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

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

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

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

010307. Military Justice Branch

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

A. Military Justice Policy and Legislation Section

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

B. Trial Counsel Assistance Program

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

010308. Plans & Innovation Branch (JPI)

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

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

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

010310. Legal Assistance Branch (JLA)

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

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

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

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

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

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

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

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

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

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

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

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

<p>VOLUME 1: CHAPTER 2</p> <p>“COMMAND LEGAL ADVICE AND LEGAL SERVICES”</p> <p>SUMMARY OF SUBSTANTIVE CHANGES</p> <p>Hyperlinks are denoted by <i><u>bold, italic, blue and underlined font</u></i>.</p> <p>The original publication date of this Marine Corps Order (MCO) Volume (right header) will not change unless/until a full revision of the MCO has been conducted.</p> <p>All Volume changes denoted in blue font will reset to black font upon a full revision of this Volume.</p>			
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CHAPTER 2

COMMAND LEGAL ADVICE AND LEGAL SERVICES

0201. **LEGAL SUPPORT**

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

0202. **COMMAND LEGAL ADVICE**

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

0203. **LEGAL SERVICES**

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

020301. **Legal Administration**

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

020302. **Provision of Legal Services**

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

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

0204. SUPPORTED-SUPPORTING RELATIONSHIPS

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

020401. Marine Forces Reserve

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

020402. Legal Services Support Section (LSSS) Pacific

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

020403. Legal Services Support Section (LSSS) East

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

020404. Legal Services Support Section (LSSS) West

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

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

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

020406. Relationships with Navy

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

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

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

0206. LEGAL SUPPORT TO DEPLOYED MAGTFs

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

020601. Requests for Legal Personnel

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

020602. Organization

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

020603. Readiness

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

Legal Services Support Section

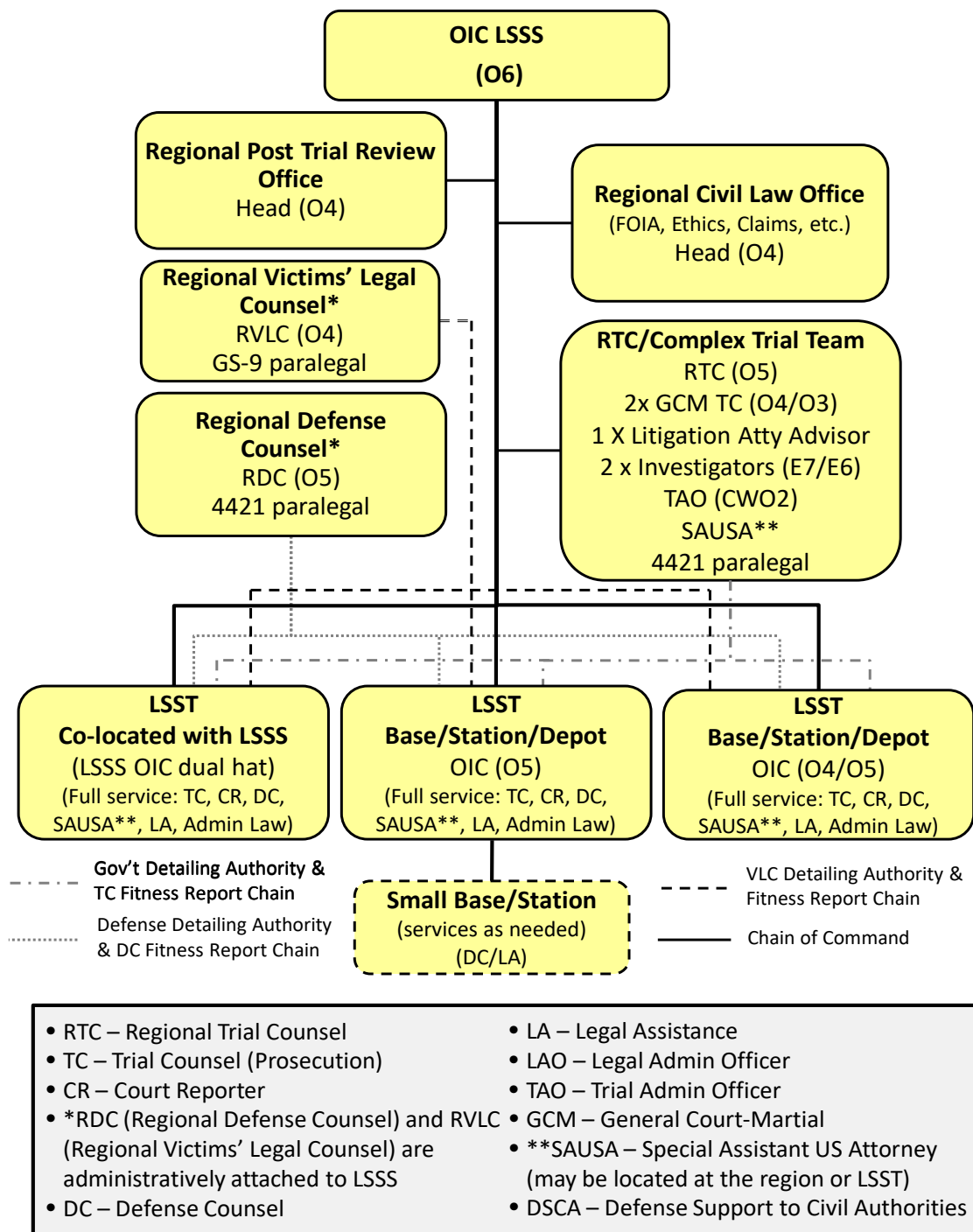


Figure 1

VOLUME 2**“OVERSIGHT OF THE MARINE CORPS LEGAL COMMUNITY”****SUMMARY OF VOLUME 2 CHANGES**

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VOLUME 2: OVERSIGHT OF THE MARINE CORPS LEGAL COMMUNITY

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- (h) U.S. Navy Regulations, (1990)
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- (l) JAGINST 5803.2B
- (m) SECNAVINST 1920.6C
- (n) Uniform Code of Military Justice, (2016)
- (o) MCO 1610.7
- (p) MCO 1300.8
- (q) MCO 1000.6
- (r) JAGINST 5800.7F
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CHAPTER 1

GENERAL OVERSIGHT PROVISIONS

0101. GENERAL

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

0102. EXERCISE OF FUNCTIONAL SUPERVISION

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

0103. PROFESSIONAL RESPONSIBILITY OVERSIGHT

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

0104. EVIDENCE OF GOOD STANDING WITH LICENSING AUTHORITY

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

010401. Proof of Good Standing

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

A. Certification Period

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

B. Proof of Good Standing

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

C. Non-Compliance

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

D. Student Judge Advocates

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

E. Authority of Supervisory Judge Advocates

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

F. Additional Guidance

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

0105. ASSIGNMENT RECOMMENDATIONS

010501. Authority

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

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

010502. Assignment Goals

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

<p>VOLUME 2: CHAPTER 2</p> <p>“LEGAL SUPPORT INSPECTION PROGRAM”</p> <p>SUMMARY OF SUBSTANTIVE CHANGES</p> <p>Hyperlinks are denoted by <i><u>bold, italic, blue and underlined font.</u></i></p> <p>The original publication date of this Marine Corps Order (MCO) Volume (right header) will not change unless/until a full revision of the MCO has been conducted.</p> <p>All Volume changes denoted in blue font will reset to black font upon a full revision of this Volume.</p>			
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CHAPTER 2

LEGAL SUPPORT INSPECTION PROGRAM

0201. GENERAL

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

0202. OVERVIEW

020201. Authority

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

020202. Process

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

020203. Relationship to Other Inspections

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

0203. OBJECTIVES

020301. Compliance

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

020302. Quality Control

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

020303. Process Improvement

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

020304. Evaluation

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

020305. Observation

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

0204. RESPONSIBILITIES

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

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

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

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

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

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

020404. Chief Defense Counsel (CDC)

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

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

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

<p>VOLUME 2: CHAPTER 3</p> <p>“LEGAL RESEARCH AND RESOURCE MANAGEMENT”</p> <p>SUMMARY OF SUBSTANTIVE CHANGES</p> <p>Hyperlinks are denoted by <i><u>bold, italic, blue and underlined font.</u></i></p> <p>The original publication date of this Marine Corps Order (MCO) Volume (right header) will not change unless/until a full revision of the MCO has been conducted.</p> <p>All Volume changes denoted in blue font will reset to black font upon a full revision of this Volume.</p>			
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CHAPTER 3

LEGAL RESEARCH AND RESOURCE MANAGEMENT

0301. **PURPOSE**

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

0302. **GENERAL**

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

0303. **CORE LEGAL RESEARCH REQUIREMENTS**

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

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

030302. **Deployable Legal Resource Requirements**

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

030303. **Judge Advocate Division (JAD) Resources**

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

0304. **LEGAL RESEARCH RESOURCES COORDINATOR RESPONSIBILITIES**

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

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

030401. Legal Resources

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

030402. Library Management

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

030403. Annual Inventory

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

030404. CALR Duties

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

0305. LEGAL INFORMATION TECHNOLOGY

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

030501. JPI-1 Responsibilities

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

030502. Mandatory Use of the Case Management System

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

<p>VOLUME 2: CHAPTER 4</p> <p>“COURT REPORTER PROGRAM”</p> <p>SUMMARY OF SUBSTANTIVE CHANGES</p> <p>Hyperlinks are denoted by <i><u>bold, italic, blue and underlined font.</u></i></p> <p>The original publication date of this Marine Corps Order (MCO) Volume (right header) will not change unless/until a full revision of the MCO has been conducted.</p> <p>All Volume changes denoted in blue font will reset to black font upon a full revision of this Volume.</p>			
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CHAPTER 4

COURT REPORTER PROGRAM

0401. **PURPOSE**

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

0402. **BACKGROUND**

040201. **Military Justice**

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

040202. **Administrative**

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

0403. **TRAINING**

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

040301. **Selection**

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

040302. **Qualifications**

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

040303. **Waivers**

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

0404. NOMINEE APPLICATIONS

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

VOLUME 3**“MARINE CORPS DEFENSE SERVICES ORGANIZATION”****SUMMARY OF VOLUME 3 CHANGES**

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- (i) MCO 5800.14
- (j) MCO 1001.62A
- (k) MCO 1200.18
- (l) JAGINST 5803.2B
- (m) SECNAVINST 1920.6C
- (n) Uniform Code of Military Justice, (2016)
- (o) MCO 1610.7
- (p) MCO 1300.8
- (q) MCO 1000.6
- (r) JAGINST 5800.7F
- (s) SECNAVINST 5211.5E
- (t) 5 U.S.C. §§ 101, 552a, and 3111
- (u) JAGINST 5801.2
- (v) 37 U.S.C. §§ 601-604
- (w) 38 U.S.C. §§ 4301-4334
- (x) DoD Instruction 1205.12
- (y) 31 U.S.C. § 1342
- (z) DoD Instruction 1100.21
- (aa) 8 U.S.C. § 1400
- (bb) Executive Order 13269, (July 3, 2002)
- (cc) DoD Directive 2311.01E
- (dd) MCO 3300.4A
- (ee) DoD Directive 2310.01E
- (ff) DoD Directive 5146.13
- (gg) Executive Order 12333, (December 4, 1981)
- (hh) DoD Directive 5240.01
- (ii) DoD 5240.1-R
- (jj) DoD Instruction 3025.21
- (kk) DoD Instruction 5525.03
- (ll) SECNAVINST 5710.25B
- (mm) 1 U.S.C. § 112b
- (nn) 22 CFR Part 181
- (oo) DoD Directive 5530.3
- (pp) DoD 5500.07-R
- (qq) 18 U.S.C. § 202
- (rr) 5 C.F.R. § 2634

“REFERENCES”

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

The original publication date this MCO (right header) will not change unless/until a full revision of the MCO has been conducted.

The date denoted by **blue font** (left header) will reflect the date these References were last updated as changes/revisions are made within this MCO.

VOLUME 3**“MARINE CORPS DEFENSE SERVICES ORGANIZATION”****SUMMARY OF SUBSTANTIVE CHANGES**

Hyperlinks are denoted by *bold, italic, blue and underlined font*.

The original publication date of this Marine Corps Order (MCO) Volume (right header) will not change unless/until a full revision of the MCO has been conducted.

All Volume changes denoted in blue font will reset to black font upon a full revision of this Volume.

CHAPTER VERSION	PAGE PARAGRAPH	SUMMARY OF SUBSTANTIVE CHANGES	DATE OF CHANGE

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MARINE CORPS DEFENSE SERVICES ORGANIZATION0101. **PURPOSE**

This Chapter describes the organization, roles, and responsibilities of the Marine Corps Defense Services Organization (DSO) and its personnel, as a functionally independent organization and as required by law, regulations, and the rules of professional conduct.

0102. **APPLICABILITY**

This Volume is applicable to: Marine judge advocates assigned duty as Marine defense counsel; civilian attorney advisors; legal services specialists assigned as defense enlisted support personnel; members of the Judge Advocate Reserve Defense Services Branch; and military personnel from other services assigned to the DSO. This Volume does not apply to judge advocates or legal services specialists attached to commands external to the Marine Corps.

0103. **GENERAL**

The Sixth Amendment to the United States Constitution provides, “In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defense.” This right to counsel has been specifically assigned to service members by Congress through Article 27, Uniform Code of Military Justice (UCMJ), and is implemented by the President through Rule for Courts-Martial (R.C.M.) 506, Manual for Courts-Martial (MCM). The Secretary of the Navy, through JAGINST 5800.7F, Manual of the Judge Advocate General (JAGMAN), provides Departmental policy and regulations regarding the right to counsel and the formation of the attorney-client relationship. This Volume, which supplements the JAGMAN, provides Service policy regarding the delivery of defense counsel services within the Marine Corps. The Chief Defense Counsel of the Marine Corps (CDC) also publishes policy, administrative procedures, and standards of practice applicable to judge advocates serving as Marine defense counsel. These documents are available on the DSO website. Where feasible, they are also made available on the DSO public website.

010301. **Defense Counsel**

Marine Corps defense counsel services are performed by commissioned officers who are licensed attorneys, certified as judge advocates under Article 27(b), UCMJ, and assigned to defense counsel billets in the DSO. Marine defense counsel serve at locations throughout the Marine Corps and are administratively attached to Legal Services Support Sections (LSSS). However, Marine defense counsel are under the functional supervision of and responsible and accountable to the CDC via the responsible Regional Defense Counsel (RDC) for the delivery of defense counsel services at their respective locations.

010303. **Representation**

A Marine defense counsel must exhibit unfettered loyalty and professional independence in representing his or her client, and is ultimately responsible for acting in his or her client’s best interest. A Marine defense counsel’s primary duty is to provide zealous, ethical, and effective representation to Marines and other service members. This duty is limited only by law, regulation, and the Rules of Professional Conduct (JAGINST 5803.1E).

0104. ATTORNEY-CLIENT RELATIONSHIPS010401. Establishment

A Marine defense counsel will not establish an attorney-client relationship with any individual unless detailed, assigned, or otherwise authorized to do so by his or her detailing authority.

010402. Severance

Once established, the attorney-client relationship, whether for a court-martial or administrative separation board, may only be severed under the provisions of R.C.M. 505 and R.C.M. 506 of the UCMJ and the Rules of Professional Conduct. A Marine defense counsel shall continue to represent an accused post-trial until the accused is assigned an appellate defense counsel, if applicable, or until completion of any and all post-trial or post-board matters; however, for purposes of paragraph 0108 of this Volume, a Marine defense counsel's tour with the DSO is considered complete when R.C.M. 1105/1106 matters, if applicable, have been submitted for every criminal case to which the defense counsel was detailed and comments on the Report of the Board have been submitted for every officer and enlisted administrative separation board to which the defense counsel was detailed.

0105. GUIDING PRINCIPLES010501. Functional Independence

In order to be free from either apparent or unlawful pressure or influence, the Marine Corps DSO must not only be functionally independent, but it must appear to the public as functionally independent, and must be treated as functionally independent.

010502. Funding

Funding for training, resources, and facilities and personnel shall be consistently provided across the Marine Corps legal community, and there should be equitable distribution, commensurate with mission requirements, between the defense function and the prosecution function with respect to the following: assignment of attorneys and enlisted support staff, access to resources, capabilities, and facilities, seats at continuing legal education courses, and training funds.

010503. Case-Related Funding

Requests for specific case-related funding submitted to the convening authority shall be considered and processed consistent with Article 46, UCMJ, the MCM, case law, and the JAGMAN.

010504. Access to Clients

Marine defense counsel shall be provided sufficient time and access to clients to achieve a full and confidential exchange of legal, procedural, and factual information. To ensure confidential communications, private meeting spaces must be available at offices, confinement facilities, courtrooms, and all other places where clients and counsel must confer in confidence.

010505. Workload

To ensure that a Marine defense counsel's workload is not too large as to interfere with his or her ethical obligations to any individual client, supervisory attorneys shall consider factors such as an individual counsel's experience and caseload, case complexity, anticipated end of tour date, and traditional officer duties when assigning counsel to a particular case.

010506. Assignment of Counsel

A Marine defense counsel's ability, training, and experience should match the complexity of the case. Supervisory attorneys will only assign a counsel to a case when that counsel is properly qualified to handle that particular case.

0106. PERSONNEL

Marine Corps Defense Services Organization (DSO). The Marine Corps DSO encompasses all defense counsel and defense support personnel assigned to Marine Corps Commands. The DSO is functionally independent. It operates under the functional supervision of, and is responsible and accountable to, the CDC for the delivery of defense services throughout the Marine Corps.

010601. Chief Defense Counsel of the Marine Corps

Chief Defense Counsel of the Marine Corps (CDC). The CDC is the Officer-in-Charge of the DSO. He exercises functional, day-to-day supervision over personnel assigned to the DSO, and is directly responsible to the Staff Judge Advocate (SJA) to the Commandant for supervision of all Marine defense personnel and the delivery of defense counsel services throughout the Marine Corps. The CDC shall be an experienced judge advocate serving in or selected to the grade of O-6/Colonel. The CDC is assigned in accordance with Article 6, UCMJ. The Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC) should, when possible, consult with the current CDC and take into consideration the following when selecting a successor CDC: designation with the Additional Military Occupational Specialty (AMOS) of 4409 (criminal law); prior experience as a Defense Counsel (DC), Senior Defense Counsel (SDC), Officer-in-Charge, Defense Counsel Assistance Program (DCAP), and/or Regional Defense Counsel (RDC); significant litigation experience as either a trial or defense counsel or as a military judge.

010602. Assignment of Chief Defense Counsel of the Marine Corps (CDC)

Upon assignment, the SJA to CMC will provide the CDC with an appointment in writing on behalf of the Commandant of the Marine Corps (CMC). This appointment should normally be for no less than two (2) years. The CDC's reporting senior and reviewing officer is the SJA to CMC. The CDC is administratively assigned to Judge Advocate Division (JAD), Headquarters Marine Corps (HQMC) and receives administrative support from HQMC.

010603. Support of Chief Defense Counsel of the Marine Corps (CDC)

The CDC is supported by a legal services specialist staff non-commissioned officer of appropriate experience and temperament, serving as DSO Chief, selected in coordination with the Legal Services Chief of the Marine Corps.

010604. Chief Defense Counsel of the Marine Corps (CDC) Supervision

The CDC serves as the supervisory attorney for the RDCs, DCAP, SDCs, and DCs.

010605. Specific Chief Defense Counsel of the Marine Corps (CDC) DutiesA. Establishing Policies and Procedures

Establishing standing operating procedures and Standards of Practice for the delivery of defense counsel services throughout the Marine Corps. Establishing policies and procedures to ensure that the internal organization structure of the DSO best facilitates the accomplishment of the DSO mission. Establishing policies to provide proper mentorship and training for all officer and enlisted DSO members.

B. Inspections

Conducting, at a minimum, one site inspection at each LSSS and subordinate LSST annually. On behalf of the SJA to CMC, inspecting at least annually the availability of funds, training opportunities, resources and personnel within each LSSS. Reporting to the SJA to CMC annually regarding the delivery of defense counsel services within the Marine Corps.

C. Performance Observation

Assessing through personal observations, inspections, reports of others, and records reviews, the practice, procedure, and techniques of defense counsel and enlisted support personnel in the performance of defense functions. Monitoring the experience level of judge advocates assigned as defense counsel relative to judge advocates assigned as trial counsel.

D. Facility Assessment

Assessing the adequacy of facilities and assets provided to defense counsel. Establishing and maintaining a JAD CDC/DSO Headquarters Branch, functionally independent of but administratively assigned to and supported by JAD.

E. Detailing

Detailing Marine defense counsel and auxiliary defense counsel to cases consistent with paragraph 0110 of this Volume and JAGMAN section 0130. Making availability determinations for Marine defense counsel to serve as Individual Military Counsel (IMC) consistent with paragraph 0112 of this Volume and JAGMAN section 0131.

F. Assignments

Consulting with JAD in the identification of the DSO leadership, including but not necessarily limited to RDCs, DCAP, and the CDC/DSO Chief.

G. Funding

In coordination with JAD, ensuring the availability of Headquarters-level resources and funds for training.

H. Ethics Complaints

Investigating and resolving all informal ethics complaints made in the case of DSO personnel. Investigating and forwarding all formal ethics complaints to the SJA to CMC.

I. Personal Caseload

The CDC may maintain a personal caseload that does not interfere with the responsibilities otherwise described in this Volume.

010606. Officer-in-Charge, Defense Counsel Assistance Program (DCAP)

DCAP is directly responsible to the CDC for the training and support of the DSO Marines. The OIC, DCAP is a Marine judge advocate, preferably serving in or selected to the grade of O-4/Major with the AMOS of 4409 (criminal law). DCAP is administratively assigned to JAD and receives administrative support from HQMC.

010607. Specific Defense Counsel Assistance Program (DCAP) Duties

A. Planning and coordinating DSO-wide and regional training events to ensure that defense counsel and support personnel receive appropriate training.

B. Monitoring defense counsel performance through personal observation, reading records of trial and briefs, and meeting and corresponding with senior judge advocates, military judges, and commanders.

