



**UNITED STATES MARINE CORPS**  
CHIEF DEFENSE COUNSEL OF THE MARINE CORPS  
MARINE CORPS DEFENSE SERVICES ORGANIZATION  
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29 Aug 22

POLICY MEMORANDUM 1.8

From: Chief Defense Counsel  
To: Distribution List

Subj: DEFENSE LITIGATION RESOURCE FUNDS

Ref: (a) LSAM, Vol 3  
(b) CDC Policy Memo 3.1D, Detailing and IMC Authority  
(c) SecDef Memo re IRC Recommendation 1.7e of 6 Oct 21  
(d) FY22 NDAA § 549D  
(e) Recommendation 1.7e, IRC on Sex Assault Final Report  
(f) JAD Memo re USMC Implementation of IRC Rec. of 7 Dec 21  
(g) JAGMAN § 0145  
(h) Rule for Courts-Martial 703

Encl: (1) DLRF Request Form

1. Purpose. To establish interim policy for the request, approval, and use of Defense Litigation Resource Funds (DLRF) in support of defense investigation and litigation of courts-martial.

2. Applicability. All defense personnel approved as individual military counsel or detailed in military justice cases to represent an accused in accordance with references (a) and (b), and personnel similarly approved or detailed by other services to represent accused. Except as noted below, funds are available in court-martial cases to be convened by Marine Corps commands.

3. Background. In accordance with references (c) and (d), the Staff Judge Advocate to the Commandant (SJA to CMC) prepared a plan for the Marine Corps' implementation of reference (e). This plan, outlined in reference (f), sets forth the Marine Corps' plan to establish an independent budget for the DSO in support of litigation at courts-martial. While various regulations, to include references (g) and (h), must be modified to facilitate the full use of these funds, the SJA to CMC has directed the implementation of reference (f) to the extent permitted by current fiscal and military statutes and orders. This policy memo outlines the first phase of that implementation by establishing DLRF with limitations imposed.

4. Scope. Currently, references (g) and (h) vest the convening authority with the financial responsibility to produce approved defense witnesses for trial, including expert witnesses. Recognizing equal access to evidence, regulations and case law afford defense counsel the opportunity to request resources from the convening authority in preparation for trial including expert consultation and travel. Nothing in this policy is intended to supersede or modify reference (g) or (h), or any other existing requirement associated with the convening authority's responsibility to fund courts-martial. Rather, DLRF affords defense counsel an additional mechanism to obtain funding for certain litigation resources without approval from the convening authority.

a. During the course of courts-martial case preparation, defense counsel should continue to rely upon all available resources when they identify the need for expert, investigative, or litigation funds.

b. The existence of DLRF resources does not create a substantive right for any accused or relief of the convening authority to approve and authorize courts-martial related expenses; counsel should pursue funding that best meets the needs of the client.

c. DLRF expenditures may include, but are not limited to, expert assistance; travel in support of case preparation for defense counsel or members of the defense team including counsel, investigators, accused, and Attorney Advisors (AA); transcription services; and litigation aids.

d. Courts-martial travel for defense team members (including AAs), and related costs are primarily the responsibility of the convening authority in accordance with references (a), (g), and (h).

e. The following expenditures are not currently authorized by DLRF:

(1) Courts-martial travel for witnesses (lay or expert) and related costs. These expenses remain the responsibility of the convening authority in accordance with references (a), (g), and (h).

(2) Use of DLRF in cases that originate from other services. The use of the DLRF is normally limited to cases supported by Marine Corps Legal Services Support Sections/Teams.

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When members of the Marine Corps Defense Services Organization are approved or detailed to represent clients facing courts-martial convened by an authority other than those serviced by the Marine Corps Legal Services Support Sections/Teams, the counsel may apply for utilization of DLRF. The sole approval authority for such expenditure is the Chief Defense Counsel of the Marine Corps (CDC).

f. DLRF is available to detailed defense counsel and approved individual military counsel related to litigation of courts-martial only. DLRF is not available in support of adverse administrative hearings.

