



UNITED STATES MARINE CORPS
CHIEF DEFENSE COUNSEL OF THE MARINE CORPS
MARINE CORPS DEFENSE COUNSEL ORGANIZATION
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WASHINGTON, D.C. 20380

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From: Chief Defense Counsel of the Marine Corps
To: Distribution List

Subj: DEFENSE COUNSEL AND LEGAL INTERN ORIENTATION CHECKLIST

Encl: (1) Defense Counsel and Legal Intern Orientation Checklist

- Purpose. To provide a baseline of knowledge for each judge advocate and legal intern newly assigned to the Defense Council Organization (DCO) concerning the rules and regulations involved with serving as a defense counsel. This orientation process will also stimulate discussions between new members of the DCO, supported SJAs, enlisted legal specialists, and the judiciary regarding the role of the defense counsel in the military justice system.
- Discussion. We have not yet instituted a formal training program when a judge advocate or legal intern is newly assigned to a defense office. The enclosure is part of an on-going effort to improve and standardize defense counsel training and practices. This checklist will allow every officer joining the DCO, regardless of rank or billet, to begin their assignment with a common understanding of the rules and regulations governing defense counsel and provide a better understanding of the defense counsel's role in the military justice system.
- Policy. Effective immediately, every judge advocate and legal intern will complete the enclosure within fourteen days of being assigned to a defense office. Completion of this checklist will be the priority of effort and should be completed prior to representing a client in court. The original checklist will be maintained by the supervisory attorney and an electronic version will be uploaded into a designated file on the responsible Regional Defense Counsel's office within the DCO's Sharepoint site.


J. G. BAKER

Distribution List:
SJA to CMC
Legal Chief of the Marine Corps
LSSS OICs and Law Center Directors
All members of the DCO

Marine Corps Defense Counsel Organization
Defense Counsel and Legal Intern Orientation Checklist

**Complete this checklist within the next 14 days. Have another DC review each area with you and initial the line when you are done – the same DC cannot review all areas. You can discuss an area with a DC from another location over the phone. **

___ Duties of a DC - Read RCM 502 and 506 (with particular attention to discussion); read the packet of information received from the SDC during initial counseling; read JAGINST 5803.1C Rules of Professional Responsibility; Chapter 2 of the LEGADMINMAN, and then discuss DC duties with your SDC and/or the RDC.

___ Share Point – Get onto to Share Point and read at least 10 discussion topics. Pick a recent one, research the question being asked, and provide a written comment. Go to the Welcome Aboard Section and read the New DC section and the How To Guides in the Sharepoint-DCO Instructions section. Create an alert for announcement and defense discussions, upload a photo of yourself in you're My SharePoint, respond to the Who's Using Sharepoint Discussion Thread and introduce yourself to the community,

___ Defense connect online – Go to dco.dod.mil and establish an account on defense connect online. If you have questions how to do this, return to the Sharepoint-DCO Instructions section and read the How To Guide.

___ Art 31(b) Rights - Read Article 31(b); read 2 motions to suppress statements for failed Art 31(b) advisement off of Sharepoint; read the main cases cited in those motions; sit in on an Article 31(b) rights advisement counseling session. Discuss the pros / cons of a suspect making a statement(s) to investigators with your SDC.

___ NJP - Read Part V of the MCM; read the relevant provisions of the JAGMAN on NJP punishments (s 0111 et seq.); review the CDC's approved NJP counseling checklist and the NJP counseling video, sit in on NJP counseling at your installation and when possible at another location and observe how they do it; be able to explain to a DC the procedure for appeals of NJP as explained in both the MCM and JAGMAN; discuss maximum punishments with a DC. Discuss the implications of refusing NJP with your SDC.

___ Summary Court-Martial - Read RCM 1301-1306; read Appendix 9 of the MCM; attend the Summary Court-Martial Officer class (when offered); discuss with the Review Officer the process of reviewing a SCM; discuss maximum punishments with a DC.

___ Administrative Separations - Read Chapters 1 and 6 of the MARCORSEPSMAN; observe the administrative counseling video; review at least two completed admin sep board packages approved for sep by the seps authority; discuss the ad board process with an LAO, assist a local DC in preparing an ad sep board from start to finish; explain to a

DC the different bases for separation; explain to a DC the different characterizations of service and where the standards come from.

___IRO Hearings - Read RCM 305; attend an IRO hearing and observe the DC provide advice to the client; discuss the pros / cons of waiving the hearing with the DC; understand the role of the magistrate; review the local IRO order; discuss IRO hearings with the magistrate and get his perspective. Arrange for and take a tour of the brig.

___ Guilty pleas- Read the trial guide and memorize your qualifications. Then, discuss with your SDC how to best prepare clients through guilty plea courts-martial. Discuss how to handle a client in court who appears to be blowing providency.

___Discovery and Witnesses - Read RCM 701 - 703; review a discovery request; discuss with a DC the reciprocal discovery obligations inherent in the rules; review a motion to compel discovery and relevant case law; understand the differences between Brady and Jencks material and government obligations to disclose; understand the differences between an expert consultant and an expert witness and the discovery obligations on defense inherent in each circumstance; review a witness request; discuss with a DC the standard for production of witnesses on the merits; discuss with a DC the standard for production of witnesses on sentencing.

___Article 32s - Read Article 32, UCMJ; read RCM 405; discuss purpose of Art 32s with a DC; observe an Article 32 hearing; discuss scenarios where it may be advantageous to waive an Art 32 hearing with your SDC, discuss the role of the IO with both a DC and an IO; discuss witnesses and evidence provisions with a DC; discuss relevance of determination of availability; discuss the concept of an Article 32 as a discovery opportunity with a DC and also for developing impeachment and motion material.

___Sentencing Evidence - Read RCM 1001-1003; discuss the differences between extenuation and mitigation evidence with a DC; review the client intake packet and understand the extenuating and mitigating information that can be obtained from it; sit in on client interviews where a DC develops E+M for sentencing purposes; sit in on several guilty / judge alone court-martial sentencing cases.

___Role of the Military Judge – After reading the Circuit Rules, sit down with the Circuit Judge and talk with him about what it means to be a judge advocate, the adversarial process, and what advice they would give to someone just starting out. Discuss and ask questions about the role of the military judge in the military justice process.

___Clemency / Post-trial processing - Read the intake packet explanation of clemency and post-trial rights hung on sharepoint; read RCMs 1101,1105,1106,1107; read the short form appellate rights statement; read and review a voluntary appellate leave package; discuss with a DC the clemency process and timelines / deadlines for submission; understand the difference between deferment and clemency; discuss clemency and post-

trial processing with the Review Chief at your location. Review a successful clemency submission from one of your fellow DCs.

___Role of the Staff Judge Advocate - After doing your tasks with regard to clemency / post-trial processing, sit down with an SJA and talk with them about how they view their role in the military justice process, administrative separation process, supervision of investigations, providing of command legal advice, and in the administration of good order and discipline within their command. Discuss with them the relationship that the SJA has with the trial counsel during the preferral / referral / trial of cases. Discuss with them the role of the SJA in the clemency and post-trial processing of cases after trial.

___Role of Legal Services Specialist - Sit down with the Legal Chief at your location, the Defense Chief within your office, and the Regional Defense Chief and talk with them regarding the role of the enlisted Marine in the above processes. They are involved in each and every area of military justice and you have to know how they can help you, how they can be utilized, and what their capabilities are. You will get a unique perspective from each of them. They make things work so that the officers can focus on the clients.

When you have completed all intro to defense tasks on the checklist, give the original to your SDC, and call and set up a personal meeting with the RDC

CANCELLED BY CDC PM 513