C. Providing advice and consulting with defense counsel in the field on pending litigation, either face-to-face, telephonically or through SharePoint.

D. Assessing and reporting to the CDC on the adequacy of support, assets, and facilities provided to defense counsel at their location.

E. Maintaining and updating web-based support, such as the DSO SharePoint site and the DSO public website.

F. DCAP may maintain a caseload that does not interfere with DCAP's responsibilities for training and mentoring personnel within the DSO.

010608. Regional Defense Counsel (RDC)

RDCs are administratively supported by the regional LSSS but are functionally independent of the LSSS. They are under the functional supervision of, and are directly responsible to the CDC for the delivery of defense counsel services within their region. RDCs are assisted by a legal services specialist SNCO.

A. Qualifications

RDCs are Marine judge advocates serving in or selected to the grade of O-5/Lieutenant Colonel, with considerable expertise in military justice matters and will normally possess the AMOS of 4409 (criminal law). They are identified as being qualified for service as an RDC by JAD acting in the capacity of occupational field sponsor, in coordination with and after receiving advice from the CDC.

B. Funding

Funding for administrative and logistical support of RDCs and their support personnel, including travel, per diem, training and continuing legal education in connection with duties described in this Volume, will be provided by the commands to which the RDCs are administratively attached. RDCs are administratively supported by their regional LSSS and assigned through the normal assignment process as follows:

1. National Capital Region. The RDC, National Capital Region and support personnel are administratively attached to Headquarters and Service Battalion, Marine Corps Base, Quantico, with Monitored Command Code TEM.
2. Eastern Region. The RDC, Eastern Region and support personnel are administratively attached to Headquarters Battalion, Marine Corps Base, Camp Lejeune, with Monitored Command Code TEH.
3. Western Region. The RDC, Western Region and support personnel are administratively attached to Headquarters Battalion, Marine Corps Base, Camp Pendleton, with Monitored Command Code TEJ.
4. Pacific Region. The RDC, Pacific Region and support personnel are administratively attached to Headquarters and Support Battalion, Marine Corps Base, Camp Smedley D. Butler, with Monitored Command Code 1FU.

C. Responsibilities

RDCs serve as the supervisory attorney for the SDCs and DCs assigned to their LSSS and their subordinate LSSTs. While assignment of counsel within the LSSS and LSST remains within the purview of the LSSS and LSST OICs, selection of personnel with the qualifications to serve as either Senior Defense Counsel or Defense Counsel is a coordinated effort between the RDC and LSSS OIC. Subject to the approval of the CDC, RDCs organize defense leadership billets in their region to ensure efficient and effective DSO mission accomplishment.

F. Specific Regional Defense Counsel (RDC) Duties

1. Coordinating with local commands to ensure that defense counsel and support personnel receive appropriate training.
2. Conducting, at a minimum, quarterly site visits to each subordinate LSST defense branch.

3. Monitoring defense counsel performance through personal observation, reading records of trial and briefs, and meeting and corresponding with senior judge advocates, military judges, commanders, and Naval Criminal Investigative Service supervisory special agents (NCIS SSA).

4. Assessing and reporting to the CDC on the adequacy of support, assets, and facilities provided to defense offices within the region.

5. Detailing defense counsel assigned to their respective region, provided that authority has been delegated by the CDC consistent with paragraph 0110 of this Volume.

6. Making IMC availability determinations for defense counsel assigned to their respective region, provided that authority has been delegated by the CDC consistent with paragraph 0110 of this Volume.

G. Regional Defense Counsel (RDC) Priorities

An RDC's primary duty is the training, mentoring, and supervision of subordinate defense counsel in the RDC's region. If a RDC maintains a case load, it should not interfere with the RDC's responsibilities for training, mentoring, and supervising personnel within the region.

010609. Senior Defense Counsel (SDC)

An SDC is directly responsible to the RDC and CDC for the delivery of defense counsel services in support of the Marines and Sailors serviced by his or her LSSS or LSST. SDCs are Marine judge advocates, preferably serving in or selected to the grade of O-4/Major, normally with the AMOS of 4409 (criminal law), who serve as head of the defense section for the LSST. SDCs will be appointed in writing by the RDC. SDCs are assisted by legal service specialists of appropriate grade and experience assigned by the LSSS or LSST OIC in consultation with the SDC. SDCs are administratively attached to an LSST or LSSS, but are functionally independent of the LSST or LSSS. They are under the functional supervision of and are directly responsible and accountable to their RDC and the CDC for the delivery of defense services by their LSST or LSSS.

010610. Specific Senior Defense Counsel (SDC) Duties

A. Ensuring that defense counsel and enlisted support personnel receive appropriate training.

B. Monitoring defense counsel performance through personal observation, reading records of trial, briefs, motions, and meeting and corresponding with senior judge advocates, military judges, commanders, and NCIS SSAs.

C. Assessing and reporting to the RDC on the adequacy of support, assets, and facilities provided defense counsel at their location.

D. Detailing defense counsel assigned to that SDC's specific location, provided that authority has been properly delegated by the RDC or CDC consistent with paragraph 0110 of this Volume.

E. Reporting periodically on the condition of trial defense services at his or her location to the RDC and/or CDC.

F. An SDC will maintain a caseload that does not interfere with the SDC's responsibilities for training, mentoring, and supervising personnel within the section.

010611. Defense Counsel

A defense counsel's primary duties are to represent Marines and Sailors in courts-martial, administrative boards, and other proceedings, to provide counsel as required by law or regulation, and to perform other duties as prescribed by the SDC, RDC, or CDC. Defense Counsel are administratively assigned to an LSSS or LSST, but once assigned to a defense billet in the DSO, they are functionally independent of the LSST or LSSS and remain under the supervision of and are responsible and accountable to his or her SDC, RDC, and the CDC. Defense counsel will be assigned to their duties by the cognizant LSSS OIC or LSST OIC detailing authority in a written memorandum that includes an anticipated end date for their tour as a defense counsel.

010612. Auxiliary Defense Counsel

If needed to meet requirements, the LSSS or LSST OIC may identify a judge advocate that will be available to be detailed by the CDC or his or her designee to be a defense counsel for a particular case. SJA, deputy SJAs, trial counsel, victims' legal counsel, or review officers may not serve as auxiliary defense counsel. As outlined in paragraph 2010.3 of MCO 1610.7, Performance Evaluation System, auxiliary defense counsel concurrently performing non-defense duties may receive simultaneous fitness reports from a member of the DSO to evaluate the auxiliary defense counsel's performance as a defense counsel and from his or her supervisor outside of the DSO to evaluate the performance of non-defense counsel duties.

010613. Student Judge Advocates

Student judge advocates (MOS 4401) may be assigned by the LSSS or LSST OIC to support the LSSS or LSST defense branch in a manner similar to that provided to support the military justice section. Student Judge Advocates may likewise be assigned to augment the CDC/DSO Headquarters Element. While assigned to the DSO, student judge advocates are under the supervision of and responsible and accountable to the DSO. While they may assist in the preparation of cases and are bound by the attorney-client privilege, they may not be detailed to represent clients. With the approval of the military judge, student judge advocates may sit at counsel table.

010614. Enlisted Support Personnel

A defense legal services specialist's primary duties are to assist defense counsel in their representation of Marines and Sailors in courts-martial, administrative boards, and other proceedings and to perform other duties as prescribed by the SDC, DCAP, RDC, or CDC. Defense legal services support specialists are administratively assigned to the LSSS or LSST, but once assigned to a defense billet in the DSO, they are under the supervision of and responsible and accountable to his or her SDC, RDC, and the CDC.

A. Enlisted Support to Chief Defense Counsel

The Office of the Chief Defense Counsel of the Marine Corps/Officer-in-Charge, Defense Services Organization shall be supported by a legal services support specialist in the rank of at least a staff sergeant/E-6 or higher to serve as CDC/DSO Chief. This SNCO should have formal paralegal training and prior experience as an RDC Chief, DSO section chief, defense clerk, or other relevant military justice experience.

B. Duties of the Chief Defense Counsel/Defense Services Office Chief

1. Lead, supervise, train, and support all Marine Corps DSO enlisted personnel.
2. Serve as senior enlisted advisor to the CDC on all matters pertaining to the DSO personnel, to include mentoring and the training of 4421s.
3. Support the four DSO regions and provide litigation support to defense counsel.
4. Serve as the CDC's representative for the DSO Inspection Program, inspecting all DSO office branches at least annually to ensure compliance with the standards set by the CDC are being met.
5. Other duties as required by the CDC.

B. Enlisted Support to Regional Defense Counsel

The Offices of the Regional Defense Counsel shall be supported by a legal services support specialist. This Marine should be in the rank of at least an E-6/Staff Sergeant, normally will have formal paralegal training, have previously served as a DSO section chief, defense clerk, or possess other relevant military justice experience, and will be administratively assigned as described in paragraph 0108 supra.

010615. Judge Advocate Reserve Defense Services Branch

The DSO includes judge advocates who are members of the Reserve Component of the Marine Corps. These Reserve DSO members serve in billets within the Office of the CDC or in the RDC Offices. The most senior-ranking billet for a Reserve Component member of the DSO is Branch Head, Judge Advocate Reserve Defense Services Branch. This billet is held by an O-6/Colonel and is the Reserve counterpart to the Chief Defense Counsel of the Marine Corps. Reserve DSO members may be detailed as respondent's counsel for administrative separation boards and boards of inquiry, but should normally not be detailed to courts-martial. The Reserve DSO members are administratively attached to the Reserve Legal Support Branch at the JAD, Headquarters, Marine Corps. However, these judge advocates are under the functional supervision of and responsible and accountable to the CDC.

0107. TOUR LENGTH

All members of the DSO shall have an established tour length and established rotation date. After consultation with the RDC, the LSSS or LSST OIC will establish an anticipated end date for a Marine's tour with the DSO, which normally will be at least 18 months for defense counsel, SDCs, and DSO

enlisted support personnel. When assigning a Marine to the DSO, the OIC will memorialize the anticipated end of tour date in writing and provide a copy of the assignment letter to the RDC.

010701. The RDC will ensure, as far as practicable, that the agreed upon tour length for a defense counsel coincides with the termination of that defense counsel's duties and responsibilities.

010702. If circumstances arise that require curtailing a defense counsel's tour before the previously established agreed upon end of tour date, the LSSS OIC and RDC shall together establish a new end of tour date.

010703. If the parties cannot mutually agree upon a new end of tour date, the cognizant OIC, shall report, in writing, the circumstances requiring the tour curtailment to the SJA to CMC via the CDC.

010704. A defense counsel tour is not considered to be complete until R.C.M. 1105/1106 and post-board matters have been submitted for every case to which the defense counsel remains detailed and written matters are submitted concerning the reports of administrative separation boards such as Boards of Inquiry or Involuntary Enlisted Administrative Separation Boards.

0108. REASSIGNMENT

The reassignment of any Marine defense counsel requires careful planning and coordination between the RDC and the LSSS OIC. Once a Marine defense counsel is slated for reassignment by the OIC, the responsible RDC must ensure that the defense counsel is not detailed cases anticipated to extend beyond the targeted reassignment date without the consent of the OIC. If the RDC and the OIC cannot reach an agreement on the detailing decision involving a case that will likely extend beyond the defense counsel's anticipated rotation date, the matter will be forwarded to the CDC for resolution. If the CDC cannot resolve the matter, the matter will be forwarded to the SJA to CMC for final decision.

010801. Reassignment Prior to Completion of Duties

If a Marine defense counsel is pending reassignment, including discharge or retirement, prior to the completion of defense counsel duties, including post-trial representation, the responsible RDC must ensure the defense counsel has:

- A. Notified all remaining clients and any co-counsel in writing of the pending reassignment;
- B. Informed all remaining clients of their options with regard to the pending reassignment;
- C. Arranged for the client, when the reassignment creates a conflict of interest with a particular case, to consult with a conflict-free counsel about the matter and ensure the client's understanding of this advice is memorialized in writing, counter-signed by the client, and, in court-martial cases, provided to the military judge; and,
- D. Notified the military judge detailed to any ongoing courts-martial of the defense counsel's pending reassignment.

010802. Concurrent Service

Absent a knowing and affirmative waiver by the client of the apparent conflict of interest, and approval by a military judge, judge advocates may not serve concurrently, including periods of transition between billets, as a judge advocate assigned to the DSO or an auxiliary defense counsel and as:

- A. A trial counsel, SAUSA, or a victims' legal counsel on any case.
- B. The deputy SJA or SJA to the convening authority of any case in which the defense counsel is still performing defense counsel duties, including post-trial representation.
- C. The LSST OIC that the defense counsel is assigned to.
- D. Other billets which carry the mantle of command presence and therefore would create a conflict of interest with concurrent service as a defense counsel.

010803. Resolution of Assignment Disputes

Disputes over internal LSSS or LSST assignment or reassignment of DSO personnel will be resolved at the lowest possible level. Those disputes which cannot be resolved through the cooperative effort of the RDC and LSSS OIC will be adjudicated by the SJA to CMC, after consultation with the CDC.

0109. COLLATERAL DUTIES

Marine defense personnel shall perform routine non-defense duties, such as unit PT, training, and standing duty, so long as those collateral duties do not have a military justice connection or conflict with their statutory and ethical obligations to their clients. For example, a defense attorney cannot serve as a duty officer if he or she is responsible for checking Marines on or off restriction or is required to make command visits to the local confinement facility. A Marine defense counsel may, with the consent of the responsible RDC, augment the local legal assistance office. Recognizing the smaller caseload in a combat or expeditionary environment, Marine defense personnel may also perform non-defense duties in an expeditionary or combat environment such as working group member in operational planning teams in civil affairs, information operations and detainee operations, or providing legal assistance so long as these duties do not have a military justice connection or conflict with their statutory and ethical obligation to their clients. Prior to assigning a Marine defense counsel to these duties, the Marine Air Ground Task Force (MAGTF) SJA should consult with the responsible RDC.

0110. DETAILING011001. Chief Defense Counsel of the Marine Corps (CDC) Detailing Authority

The CDC is the detailing authority for all judge advocates assigned to the DSO and auxiliary defense counsel. Detailing authority includes the authority to remove a counsel from a case for good cause. The CDC may further delegate detailing authority for Marine defense counsel to subordinates within the DSO, subject to the restrictions set forth below. Further delegation of detailing authority will be published via CDC Policy Memorandum. With the consent of the SJA to CMC, the CDC may detail himself or herself to a case. The CDC is authorized to detail, or to delegate detailing authority, to assign

counsel in certain officer and E8 and above cases pending investigation under Chapter 2, JAGINST 5800.7F or under investigation by an Inspector General.

011002. Detailing Considerations

Prior to detailing a defense counsel to a particular case, the detailing authority will consider such factors as: the geographic locations of the accused and counsel, the expected location of the hearing the anticipated rotation date of the defense counsel, the counsel's caseload and experience, any applicable conflict-of-interest analysis, the case complexity, collateral duties assigned to the defense counsel, and the defense counsel's training and education requirements. The detailing of assistant defense counsel to contested and/or complex cases is encouraged.

011003. Detailing Responsibilities

When detailing a defense counsel to a particular case, the detailing authority shall ensure that:

- A. Standard detailing criteria are used.
- B. The needs of the local commands are taken into consideration.
- C. Every accused receives zealous representation by a fully qualified counsel.
- D. Every accused is detailed counsel in a timely manner.

011004. Detailing Timeline

The responsible detailing authority shall detail a defense counsel in writing to a particular case as soon as practicable. Absent good cause, the detailing authority shall detail a defense counsel within:

- A. Ten days of being notified via e-mail, fax, or other written means by corrections personnel, command representatives, the military justice section, or some other government official that an accused has been placed in pretrial confinement or arrest under R.C.M. 305.
- B. Five days of being served notice of preferred charges.
- C. Five days of being served notice of the appointment of an Article 32, UCMJ, Investigating Officer.
- D. Five days of being served an administrative separation/board of inquiry package.
- E. As otherwise required by law or regulation.

011005. Detailing Memorandum

The detailing authority will provide a copy of the detailing memorandum to the appropriate representative of the client's command and the cognizant prosecution section.

011006. Regional Defense Counsel (RDC) Detailing Authority

If delegated the authority, RDCs may detail defense counsel assigned to their regions, except themselves, to cases supported by their LSST.

011007. Senior Defense Counsel (SDC) Detailing Authority

If delegated the authority, SDCs may only detail counsel assigned to their LSST, including themselves, to cases supported by their LSST or an element thereof either because of geography or a specific request for legal services. However, SDCs who write fitness reports on subordinate counsel may not detail themselves to cases that involve clients with a conflict of interest with clients of a defense counsel for whom the SDC is the reporting senior.

011008. Special Detailing Cases

Defense counsel are normally only detailed to represent an accused assigned to an organization that is supported by that defense counsel's LSST either as a consequence of geography or through a specific request for legal services. However, a defense counsel may be detailed to represent an accused assigned to an organization that is not normally supported by the defense counsel's LSST on a case-by-case basis. Factors that may necessitate such a detailing include, but are not limited to, the following: unique requirements of the case; supporting units and organizations without defense counsel; conflict-of-interest cases; gaps in defense counsel coverage; and savings by using a counsel from another location. If such detailing decisions will result in non-local travel costs as defined by the Joint Federal Travel Regulations beyond those implicit in the request for legal services, then prior to detailing a defense counsel to the case, the authorized detailing authority shall get approval from the Convening Authority (CA) or his or her SJA for travel costs associated with that detailing decision. If the CA will not agree to fund the non-local travel costs associated with the detailing decision the issue will be forwarded to the CDC for resolution. If the CDC cannot resolve the funding issue, it will be forwarded to the SJA to CMC for final decision.

0111. REPRESENTATION AT INITIAL REVIEW OFFICER HEARINGS

Unless the accused has previously been detailed a defense counsel, the responsible detailing authority shall ensure a defense counsel is assigned to represent Marines and Sailors at Initial Review Officer (IRO) Hearings conducted under R.C.M. 305. The defense counsel need not be assigned to the LSST that normally supports the command to which the accused is assigned and may instead come from the LSST closest to the confinement facility or by another Service's defense organization as approved by the RDC. A defense counsel's representation at an IRO hearing is a limited attorney-client relationship related solely to that hearing and does not create an attorney-client relationship for any other purpose or create an entitlement that the accused later be detailed the counsel who represented him or her at this hearing.

0112. REQUESTS FOR INDIVIDUAL MILITARY COUNSEL (IMC)

Article 38, UCMJ, provides that an accused has the right to be represented by a military counsel of his own selection, if that counsel is reasonably available. JAGMAN section 0131 sets forth standards for determining the availability of a requested IMC.

011201. Determining Authority for Individual Military Counsel (IMC) Requests

A. As the OIC of the DSO, the CDC is the determining authority under JAGMAN section 0131b(2) for all IMC requests for Marine defense counsel assigned to the DSO, except IMC

requests for the CDC. The CDC may further delegate this authority to subordinates within the DSO, subject to the restrictions set forth below.

B. The SJA to CMC is the determining authority on IMC requests for the CDC.

C. The CDC is the determining authority on IMC requests for RDCs and DCAP. For IMC availability purposes, an RDC's organization encompasses the Legal Services Support Area of the LSST assigned, not the unit the RDC is administratively assigned. The DCAP OIC's organization is the DSO, not the unit to which the DCAP OIC is administratively assigned.

D. If delegated the authority, RDCs are determining authorities on IMC requests for SDCs and defense counsel assigned to their LSSS and subordinate LSSTs. For IMC availability purposes, an SDC or defense counsel's organization is the LSSS or LSST assigned and the location of the units supported from that location, not the units to which the SDC or DC is administratively assigned.

E. The determining authority for IMC requests for judge advocates not assigned to the DSO, including auxiliary defense counsel with active defense cases, is that judge advocate's OIC or commanding officer (CO).

011202. If the requested defense counsel is made available as an IMC, the detailed defense counsel shall normally be excused from further participation in the case, unless the detailing authority approves a request from the accused that the detailed defense counsel act as associate counsel.

011203. Administrative Review and Appeal of Individual Military Counsel Request Denials

A. The SJA to CMC's denial of an IMC request may not be appealed, but is subject to judicial review.

B. For all IMC requests denied by the CDC, the SJA to CMC is the immediate superior in command for administrative review and appeal.

C. For all IMC requests denied by an RDC, the CDC is the immediate superior in command for administrative review and appeal.

D. For all IMC requests denied by an OIC or CO, that officer's commander is the immediate superior in command for administrative review and appeal.

0113. PROFESSIONAL RESPONSIBILITY COMPLAINTS

The SJA to CMC is the Rules Counsel for all Marine judge advocates, including Marine defense counsel. Informal professional responsibility complaints regarding Marine judge advocates performing duties as defense counsel will be resolved within the DSO. Formal professional responsibility complaints regarding Marine defense counsel will be forwarded via the responsible RDC and CDC to CMC (JCA) for resolution in accordance with any applicable CDC policy memos in effect.

0114. MISCONDUCT ALLEGATIONS

Allegations of misconduct (other than professional responsibility complaints) concerning members of the DSO will be investigated and resolved through the administrative chain of command. Except in those cases where disclosure may jeopardize ongoing sensitive police operations, the responsible LSSS OIC shall immediately notify the responsible RDC and CDC in any case where a member of the DSO is suspected of any offense, and shall keep the RDC and CDC apprised of ongoing case developments. In cases where sensitive police operations are ongoing, notification shall be made as soon as doing so no longer hazards the investigation.

0115. ADMINISTRATIVE AND LOGISTICAL SUPPORT

Cognizant commands will provide personnel, administrative, and logistical support, commensurate with mission requirements, to defense sections equitably with that provided to military justice sections. Absent a judicial order to the contrary, nothing in this paragraph shall be construed to establish a requirement for assignment of investigators to the DSO on a permanent basis.

