



UNITED STATES MARINE CORPS
CHIEF DEFENSE COUNSEL OF THE MARINE CORPS
MARINE CORPS DEFENSE SERVICES ORGANIZATION
701 SOUTH COURTHOUSE ROAD, BUILDING 2 RM 1D130
ARLINGTON, VA 22204-2482

In Reply Refer To:
5800
CDC
29 Oct 15

CDC POLICY MEMO 2.7

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

**Subj: MARINE CORPS DEFENSE SERVICES ORGANIZATION POLICY ON
SOCIAL MEDIA**

Ref: (a) JAGINST 5803.1(series) (Professional Conduct
of Attorneys Practicing under the Cognizance and
Supervision of the Judge Advocate General)
(b) 10 U.S.C. §827
(c) Marine Corps Social Media Guidance for Unofficial
Posts
(d) MARADMIN 365/10
(e) MARADMIN 173/15

1. Purpose. This policy memo establishes uniform practices for all Defense Services Organization (DSO) attorneys concerning acceptable uses of social media relative to official DSO duties.

2. Discussion.

a. While social media has been a part of the mainstream for almost a decade, the left and right lateral limits of permissible social media conduct for both attorneys and Marines continues to evolve.

b. Attorneys practicing under the cognizance of the Judge Advocate General of the Navy are subject to the Judge Advocate General's ethics instruction (ref (a)), local circuit rules, and the ethics requirements of their state bars (ref (b)).

c. Social media policies which apply to all Marines are listed in references (c)-(e). Given the nature of current operations, it is incumbent on every Marine to be aware of his or her digital presence and manage it in accordance with promulgated anti-terrorism/force protection (AT/FP) protocols.

Subj: MARINE CORPS DEFENSE SERVICES ORGANIZATION POLICY ON
SOCIAL MEDIA

d. Some civilian jurisdictions have held contempt hearings and/or initiated ethics complaints against defense attorneys using social media in the courtroom. While most military circuit rules address the use of electronic devices in the courtroom, the use of social media has largely been ignored.

e. This policy is necessary in order to address such uncertainties, protect the legitimate privacy interests of the parties, respect AT/FP concerns and protocols, not to mention the dignity and respect concomitant to the military justice process.

e. To be clear, this policy applies only when DSO attorneys are performing duties as defense counsel. Furthermore, when acting as the legal representative of a client you are compelled to do what is in your client's best interest, consistent with the law and applicable ethical cannons, and this policy memo does not foreclose any options you may have in the zealous representation of a particular client. Neither is it intended to chill speech made in a private capacity. When speaking in your personal capacity you are completely unconstrained by this guidance. This guidance is intended to ensure compliance with all applicable social media guidelines, protect DSO personnel from stepping on potential ethical landmines, and enhance the professionalism of the DSO and the practice of military justice.

3. Policy.

a. With the exception of official military ceremonies, training, and appropriate unofficial unit social activities, without the express permission of a Military Judge all photography or digital video recording inside military courtrooms is prohibited. This prohibition applies regardless of whether or not court is in session.

b. No member of the DSO shall photograph or digitally video record another party without that party's express consent. Under no circumstances will a member of the DSO photograph or digitally video record the members, a military judge, or any other member of a tribunal while acting in that capacity, transiting to or from the forum, or in the vicinity of the proceeding. This prohibition applies to all identifiable individuals in a photograph or digital video recording, including those who may be in the background of such photographs or digital video recordings.

Subj: MARINE CORPS DEFENSE SERVICES ORGANIZATION POLICY ON
SOCIAL MEDIA

c. Photographs outside of the courtroom depicting members of the DSO with clients are permitted. Photos with clients in front of an acquittal "A" or other DSO sanctioned emblems or symbols are also permitted. However, social media dissemination of these types of photos is strongly discouraged.

d. To ensure privacy, compliance with Marine Corps guidance, and applicable bar rules, posting photos of clients on social media is strongly discouraged—regardless of client consent.

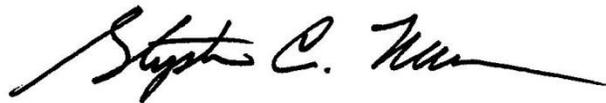
e. Text-based social media in which a colleague could reasonably identify the client that is the subject of the post is prohibited.

f. This policy in no way prohibits or restricts DSO organizational, moral-building ceremonies intended to recognize and memorialize acquittals and other favorable results.

g. All members of the DSO should regularly monitor their online social media presence to ensure conformity with this policy memo and the references.

4. Summary. Heightened security concerns, coupled with potential ethical constraints, necessitate greater consideration of our organization's social media presence. While I celebrate your successes with you, I would be derelict in the performance of my duties if I allowed you to unknowingly step into this potential minefield. "Act like you've been there before" applies to more than just the playing field. We are military justice professionals and shall conduct ourselves accordingly. Respect for the dignity of the process, other parties to the process, and the courtroom is not optional in the DSO.

5. Conclusion. This policy memo is effective immediately.



STEPHEN C. NEWMAN
Colonel, U.S. Marine Corps

Distribution List:

SJA to CMC, Legal Chief of the Marine Corps, All Marine Corps SJAs, LSSS OICs, LSST OICs, All members of the DSO, NMCTJ Code 52, OJAG