## 5. Procedures.

a. Requests. Counsel wishing to request DLRF must complete and submit enclosure (1) with endorsement from their Senior Defense Counsel (SDC) to their cognizant Regional Defense Counsel (RDC). If the RDC does not have authority to act on the request, the RDC must also endorse the request and forward to the approval authority. The request will identify the area of expenditure, a synopsis of how the expenditure will support case strategy, the desired goal of the expenditure, a summary of the necessity of the expenditure, and the estimated cost breakdown.

b. Approval. The CDC is the approval authority for the expenditure of DLRF, delegable within the Office of the Chief Defense Counsel. If authorized by the SJA to CMC, delegation may be made to the regional level. If authorized, RDCs may delegate the approval authority to an Assistant RDC. No further delegation is authorized.

c. Confidentiality. Requests and communications made pursuant to this policy are privileged Attorney Work Product. They will be routed and afforded the same level of protection from disclosure. Counsel, via their RDC, will provide immediate notification to the CDC prior to any disclosure outside of the DSO or other members of the defense team related to DLRF requests, including court orders. No person, including comptroller personnel, is authorized to release information regarding requests under this program without the specific authorization of the CDC.

d. Conflict Cases. RDCs shall ensure counsel can submit requests under this policy in a conflict free manner. In conflict cases, counsel will ordinarily route their requests via their assigned conflict-free supervisory counsel. RDCs should

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not be detailed cases that are in conflict with subordinate counsel as directed by references (a) and (b). However, if they do, the CDC may designate in writing conflict free DLRF approval authorities or retain the authority at the CDC level. If the CDC is conflicted, the CDC shall delegate approval authority to the Deputy CDC, Reserve CDC, or other official, as necessary.

6. Audit. The CDC office and RDCs who act on DLRF requests pursuant to this instruction shall maintain all requests for a period of two years following the date of submission. Such requests will be subject to audit during regularly scheduled Article 6 inspections, or as otherwise directed by the CDC. Additionally, the CDC, with the assistance of the designated comptroller, will review DLRF expenditures quarterly for compliance with this instruction.

7. This policy remains in effect until superseded in writing.

A handwritten signature in black ink, appearing to read 'V. C. Danyluk', with a long, sweeping flourish extending to the right.

V. C. DANYLUK

# Attorney Work Product

DEFENSE SERVICES ORGANIZATION  
DEFENSE LITIGATION RESOURCE FUNDS (DLRF)  
REQUEST FORM

NAME OF REQUESTOR / LSST:

DATE OF REQUEST:

CASE NAME:

CONFLICT CASE(s), IF ANY:

REQUESTED RESOURCE, TRAVEL, OR EXPERT:

HAS THERE BEEN A REQUEST TO THE CONVENING AUTHORITY, THE

LSSS/T, OR ANY OTHER AVENUE: Yes  No  (IF YES, EXPLAIN  
OR ATTACH)

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*JUSTIFICATION (How the expenditure will support the case strategy, goal of the expenditure, and summary of the necessity)*

EXPERT CONSULTATION

SITE VISIT OR OTHER COUNSEL/INVESTIGATOR/PARALEGAL TRAVEL

DOCUMENTARY OR OTHER EVIDENCE PRODUCTION INCLUDING DEMONSTRATIVE AIDS

OTHER

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# Attorney Work Product

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*COSTS:*

*TRAVEL*

DATES OF TRAVEL:  
FROM / TO / RETURN LOCATIONS:  
TOTAL ESTIMATED TRAVEL COST  
(per DTS):  
Flight:  
Lodging:  
POV/mileage:  
Rental Car:  
Per Diem:  
Other

*EXPERT CONSULTATION AND CASE FEES*

CV AND RATE SCHEDULE ATTACHED:

NUMBER OF HOURS  
REQUESTED:  
RATE PER HOUR:

COST ESTIMATE TOTAL:

*PRODUCTION EXPENSES*

COST ESTIMATE TOTAL:

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DOCUMENTATION SUPPORTING ESTIMATE ATTACHED: Yes  No

(This does not have to be a formal document and could simply be a screenshot of the item from a website)

ESTIMATED TOTAL:

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## SDC ENDORSEMENT

RECOMMENDED FOR APPROVAL

RECOMMENDED FOR DENIAL

COMMENT:

## RDC ENDORSEMENT, WHEN AUTHORITY EXCEEDS RDC LEVEL

RECOMMENDED FOR APPROVAL

RECOMMENDED FOR DENIAL

COMMENT:

Is this within the RDC's authority? Yes  No  (If no, it must be forwarded to the CDC for approval. RDC should endorse above.)

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# Attorney Work Product

DECISION AUTHORITY

NAME:

BILLET:

DATE:

SIGNATURE:

Approved as requested

Approved in part; denied in part.

Denied.

Comments or explanation:

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