0116. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION (PII)

Defense counsel will ensure that all personally identifiable information (PII) is properly handled, redacted, and disposed of in accordance with SECNAVINST 5211.5E, the Privacy Act, 5 U.S.C. § 552a, paragraph 0141a of JAGINST 5800.7F, this Volume, and any policies or procedures established by the CDC, USMC/OIC, DSO to prevent the unlawful or unauthorized disclosure of PII. All PII provided to defense counsel during discovery is provided pursuant to the Official Use exception of the Privacy Act and SECNAVINST 5211.5, which is not applicable to defense clients. While a defense counsel may discuss information with includes PII with a client when necessary for the preparation of the client's case, under no circumstances shall a defense counsel allow a client to copy or otherwise maintain PII.

0117. BUDGETING AND FUNDING GUIDANCE

Funding to support the defense function should be provided equitably with command funding provided to support the prosecution function. Funding for administrative and logistical support and training expenses for RDCs, SDCs, DCs, and their support personnel will be provided by local commands or LSSS/LSST to which they are administratively attached, as available. All case-related expenses shall be provided by the convening authority, as required by JAGMAN section 0145.

0118. GUIDANCE ON REFERRALS TO CIVILIAN DEFENSE COUNSEL

011801. Acceptable Practices

Marines retain the right to be represented by counsel of their choice, including civilian defense counsel hired at no expense to the United States Government. Marines periodically request advice or referrals from their detailed or IMC for private, non-governmental defense counsel representation. DSO attorneys are obligated to honestly answer any and all questions posed to them by their clients, but will typically avoid recommending to a client which attorney among a group of two or more the client should select. When asked for advice, DSO attorneys may answer specific questions about civilian attorneys, but shall make clear that any information they provide does not reflect any Federal, Department of the Navy, or Marine Corps endorsement of that attorney. Clients will be advised to consult publically available resources such as attorney referral services, local bar and state association web sites, etc. when making their decision.

011802. Prohibited Practices

DSO Branch Offices shall not maintain a list of private attorneys for purposes of referral. Reserve judge advocates serving in any defense counsel capacity are prohibited from soliciting or receiving fees or compensation for the same matter about which they consulted with or advised a DSO client. Nothing in this section prevents or interferes with an attorney's ability to provide free, unfettered, and independent advice to individual clients consistent with this Volume.

VOLUME 4**“MARINE CORPS VICTIMS’ LEGAL COUNSEL ORGANIZATION”****SUMMARY OF VOLUME 4 CHANGES**

Hyperlinks are denoted by *[bold, italic, blue and underlined font](#)*.

The original publication date of this Marine Corps Order (right header) will not change unless/until a full revision of the MCO has been conducted.

The date denoted by *[blue font](#)* (left header) will reflect the date this Volume was last updated.

All Volume changes denoted in *[blue font](#)* will reset to black font upon a full revision of this Volume.

VOLUME VERSION	SUMMARY OF CHANGE	ORIGINATION DATE	DATE OF CHANGES
ORIGINAL VOLUME	N/A	DD MMM YYYY	N/A

Submit recommended changes to this Volume, via the proper channels, to:

CMC (JA)
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Washington, DC 20350-3000

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REFERENCES

- (a) SECNAVINST 5430.7R
- (b) SECNAVINST 5430.27D
- (c) SECNAVINST 5430.25E
- (d) 10 U.S.C. §§ 806, 1044, 1044e, 1059, 1072, 1565b, 1588, and 5046
- (e) MCO 5430.2
- (f) JAGINST 5803.1E
- (g) Manual for Courts-Martial, (2016 ed.)
- (h) U.S. Navy Regulations, (1990)
- (i) MCO 5800.14
- (j) MCO 1001.62A
- (k) MCO 1200.18
- (l) JAGINST 5803.2B
- (m) SECNAVINST 1920.6C
- (n) Uniform Code of Military Justice, (2016)
- (o) MCO 1610.7
- (p) MCO 1300.8
- (q) MCO 1000.6
- (r) JAGINST 5800.7F
- (s) SECNAVINST 5211.5E
- (t) 5 U.S.C. §§ 101, 552a, and 3111
- (u) JAGINST 5801.2
- (v) 37 U.S.C. §§ 601-604
- (w) 38 U.S.C. §§ 4301-4334
- (x) DoD Instruction 1205.12
- (y) 31 U.S.C. § 1342
- (z) DoD Instruction 1100.21
- (aa) 8 U.S.C. § 1400
- (bb) Executive Order 13269, (July 3, 2002)
- (cc) DoD Directive 2311.01E
- (dd) MCO 3300.4A
- (ee) DoD Directive 2310.01E
- (ff) DoD Directive 5146.13
- (gg) Executive Order 12333, (December 4, 1981)
- (hh) DoD Directive 5240.01
- (ii) DoD 5240.1-R
- (jj) DoD Instruction 3025.21
- (kk) DoD Instruction 5525.03
- (ll) SECNAVINST 5710.25B
- (mm) 1 U.S.C. § 112b
- (nn) 22 CFR Part 181
- (oo) DoD Directive 5530.3
- (pp) DoD 5500.07-R
- (qq) 18 U.S.C. § 202
- (rr) 5 C.F.R. § 2634

“REFERENCES”

As changes are made within this MCO Volume, the References list will also update.
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VOLUME 4**“MARINE CORPS VICTIMS’ LEGAL COUNSEL ORGANIZATION”****SUMMARY OF SUBSTANTIVE CHANGES**

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CHAPTER VERSION	PAGE PARAGRAPH	SUMMARY OF SUBSTANTIVE CHANGES	DATE OF CHANGE

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MARINE CORPS VICTIMS' LEGAL COUNSEL ORGANIZATION0101. **PURPOSE**

The purpose of this Volume is to describe the organization, roles, and responsibilities of the Marine Corps Victims' Legal Counsel Organization (VLCO), as provided for in law, regulations, and rules of professional conduct.

0102. **GENERAL**010201. **Purpose of Victims' Legal Counsel Organization (VLCO)**

Victims' legal services are provided to eligible service members and dependents who are victims of sexual assault and other crimes in accordance with 10 U.S.C. §§ 1044, 1044e and 1565b. This Volume, which implements these statutes as they relate to victims of crime, provides Service policy regarding the delivery of victims' legal services within the Marine Corps. The Officer in Charge of the VLCO (OIC, VLCO) will publish further policy and administrative procedures applicable to Marine judge advocates serving as Victims' Legal Counsel (VLC).

010202. **Supervision**

Marine Corps victims' legal services are performed under the supervision of the OIC, VLCO and provided by commissioned officers who are licensed attorneys, certified under Article 27(b) and sworn under Article 42(a) of the Uniform Code of Military Justice (UCMJ), assigned to VLCO billets, and certified by the Judge Advocate General of the Navy in accordance with 10 U.S.C. § 1044e as qualified to serve as VLC. Marine VLC serve at locations throughout the Marine Corps and are administratively attached to Legal Services Support Sections (LSSS). However, Marine VLC are under the functional supervision of, and responsible and accountable to, the OIC, VLCO and the responsible Regional Victims' Legal Counsel (RVLC) for the delivery of victims' legal services within their respective regions.

010203. **Duty**

A Marine VLC must exhibit unfettered loyalty and professional independence in representing his or her client, and is ultimately responsible for acting in the client's best interest. A Marine VLC's primary duty is to provide zealous, ethical, and effective representation to Marines and other eligible clients. This duty is limited only by law, regulation, and the Rules of Professional Conduct (JAGINST 5803.1E).

010204. **Other Resources**

Victims' legal services supplement, but do not replace, other victim services such as the Family Advocacy Program (FAP), the Sexual Assault Prevention and Response (SAPR) program, victim advocates (VAs), the victim-witness assistance program (VWAP), and services provided by chaplains and medical personnel.

010205. **Guiding Principles**A. **Independence**

The Marine Corps VLCO and all VLC must be independent of unlawful pressure or influence.

B. General Funding

Funding for training, resources, and facilities shall be consistently provided across the Marine Corps legal community, and there shall be equitable distribution, commensurate with mission requirements, between the services provided by Victims' Legal Counsel, defense counsel, and trial counsel with respect to the following: access to resources, capabilities, and facilities; seats at continuing legal education courses; training funds; and support staff.

C. Case Specific Funding

Requests for specific case-related funding submitted to the convening authority shall be considered and processed consistent with the Manual for Courts-Martial, the Manual of the Judge Advocate General (JAGMAN), and other applicable authorities.

D. Client Access

Marine VLC shall be provided sufficient time and access to clients to achieve a full and confidential exchange of legal, procedural, and factual information. To ensure confidential communications, private meeting spaces must be available at offices, confinement facilities, in the vicinity of the courtroom, and all other places where clients and counsel must confer in confidence.

E. Workload and Client Obligations

To ensure that a Marine VLC's workload is not too large as to interfere with his or her ethical obligations to any individual client, supervisory attorneys shall consider factors such as an individual counsel's experience and caseload, case complexity, anticipated end of tour date, and traditional officer duties when assigning counsel to a particular case.

F. Victims' Legal Counsel Experience and Qualification

A Marine VLC's ability, training, and experience should match the complexity of the case. Supervisory attorneys will only assign counsel who are properly qualified to handle a particular case.

0103. ORGANIZATION AND PERSONNEL

010301. Marine Corps Victims' Legal Counsel Organization (VLCO)

The Marine Corps VLCO encompasses all VLC and VLCO support personnel assigned to Marine Corps commands. The VLCO operates under the supervision of, and is responsible and accountable to the OIC, VLCO for the delivery of victims' legal services throughout the Marine Corps. For purposes of this Volume, "supervision" includes professional responsibility oversight, VLC specific training, assignment of VLC to particular cases, and execution of the day-to-day operations of the VLCO. All judge advocates and support personnel nominated to serve in VLCO billets must meet the requirements provided below and satisfy sensitive position screening criteria.

010302. Officer in Charge, Victims' Legal Counsel Organization (OIC, VLCO)

The OIC, VLCO is the head of the VLCO and responsible for supervision of all assigned personnel and the delivery of victims' legal services throughout the Marine Corps.

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

The OIC, VLCO shall be an experienced judge advocate serving in or selected to the grade of O-6/Colonel. The SJA to CMC should, when possible, consult with the current OIC, VLCO and take into consideration the following when selecting the next OIC, VLCO:

1. Additional Military Occupational Specialty (AMOS). Designation with the Additional Military Occupational Specialty (AMOS) of 4409 (criminal law).

2. Military Justice Experience. Prior military justice experience, particularly litigation experience as a trial counsel, defense counsel, victims' legal counsel, or a military judge.

B. Appointment

Upon assignment, the SJA to CMC will provide the OIC, VLCO with an appointment in writing on behalf of the Commandant of the Marine Corps (CMC). The OIC, VLCO's reporting senior and reviewing officer are the SJA to CMC.

C. Assignment

The OIC, VLCO is assigned to Judge Advocate Division, Headquarters Marine Corps (HQMC) and receives administrative support from HQMC.

D. Support Personnel

The OIC, VLCO is supported by a Deputy OIC and civilian paralegal specialist.

E. Supervision

The OIC, VLCO serves as the supervisory attorney for the Deputy OIC, RVLC and VLC.

F. Specific Duties

Specific OIC, VLCO duties include, but are not limited to:

1. Establishing standing operating procedures for the delivery of victims' legal services throughout the Marine Corps.

2. Conducting, at a minimum, one site inspection at each VLC office annually.

3. Assessing through personal observations, inspections, reports of others, and records reviews, the practice, procedure, and techniques of VLCs and support personnel in the performance of victims' legal counsel functions.

4. Assessing the adequacy of facilities and assets provided to VLC.
5. Supervising the training of VLC, and ensuring each VLC is certified by the Judge Advocate General of the Navy in accordance with 10 U.S.C. § 1044e.
6. Monitoring the experience levels of judge advocates assigned as VLC relative to judge advocates assigned as trial counsel or defense counsel.
7. Reporting to the SJA to CMC annually regarding the delivery of victims' legal services within the Marine Corps.
8. Detailing VLC and Auxiliary VLC to cases consistent with paragraph 0107 of this Volume.
9. Ensuring that the organizational structure of the VLCO is sufficient to accomplish the VLCO mission.

010303. Deputy Officer in Charge, Victims' Legal Counsel Organization (Deputy OIC, VLCO).

The Deputy OIC assists the OIC, VLCO in exercising his or her responsibilities for the supervision of all assigned personnel and the delivery of victims' legal services throughout the Marine Corps.

A. Deputy Officer in Charge, Victims' Legal Counsel Organization (OIC, VLCO)
Qualifications

The Deputy OIC, VLCO shall be a judge advocate serving in the grade of O-4/Major, or O-5/Lieutenant Colonel, with expertise in military justice matters, to include experience in at least one contested complex case, six months or more of military justice experience, and will normally possess the NMOS of 4409 (criminal law), unless waived by the OIC, VLCO.

B. Specific Duties

Specific Deputy OIC, VLCO duties include, but are not limited to:

1. Acting as the OIC, VLCO in the OIC's absence.
2. Ensuring compliance with policies and standing operating procedures issued by the OIC, VLCO.
3. Monitoring the performance of RVLC and VLC and advising the OIC, VLCO of such observations, as well as recommending modifications to VLCO policies and standing operating procedures.
4. Training, mentoring, and supervising the civilian paralegal specialist assigned to the VLCO headquarters element.

5. Assessing the adequacy of facilities and assets provided to VLC and reporting findings to the OIC, VLCO.

6. Attending appropriate meetings of Department of Defense, Department of the Navy, HQMC, and other organizations on behalf of the OIC, VLCO as directed.

7. Coordinating with external agencies as necessary to accomplish the mission of the VLCO.

8. Providing legal advice and assistance to the RVLC, VLC, and support staff throughout the Marine Corps.

9. Maintaining and updating web-based support, including the VLCO SharePoint site and VLCO case management system.

10. Providing legal advice and representation to clients when detailed by the OIC, VLCO.

010304. Regional Victims' Legal Counsel (RVLC).

A RVLC is directly responsible to the OIC, VLCO for the delivery of victims' legal services within a region. There will be one RVLC assigned to each LSSS whose region corresponds to the LSSS Legal Services Support Area. A legal services specialist or civilian paralegal specialist with prior criminal law experience is assigned to each RVLC office.

A. Regional Victims' Legal Counsel (RVLC) Qualifications

RVLC are Marine judge advocates serving in or selected to the grade of O-4/Major, who normally have at least two years combined experience as a trial counsel or defense counsel or military judge, to include experience in at least one contested general court-martial case, and will normally possess the NMOS of 4409 (criminal law).

B. Reporting Relationships

RVLC are administratively attached to the LSSS, but are responsible and accountable to the OIC, VLCO for the delivery of victims' legal services in their region.

C. Supervisory Responsibility

RVLC serve as the supervisory attorney within their assigned region, and are responsible for the training, mentoring, and supervision of all VLCO judge advocates and support personnel within it.

D. Victims' Legal Counsel (VLC) Assignment

RVLC coordinate with the Officers in Charge of the LSSS and LSST in the assignment of judge advocates as VLC and auxiliary VLC.

E. Specific Duties

Specific RVLC duties include, but are not limited to:

1. Supervising and monitoring the performance of subordinate VLC through personal observation, reading records of trial and briefs, and meeting and corresponding with senior judge advocates, military judges, sexual assault response coordinators (SARCs), and VAs.
2. Detailing VLC within their region, provided that authority has been delegated by the OIC, VLCO consistent with paragraph 0107 of this Volume.
3. Providing legal counsel and representation to victim clients. The RVLC's case load should not interfere with the RVLC's responsibilities for training, mentoring, and supervising personnel within the region.
4. Assessing and reporting to the OIC, VLCO on the adequacy of support, assets, and facilities provided to VLC offices within the region.
5. Conducting site visits to subordinate VLCO offices within the region and to supported military installations. The frequency of visits required will vary, but at a minimum should be conducted at least twice per year to each subordinate office and annually to supported commands.
6. Coordinating with local agencies and individuals, including the SARC and VAs, to ensure the efficient and effective delivery of victims' legal services.
7. Coordinating with local commands to ensure that VLC and support personnel receive appropriate training.

010305. Victims' Legal Counsel (VLC).

A VLC is directly responsible to the RVLC and OIC, VLCO for the delivery of victims' legal services in support of eligible victims serviced by their LSST or an element thereof.

A. Victims' Legal Counsel (VLC) Qualifications

VLC are Marine judge advocates, serving in or selected to the grade of O-3/Captain, preferably with six months or more military justice experience and at least one contested case.

B. Reporting Relationships

VLC are administratively attached to the LSST, but are responsible and accountable to their RVLC and the OIC, VLCO for the delivery of victims' legal services by their LSST.

C. Duties

A VLC's primary duties are to advise and represent victims as required by law, regulation, and policies and procedures issued by the OIC, VLCO. VLC also perform other duties as prescribed by the RVLC or OIC, VLCO.

010306. Auxiliary Victims' Legal Counsel (AVLC)

A. Selection

The OIC of each LSSS and LSST shall nominate a judge advocate available to serve as an Auxiliary Victims' Legal Counsel (AVLC). The AVLC may be detailed by the OIC, VLCO as needed to meet high caseloads or to serve when there is a conflict of interest.

B. Auxiliary Victims' Legal Counsel (AVLC) Qualifications

AVLC must possess at least six months military justice experience and satisfy sensitive selection screening criteria. Staff judge advocates, deputy staff judge advocates, trial counsel, defense counsel, or review officers may not serve as AVLC.

C. Auxiliary Victims' Legal Counsel (AVLC) Client Representation

AVLC who are assigned victim clients may simultaneously continue to serve in their primary billet, but shall in all cases avoid conflicts of interest. When assigned a case, the AVLC remains administratively assigned to their respective LSSS or LSST, but becomes supervised by and accountable to the RVLC and OIC, VLCO for victims' legal matters.

D. Auxiliary Victims' Legal Counsel (AVLC) Performance Evaluation

AVLC concurrently performing VLC and non-VLC duties should ordinarily receive simultaneous fitness reports, as provided in paragraph 2010.3 of MCO 1610.7, Performance Evaluation System. The respective RVLC may determine that a simultaneous VLC fitness report is unnecessary where the AVLC did not serve sufficient time performing VLC duties during the reporting period.

010307. Support PersonnelA. Duties

The primary duty of civilian paralegal specialists and enlisted legal services specialists (MOS 4421) assigned to VLCO is to support the VLCO mission by assisting VLC, RVLC, and the OIC, VLCO in the performance of their duties. Support personnel must ensure strict confidentiality of all VLCO matters.

B. Reporting Relationships

VLCO support personnel are administratively assigned to the LSST, but once assigned to a VLCO billet, they are responsible and accountable to his or her supervising VLC, RVLC, and the OIC, VLCO.

C. Civilian Paralegal

One civilian paralegal specialist shall be assigned to assist the OIC, VLCO.

D. Regional Victims' Legal Counsel (RVLC) Support Personnel

One civilian paralegal specialist or enlisted legal services specialist in the rank of E-5/Sergeant, shall be assigned at each RVLC office, and one civilian paralegal specialist, or enlisted legal services specialist in the rank of E-4/Corporal, shall be assigned to other VLCO offices.

010308. Reserve Support

Victims' Legal Counsel Organization Branch augments the active duty structure and provides surge capability to meet increases in demand for VLCO services, as well as the ability to handle conflicts of interest.

010309. Sensitive Screening Process

The Secretary of Defense requires there be a "sensitive screening process" for "sensitive positions" within all the Services. Individuals considered for such positions must undergo an "enhanced screening" process before being selected. VLC assignments are "sensitive positions." The sensitive screening process for a judge advocate nominated to assume the assignment of a VLC will, at a minimum, consist of a review of judge advocate's Official Military Personnel File to determine appropriate experience and temperament. Further, an individual that has a conviction for, a substantiated incident of, or is currently facing an open investigation into any of the following offenses is expressly prohibited from serving as a VLC: (1) sexual assault, (2) domestic violence, (3) child abuse, or (4) any other felony-level offense.

0104. ELIGIBILITY

Victims of sexual assault and other crimes under the UCMJ may seek assistance from a VLC as permitted by 10 U.S.C. §§ 1044, 1044e, and 1565b, the Manual of the Judge Advocate General (JAGINST 5800.7F (JAGMAN)), and pursuant to guidance published by the OIC, VLCO. Approval authority may be delegated and exercised in accordance with policy and procedures published by OIC, VLCO.

010401. Victim Definition

A victim is a person who alleges to have suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime in violation of the UCMJ.

010402. Appointment of Representative

In the case of a victim who is incompetent, incapacitated, deceased, or a non-service member under 18 years of age, the convening authority may, and the military judge shall, appoint a representative to assume the victim's rights under Article 6b, UCMJ. When a representative is appointed, the victim remains the VLC's client per Rule 1.14 of JAGINST 5803.1E. However, because the representative is appointed to make decisions on behalf of the victim, all communications among the representative, victim, and detailed VLC are privileged pursuant to M.R.E 502 and the representative is further covered by Rule 4.2 of JAGINST 5803.1E.

010403. Notification Requirement

Pursuant to 10 U.S.C. § 1565b, all eligible victims shall be informed of the right to, and when a victim so elects, the opportunity to consult with a VLC as soon as the member or dependent seeks

assistance from a SARC, SAPR or FAP VA, military criminal investigator, victim-witness liaison or coordinator, or trial counsel.

0105. SCOPE OF SERVICES

010501. Legal Counseling and Advice

VLC will provide confidential legal counseling and advice to eligible victims, including, but not limited to the following topics:

A. Other Services

VWAP, SAPR program, and FAP, including the rights and benefits afforded the victim (including those under 10 U.S.C. § 1565b), the role of the victim advocate and what privileges do or do not exist between the victim and the victim advocate, and the nature of the communication made to the victim advocate as opposed to those made to VLC.

B. Report Types

The differences between restricted and unrestricted types of reporting in sexual assault cases.

C. Military Justice System

Information concerning the military justice system, including the roles and responsibilities of the convening authority, trial counsel, defense counsel, and investigators, and applicable Military Rules of Evidence (MRE), to include MRE 412, 513, and 514.

D. Testimony

The ability of the government to compel testimony.

E. Counseling and Medical Services

The services available from appropriate agencies or offices for emotional and mental health counseling and other medical services.

F. Protective Orders

The availability of and protections offered by military protective orders and civilian restraining orders.

G. Transitional Compensation

Eligibility for and benefits potentially available as part of the transitional compensation benefits established in 10 U.S.C. § 1059 and in other State and federal victims' compensation programs. VLC will assist victims to initiate requests for transitional compensation when eligible.

H. Benefits

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Other rights or benefits provided to victims under law or regulation, to include statute, Department of Defense Directives or Instructions, Secretary of the Navy Instructions, and Marine Corps Orders.

010502. Representation.

Representation involves the formation of an attorney-client relationship and is only authorized when a VLC is detailed, assigned, or otherwise authorized to do so by his or her detailing authority and in accordance with paragraph 0107 of this Volume. When requested, VLC may be detailed to:

A. Sexual Assault

All eligible victims of sexual assault.

B. Domestic Violence and Child Abuse

Eligible victims of domestic violence and child abuse, subject to counsel availability.

C. Other Crime Victims

Other crime victims with an opportunity to be heard under MRE 412, 513, 514, or regarding other rights provided by statute, regulation, or case law.

010503. Collateral Misconduct

If a victim appears to have committed collateral misconduct related to the crime of which he or she is a victim, the VLC may advise the victim on his or her legal options, including seeking testimonial or transactional immunity. Victims may be referred to the Marine Corps Defense Services Organization to consult with a defense counsel as appropriate for misconduct committed that may require defense counsel services.

010504. Traditional Forms of Legal Assistance

If a victim requires traditional legal assistance services, the VLC will refer the victim, when appropriate, to the Legal Assistance Office. Traditional forms of legal assistance are those matters without a direct nexus to the crime of which he or she is a victim and include areas such as family law, immigration law, leases, taxes, consumer affairs, estate planning, and powers of attorney.

0106. ATTORNEY-CLIENT RELATIONSHIP

010601. General

A Marine VLC will not establish attorney-client relationships with any individual unless detailed, assigned, or otherwise authorized to do so by his or her detailing authority. In cases where the victim files an unrestricted report or has already made a formal report to law enforcement, VLC shall provide a Notice of Representation to the commands of the victim and accused, Staff Judge Advocates to the command of the victim and accused, Senior Trial Counsel, detailed trial counsel, Senior Defense Counsel, detailed defense counsel, SARC, VA, Victim Witness Liaisons, and criminal investigative departments

involved in the case, including both Naval Criminal Investigative Service and Criminal Investigation Division.

010602. Duration

A Marine VLC shall continue to represent a victim post-trial until the convening authority takes action on the case. Where a case or matter is resolved at non-judicial punishment, administrative separation proceedings or other administrative means, a VLC may continue to represent the victim's interests and assert any applicable victim's rights at such proceedings. Further representation of a victim after the convening authority takes action will be determined on a case-by-case basis by the OIC, VLCO.

010603. Severance

Once established, the attorney-client relationship may only be severed under the provisions of the Rules of Professional Conduct or by statute, other regulation, or case law. The following guidance applies:

A. Transfer or End of Military Service

If the VLC transfers or leaves military service, the attorney-client relationship may be terminated under the Rules of Professional Conduct by the detailing authority, subject to the requirements in paragraph 0109.

B. Victim Transfer

If the victim transfers to a new duty station and the case remains active with military authorities at the victim's prior duty station, the VLC may continue representation at the victim's request. The victim may also request a replacement VLC at his or her new duty station, subject to approval by the detailing authority.

C. Victim End of Military Service

If the victim leaves military service, the attorney-client relationship may be terminated under the Rules of Professional Conduct by the detailing authority, unless the victim satisfies other eligibility requirements under 10 U.S.C. § 1044 or if approved by the RVLC after consultation with the OIC, VLCO.

010604. Communication with Victims Represented by Victims' Legal Counsel (VLC)

Communication with represented victims related to the subject of representation requires notice to the detailed VLC, unless otherwise authorized by law or court order. This requirement includes requests to interview the victim by trial counsel, defense counsel, and criminal investigators acting on behalf of the trial counsel.

010605. Documents Provided to Victims' Legal Counsel (VLC)

Trial counsel shall provide the following material to the detailed VLC unless otherwise directed by a court:

A. Upon Notification of Representation

1. A copy of all statements and documentary evidence, in possession of the trial counsel, produced or provided by the victim.

2. The date, time, and location of any pretrial confinement review pursuant to R.C.M. 305.

B. Upon Referral of Charges

1. A copy of the charge sheet, redacted for PII, setting forth the preferred specifications pertaining to that victim.

2. The date, time, and location of any preliminary hearing pursuant to Article 32, UCMJ, and any request for continuance.

C. Upon Receipt or Filing by the Government

1. A transcript or summarized transcript of the victim's testimony at the preliminary hearing.

2. A copy of the charge sheet, redacted for PII, setting forth the referred specifications pertaining to that victim.

3. Any docket requests, as well as docketing or scheduling orders, including deadlines for filing motions and the date, time, and location for any session of trial.

4. A copy of any filing, including attachments, that may limit a victim's ability to participate in the court-martial, affect the victim's possessory rights in any property, concern the victim's privileged communications or private medical information, or involve the victim's right to be heard.

5. Any request to interview the victim received from defense counsel.

6. Notice of pretrial agreement negotiations, and an opportunity to express the views of the victim regarding all proposed terms of the agreement relevant to that victim.

7. A copy of any approved pretrial agreement.

8. Upon request, counsel for the government shall provide the victim access to, or a copy of, the recording of the Article 32, Preliminary Hearing. Such access or copy shall be provided to the victim not later than a reasonable time following dismissal of the charges, unless charges are dismissed for the purpose of re-referral, or court-martial adjournment. Nothing in this Volume shall be construed to create an obligation to retain records beyond the period specified by SECNAV M-5210.1 or other applicable authority.

0107. DETAILING

010701. Officer in Charge, Victims' Legal Counsel Organization Authority

The OIC, VLCO is the detailing authority for the VLCO, permitting VLC to represent victims as provided in paragraph 0105 of this Volume. Detailing authority includes the authority to remove a counsel from a case for good cause. The OIC, VLCO may further delegate detailing authority to RVLC, but no lower, subject to the restrictions set forth below.

010702. Detailing Factors

Prior to detailing a VLC to a particular case, the detailing authority will consider such factors as: the geographic locations of the victim and counsel, the expected location of the hearing, the anticipated rotation date of the counsel, the counsel's caseload and experience, any applicable conflict-of-interest analysis, the case complexity, collateral duties, and the counsel's training and education requirements.

010703. Detailing Procedure

When detailing a VLC to a particular case, the detailing authority shall ensure that: (1) standard detailing criteria are used; (2) the needs of the local commands are taken into consideration; (3) every victim receives zealous representation by a fully qualified counsel; and (4) every victim is detailed counsel in a timely manner.

010704. Timing

The responsible detailing authority shall detail a VLC in writing to a victim requesting representation as soon as practicable and in accordance with guidance published by the OIC, VLCO.

010705. Notice of Representation

VLC detailed to a case shall immediately provide notice of representation to the client's command, the investigating law enforcement agency, and the cognizant prosecution and defense sections. A notice of appearance shall be filed with the military judge upon referral.

010706. Detailing of Officer in Charge, Victims' Legal Counsel Organization

With the consent of the SJA to CMC, the OIC, VLCO may be detailed to a case.

010707. Regional Victims' Legal Counsel Detailing

If delegated the authority, RVLC may detail VLC assigned to their region, including themselves, to cases supported by their regional LSSS, LSST, or an element thereof, based upon geography or a specific request for legal services. However, RVLC who write fitness reports on subordinate VLC may not detail themselves to cases that involve clients with a conflict of interest with clients of a VLC for whom the RVLC is the reporting senior. Such matters must be brought to the attention of the OIC, VLCO.

010708. Additional Detailing Considerations

VLC will normally be detailed to represent a victim assigned to an organization that is supported by that VLC's LSSS, LSST, or an element thereof. However, a VLC may be detailed to represent a victim assigned to an organization not normally supported by the VLC's LSSS or LSST on a case-by-case

basis. Factors that may necessitate such detailing include: unique requirements of the case; location of victim due to transfer; change of convening authority due to reassignment of accused; supporting units and organizations without VLC; conflict-of-interest cases; and gaps in VLC coverage. If such detailing decision results in non-local travel costs beyond those implicit in the request for legal services, and the convening authority will not agree to fund the non-local travel costs associated with the detailing decision, the issue will be forwarded to the OIC, VLCO for resolution in consultation with the staff judge advocate of the convening authority. If the funding issue cannot be resolved, it will be forwarded to the SJA to CMC for final decision.

0108. TOUR LENGTH

010801. Establishment of Date

After consultation with the RVLC and OIC, VLCO, the OIC of the LSSS or LSST will establish an anticipated end date for a Marine's tour with the VLCO, which normally will be at least 18 months for RVLC, at least 12 months for VLC billets, and 12 months for enlisted support personnel. When assigning a Marine to the VLCO, the OIC of the LSSS or LSST will memorialize the anticipated end of tour date in writing and provide a copy of the assignment letter to the RVLC and OIC, VLCO.

010802. Termination of Duties

The RVLC will ensure, as far as practicable, that the agreed upon tour length for VLC coincides with the termination of that VLC's duties and responsibilities.

010803. Early Termination

If circumstances arise that require curtailing a VLC's tour before the previously established end of tour date, the OIC of the LSSS or LSST shall coordinate with the RVLC and OIC, VLCO to establish a new end of tour date.

010804. Termination Decision Authority

If the parties cannot mutually agree upon a new end of tour date, the cognizant OIC shall forward the matter to the OIC, VLCO for consideration. If still unable to reach a mutual agreement, the cognizant OIC shall report, in writing, the circumstances requiring the tour curtailment to the SJA to CMC via the OIC, VLCO. The SJA to CMC may intervene and override the OIC's decision; otherwise, the cognizant OIC's decision is final.

010805. Termination of Representation

Judge advocates assigned as VLC shall continue representing the victim until the convening authority acts in all cases to which the VLC is detailed unless the attorney-client relationship has been severed in compliance with JAGINST 5803.1E and consistent with paragraph 0106.

0109. REASSIGNMENT

010901. Coordination

The reassignment of a VLC requires careful planning and coordination between the RVLC, OIC, VLCO and the OIC of the LSSS and LSST.

010902. Reassignment and Client Representation

Once a VLC is slated for reassignment by the OIC of the LSSS or LSST, the responsible RVLC must ensure that the VLC is not detailed to a client with a case anticipated to extend beyond the targeted reassignment date without first seeking the permission of the OIC, VLCO and OIC, LSSS or LSST. If the OIC, VLCO and the OIC, LSSS cannot reach an agreement on the detailing decision involving a case that will likely extend beyond the VLC's anticipated rotation date, the matter will be forwarded to the SJA to CMC for final decision.

010903. Reassignment Prior to Completion of Representation

If a VLC is pending reassignment, including discharge or retirement, prior to the completion of victims' legal counsel duties, the responsible RVLC must ensure the VLC has:

- A. Notified all remaining clients and any co-counsel in writing of the pending reassignment.
- B. Informed all remaining clients of their options with regard to the pending reassignment.
- C. Offered for the client to consult with another conflict-free counsel about the matter.
- D. Ensured that the client's understanding of VLC's reassignment is memorialized in writing, and signed by the client and counsel.
- E. If applicable, notified the military judge, trial counsel, and defense counsel detailed to any ongoing courts-martial of the VLC's pending reassignment.

010904. Concurrent Service

Absent a knowing and affirmative waiver by the client of an apparent conflict of interest, and approval by the OIC, VLCO, judge advocates may not serve concurrently, including periods of transition between billets, as a judge advocate assigned to the VLCO or an auxiliary VLC and as:

- A. A trial counsel or defense counsel on any case.
- B. The deputy staff judge advocate or staff judge advocate to the convening authority of any case in which the VLC is still performing VLCO duties.
- C. The OIC or assistant OIC of an LSSS or LSST.
- D. Other billets which would create a conflict of interest with concurrent service as a VLC.

0110. REQUEST FOR INDIVIDUAL MILITARY COUNSEL (IMC)

The OIC, VLCO is the determining authority for requests for Marine VLC to serve as individual military counsel (IMC) to defend a service member. Marine VLC are normally considered not “reasonably available” under the meaning of JAGMAN section 0131. Notwithstanding this limitation, the OIC, VLCO shall have the discretion to approve an IMC request in exceptional circumstances.

0111. COLLATERAL DUTIES

VLCO shall perform routine non-VLC duties, such as unit PT, training, and standing duty, so long as those collateral duties do not have a military justice connection or conflict with their statutory and ethical obligations to their clients.

0112. PROFESSIONAL RESPONSIBILITY

011201. Compliance

Judge advocates assigned to the VLCO shall act in full compliance with JAGINST 5803.1E, ethical rules of jurisdictions in which they are a member of the bar, and other legal practice guidance published by the Judge Advocate General of the Navy, the SJA to CMC, or the OIC, VLCO related to professional responsibility. VLC should request policy clarification and guidance from the OIC, VLCO in all cases where there are potential ethical issues.

011202. Complaints

The SJA to CMC is the Rules Counsel for all Marine judge advocates, including Marine VLC. Informal professional responsibility complaints regarding Marine VLC will be resolved within the VLCO. Formal professional responsibility complaints regarding Marine VLC will be routed via the responsible RVLC and OIC, VLCO, to the SJA to CMC for resolution.

0113. ADMINISTRATIVE AND LOGISTICAL SUPPORT

Cognizant commands will provide personnel, equipment, administrative, and logistical support, commensurate with mission requirements, to VLC offices equitably with that provided to military justice and defense sections. The LSSS shall ensure that VLCO personnel are provided appropriate office-space that facilitates walk-in clients, including a reception area and private offices for VLC to conduct attorney-client meetings.

0114. BUDGETING AND FUNDING GUIDANCE

011401. Administrative and Logistical Support

Funding for administrative and logistical support and training expenses for RVLC, VLC, and their support personnel will be provided by the local command or LSSS/LSST to which they are administratively attached. VLC specific training shall be funded by the VLCO.

011402. Case-Related Expenses

All case-related expenses, including victim and VLC travel, shall be funded by the convening authority as required by regulations, to include JAGMAN sections 0145 and 0205.

0115. APPLICABILITY

This Volume is applicable to Marine Corps judge advocates and supporting personnel.

VOLUME 5**“MARINE CORPS LEGAL ASSISTANCE PROGRAM”****SUMMARY OF VOLUME 5 CHANGES**

Hyperlinks are denoted by *[bold, italic, blue and underlined font](#)*.

The original publication date of this Marine Corps Order (right header) will not change unless/until a full revision of the MCO has been conducted.

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VOLUME VERSION	SUMMARY OF CHANGE	ORIGINATION DATE	DATE OF CHANGES
ORIGINAL VOLUME	N/A	DD MMM YYYY	N/A

Submit recommended changes to this Volume, via the proper channels, to:

CMC (JA)
3000 Marine Corps Pentagon
Washington, DC 20350-3000

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VOLUME 5: MARINE CORPS LEGAL ASSISTANCE PROGRAM

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REFERENCES

- (a) SECNAVINST 5430.7R
- (b) SECNAVINST 5430.27D
- (c) SECNAVINST 5430.25E
- (d) 10 U.S.C. §§ 806, 1044, 1044e, 1059, 1072, 1565b, 1588, and 5046
- (e) MCO 5430.2
- (f) JAGINST 5803.1E
- (g) Manual for Courts-Martial, (2016 ed.)
- (h) U.S. Navy Regulations, (1990)
- (i) MCO 5800.14
- (j) MCO 1001.62A
- (k) MCO 1200.18
- (l) JAGINST 5803.2B
- (m) SECNAVINST 1920.6C
- (n) Uniform Code of Military Justice, (2016)
- (o) MCO 1610.7
- (p) MCO 1300.8
- (q) MCO 1000.6
- (r) JAGINST 5800.7F
- (s) SECNAVINST 5211.5E
- (t) 5 U.S.C. §§ 101, 552a, and 3111
- (u) JAGINST 5801.2
- (v) 37 U.S.C. §§ 601-604
- (w) 38 U.S.C. §§ 4301-4334
- (x) DoD Instruction 1205.12
- (y) 31 U.S.C. § 1342
- (z) DoD Instruction 1100.21
- (aa) 8 U.S.C. § 1400
- (bb) Executive Order 13269, (July 3, 2002)
- (cc) DoD Directive 2311.01E
- (dd) MCO 3300.4A
- (ee) DoD Directive 2310.01E
- (ff) DoD Directive 5146.13
- (gg) Executive Order 12333, (December 4, 1981)
- (hh) DoD Directive 5240.01
- (ii) DoD 5240.1-R
- (jj) DoD Instruction 3025.21
- (kk) DoD Instruction 5525.03
- (ll) SECNAVINST 5710.25B
- (mm) 1 U.S.C. § 112b
- (nn) 22 CFR Part 181
- (oo) DoD Directive 5530.3
- (pp) DoD 5500.07-R
- (qq) 18 U.S.C. § 202
- (rr) 5 C.F.R. § 2634

“REFERENCES”

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

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VOLUME 5**“MARINE CORPS LEGAL ASSISTANCE PROGRAM”****SUMMARY OF SUBSTANTIVE CHANGES**

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CHAPTER VERSION	PAGE PARAGRAPH	SUMMARY OF SUBSTANTIVE CHANGES	DATE OF CHANGE

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MARINE CORPS LEGAL ASSISTANCE PROGRAM0101. **PURPOSE**

This Volume promulgates policy, prescribes standardized procedures, and assigns responsibilities for the Marine Corps Legal Assistance Program (MCLAP) in order to promote increased mission readiness and enhance the morale and quality of life for military personnel, dependents, and other eligible clients by providing timely and quality legal advice and services concerning their personal civil legal affairs. This Volume is supplemented with the MCLAP Policy and Practice Manual published by Judge Advocate Division (JAD), Legal Assistance Branch (JLA).

0102. **AUTHORITY FOR MARINE CORPS LEGAL ASSISTANCE PROGRAM (MCLAP)**010201. **Statutory Authority**

10 U.S.C. § 1044 authorizes the Service Secretaries to provide legal assistance to eligible persons in connection with their personal civil legal affairs and places responsibility with the Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC) to establish and supervise the Marine Corps Legal Assistance Program (MCLAP) under regulations issued by the Secretary of the Navy.

010202. **Implementation**

The policy and guidance in this Volume implement the Department of the Navy (DON) legal assistance program policy contained in JAGINST 5800.7F, Manual of the Judge Advocate General (JAGMAN). The JAGMAN, Chapter VII, provides policy regarding persons authorized to provide legal assistance services, categories of eligible clients, the attorney-client relationship and confidentiality, scope of legal assistance services, specific types of services that are not authorized, referrals and fees, and the Expanded Legal Assistance Program (ELAP). The JAGMAN, Chapter IX, provides policy and procedures for performing notarial acts. Pertinent provisions in the JAGMAN are restated in this Volume only to the extent necessary for clarity, emphasis, elaboration, or convenience of reference.

010203. **Organization**

Legal Assistance (LA) office organization under the Legal Services Support Section (LSSS)/Legal Services Support Team (LSST) construct.

A. **Remote Support**

In addition to providing legal assistance services at their own locations, the LSSTs support Yuma, MCRD San Diego, Barstow, New River, Albany, Beaufort, and Iwakuni. The LSSS National Capital Region (NCR)/MFR coordinates legal assistance support to active duty Marines at Marine Forces Reserve (MFR), New Orleans.

B. **LA Offices**

Twelve (12) separate LA offices were established under the LSSTs and located at: (1) Camp Pendleton, (2) Miramar, (3) Yuma, (4) MCRD San Diego, (5) Twentynine Palms, (6) Camp Lejeune, (7) Cherry Point, (8) MCRD Parris Island, (9) Hawaii (Kaneohe Bay), (10) Okinawa (11) Iwakuni, and (12) Quantico. Barstow, New River, Albany, and Beaufort do not have LA offices. The

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Twentynine Palms LA office supports Barstow; the Camp Lejeune LA office supports New River; the MCRD Parris Island LA office supports Albany and Beaufort. To the maximum extent practicable considering available resources, the supporting LSST LA office shall provide LA services to eligible clients at supported installations comparable to those services provided to clients at the LSST location. Services may be provided to supported installations through scheduled periodic on-site LA visits and, when determined necessary by the OIC LSST, through alternate forms of communication with clients such as VTC and telephone, taking appropriate steps to verify identity and eligibility.

C. Supervision of Remote Offices

1. OIC, LSST Miramar supervises the LA offices at MCRD San Diego and Yuma.
2. OIC, LSST Okinawa supervises the LA office at Iwakuni.

0103. APPLICABILITY

The legal assistance policy and procedures contained in this Volume apply to all military and civilian attorneys, paralegals, clerks, and any other personnel who supervise and/or work within the MCLAP; Reserve judge advocates who, while performing official DON duties, provide legal assistance services to eligible persons under the authority of 10 U.S.C. § 1044; judge advocates (JAs) providing legal assistance in a deployment environment; and other JAs providing limited legal assistance services as part of SJA command advice services (i.e. notarizations/powers of attorney).

010301. Deviation

Legal assistance providers may request deviation from the provisions in this Volume by submitting justification through their respective OIC to JAD (JLA).

010302. Personnel Assigned to the Navy

Marine Corps personnel assigned to work in Navy Legal Assistance Offices are subject to JAGINST 5801.2, Navy Legal Assistance Program Manual, which is not applicable to the MCLAP.

0104. RESPONSIBILITIES

010401. Legal Assistance Branch

JLA, Judge Advocate Division (JAD), Headquarters Marine Corps, is responsible for MCLAP policy development, implementation and oversight, and assisting and advising the SJA to CMC on all legal assistance policies, procedures, and related matters, including inspecting the effectiveness of the MCLAP. JLA is responsible for developing and promulgating standardized forms, worksheets, and uniform procedures that will be posted on the JLA website and used by LA offices. JLA is authorized to issue periodic authoritative policy letters and practice advisories to update and clarify policy and guidance contained in this Volume. JLA is the Program Manager for the Immigration and Naturalization Program and the Volunteer Income Tax Assistance (VITA) Program. JLA provides a representative to the Department of Defense (DoD) Armed Forces Tax Council (AFTC) and acts as the Marine Corps Liaison to the ABA Legal Assistance for Military Personnel Committee. JLA is the Marine Corps Liaison for the DON Disability Evaluation System (DES) Counsel Program. JLA coordinates with other-Service Heads of Legal Assistance, DoD, and other federal agencies on issues of mutual concern, to include proposed

legislation, Department of Justice enforcement of service member rights, immigration and naturalization, and Service-wide legal issues directly affecting military members and their families.

010402. Deputy Director, Reserve Legal Support Branch

The Deputy Director, Reserve Legal Support Branch is responsible for coordinating with JLA on matters concerning Reserve LA support services.

010403. Regional Legal Assistance Directors

Regional Legal Assistance Directors (RLADs), LSSSs are responsible for providing general expertise and professional guidance to LA offices in their respective LSSS region; assisting and advising OICs, LSSSs on legal assistance matters; directly supervising Exceptional Family Member (EFM) legal assistance counsel; acting as the reach-back legal assistance subject matter expert for JAs in deployment environments, and coordinating policy matters with JLA. Resolving conflict of interest cases within the LSSS region, to include those involving supervisory attorneys, is addressed elsewhere in this Volume. Prior to the LA Office Head leaving the position, the RLAD shall review the LA Office Head's turnover binder to help ensure the incoming replacement is prepared to execute his or her responsibilities.

010404. LA Office Head

The LA Office Head is responsible for direct LA office management and supervision of office personnel. The LA Office Head shall ensure LA office personnel have access to and routinely check the secure JLA website, adhere to the LA office SOP, use JLA-approved worksheets and forms, and are proficient in using office software for case management, estate planning, and domestic relations. The LA Office Head shall ensure all personnel and office volunteers understand client confidentiality and Personally Identifiable Information (PII) safeguarding requirements. The LA Office Head shall routinely review the work product of personnel under his or her supervision and provide them with additional training as needed. The LA Office Head shall use standardized check-in procedures for incoming LA personnel. The LA Office Head is responsible for developing and maintaining a comprehensive turnover binder for his or her replacement. At least thirty (30) days prior to leaving the LA position, the LA Office Head shall provide a copy of the turnover binder to the RLAD for review.

010405. LA Attorneys

LA attorneys are responsible for maintaining their professional skills and delivering quality legal assistance services to their clients consistent with the JAGINST 5800.7F, Manual of the Judge Advocate General (JAGMAN), JAGINST 5803.1E, Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General, this Volume, JLA Policy Letters, the MCLAP Policy and Practice Manual, and other applicable statutes and regulations.

010406. LA Support Personnel

LA support personnel are responsible for maintaining their professional skills and contributing positively toward efficient office management, client interaction, and effective attorney support consistent with the JAGMAN, this Volume, JLA Policy Letters, the MCLAP Policy and Practice Manual, and other applicable statutes and regulations. Although JAGINST 5803.1E does not specifically apply to non-attorneys, it provides the model for acceptable conduct when providing legal services and shall be observed. LA support personnel may assist attorneys, but they may not provide legal advice or provide

services that call for the professional judgement of an attorney. LA support personnel must keep all client matters confidential and safeguard client files from unauthorized access.

0105. ELIGIBLE CLIENTS

Categories of persons eligible to receive LA services pursuant to 10 U.S.C. § 1044 and the JAGMAN are as follows:

010501. Members of the Armed Forces

Members of the Armed Forces on active-duty for 30 days or more. Legal assistance is intended primarily for active-duty personnel, including Reservists and members of the National Guard on active duty for 30 days or more. Legal assistance may be provided to dependents, or the legally appointed fiduciary, of active-duty personnel on behalf of personnel incapacitated or otherwise incapable of seeking such assistance personally, and

010502. Members of Reserve Components

Members of Reserve components following release from active-duty under a call or order to active-duty for more than 30 days issued under a mobilization authority, as determined by the Secretary of Defense, for a period of time that begins on the date of the release and is not less than twice the length of the period served on active-duty under that call or order to active-duty, for legal issues that relate to serious wounds, illnesses, or injuries incurred during the period of mobilization.

010503. Other Categories

As resources permit, LA services may also be provided to the following categories of people in the order listed:

A. Dependents of Deceased Personnel

Dependents of active-duty personnel and of personnel who died while on active-duty.

B. Retired Members

Retired members who are entitled to military disability compensation or Department of Veterans Affairs compensation or members entitled to retired or retainer pay.

C. Dependents of Retired Members

Dependents of retired members and dependents of deceased retired members.

D. Reservists

Reservists on active-duty for single periods of 29 days or less and their dependents may be provided LA in emergency cases as determined by the Head, LA office.

E. Mobilizing Reservists

For the purpose of enhancing the readiness of Reserve personnel for mobilization, pre-mobilization legal counseling and assistance may be provided to active-duty or inactive Reserve personnel consistent with mobilization readiness needs. Pre-mobilization assistance normally will consist of drafting or updating Wills, Advance Medical Directives, and Powers of Attorney. Other assistance may be provided if it relates to recall or mobilization. Examples of such assistance include advice concerning rights under the Servicemembers Civil Relief Act (SCRA) and the Uniformed Services Employment and Reemployment Rights Act (USERRA). Pre-mobilization legal assistance services are not authorized for dependents with the exception of dependents of Reserve personnel with mobilization orders for more than 30 days.

F. Reservists Released from Active-Duty

Members of Reserve components, other than those described above, following release from active-duty under a call or order to active-duty for more than 30 days issued under a mobilization authority, as determined by the Secretary of Defense, for a period of time that begins on the date of the release and is not less than twice the length of the period served on active-duty under that call or order to active-duty.

G. Dependents of Reservists Released from Active-Duty

Dependents of members of the Reserve components listed in subsection (F) above.

H. Department of Defense (DoD) Civilian Personnel

DoD civilian personnel deploying for at least 30 days to a combat zone, in support of a contingency operation, or aboard a naval vessel may be provided pre-deployment LA services. LA may also be provided to dependents of these civilian personnel, both before and during deployment, on deployment-related matters. All services are to be provided within current means and capabilities. Additionally, LA services are authorized to be provided to civilian personnel and their dependents for a reasonable period, but not to exceed 30 days, after he or she returns from deployment to close out ongoing LA matters related to deployment that arose before or during deployment.

I. Department of Defense (DoD) Civilian Personnel who are U. S. Citizens

DoD civilian personnel who are U. S. citizens, other than local hire employees, employed by, serving with, or accompanying the Armed Forces of the United States, when they are assigned to a foreign country or to a vessel or unit of the Armed Forces of the United States deployed in excess of 30 days. Dependents who accompany DoD civilian personnel authorized under this subsection are also eligible.

J. Non- Department of Defense (DoD) United States (U.S.) Government Employees

Non-DoD U.S. Government employees who are U.S. citizens and not contractors, serving in locations in a foreign country or on a vessel of the Armed Forces of the United States, where legal assistance from non-military legal assistance providers is not reasonably available. Such legal assistance is generally limited to ministerial services (for example, notarial services), legal counseling (to include the review and discussion of legal correspondence and documents), legal document preparation (limited to Powers of Attorney and Advance Medical Directives), and help with retaining civilian lawyers.

K. Civilian Contractors

Civilian contractor personnel who are U.S. citizens and are serving with or accompanying U.S. forces in a theater of operations, and produce documentation of an employment contract that requires the U.S. government to provide legal assistance, may be provided with services as addressed in the contract. If the employee's contract does not specify services, services are limited to notarizations and provision of deployment-related Powers of Attorney.

L. Members of Allied Forces

Members of allied forces and their dependents in the United States, serving with the Armed Forces of the United States.

M. 20/20/20 Spouse

A 20/20/20 un-remarried former spouse as defined in 10 U.S.C. § 1072.

N. Victims of Abuse

Spouses, former spouses, and children who are victims of abuse by members losing the right to retired pay under 10 U.S.C. § 1408(h) and dependents of members separated for dependent abuse consistent with the transitional compensation provisions of 10 U.S.C. § 1059.

O. Other

Other persons authorized by the JAG or, for the Marine Corps, the SJA to CMC.

010504. Eligibility Requests

Requests to designate others as eligible for LA services in addition to those persons authorized in the JAGMAN should be addressed to the SJA to CMC (JAD (JLA)) via the OIC, LSSS and include the following information: who is to be assisted, the types of services to be offered, the period for which authorization to provide services is sought, and the reasons why the extension of LA services furthers the mission of the local command and the Marine Corps.

010505. Service Prioritization

The OIC, LSSS may prioritize categories of persons served in LA offices as necessary for mission accomplishment.

0106. SCOPE OF SERVICES

MCLAP services are provided subject to availability of legal resources and mission priority. Accordingly, services and/or categories of eligible clients may be restricted from time to time as authorized by the OIC, LSSS or his or her designee. Limiting services may be necessary in situations that include emergent requirements, increased demand for specific services, personnel shortages, limited resources, and lack of requisite expertise to adequately address the requested service. The general order of priority for Department of the Navy LA services is provided below:

010601. Tier I Services

Tier I services are standard legal readiness services/first priority services. Advice or services regarding the following matters are normally available to eligible persons but may be limited due to availability of a qualified attorney or other resources: basic foreclosure advice and counseling; consumer finance issues; demobilization briefings, family law matters; deployment briefings and assistance; disaster relief support/advice; military rights under the SCRA; naturalization and immigration advice and counseling; notary services; powers of attorney advice and drafting; simple estate planning; and tenant advice and counseling.

010602. Tier II Services

Tier II services are second priority services. Advice or services regarding the following matters are normally available to eligible persons but may be limited due to availability of a qualified attorney or other resources: limited adoption advice and counseling; guardianship (conservatorship) of the person advice and counseling; guardianship of the estate advice and counseling, immigration paper-work filing, review, and advice for dependents; small claims court pro se pleadings advice, counseling, and drafting; and service as a temporary guardian to a mentally incompetent Service member for purposes of Department of Defense proceedings conducted under 37 U.S.C. §§ 601-604, and under Bureau of Medicine and Defense Finance and Accounting Service regulations.

010603. Tier III Services

Tier III services are third priority services not normally provided by active duty military legal assistance providers. In rare circumstances where Tier I and Tier II support is fully established, addressed and sustainable, support in the following matters shall only be extended to eligible clients by fully qualified providers with the express permission of the SJA to CMC (Code JA) or his or her designee: Bankruptcy advice and counseling; Drafting of family law/domestic relations documents; and federal and state tax advice and counseling.

010604. Tier IV Services

Tier IV services are the lowest-priority services not normally provided by active duty military legal assistance providers. In rare circumstances where Tier I and Tier II support is fully established, addressed and sustainable, support in the following matters may be balanced against Tier III services and extended to eligible clients by fully qualified providers with the express permission of the SJA to CMC (Code JA) or his or her designee: ELAP cases; obtaining benefits and services under State and Federal disability laws for family members enrolled in the Exceptional Family Member Program; complex estate planning; real estate purchase agreement contract review and explanation of terms; and LA offices may provide additional services not specifically prohibited by regulation if the LA providers are competent to provide such services and they are approved by the SJA to CMC or his or her designee.

0107. ATTORNEY-CLIENT RELATIONSHIP010701. Acknowledgement of Limited Representation

Prior to establishing an attorney-client relationship, LA attorneys must ensure potential clients understand the limited nature of military LA. In order properly to inform clients, the LA office should

provide them with a written “Acknowledgement of Limited Representation” similar to the form posted on the JLA website.

010702. Ongoing Attorney-Client Relationship

An ongoing attorney-client relationship must be respected, and clients returning for a follow-up appointment or with a new question concerning the same or substantially the same legal matter will be directed to the same attorney, unless the client requests a different attorney and the LA Office Head concurs or the original LA attorney is no longer able to provide LA services (e.g., PCS, EAS, duty reassignment, removal from LA duties by competent authority, etc.). With client consent, the LA Office Head will transfer the attorney’s ongoing LA cases to another LA attorney and ensure completed cases are appropriately closed.

010703. Attorney Unavailability

In the event that the original attorney is only temporarily unavailable, a different LA attorney may, with the client's consent and LA Office Head approval, be assigned to handle the immediate issue. However, the original attorney should handle any subsequent follow-up matters with that client and any file created by the substitute attorney should be provided to the original attorney as soon as practicable. In the event the attorney becomes no longer available to provide legal assistance, the attorney's LA cases will be transferred to another LA attorney or completed and closed by the departing attorney. An attorney is not available to perform LA duties when the attorney leaves a LA billet regardless of the reason (i.e., PCS, EAS, duty reassignment, involuntary removal from legal assistance duties by competent authority, etc.). Departing LA attorneys shall not take client files with them from the LA office, but may copy material they think is important to maintain their professional responsibility obligations. For ongoing cases, the LA office shall inform clients of the need to transfer their case to another LA attorney. If a client objects, the LA office will terminate services and provide the client, at his or her request, with referral sources in accordance with this Volume.

0108. CONFIDENTIALITY

After formation of an attorney-client relationship, information concerning a client’s appointments or meetings with a LA attorney or staff member may not be disclosed unless an exception to the attorney-client privilege applies or the client gives informed consent. LA attorneys should be provided with individual private offices with floor-to-ceiling walls to safeguard confidentiality of consultations with clients. In locations where this is not possible (e.g., deployment environments) maximum efforts should be made to ensure client confidentiality. Each LA office must ensure that client records are protected from unauthorized access and disclosure. LA offices and VITA Tax Centers should be accessible after-hours only by authorized LA and Tax Center personnel. Client information may not be stored on shared office drives if that information could be accessible by persons not working within the MCLAP.

0109. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION (PII)

PII may not be maintained on personal computers, laptops, or devices. PII may only be maintained on DoD owned, contracted or leased assets. LA documents containing client information and PII must be safeguarded, to include client intake forms and worksheets. LA email containing PII must be encrypted. LA worksheets, correspondence, and emails may not contain Social Security Numbers unless required to effectuate services for the client and as otherwise authorized by applicable regulations.

010901. Reserve JA Laptops and PII Security

Reserve JAs providing LA services related to unit mobilization may request government laptop support from JAD (RLS). DL Wills software should be pre-loaded on the laptops. Software used to produce LA documents containing PII, worksheets, and the documents themselves may not be loaded onto personal laptops.

010902. Shared Drives.

Electronic client files and documents containing PII must not be placed on shared drives that are accessible by persons other than those providing LA services.

0110. ELECTRONIC COMMUNICATIONS011001. Government Computers

The DON uses various tools to monitor user activity on government computers and to implement varying levels of capacity and filtering restrictions. Generally speaking, communications using or information stored on DON IT are not private and are subject to routine monitoring, interception, and search; and may be disclosed for any authorized purposes.

011002. LA Communications

JAs providing LA services shall place language substantially as follows after the JA's signature line on all electronic communications:

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION OR ATTORNEY WORK PRODUCT

FOR OFFICIAL USE ONLY: This e-mail may contain confidential and Privacy Act (5 U.S.C. § 552a) information. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

Please handle in accordance with the following notices and disclaimer:

CONFIDENTIALITY NOTICE: The information contained in or attached to this communication may be legally privileged, confidential, and intended for use only by the individual or entity to which it is transmitted. Any other use of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately at the above email or phone number, and delete or destroy this message.

PERSONAL INFORMATION NOTICE: Information contained within this document or its attachments may contain personal information, disclosure of which is generally prohibited by the Privacy Act (5 U.S.C. § 552a). Protected information included in this document or its attachments is being communicated in accordance with section (b)1 of the Act which permits disclosure to individuals within the Department of Defense (DoD) with an official need to know. Release of such protected information outside of the DoD is prohibited.

DISCLAIMER: Any opinions in this e-mail are the personal legal/administrative opinions of the sender and do not represent an official position of the United States Marine Corps, Department of Defense, or United States Government.

011003. Encryption

Email transmissions containing client information and PII must be digitally signed and encrypted.

0111. LIMITATIONS ON LEGAL ASSISTANCE SERVICES011101. Personal Legal Matters Only

LA is authorized only for personal civil legal affairs. Legal advice and assistance may not be provided regarding criminal matters or commercial business ventures. By way of example, a service member who leases his or her single residence due to a PCS move may obtain assistance regarding the lease of that single personal residence. On the other hand, providing legal advice to a service member regarding multiple leased residences or a business partnership or venture is not of a personal nature.

011102. Non-federal Entities

LA may not be provided to non-federal entities that have been chartered by appropriate authority to function on military installations (e.g., spouses clubs, booster clubs, command fundraising committees, social committees, etc.).

011103. Ethics and Standards of Conduct Matters

LA attorneys may not provide advice concerning government ethics and standards of conduct, to include post-government employment restrictions. Persons seeking such advice should be referred to the appropriate ethics counselor. LA attorneys may conduct general informational briefings during transition assistance programs to Marines retiring or otherwise departing the Marine Corps. The briefing attorney should refer all requests for individual advice to the appropriate ethics counselor. In the event an attorney who provides LA services in an SJA office or deployment environment is also designated as an ethics counselor, refer to the Joint Ethics Regulation.

011104. Employment and Uniformed Services Employment and Reemployment Rights Ac (USERRA) Matters

LA attorneys may not provide advice on civilian employment matters but may provide general information related to the USERRA, 38 U.S.C. §§ 4301-4334. The Employer Support of the Guard and Reserve is the primary DoD office for all matters concerning employer support of the National Guard and Reserve, and serves as the lead proponent for USERRA matters within DoD. DoDI 1205.12, Civilian Employment and Reemployment Rights for Service Members, Former Service Members and Applicants of the Uniformed Services, establishes policy and procedures for informing service members and applicants of the uniformed services of their employment and reemployment rights, benefits, and obligations and provides contact information for government agencies responsible for assisting those persons.

011105. Real Estate

LA attorneys may not draft real estate sale or purchase documents, perform title examinations, issue title opinions, or conduct real estate closings.

011106. Advice and Assistance in Official Military Matters

LA duties are separate and apart from responsibilities of Trial Counsel, Defense Counsel, Victims' Legal Counsel (VLC), and others involved in processing courts-martial, non-judicial punishments, administrative boards or proceedings, and investigations, except as provided below.

A. Disciplinary Matters

Service members accused or suspected of offenses or conduct that may result in disciplinary or judicial proceedings under the Uniform Code of Military Justice (UCMJ) or processing for administrative separation should be referred to the appropriate Defense Services Office (DSO). This does not preclude providing LA advice to service members regarding family support obligations.

B. Missing, Lost, or Stolen Government Property

Marines who are the subject of a command investigation of missing, lost, or stolen government property have the right to legal assistance at various stages of the investigation. If the approving authority intends to hold the Marine liable, the Marine has the right to receive legal advice from the local Legal Assistance Office.

C. Administrative Complaints

LA attorneys may not assist service members in filing complaints under the UCMJ and DON regulations, petitions for relief to the Board of Correction of Naval Records or Naval Discharge Review Board, fitness report or evaluation rebuttals, Request Mast, or other similar administrative complaints. LA attorneys may not assist clients in filing Inspector General (IG) complaints, but LA attorneys may provide general procedural information. All such matters should be referred to the appropriate DSO, VLC office, or DES Counsel.

011107. Proceedings Involving the United States

Title 18, United States Code, prohibits any officer or employee of the government from representing or assisting anyone in any claim or other matter in which the United States is a party or has a direct and substantial interest, other than in the proper discharge of his or her official duties. Accordingly, LA attorneys may not represent or assist an individual in a matter in which the United States has a direct and substantial interest, whether or not the government's position is adverse to that of the individual, except as otherwise authorized by the SJA to CMC.

011108. Advice to Third Parties

The privileged attorney-client relationship requires personal and private communication with the client. LA advice or assistance normally may not be provided through third parties. This prohibition does not bar delivery of substantive advice to court-appointed guardians on behalf of a ward or to an agent on behalf of an incapacitated or disabled principal where the agent is acting under a duly executed Power of Attorney or by court appointment. When command representatives seek information or assistance on behalf of a specific service member, they normally should be advised to have the service member obtain a LA appointment or go to the LA office during walk-in hours.

011109. Telephonic Inquiries

The initial delivery of LA normally should not be provided over the telephone except as otherwise authorized in this Volume.

011110. Representation of Opposing Parties or Interests

When two or more eligible persons with conflicting interests seek advice from the same LA office on the same or substantially the same matter, the party first establishing an attorney-client relationship may be provided with representation. The LA attorney and other LA attorneys in the same LA office may not represent the other conflicted party, except as provided below. The party without the attorney-client relationship may be directed toward other legal resources. LA attorneys are not prohibited from representing both husband and wife in a joint legal matter (e.g., Estate Planning and Will drafting) provided the LA attorney obtains a “Dual Representation Waiver of Conflicts” statement signed by both parties and such representation is not otherwise prohibited.

011111. Supervisory Conflicts of Interest

Supervisors and RLADs may not knowingly provide advice concerning a particular case to both LA attorneys representing opposing parties.

011112. Debt Collection Activity Against Other Service Members and Dependents

LA attorneys and LA personnel may not engage in commercial debt collection activities against service members and/or their dependents on behalf of a client. For purposes of this paragraph, prohibited debt collection activities include, but are not limited to, contacting the alleged debtor’s command or employer, sending demand letters or email, and making telephone calls to the alleged debtor or household members. LA attorneys may, however, advise clients on commercial debt collection options that are legally available to them under State and Federal law.

011113. Discretion to Limit Services

The OIC, LSSS or his or her designee may limit the scope of services delivered by LA offices under his or her authority, as necessary. Limitation of services may be necessary in situations that include emergent requirements, increased demand for specific services, personnel shortages, limited resources, or the unavailability of requisite expertise to adequately address the requested service.

011114. Landlord/Tenant Disputes - Military Housing

LA attorneys may provide legal assistance to clients concerning landlord/tenant disputes arising from their lease with privatized military housing (also called PPV housing) companies. LA attorneys shall not provide advice and/or assistance in connection with the underlying housing privatization initiative (contract with the government).

0112. EXPANDED LEGAL ASSISTANCE PROGRAM (ELAP) AND EXCEPTIONAL FAMILY MEMBER (EFM) COUNSEL PROGRAM

011201. Expanded Legal Assistance Program (ELAP)

The ELAP may be established in LA offices with prior authorization from the SJA to CMC (JAD (JLA)). ELAP services are provided in addition to, rather than in place of, normal LA services. ELAP

may be authorized for LA offices able to commit sufficient personnel and resources to maintain an active and effective LA program in addition to the ELAP.

011202. Exceptional Family Member (EFM) Counsel Program

The ELAPs at Camp Lejeune and Camp Pendleton include Exceptional Family Member (EFM) Counsel who provide specialized LA services to assist families enrolled in the EFM Program. The scope of EFM Counsel representation is primarily to obtain benefits and services for the EFM under education laws that include the Individuals with Disabilities Education Act (IDEA) and other disability laws and regulations benefiting individuals with disabilities.

0113. CLIENT REFERRALS

011301. Approved Resources

Referral sources for clients needing services beyond those available at the LA office include, but are not limited to, the following: American Bar Association (ABA) Military Pro Bono Program (MPBP); law school clinical programs; local legal aid offices; American Immigration Lawyers Association (AILA) Military Assistance Program; and reserve JAs in an active or drilling status may participate in the MCLAP and advise LA clients, provided their participation is approved by the OIC, LSST.

011302. Private Attorneys

Referral to specifically named private attorneys normally is not authorized except in emergencies as determined by the client's LA attorney, in consultation with the Head, LA Office or RLAD. Emergencies include such things as clients needing immediate court representation to protect their legal interests when other avenues are not available. To avoid the appearance of favoritism and impropriety when making such an emergency referral, the LA office should, when possible, provide the names of at least three (3) private attorneys for the client's consideration. The Head, LA Office or RLAD should ensure that the private attorneys to whom a client is referred are licensed and, as evidenced by the applicable State Bar Association website, are in good standing and have no disciplinary action taken or pending.

0114. VOLUNTEER SERVICES

011401. Authority

A Federal agency may accept uncompensated volunteer services provided it is authorized by law; otherwise, acceptance could be a violation of the Anti-Deficiency Act (31 U.S.C. § 1342). With SJA to CMC approval, LA offices may use certain volunteer services pursuant to 10 U.S.C. § 1044, 10 U.S.C. § 1588, 5 U.S.C. § 3111, and DoDI 1100.21, Voluntary Services in the Department of Defense.

011402. Volunteer Agreements

All volunteers must sign Part II of DD 2793, Volunteer Agreement for Appropriated Fund Activities, in accordance with DoDI 1100.21. A copy of the signed Volunteer Agreement should be given to the volunteer before he or she begins providing volunteer services. Part IV should be completed at the end of the volunteer's service in order to document the dates of the volunteer service.

011403. Attorney Volunteers

The volunteer attorney must be licensed in the State where the LA office is located. However, at an overseas location, the attorney may be licensed to practice law in any U.S. State or Territory. Pursuant to JAGINST 5803.2B, Certification of Good Standing with Licensing Authority, the volunteer attorney must provide proof of good standing with their licensing authority and ensure they will not be in violation of their State's rules governing pro bono practice in other jurisdictions and/or overseas. The attorney volunteer may act as a notary for eligible LA clients under Federal authority of 10 U.S.C. § 1044a after completing notarial training prescribed by the SJA to CMC and posted on the SJA to CMC website. The attorney volunteer is considered to be a "covered attorney" subject to JAGINST 5803.1E, Professional Conduct of Attorneys Practicing under the Cognizance and Supervision of the Judge Advocate General.

011404. Paralegal Volunteers

The paralegal volunteer must provide documentary evidence of their training and paralegal certification. The paralegal volunteer is authorized to perform notarial acts under the federal authority of 10 U.S.C. § 1044a provided the volunteer is supervised by legal assistance counsel.

011405. Legal Services Support Section (LSSS) Training Syllabus for Incoming Volunteer Attorneys and Paralegals

A sample syllabus detailing LA office on-the-job training requirements for the volunteer is posted on the JLA website.

011406. Acceptance Procedures

The OIC, LSSS should submit a request for approval to accept voluntary services to the SJA to CMC (JAD (JLA)). A sample request package is posted on the secure JLA website.

011407. Other Volunteer ServicesA. Law School Student Intern Services

LA offices may accept uncompensated Law School student services with the permission of the institution at which the student is enrolled. Law schools may have programs that allow this type of student internship and may also offer the student academic credit. The OIC LSSS should request approval to participate in a Law School Intern Program from the SJA to CMC (JAD (JLA)).

B. High School Student Services

LA Offices may accept volunteer services of local high school students participating in an established LSSS program to provide students with educational experiences. The OIC LSSS should request approval from the SJA to CMC (JLA)).

011408. Volunteer Access to Privacy Act Protected Records

DoDI 1100.21, para. 5.2.3, provides that volunteers to Appropriated Fund activities (e.g., LA offices) may have access to records contained in a Privacy Act system of records when needed to perform

their duties. The LA Office Head should ensure all volunteers are briefed on requirements to protect client information and safeguard PII and take associated on-line PII/IA training.

0115. NOTARIZATIONS

Chapter IX of the JAGMAN contains policy and procedures for performing notarial acts under Federal authority (10 U.S.C. § 1044a). Prior to performing notarial acts under authority of 10 U.S.C. § 1044a and the JAGMAN, personnel shall complete notary training, which includes signing a “Duties and Responsibilities” form, that is posted on the publicly accessible SJA to CMC website under “JAD Resources” at <http://www.hqmc.marines.mil/sja/unithome.aspx>. The notary’s OIC should maintain training documentation. Failure to complete the training due to military exigencies will not affect the validity of the notarial acts, but training should be completed as soon as practicable. Notaries may provide notarial services only for those authorized under 10 U.S.C. § 1044a.

0116. WILLS, TRUSTS, AND ESTATE PLANNING

Basic estate planning (e.g., drafting simple Wills, Advance Medical Directives, Living Wills, Durable Powers of Attorney, and SGLI and DD-93 beneficiary designations) is a large part of LA practice. Complex estate planning, to include drafting complex trusts, may not be undertaken unless there is requisite expertise within the LA office.

0117. CONSUMER PROTECTION AND THE SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)

011701. Consumer Matters

LA attorneys advise clients on a wide range of consumer matters involving such things as landlord/tenant disputes, mortgage foreclosures, automobile repossessions, debt collections, and identify theft. Helpful resources and consumer complaint avenues are in the MCLAP Policy and Practice Manual.

011702. Servicemembers Civil Relief Act (SCRA) and Department of Justice Enforcement

LA attorneys must be prepared to advise clients on all aspects of the SCRA, which includes stays of civil court and administrative proceedings, repossession protection, prohibition against non-judicial foreclosures on pre-service mortgages, default judgment protection, prohibition against non-judicial enforcement/foreclosure on storage liens, interest rate cap provisions, lease termination, cellular phone contract termination, eviction protection, and tax and residency protection.

0118. DOMESTIC RELATIONS AND FAMILY LAW

011801. General

Military family law practice can be complicated and state laws vary; accordingly, great care must be taken to avoid injuring a client’s interests. Unlike the other Services, Marine Corps LA attorneys do a great deal of legal work involving domestic relations, to include drafting separation agreements and helping clients file pro se in some jurisdictions as a Tier III legal assistance service.

011802. Family Law Mediation Program

As authorized by the OIC, LSSS, LA offices may establish Family Law Mediation Programs as a service to divorcing couples. The Program should have an established SOP that substantially complies with the Model Standards of Conduct for Mediators adopted by the ABA, American Arbitration Association and Association for Conflict Resolution.

011803. Separation and Divorce Briefs

LA offices may offer group informational briefs to persons contemplating divorce and are encouraged to consider offering alternate means, such as video briefs, that persons may watch in private. LA attorneys should not give specific legal advice to an individual at a group brief, but should instead recommend an appointment with a LA attorney.

0119. IMMIGRATION AND NATURALIZATION SERVICES

011901. General

Department of Defense regulations require the military Services to provide assistance to service members seeking naturalization based upon qualifying military service. For the Marine Corps, JAD (JLA) is the Immigration and Naturalization Program Manager. LA offices should contact JLA for assistance, as needed. LA offices may provide services to other LA-eligible persons (e.g., family members), depending on expertise within the office.

011902. Expedited Naturalization Processing at Recruit Training

Pursuant to 8 U.S.C. § 1400, Executive Order 13269 (July 3, 2002), as modified by the Office of the Under Secretary of Defense's Memorandum entitled Certification of Honorable Service for Members of the Selected Reserve of the Ready Reserve and Members of the Active Components of the Military or Naval Forces for Purposes of Naturalization (October 13, 2017), allows expedited naturalization of non-citizens serving in an active-duty status in the Armed Forces of the United States during armed conflict with a hostile foreign force (i.e., War on Terrorism) beginning 11 September 2001 until a termination date established by future Executive Order. One hundred eighty days of honorable service qualifies the service member to file for expedited naturalization processing. LA offices shall assist in processing recruit applications for naturalization in cooperation with the local U.S. Citizenship and Immigration Service (USCIS) office.

011903. Resources

The MCLAP Policy and Practice Manual contains a list of resources that includes the USCIS website dedicated to military personnel and family members at <https://www.uscis.gov/military/citizenship-military-personnel-family-members>. USCIS also has established a toll-free military help line, 1-877-CIS-4MIL (1-877-247-4645), exclusively for members of the military and their families. After-hours callers should receive an email address that they can use to contact USCIS for assistance.

0120. INCOME TAX PREPARATION AND FILING ASSISTANCE (VITA PROGRAM)

VITA Program promotes increased mission readiness and enhances the morale and quality of life for military personnel, retirees, and their families by providing them with free income tax preparation and filing services through the use of trained military personnel and volunteers. The OICs, LSSS determine

the most effective method of providing tax preparation and filing assistance services at their installations (e.g., installation Tax Centers, facilitated self-help kiosks, etc.). As the Marine Corps VITA Program Manager and member of AFTC, JLA coordinates with the IRS to provide software and training material to Tax Center sites.

0121. PREVENTIVE LAW PROGRAMS, UNIT BRIEFS, AND SUICIDE AWARENESS OFFICE PROCEDURES

012101. Preventative Law and Unit Briefs

LA offices shall have Preventive Law and Legal Awareness Programs that offer timely and concise educational information to the military community. Topics should include identity theft, unfair and deceptive trade practices, life insurance designations, SCRA protections, and other significant legal issues affecting military personnel and their families. Information shall be posted on the LA Office website. Further dissemination may include newspaper articles, handouts, etc. LA Offices shall develop and use standardized briefing presentations geared toward personal and family readiness. Topics should include availability of LA services at the installation.

012102. Suicide Awareness Office Procedures

Each LA Office shall have written procedures that LA personnel will follow in the event of a perceived risk of suicide.

VOLUME 6**“INTERNATIONAL AND OPERATIONAL LAW”****SUMMARY OF VOLUME 6 CHANGES**

Hyperlinks are denoted by *[bold, italic, blue and underlined font](#)*.

The original publication date of this Marine Corps Order (right header) will not change unless/until a full revision of the MCO has been conducted.

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VOLUME VERSION	SUMMARY OF CHANGE	ORIGINATION DATE	DATE OF CHANGES
ORIGINAL VOLUME	N/A	DD MMM YYYY	N/A

Submit recommended changes to this Volume, via the proper channels, to:

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3000 Marine Corps Pentagon
Washington, DC 20350-3000

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REFERENCES

- (a) SECNAVINST 5430.7R
- (b) SECNAVINST 5430.27D
- (c) SECNAVINST 5430.25E
- (d) 10 U.S.C. §§ 806, 1044, 1044e, 1059, 1072, 1565b, 1588, and 5046
- (e) MCO 5430.2
- (f) JAGINST 5803.1E
- (g) Manual for Courts-Martial, (2016 ed.)
- (h) U.S. Navy Regulations, (1990)
- (i) MCO 5800.14
- (j) MCO 1001.62A
- (k) MCO 1200.17E
- (l) JAGINST 5803.2B
- (m) SECNAVINST 1920.6C
- (n) Uniform Code of Military Justice, (2016)
- (o) MCO 1610.7
- (p) MCO 1300.8
- (q) MCO 1000.6
- (r) JAGINST 5800.7F
- (s) SECNAVINST 5211.5E
- (t) 5 U.S.C. §§ 101, 552a, and 3111
- (u) JAGINST 5801.2
- (v) 37 U.S.C. §§ 601-604
- (w) 38 U.S.C. §§ 4301-4334
- (x) DoD Instruction 1205.12
- (y) 31 U.S.C. § 1342
- (z) DoD Instruction 1100.21
- (aa) 8 U.S.C. § 1400
- (bb) Executive Order 13269, (July 3, 2002)
- (cc) DoD Directive 2311.01E
- (dd) MCO 3300.4A
- (ee) DoD Directive 2310.01E
- (ff) DoD Directive 5146.13
- (gg) Executive Order 12333, (December 4, 1981)
- (hh) DoD Directive 5240.01
- (ii) DoD 5240.1-R
- (jj) DoD Instruction 3025.21
- (kk) DoD Instruction 5525.03
- (ll) SECNAVINST 5710.25B
- (mm) 1 U.S.C. § 112b
- (nn) 22 CFR Part 181
- (oo) DoD Directive 5530.3
- (pp) DoD 5500.07-R
- (qq) 18 U.S.C. § 202
- (rr) 5 C.F.R. § 2634

“REFERENCES”

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

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VOLUME 6**“INTERNATIONAL AND OPERATIONAL LAW”****SUMMARY OF SUBSTANTIVE CHANGES**

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CHAPTER VERSION	PAGE PARAGRAPH	SUMMARY OF SUBSTANTIVE CHANGES	DATE OF CHANGE

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INTERNATIONAL AND OPERATIONAL LAW0101. **PURPOSE**

This Volume promulgates Marine Corps policy for the provision of international and operational law support throughout the Total Force and establishes service-wide standards for the performance of international and operational law.

0102. **GENERAL**

The increasing scope, complexity, and intensity of international and operational law issues that arise during the planning and execution of military operations demands increasing knowledge and expertise by judge advocates. Judge advocates practicing in the international and operational law arena must be conversant with the numerous manuals, orders, and publications to guide judge advocates on substantive legal issues as well as issues of training, organizing, and administration for the practice of international and operational law.

010201. **International Law**

International law is generally the law governing relations between nations, international organizations, and persons. International law is derived from international agreements, customary international law (resulting from a general and consistent practice of states observed out of a sense of legal obligation), or rules derived from general principles common to the major legal systems of the world.

010202. **Law of War**

It is important to recognize that “law of war” (LOW), also referred to as the “law of armed conflict,” is but one part of international law binding on the United States that may directly affect military operations. Judge advocates practicing international law are expected to be able to ascertain the existence of, and interpret, international law applicable to a particular operation. The most common will be international agreements, including Status-of-Forces Agreements, Acquisition and Cross-Serving Agreements, Defense Cooperation Agreements, and Article 98 Agreements. Judge advocates must also be familiar with the authority for, and the limitations on, negotiating and concluding such agreements.

010203. **Operational Law**

Operational law addresses the international laws, foreign (host nation) laws, and domestic laws, regulations, and policies that directly affect the planning and execution of U.S. military operations across the range of military operations (ROMO). While traditionally associated with areas such as the LOW and rules of engagement (ROE), operational law also encompasses such divergent areas as international human rights law; intelligence law; international agreements; national authority to execute operations; review of contingency / operational plans for compliance with statute and regulations; information and cyberspace operations; noncombatant evacuation operations; sea, air, and space law; humanitarian assistance and disaster relief operations; detainee and interrogation operations; funding for U.S. operations; funding for foreign security assistance; domestic operations; foreign and deployment claims; and contingency and deployment contracting. The practice of international law is only one of several components that comprise the operational law functional area. The art of providing operational law support is to proactively identify legal and related policy issues in many divergent areas; rapidly

synthesize them in order to give timely and coherent legal advice to commanders, staffs, and Marines; and to assist commanders in the assessment and mitigation of legal risk by considering alternate courses of action. The ultimate goal of operational law support is to ensure the Marine Corps can maintain unit readiness and conduct operations in accordance with applicable laws, regulations, and policies. One of the keys to providing proactive legal advice is gaining unfettered access to all staff and participating throughout the entire duration of the staff planning process.

0103. PERSONNEL

010301. Roles and Responsibilities of Judge Advocates in the Provision of International and Operational Law Support

A. General

Within the Marine Corps, international and operational law support is provided to commanders, their staffs, and their Marines by judge advocates in their role as command advisors. This support is provided primarily by the Office of the SJA organic to the command element of the Marine Air Ground Task Forces (MAGTF) and the headquarters of the Marine service component commands. In addition, at the Marine Expeditionary Force (MEF) Office of the SJA, there are structured operational law billets dedicated to supporting the MEF operational mission. Furthermore, there are structured operational law billets for Marine judge advocates at Headquarters, Marine Corps (HQMC) International and Operational Law Branch (JAO), Office of the Judge Advocate General (Code 10), Joint Staff (Chairman's Legal and J-5), and training commands. Judge advocates also compete for assignment to operational law billets at combatant commands. Finally, judge advocates may serve on temporary duty to augment the organic SJA office of deployed Marine units, provide task-organized legal support to contingency MAGTFs, or to fill Individual Augmentation (IA) requirements on Joint Task Forces (JTF) and multinational force headquarters staffs.

B. Structured Billets

The following billets are essential to the provision of international and operational law advice and support.

1. Staff Judge Advocate. Provide overall, unfettered command advice on international and operational law issues to the Commander; serve as the legal advisor who provides advice to the staff on international laws, foreign national laws, and applicable domestic laws and regulations; serve as the legal advisor for operational exercises and contingencies and provide legal advice during the Marine Corps Planning Process and the development of Operation Plans (OPLANS)/Operation Orders (OPORDS); and serve as the key staff interface with external organizations such as non-governmental organizations or international organizations during contingency operations.

2. Operational Law Attorney. Provide advice to the SJA and staff on international laws, foreign national laws, and applicable domestic laws and regulations; provide advice to the SJA and staff on the LOW and the development, formulation, and interpretation of the ROE; conduct LOW and other operational law training for all deploying personnel; assist the Operations Section (S-3) with ROE and Escalation of Force training, as necessary; coordinate with servicing legal assistance attorneys for the provision of legal assistance to Marines preparing for deployment; assist the SJA as the legal planner for operational exercises and contingencies; and assist the SJA in providing legal advice during the Marine Corps Planning Process and during the development of OPLANS/OPORDS.

3. Legal Chief. Assist the SJA and Operational Law Attorney in all associated billet functions.

010302. Role of the Office of the Staff Judge Advocate in International and Operational Law

A. Staff Integration

To be most responsive, judge advocates practicing international and operational law must be integrated members of the commander's staff. It is not enough to just know "the law." The judge advocate must understand the mission and the commander's intent, and provide legal advice that facilitates the development of courses of action to accomplish the unit's mission consistent with applicable law and policy. This requires participation on operational planning teams, boards, and cells as well as presence within the combat operation center. This also requires Marine judge advocates to maintain their proficiency as well-rounded MAGTF officers, imbued with an expeditionary mindset.

B. Marine Corps Planning Process (MCP)

To be effective on operational planning teams, boards, and cells Marine judge advocates must be well-versed in MCP and the Rapid Response Planning Process (R2P2), the truncated version of MCP used at the Marine Expeditionary Unit and battalion-level. Practical understanding and experience with the MCP and R2P2 positions a judge advocate to spot legal issues and to provide timely solutions to the commander and staff to facilitate further course of action development consistent with the law.

C. Operational Plans (OPLANS) and Orders (OPORDS)

By Department of Defense (DoD) Directive and Marine Corps Order, all OPLANS, OPORDS, directives, and similar documents concerning operational matters must be reviewed by judge advocates for legal sufficiency. Within the OPLAN/OPORD particular attention should be given to the following:

1. Base Plan.
2. Annex B, Intelligence.
3. Annex C, Operations. In particular, appendices for Concept of Operations, ROE, and Fire Support Plan/Targeting. The ROE Appendix contains the applicable ROE for the specific operation. The tasks of drafting this appendix, requesting supplemental ROE, disseminating the ROE, and providing ROE training is the responsibility of the unit's operations officer (e.g., G-3, S-3) and ultimately the commander; however, the SJA must be prepared to assist with these tasks as directed.
4. Annex E, Personnel. In particular, the Legal Appendix. The Legal Appendix contains references to documents pertinent to the specific operation, and general and specific guidance on matters such as international legal considerations, legal assistance, claims, military justice, fiscal law, LOW, detainee handling, and interaction with the ICRC and other non-governmental organizations.
5. Annex J, Command Relationships.

0104. SUPERVISION AND OVERSIGHT

010401. Chain of Command

In a deployed environment, Marine judge advocates must be cognizant of the separate and distinct service and operational chains of command, to include respective underlying authorities and responsibilities of each, as well as the supervisory and oversight roles of the SJA to CMC and the Navy Judge Advocate General (JAG).

010402. Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC) and Judge Advocate Division (JAD)

The SJA to CMC is responsible for the operational and international law functions within the Marine Corps. This includes Service-level supervision and management of operational law matters arising in the Marine Corps. Within HQMC, the SJA to CMC is the legal advisor to CMC and HQMC on all operational and international law matters. Beyond HQMC, the SJA to CMC formulates, implements, supervises, and inspects the use of standard policies and procedures for the delivery of operational and international law support throughout the Marine Corps, with the exception of those matters assigned to the Navy JAG. The International and Operational Law Branch (JAO) within JAD assists the SJA to CMC with these responsibilities.

010403. International and Operational Law Branch (JAO)

JAO provides advice and guidance to CMC in his capacity as both a Service Chief and as a member of the Joint Chiefs of Staff, to the HQMC staff, and to Marine judge advocates worldwide. JAO also provides service input to the Office of the Secretary of Defense and the Joint Staff, and participates as a standing member of the DoD LOW Working Group. JAO focuses on international and operational law matters such as treaty interpretation and compliance, negotiation and conclusion of international agreements, LOW, detention operations, rules of engagement, law of the sea, training and equipping foreign forces, non-lethal weapons, cyberspace law, intelligence law, and domestic operations law. JAO also assists in the establishment and supervision of standard policies and procedures, manages the Marine Corps LOW Program, represents the Marine Corps at various domestic and international forums, and provides support for Marine judge advocates within the operating forces. Support includes providing advice, a web-based information portal, reference documents, and an after-action reports/legal lessons learned clearinghouse.

010404. Staff Judge Advocates (SJAs) and Title 10 Authority

Section 806 of Title 10 (Article 6, UCMJ) allows for the free flow of communication between SJAs within the operational and service chains of command, including the SJA to CMC. The SJA to CMC's role with regard to the delivery of operational and international law support to the operating forces and the supporting establishment, however, is limited to providing advice and establishing standards of performance and conduct. Consistent with Section 5046 of Title 10, no officer or employee of the DoD may interfere with the ability of judge advocates to give independent legal advice to their commanders.

0105. CRITICAL INFORMATION REQUIREMENTS (CIRs)

Certain CIRs exist in order to ensure proper execution of the Staff Judge Advocate to the Commandant's supervisory and oversight roles. In addition to a commander's responsibility to inform his operational chain of command regarding the types of events described below, the staff judge advocate

will simultaneously notify CMC (JAO) by the most expeditious means available when any of the following events occur:

010501. Law of War (LOW) Violation

Any possible, suspected, or alleged violation of the LOW by Marine Corps personnel, or DoD civilians assigned to or supporting Marine Corps units, for which there is credible information; or conduct during military operations other than war that would constitute a violation of the LOW if it occurred during an armed conflict (see DODD 2311.01E, DOD Law of War Program, and MCO 3300.4A, *Marine Corps Law of War Program*).

010502. Treatment of Detainees

Any alleged or suspected violation of U.S. law or policy governing the treatment of detainees as well as possible, suspected, or alleged violations of the LOW, for which there is credible information, that occur in the context of detention operations, and is committed by Marine Corps personnel, DoD civilians and contractors assigned to or supporting Marine Corps units, and non-DoD personnel (including foreign government representatives) who have access to DoD detention facilities or to detainees under DoD control. A detainee is any person captured, detained, held, or otherwise under the control of Marine Corps personnel (military, civilian, or contractor employee); a detainee does not include persons being held primarily for law enforcement purposes, except where the the United States is the occupying power (see DoD Directive 2310.01E, *DoD Detainee Program*).

010503. Questionable Intelligence Activity

Any questionable intelligence activity (QIA) or significant or highly sensitive matters, as defined in DoDD 5146.13, reasonably believed to have been committed by Marine Corps personnel or DoD civilians assigned to or supporting Marine Corps units, for which there is credible information. (see Executive Order 12333; DoD Directive 5240.01, *DoD Intelligence Activities*; and DoD 5240.1-R, *Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons*).

010504. Participation in Civilian Law Enforcement Activities

Any actual or suspected direct participation of Marine Corps personnel in civilian law enforcement activities in violation of applicable U.S. law and U.S. policy, for which there is credible information (see DoD Instruction 3025.21, *Defense Support of Civilian Law Enforcement Agencies*).

010505. Foreign Arrest or Detention of Marine Corps Personnel

Any arrest or detention of Marine Corps personnel by a foreign nation that occurs outside of the United States.

010506. Accusation of Misconduct

When a Marine serving overseas as an exchange officer, liaison officer, Marine Security Guard, Defense Attaché, or other similar position, has been accused of misconduct which, if proven, would be punishable under host nation law, U.S. law, including the UCMJ, or is involved in an incident that could bring discredit or cause embarrassment to the Marine Corps.

010507. Exercise of Criminal Jurisdiction over Friendly Foreign Forces

Any arrest, detention, confinement, or other exercise of criminal jurisdiction by Marine Corps personnel over friendly foreign military forces for offenses committed by its members within the United States. This CIR includes any facilitation for the exercise of criminal jurisdiction by service courts of friendly foreign forces or sending states in the United States (see DoD Instruction 5525.03, *Criminal Jurisdiction of Service Courts of Friendly Foreign Forces and Sending States in the United States*).

010508. Negotiation, Conclusion, or Implementation of an International Agreement

Any negotiation, conclusion, or implementation of an international agreement on behalf of the Marine Corps that falls within one of the following categories: implementing agreements; cooperative or reciprocal support agreements; plans, exercises, operations, and exchange agreements; foreign military intelligence agreements; military information exchange agreements; health and medical agreements; communications agreements; or any other international agreement that SECNAV has delegated the authority to negotiate, conclude, and implement to CMC (see SECNAVINST 5710.25B, *International Agreements*). This CIR excludes those international agreements that concern operational command of joint forces or other non-single-Service matters under the cognizance of the Chairman, Joint Chiefs of Staff and the Combatant Commanders.

010509. Breach of an International Agreement

When an international agreement signed by CMC, or his designee, is breached by the other party.

0106. RECURRING REPORTING REQUIREMENTS010601. After-Action Reports (AARs)

The completion of an AAR is an important part of capturing legal lessons learned from operational experiences and developing the operational law “community of practice.” Therefore, within 90 days of redeployment, all Marine judge advocates, regardless of the duration or type of deployment/operational exercise, will complete and submit an AAR to the Marine Representative at the Center for Law and Military Operations (CLAMO), The U.S. Army’s Judge Advocate General’s Legal Center and School (TJAGLCS).

A. Responsibilities

Judge advocates will contact CLAMO or CMC (JAO) upon their redeployment to begin the AAR process. The responsibility to submit an AAR to CLAMO is separate and distinct from any other AAR requirement (e.g., unit AAR, submissions to Marine Corps Center for Lessons Learned, etc.). CMC (JAO), in coordination Marine Corps Staff Judge Advocates and Officers-in-Charge, will assist CLAMO with identifying and contacting those judge advocates whose deployment or participation in an operational exercise may provide valuable lessons learned to the legal community.

B. AAR Process

The AAR will be completed in the prescribed format located on the JAO SharePoint site within the After Action Reports section. The AAR may either be conducted with a member of CLAMO in person, electronically, or by telephone. The AAR will be unclassified, For Official Use Only; any

classified comments will be submitted in a classified annex. The AAR will follow an “Issue, Discussion, and Recommendation” format by identifying a legal issue, discussing the issue and actions taken to resolve it, and then providing a recommendation to address the issue in the future. CLAMO has an established collection process and it is strongly recommended that redeploying judge advocates coordinate with the Marine Representative at CLAMO prior to completing the AAR.

C. Resource Publication

CLAMO is the central repository for all AARs completed in accordance with paragraph 0106. CLAMO maintains the AARs in its own repository and in the JAGCNET website document library (CAC Access Required). Lessons learned from the AARs are also incorporated into various CLAMO publications such as *Forged in the Fire: Legal Lessons Learned During Military Operations* and its supplement, and *Tip of the Spear*. The Marine Representative at CLAMO will ensure that copies of completed AARs are distributed to CMC(JAO), Marine Expeditionary Force SJAs, Marine Division SJAs, and any other designated Marine Corps components that CLAMO, in consultation with CMC(JAO), determines to have a legitimate requirement. CMC(JAO) will also maintain all AARs in a secure web portal that is accessible to Marine judge advocates upon request.

010602. Case Act Reporting

Pursuant to the Case-Zablocki Act (Pub.L. 92-403; 1 U.S.C. § 112b) (the “Case Act”), all international agreements shall be transmitted to the Department of State (DoS) within 20 days of signing. SECNAVINST 5710.25B designates the Navy JAG as the Central Office of Record and the Central Repository for all Department of the Navy international agreements, including those negotiated and concluded by CMC. SECNAVINST 5710.25B tasks CMC (JAO) to provide required legal support to CMC for all efforts associated with those international agreements that CMC is authorized to negotiate and conclude. Therefore, the original or certified true copies of all international agreements concluded by CMC or pursuant to a CMC grant of authority, shall be forwarded to CMC (JAO) as soon as possible after they have been concluded, to assist in meeting the 20-day notification period imposed by the Case Act. Commands, HQMC departments, agencies, or other officials submitting certified true copies of concluded agreements to CMC (JAO) shall include copies of all related documents, including all accompanying papers, such as agreed minutes, exchanges of notes, or side letters, and background statements. Background statements include information explaining the agreement, the negotiating history, the effect of the agreement, and a precise citation of legal authority to be submitted (*see* 22 CFR Part 181, section 181.7; and DoD Directive 5530.3). All contemplated international agreements should be coordinated with CMC (JAO) prior to negotiation to determine whether authority has been delegated to negotiate and conclude the international agreement.

0107. STANDARDS FOR ASSIGNMENT AND TRAINING OF MARINES

010701. Garrison Environment

Dedicated Operational Law Attorney billets are structured in each of the MEF and Division SJA offices (see Appendix I). All International and Operational Law billet assignments will be screened by Plans and Innovation Branch (JPI) to ensure the right Marine is assigned to the right billet at the right time. JPI ensures that the billet holder has the appropriate education, experience, and skill necessary to provide the gaining command with competent advice to accomplish its mission. Although not required by order or regulation, JPI considers the possession of MOS 4405 (Operational Law) as a major criterion in the decision to assign a judge advocate to an operational law billet. Similarly, operational law skill sets

and experience may demonstrate competence to handle a specific billet assignment. Regardless of the achieved qualifications, the requirements of HQMC will dictate the placement of personnel in international/operational law billets.

010702. Deployed Environment

A. General

Judge advocates will generally be assigned to operational law duties in a deployed environment in one of several ways: as permanent personnel, assigned to the organic SJA office of a deploying Marine organization; on temporary duty, attached to the organic SJA office, headquarters, or command element of a deploying Marine organization; or on temporary duty, as an individual augmentee (IA) to a JTF or other Joint and/or combined force.

B. Augmentation Requests

Organizations requesting judge advocate augmentation should clearly identify the legal support requirements for their assigned mission. Given the steady state garrison military justice services requirements for judge advocates, provision of judge advocate support must be judicious and efficient. Judge advocates should not be provided to meet a deploying unit's pre-existing, traditional legal administration requirements (e.g., adjutant duties, JAGMAN investigating officer, SRB Page 11/NJP/ADSEP administration, etc.). These traditional requirements are to be filled by the unit's organic assets (i.e., legal officer, S-1, adjutant, executive officer, etc.). Active participation by a judge advocate in the mission planning process can help units anticipate, articulate, and validate their unit legal support requirements.

C. Experience, Education, and Training

In assigning judge advocates as augmentees to deploying commands to provide operational law support, the supporting organization shall ensure that augmentees have the requisite experience, education, and training, and that such assignment will not conflict with professional responsibility obligations inherent in their current assignment. This is particularly important where the judge advocate will be assigned as the primary command legal advisor. Supporting organizations shall, insofar as practicable, assign judge advocates who: have at least one-year experience in MOS 4402; have the ability to complete individual pre-deployment training requirements established by the respective MEF, MARFOR, or other responsible higher headquarters (e.g., MARCENT pre-deployment training program (PTP) requirements); hold the requisite level security clearance; have completed advanced Continuing Legal Education (CLE) courses in operational and international law, or are able to complete those courses prior to, or in conjunction with, assignment to the billet, or possess the 4405 secondary MOS; have experience in MCPP/R2P2, or have completed grade-appropriate Professional Military Education (PME) requirements (e.g., Expeditionary Warfare School); do not have remaining defense client representation obligations; and are available for immediate assignment. Judge advocates designated to fill augmentation requirements shall complete individual training requirements as soon as possible, and be made available to the supported organization as early as possible to allow for staff integration and participation in operational planning, unit training, and unit exercises.

010703. Entry and Graduate-Level Professional Military Education

A. Operational Law Training at Naval Justice School

All judge advocates will receive operational law courses as part of the Basic Lawyer Course at the Naval Justice School (NJS). These courses provide student judge advocates a basic working foundation in the international and operational law practice area and is in accordance with the requirements set forth in MCO 3300.4A (Marine Corps Law of War Program).

B. Graduate Program at The U.S. Army's Judge Advocate General's Legal Center and School (TJAGLCS); Special Education Program (SEP); and Advanced Degree Program (ADP)

The Marine Corps has identified and validated several billets required to be staffed by judge advocates who possess specific postgraduate level education. The Commandant's Professional Intermediate-Level Education Board and Career-Level Education Board annually select the best and most qualified officers for career/intermediate-level PME and graduate-level education, to include the TJAGLCS Graduate Program, SEP, and ADP. These programs provide selected judge advocates the opportunity to earn a Masters of Law degree with a specialization in international and operational law.

010704. Pre-deployment Training for Judge Advocates

Commanders and SJAs must make every attempt to ensure that judge advocates assigned to provide operational law support have the appropriate education and training that includes, but is not limited to:

A. Pre-Deployment Legal Training (PDLT)

PDLT is a program in which judge advocates preparing to deploy receive the latest updates and training on legal issues relevant to their anticipated area of operations. These training periods are organized and managed by the respective MEF SJAs. CMC (JAO) supports the MEF with their PDLT curriculum development as well as with their instruction requirements.

B. Unit Pre-Deployment Training Program (PTP) and Assessment

Deploying operational units are required to conduct training and assessment exercises. Judge advocates assigned to, and expected to deploy with, such units should attend these training and assessment exercises along with the unit.

C. Continuing Legal Education

Numerous options are available for judge advocates to obtain CLE in the fields of international and operational law. Commanders should encourage and allow their assigned judge advocates to attend the international and operational law short courses available at both NJS and TJAGLCS. Additionally, NJS, TJAGLCS, and the Air Force Judge Advocate School offer on-line classes that encompass many aspects of international and operational law.

D. Operational Law Branch (JAO)

JAO may, upon request, and as resources permit, provide additional instruction in international and operational law to judge advocates within the operating forces.

E. Law of War Training

LOW training for commanders and their staffs is addressed in MCO 3300.4A. MEF SJAs, JAO, and the Marine Corps Law of War Detachment (LOW-Det) perform central roles in supervising and executing this program. The LOW-Det's primary mission is to support the efforts of the MEF SJAs as they provide LOW training and education in support of commanders and staffs of operational forces. All courses and periods of instruction will be reviewed and approved by, and reported to, JAO by the LOW-Det prior to occurring. The four levels of Law of War training are outlined in MCO 3300.4A and are as follows:

1. “Entry-level” Training. “Entry-level” LOW training, as set forth in enclosure (2) of MCO 3300.4A, will be provided to every newly accessing Marine, whether officer or enlisted, at Officer Candidates School or the Marine Corps Recruit Depots.

2. “Follow-on” Training. Marines attending Marine Corps formal or unit-run schools such as The Basic School, School of Advanced Warfighting, Schools of Infantry, and Expeditionary Warfare School. Additionally, Follow-on Training also consists of formal operational pre-deployment unit training.

3. “Specialized” Training. “Specialized” LOW training is required for Marines occupying certain billets or assigned particular duties and responsibilities such as directing or planning operations. These personnel are identified in enclosure (4) of MCO 3300.4A.

4. “Detailed” Training. All Marine Corps judge advocates will receive “Detailed” LOW training while attending the Basic Lawyer Course at NJS and refresher “Detailed” LOW training prior to deployment.

F. Instructional Training Packages

LOW baseline training materials used in the “Entry-level” and “Follow-on” classroom instruction periods and realistic training exercise scenarios will be obtained through Marine Corps Combat Development Command (MCCDC), Training and Education Command (Code 465). SJA to CMC (JAO) is tasked with supporting MCCDC by creating, monitoring, and reviewing all “Entry-level” and “Follow-on” LOW instruction and instructional materials. The baseline training materials for the “Specialized” classroom instruction periods and realistic training exercise scenarios will be obtained from JAO through the JAO SharePoint site. These training materials are meant to be the baseline content for instruction for each of the training curriculums stated above. Instructors are permitted to add pertinent substance to these training packages, but they should not deviate from the substantive content within the training materials without previous authorization from JAO.

0108. RECURRING SUBSTANTATIVE LEGAL ISSUES

Certain international and operational legal issues recur with some consistency while in a deployed or garrison environment. Fiscal law, captured enemy property, LOW application, interpreting international agreements, and weapons legal reviews are a few of the substantive matters confronted by operational law judge advocates. See the JAO web portals for more detailed explanation of these issues.

0109. RESOURCES

Although primary source documents (international agreements, statutes, regulations, etc.) should be relied upon when researching legal issues, a variety of informal international and operational law resources exist that capture and explain in great detail issues frequently encountered by units and judge advocates.

010901. Operational Law Branch (JAO) Web Portal and Publishing Policy Guidance

JAO maintains both unsecured and secured unclassified web portals which contain references, opinions, and articles on the latest operational and international law issues, as well as historical documents and publications with respect to recurring legal issues. Additionally, further policy guidance and administrative procedures applicable to judge advocates serving in operational law billets will be published separately on these JAO web portals. Both sites are designed to assist the garrison and deployed judge advocate across the ROMO. The JAO unsecured web portal may be accessed at: [https://hqmc.usmc.afpims.mil/sja/Branches/InternationalOperationalLawBranch\(JAO\).aspx](https://hqmc.usmc.afpims.mil/sja/Branches/InternationalOperationalLawBranch(JAO).aspx). The JAO secured web portal may be accessed at: <https://ehqmc.usmc.mil/org/sja/JAO/default.aspx>. Requests for access should be sent to the JAD Plans and Innovation, Information Branch (JPI-1) at JAIWebmaster@usmc.mil.

010902. Marine Representative at the Center for Law and Military Operations (CLAMO)

CLAMO is a joint, interagency, and multinational legal center at TJAGLCS that collects and synthesizes data relating to legal issues arising in military operations, manages a central repository of information relating to such issues, and disseminates resources addressing those issues. A Marine judge advocate serves as the Marine Representative at CLAMO. The Marine Representative is able to assist redeploying judge advocates with the AAR process and can be contacted at (434)971-3145, usarmy.pentagon.hqda-tjaglcs.mbx.clamo-tjaglcs@mail.mil (NIPR), or clamo.clamotjaglcs@us.army.smil.mil (SIPR). In addition to AARs, the Marine Representative can mail hard copy publications of the *Operational Law Handbook* and the *Deployed MAGTF Judge Advocate Handbook*. The Marine Representative can also help Marine judge advocates access the Army JAGCNET website (www.jagcnet.army.mil) and answer requests for information/assistance from currently deployed judge advocates.

Legal Support to Operations & Exercises – Command Advice

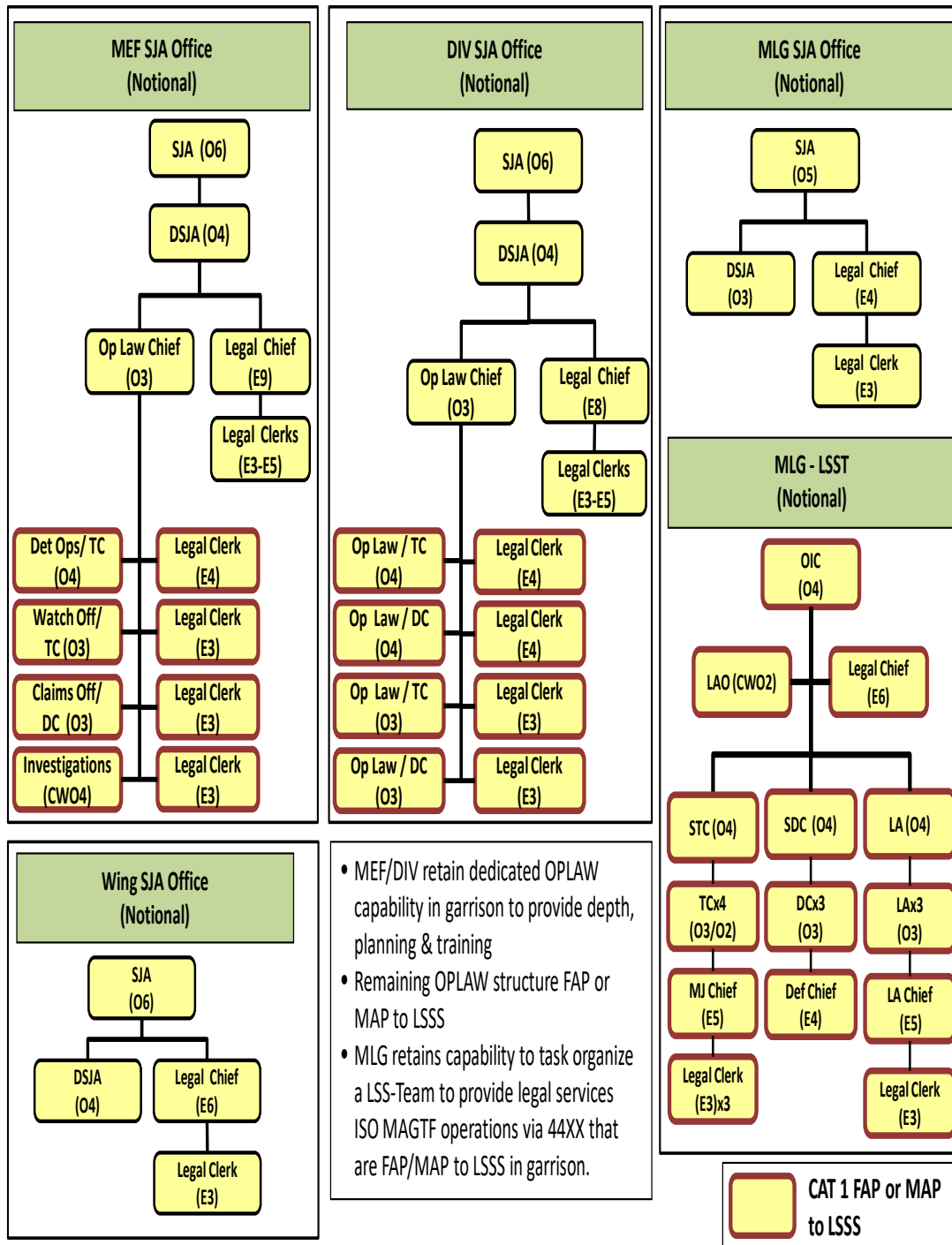


Figure 1

VOLUME 7**“ETHICS”****SUMMARY OF VOLUME 7 CHANGES**

Hyperlinks are denoted by *bold, italic, blue and underlined font*.

The original publication date of this Marine Corps Order (right header) will not change unless/until a full revision of the MCO has been conducted.

The date denoted by *blue font* (left header) will reflect the date this Volume was last updated.

All Volume changes denoted in *blue font* will reset to black font upon a full revision of this Volume.

VOLUME VERSION	SUMMARY OF CHANGE	ORIGINATION DATE	DATE OF CHANGES
ORIGINAL VOLUME	N/A	DD MMM YYYY	N/A

Submit recommended changes to this Volume, via the proper channels, to:

CMC (JA)
3000 Marine Corps Pentagon
Washington, DC 20350-3000

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- (a) SECNAVINST 5430.7R
- (b) SECNAVINST 5430.27D
- (c) SECNAVINST 5430.25E
- (d) 10 U.S.C. §§ 806, 1044, 1044e, 1059, 1072, 1565b, 1588, and 5046
- (e) MCO 5430.2
- (f) JAGINST 5803.1E
- (g) Manual for Courts-Martial, (2016 ed.)
- (h) U.S. Navy Regulations, (1990)
- (i) MCO 5800.14
- (j) MCO 1001.62A
- (k) MCO 1200.18
- (l) JAGINST 5803.2B
- (m) SECNAVINST 1920.6C
- (n) Uniform Code of Military Justice, (2016)
- (o) MCO 1610.7
- (p) MCO 1300.8
- (q) MCO 1000.6
- (r) JAGINST 5800.7F
- (s) SECNAVINST 5211.5E
- (t) 5 U.S.C. §§ 101, 552a, and 3111
- (u) JAGINST 5801.2
- (v) 37 U.S.C. §§ 601-604
- (w) 38 U.S.C. §§ 4301-4334
- (x) DoD Instruction 1205.12
- (y) 31 U.S.C. § 1342
- (z) DoD Instruction 1100.21
- (aa) 8 U.S.C. § 1400
- (bb) Executive Order 13269, (July 3, 2002)
- (cc) DOD Directive 2311.01E
- (dd) MCO 3300.4A
- (ee) DoD Directive 2310.01E
- (ff) DoD Directive 5146.13
- (gg) Executive Order 12333, (December 4, 1981)
- (hh) DoD Directive 5240.01
- (ii) DoD 5240.1-R
- (jj) DoD Instruction 3025.21
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- (ll) SECNAVINST 5710.25B
- (mm) 1 U.S.C. § 112b
- (nn) 22 CFR Part 181
- (oo) DoD Directive 5530.3
- (pp) DoD 5500.07-R
- (qq) 18 U.S.C. § 202
- (rr) 5 C.F.R. § 2634

“REFERENCES”

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

The original publication date this MCO (right header) will not change unless/until a full
revision of the MCO has been conducted.

The date denoted by **blue font** (left header) will reflect the date these References were last
updated as changes/revisions are made within this MCO.

VOLUME 7**“ETHICS”****SUMMARY OF SUBSTANTIVE CHANGES**

Hyperlinks are denoted by *[bold, italic, blue and underlined font](#)*.

The original publication date of this Marine Corps Order (MCO) Volume (right header) will not change unless/until a full revision of the MCO has been conducted.

All Volume changes denoted in *blue font* will reset to black font upon a full revision of this Volume.

CHAPTER VERSION	PAGE PARAGRAPH	SUMMARY OF SUBSTANTIVE CHANGES	DATE OF CHANGE

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ETHICS0101. **SCOPE**

This Volume addresses administrative instructions for the Marine Corps ethics program. Figure 1-1 is the annual calendar of filing and reporting dates under the program.

0102. **JOINT ETHICS REGULATION**

DoD 5500.07-R, the Joint Ethics Regulation (JER), is the single source for standards of ethical conduct and ethics guidance, including direction in the areas of public and confidential financial disclosure systems, activities with non-Federal entities, conflicts of interest, seeking other employment, post-government service employment rules, enforcement, and training for the Department of Defense.

0103. **RESPONSIBILITIES**

Supervision of the Marine Corps ethics program is shared between the Staff Judge Advocate to the Commandant (CMC (JA)) and Counsel for the Commandant (CMC (CL)), each of whom has been appointed as a Deputy Designated Agency Ethics Official (Deputy DAEO) by the Department of Navy General Counsel, who serves as the Designated Agency Ethics Official (DAEO) of the Department of the Navy (DON). CMC (JA) and CMC (CL) provide ethics advice and training and monitor financial disclosure reporting (including Office of Government Ethics (OGE) 278s and 450s) in their areas of responsibility, as set forth below. As Deputy DAEOs, CMC (JA) and CMC (CL) are delegated authority by the DAEO to grant extensions for OGE 278 filing deadlines in accordance with applicable regulations. Staff judge advocates and designated CL attorneys serve as Ethics Counselors and supervise the ethics programs within their commands or areas of responsibility. The most recent Ethics Counselor designation letter is located on the JCA SharePoint site.

0104. **Civil and Administrative Law Branch**

The Civil and Administrative Law Branch (JCA) administers the ethics program for CMC (JA). CMC (JCA) provides timely, individual, written notification, including delivery of the Public Financial Disclosure Report (OGE 278) and instructions, to Marine Corps general officers, advising them of their obligation and deadline for submission of a new entrant, annual, or termination report, and monitors submissions to ensure that all reports are timely filed. CMC (JCA) assists local SJAs in their ethics counselor review of OGE 278 to ensure all reports are administratively complete, accurate, and reviewed for conflicts of interest. JCA also maintains the original OGE 278s of all Marine Corps general officers on file for a period of six years (see JER 7-207.b). CMC (JA) completes the final review and certification of the OGE 278 reports of all Marine Corps general officers, except for those assigned to Joint Staff and Combatant Command billets and those general officers at HQMC who fall under the cognizance of CMC (CL).

010401. **Headquarters Marine Corps Office of Government Ethics (OGE) 278 Areas of Responsibility**A. **Staff Judge Advocate to the Commandant**

CMC (JA) conducts the final review and certification of the OGE 278 reports of the following general officers at HQMC: Assistant Commandant of the Marine Corps, Director Marine Corps

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Staff, Deputy Commandant, Combat Development and Integration/Commanding General Marine Corps Combat Development Command, Deputy Commanding General, Marine Corps Combat Development Command, Commanding General, Training and Education Command, Assistant Deputy Commandant, Combat Development and Integration (MOB), Deputy Commandant for Manpower and Reserve Affairs, Director, Manpower Management Division, Director, Reserve Affairs Division, Deputy Commandant for Plans, Policies, and Operations, Assistant Deputy Commandant for Plans, Policies, and Operations (Plans), Assistant Deputy Commandant for Plans, Policies, and Operations (Operations), Inspector General of the Marine Corps, Commanding General, Marine Corps Recruiting Command, Director, Public Affairs, Director, Legislative Affairs, Chaplain of the Marine Corps, and Medical Officer of the Marine Corps.

B. Counsel for the Commandant

CMC (CL) conducts the final review and certification of the OGE 278 reports of the following offices/entities: Commandant of the Marine Corps, Deputy Commandant for Aviation, Assistant Deputy Commandant for Aviation, Deputy Commandant for Installations and Logistics, Assistant Deputy Commandant for Installations and Logistics/Commander, Marine Corps Installations Command, Assistant Deputy Commandant for Installations and Logistics, Deputy Commandant for Programs and Resources, Assistant Deputy Commandant for Programs and Resources, Deputy Commandant for Information, Director for Command, Control, Communications, and Computers, Director of Intelligence, Commander, Marine Corps Logistics Command, Commander, Marine Corps Systems Command, and all Marine Corps Senior Executive Service members.

010402. Office of Government Ethics (OGE) 450 Review

CMC (JA) and CMC (CL) conduct the legal review and certification of the Confidential Financial Disclosure Report (OGE 450) for HQMC personnel who report to the individuals identified above, and maintain those reports on file for a period of six years.

010403. Ethics Program Reports

CMC (JCA) and CMC (CL) compile and submit for the Marine Corps reports required by the ethics program.

010404. Advice and Opinions

CMC (JCA) and CMC (CL) provide advice and written opinions on outside activities, acceptance of gifts, conflicts of interest, post-Government service employment matters, and training and education on ethics rules and regulations.

010405. Staff Judge Advocate (SJA) Advice and Guidance

CMC (JCA) provides advice and guidance to SJAs in fulfilling their roles as Ethics Counselors within their respective organizations.

010406. Military Personnel Law Branch

The Military Personnel Law Branch (JPL) provides legal advice and support on military personnel law matters for CMC (JA). As part of the process for approving nominees for appointment to

O-9 and O-10 general officer positions, JPL ensures, in consultation with CMC (CL), that the nominee has a current OGE 278 on file and that the report has been reviewed by the appropriate DoD Component DAEO or designee in relation to the position for which the nominee is being considered.

0105. ETHICS COUNSELORS

Ethics Counselors are responsible for supervising the ethics program for their respective organizations, activities, and/or geographic areas, including: the initial review of OGE 278 reports; the initial review and certification of periodic transaction reports (OGE 278-T reports); the initial review and certification of OGE 450 reports; the issuance of appropriate letters of caution to filers in conjunction with such reports; the provision of advice and assistance (in writing, when practicable) on matters relating to ethics and standards of conduct, including, but not limited to, outside activities, acceptance of gifts, conflicts of interest, post-Government service employment matters, and training and education on ethics rules and regulations; and the issuance of written opinions under the Procurement Integrity Act (41 U.S.C. §§ 2101-2107).

010501. Appointed Ethics Counselors

As DAEO for the DON, the General Counsel appointed Ethics Counselors within the Marine Corps by General Counsel Memorandum of 11 September 2012. The following individuals are appointed Ethics Counselors within the Marine Corps: Deputy Staff Judge Advocate, Judge Advocate Division, HQMC; Head, Civil and Administrative Law Branch, HQMC (JCA); Deputy Head, Civil and Administrative Law Branch, HQMC (JCA); Directors and Deputy Directors, Joint Law Centers, for all Marine Corps Air Stations; Staff Judge Advocates and Deputy Staff Judge Advocates at all Marine Corps Bases; Staff Judge Advocates and Deputy Staff Judge Advocates for all staffs and commands having general court-martial convening authority; and Navy OGC attorneys under the cognizance of CMC (CL).

010502. Delegation

Named Ethics Counselors may delegate the authority for review and certification of Confidential Financial Disclosure Reports (OGE 450) to attorneys in their offices.

010503. Designation

Pursuant to JER section 1-401, Ethics Counselors must be designated in writing by the DAEO (DON General Counsel Memorandum of 11 September 2012), who delegated authority to designate additional Ethics Counselors in writing to Deputy DAEOs. Submit requests for additional designations to CMC (JA) or CMC (CL), as appropriate. CMC (JA) and CMC (CL) will notify each other if they make additional designations.

0106. FINANCIAL DISCLOSURE REPORTS

The purpose of financial disclosure reports is to assist Federal agencies in identifying potential conflicts of interest between an employee's official duties and his or her private financial interests and affiliations. The Office of Government Ethics establishes rules and regulations for both the public and confidential financial disclosure systems.

010601. Public Financial Disclosure Report (OGE 278)

Regular and reserve military officers whose pay grade is O-7 or above, and civilian employees in an SES position are required to file and are considered to be in covered positions.

A. Time of Filing

1. New Entrant Reports. Within 30 days of assuming a covered position, a reporting individual must submit an OGE 278. Official promotion to pay grade O-7 (not frocking) triggers the filing requirement. Reserve general officers must file a new entrant report within 30 days after the 61st day of serving on active duty during any calendar year.

2. Annual Reports. Any time after 1 January, but not later than 15 May, an individual who served in a covered position for more than 60 days during the preceding calendar year shall file an annual OGE 278. For reserve general officers, only active duty service pursuant to orders issued under Title 10, United States Code, is counted.

3. Termination Reports. Not later than 30 days after termination from a covered position, an individual must submit an OGE 278. General officers should sign and date the termination report no earlier than their last day of active duty military service (not to be confused with their change of command or terminal leave date).

4. Combined Annual/Termination Report. Individuals who anticipate terminating their DoD employment on or within 90 days after the 15 May annual deadline may file a combined annual/termination report if they request and receive an agency extension of the annual filing deadline from a Deputy DAEO (CMC (JA) or CMC (CL)), as appropriate. Combined annual/termination reports must be filed within 30 days after termination of employment and not later than 13 August.

B. Extension of Filing Deadlines

Per 5 U.S.C. App. § 101(g)(2)(A), OGE 278 filers serving in an area designated by the President as a combat zone (i.e., an area subject to the combat zone tax exclusion) when an OGE 278 report is due are authorized an automatic extension of the filing deadline. The date for filing is extended 180 days after the later of: (1) the last day of service in the combat zone; or (2) the last day of hospitalization as a result of injury or disease from service in the combat zone. CMC (JA) and CMC (CL), as Deputy DAEOs, are delegated authority to grant, for good cause shown, a filing extension of up to 90 days. All requests for extensions shall be provided, in writing, by the individual filing the report. The request shall contain a clear statement of the reasons for the request and shall be submitted in advance of the original filing deadline.

C. Late Filing Fee

Any individual who is required to file an OGE 278 and does so more than 30 days after the required filing date, or 30 days after the last day of the filing extension period, shall be subject to a \$200.00 late filing fee. CMC (JA) and CMC (CL), as Deputy DAEOs, are the sole delegated authorities for waiving, in accordance with applicable regulations, the late filing fee for OGE 278 filers.

010602. Periodic Transaction Report (OGE 278-T)

Regular and reserve military officers whose pay grade is O-7 or above and civilian employees in an SES position are required to file periodic transaction reports (OGE 278-T). Filers must report the

purchase, sale, or exchange of stocks, bonds, commodities futures, or other forms of securities owned or acquired by the filer, his spouse, and/or dependent children if the individual transaction exceeds \$1,000. No report is required for transactions involving mutual funds, real estate, cash accounts, insurance, annuities, Thrift Savings Plan, Treasuries, and other investments. The Stop Trading on Congressional Knowledge Act requires that the filer disclose periodic transactions no more than 30 days after receiving notification of the transaction, and if no notice is received, then no more than 45 days after the actual transaction. This includes transactions made by a broker or financial manager on a filer's behalf. Filers will submit their OGE 278-T to the local ethics counselor, who will perform the conflict of interest review and sign the OGE 278-T as final reviewing official. Thereafter, the local ethics counselor will email a PDF copy to the filer's supervisor and the cognizant Deputy DAEO. Unlike the annual OGE 278, the local ethics counselor has the authority to approve (before the filing deadline) filing extensions of up to 90 days for "good cause" shown. After the filing deadline, OGE 278-T filing extensions may only be granted by CMC (JA) or CMC (CL). Failure to timely file a periodic transaction report will result in the assessment of a monetary penalty in the amount of \$200.00. The penalty is applicable only to the required report, not to individual transactions. OGE 278-T late filing fees may only be waived by CMC (JA) and CMC (CL).

010603. Confidential Financial Disclosure Report (OGE 450)

A. Individuals Required to File

1. Military personnel (below O-7) who are commanding officers, executive officers, and heads and deputy heads of installations, bases, air stations, or activities.

2. Special Government Employees (SGEs), i.e., an individual who is retained, designated, appointed, or employed to perform, with or without compensation, for a period not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis. See 18 U.S.C. § 202 and JER 1-232. SGEs are individual experts or consultants recruited for temporary service to the Government because they provide outside expertise or perspectives that might be unavailable among an agency's regular employees. In the DoD, the term also includes Reserve military officers on active duty for training involuntarily or for training for any length of time, and one who is serving voluntarily for active duty for training for 130 days or less; and to Reserve enlisted members to the same extent that military officers are included in the meaning of the term. (But see exclusion of DON Reservists by determination of Navy General Counsel, dated 18 November 2011, on next page).

3. Military personnel (below O-7) and civilian personnel (below SES), including detailees, whose official responsibilities require them to participate personally and substantially through decision-making or the exercise of significant judgment in taking an official action for contracting or procurement; administering or monitoring grants, subsidies, licenses, or other Federally-conferred financial or operational benefits; regulating or auditing any non-Federal entity, or other activities in which their final decision or action may have a direct and substantial economic impact on the interests of any non-Federal entity.

B. Time of Filing

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

2. Annual Reports. A reporting individual who was employed at least 61 days during the preceding reporting period must submit an OGE 450 to the Ethics Counselor by 15 February of each year, covering the preceding calendar year. Individuals who have previously filed an OGE 450 may be eligible to file the OGE Optional Form 450-A (short form), except in a year (e.g., 2020) divisible by four. See 5 C.F.R. § 2634.905(b) and JER 7-300.b(3)(d). Refer to the JER for further guidance.

0107. TRAINING

010701. Initial Ethics Orientation (IEO) for New DoD Employees

Within 90 days of entering duty, all new DoD employees who have not previously received ethics training shall receive an IEO. Within 180 days of entering active duty, active duty enlisted members of the armed services will receive initial ethics training. An IEO shall be a minimum of one hour of official duty time. The amount of official duty time given to new employees to review written materials required by the IEO may be reduced by the amount of time they spend receiving verbal ethics training during official duty time.

010702. Annual Ethics Training

All DoD employees who file an OGE 278 or OGE 450 shall receive 1 hour of annual ethics training, to be completed by 31 December.

010703. Training Materials

The Department of the Navy Assistant General Counsel (Ethics) prepares an annual on-line ethics training module that can be used to fulfill the annual ethics training requirement. This training material may be accessed from the CAC ethics site at <https://donogc.navy.mil/Ethics> or the public ethics website at <http://ethics.navy.mil>.

0108. ETHICS REPORTS

Figure 1 lists required reporting dates and a schedule of important ethics dates.

Ethics Program Calendar

9 January: Ethics Counselors submit data report to CMC (JCA) concerning Navy General Gift Fund for 1st quarter of fiscal year.

10 January: CMC (JCA) submits consolidated Navy General Gift Fund first quarter report to AAUSN (FMD).

15 January: Ethics Counselors submit responses to Annual OGE Agency Ethics Program Questionnaire to CMC (JCA).

20 January: CMC (JCA) submits consolidated report to Navy OGC concerning Annual OGE Agency Ethics Program Questionnaire.

25 January: Ethics Counselors report on gifts of more than minimal value (tangible gifts or gifts of travel or travel expenses) from foreign government sources during previous calendar year to CMC (JCA).

31 January: CMC (JCA) submits consolidated calendar year Federal Register Foreign Gift Report to Office of the Chief of Protocol, U.S. Department of State.

15 February: All annual Confidential Financial Disclosure reports (OGE 450) are due to Ethics Counselors. Ethics Counselors should review and certify reports within 60 days of receipt.

9 April: Ethics Counselors submit data report to CMC (JCA) concerning Navy General Gift Fund for 2d quarter of fiscal year.

10 April: CMC (JCA) submits consolidated Navy General Gift Fund second quarter report to AAUSN (FMD).

15 April: Unless further information is required, Ethics Counselors should have completed the review and certification of OGE 450 reports.

30 April: Ethics Counselors report Semiannual Report of Acceptance of Travel Benefits from a Non-Federal Source, under 31 U.S.C. § 1353 (OGE Form 1353), concerning gifts of travel/travel related expenses in excess of \$250.00 for period of 1 October to 31 March to CMC (JCA).

1 May: CMC (JCA) submits consolidated Semiannual Report of Acceptance of Travel Benefits from a Non-Federal Source, under 31 U.S.C. § 1353 (OGE Form 1353), to Navy OGC.

15 May: All annual Public Financial Disclosure reports (OGE 278) are due to Ethics Counselors.

29 June: All annual OGE 278 reports from filers granted first 45-day extensions are due to Ethics Counselors.

29 June: Last day for OGE 278 filers to request a second 45-day extension to OGE 278 filing deadline.

9 July: Ethics Counselors submit data report to CMC (JCA) concerning Navy General Gift Fund for 3d quarter of fiscal year.

10 July: CMC (JCA) submits consolidated Navy General Gift Fund third quarter report to AAUSN (FMD).

14 August: All annual OGE 278 reports from filers granted second 45-day extensions are due to Ethics Counselors.

14 September: The late filing fee applies to OGE 278 filers who were granted second 45-day filing extensions but have not submitted their reports to Ethics Counselor.

1 October: Ethics Counselors report on Gifts of More than Minimal Value to Foreign Individuals (either purchased with appropriated funds or not obtained by appropriated funds, e.g., donations) during preceding fiscal year to CMC (JCA).

9 October: Ethics Counselors submit data report to CMC (JCA) concerning Navy General Gift Fund for 4th quarter of fiscal year.

10 October: CMC (JCA) submits consolidated Navy General Gift Fund fourth quarter report to AAUSN (FMD).

15 October: CMC (JCA) submits consolidated report on Gifts of More than Minimal Value to Foreign Individuals (either purchased with appropriated funds or not obtained by appropriated funds, e.g., donations) during preceding fiscal year to DON OGC.

31 October: Ethics Counselors submit Semiannual Report of Acceptance of Travel Benefits from a Non-Federal Source, under 31 U.S.C. § 1353 (OGE Form 1353), concerning gifts of travel/travel related expenses in excess of \$250.00 for period of 1 April to 30 September to CMC (JCA).

15 November: CMC (JCA) submits consolidated Semiannual Report of Acceptance of Travel Benefits from a Non-Federal Source, under 31 U.S.C. § 1353 (OGE Form 1353), to Navy OGC.

15 December: CMC (JCA) emails Annual OGE Agency Ethics Program Questionnaire to Ethics Counselors.

31 December: All OGE 278 and OGE 450 filers are required to complete their annual ethics training requirement.

Figure 1