



In Reply Refer To:
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CDC
17 Oct 14

CDC POLICY MEMORANDUM 1.4

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

Subj: DSO INSPECTION PROGRAM

Ref: (a) MCO P5800.16 (series)
(b) Article 6, UCMJ
(c) JAGINST 5803.1D

Encl: (1) Regional Defense Counsel Office Inspection Checklist
(2) Senior Defense Counsel and Branch Office Inspection Checklist

1. Purpose. To establish an inspection program for the Marine Corps Defense Services Organization (DSO) consistent with policies and procedures established by the Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC) and to ensure the continued operation of the DSO as a functionally-independent organization.

2. Discussion.

a. Reference (a) designates me as the Officer-in-Charge of the DSO. In this role, I exercise operational control of and general supervision over the professional development of Marine Corps judge advocates and support personnel performing defense functions. Reference (a) specifically tasks me with establishing standard operating procedures and standards of practice for the delivery of defense services throughout the Marine Corps. Reference (a) also tasks me with assessing the practices, procedures, and techniques of both defense counsel and support personnel in the performance of defense functions. This responsibility includes assessment of the facilities in which those functions are performed.

b. This policy establishes a vigorous inspection program in order to reinforce those standard operating procedures and standards of practice, exercise supervision of defense functions, emphasize DSO functional independence, and support the Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC) in making "frequent inspection in the field in supervision of the administration of military justice," as required by reference (b). I intend for this program to be robust, transparent, and regular, yet executed internally from within the DSO compliant with Rules 1.3, 1.6, and 5.1 of reference (c).

3. Policy.

a. Each DSO branch office and detachment will be inspected at least annually.

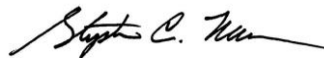
b. Annual inspections will typically be conducted in conjunction with the Article 6 Legal Services Inspection (LSI). However, the CDC may direct an off-cycle inspection of any branch office at the request of the SJA to CMC (or his designee), any SJA, Commander, Officer-in-Charge of a Legal Services Support Section or Team, or *sua sponte*.

c. The CDC usually travels with the SJA to CMC during his Article 6 visits. Inspectors will travel to the inspection site in advance of the CDC, early enough to allow sufficient opportunity to prepare an after action report for the CDC's signature reporting out the result of the inspection in a manner compliant with reference (c). Upon approval and signature, the CDC will provide a copy of the report to both Officer-in-Charge of the Legal Service Support Section or Team, and to the SJA to CMC. The after action report will not contain any privileged information.

d. Inspectors will usually be drawn from the office of the Chief Defense Counsel and/or Defense Counsel Assistance Program, but may also include members of the DSO selected by the CDC from a different region than the Regional Defense Counsel or Branch Office being inspected. Inspectors are specifically cautioned not to review any case files from any conflict cases during the course of their inspection. Inspectors will utilize the enclosure to inspect DSO branch offices.

e. The CDC will fund costs associated with travel and per diem associated with assigning members of the DSO selected by the CDC from a different region than the branch office being inspected.

4. Conclusion. CDC PM 5-13 is hereby canceled. This CDC Policy Memo is effective immediately.



STEPHEN C. NEWMAN

Distribution List:

SJA to CMC
Legal Chief of the Marine Corps
All Marine Corps SJAs
LSSS OICs
LSST OICs
All members of the DSO

Regional Defense Counsel Inspection Checklist

Inspector: _____ **Date:** _____

01 General

- 01 001 - How does the RDC publish CDC CIRs to the Region? Does the RDC have CIRs separate from CDC CIRs, and if so, what are they?
- 01 002 - Are the CDC and RDC photos prominently displayed?
- 01 003 - Are the DSO Mission Statement and DSO Creed prominently displayed?
- 01 004 - Is there appropriate DSO signage on the interior and exterior of the building, as appropriate to location?
- 01 005 - Does the RDC have an updated photo and bio on the SJA to CMC public web page?
- 01 006 - Does the RDC maintain a Regional SharePoint page? How is it being used?
- 01 007 - When did the RDC last meet with the LSSS and LSST OICs in the region?
- 01 008 - When did the RDC last meet with the SJAs in his region?
- 01 009 - When did the RDC last meet with the Circuit Judge?
- 01 010 - When did the RDC last meet with the local Navy DSO CO?
- 01 011 - How are new counsel conducting in-calls with the RDC?

02 Personnel

- 02 001 - Have the RDC and RDC Chief been appointed in writing?
- 02 002 - Does the RDC appoint Regional SDCs using the standard letter format?
- 02 003 - What is the current structure by Grade & MOS for the RDC office?
- 02 004 - What is the total on hand by Grade & MOS in the RDC Office?
- 02 005 - What coded BICs are there in the RDC office, and are they filled by personnel with the appropriate MOS codes?
- 02 006 - Does the RDC office MCC have an MCC? If so, are both the RDC and Chief assigned to it?
- 02 007 - What is the average RDC and Chief tour length, and how is it managed?
- 02 008 - How does the RDC interact with the LSSS and LSST OIC on personnel management and tour length for counsel and enlisted support staff?

03 CLE/PME

- 03 001 - How does the RDC ensure his Marines (officer and enlisted) are afforded

reasonable opportunities to attend schools in order to maintain their CLE and PME requirements?

03 002 - How are CLE assignments and expenditures tracked?

03 003 - Does the RDC maintain a quarterly training plan? Attach a copy.

03 004 - Does the RDC perform quarterly regional training? Attach copies of this fiscal year's quarterly RDC training program schedules.

04 Budget

04 001 - Does the RDC have his own budget? If so, how is it administered and managed? What mechanisms are in place to ensure accountability for funds?

04 002 - What were the past fiscal year's expenditures, and what are the projected expenditures for the present fiscal year?

04 003 - What mechanisms are in place for the RDC to track DTS claims of counsel travelling for CLE and client related matters? How does the RDC ensure DTS claims are filed in a timely fashion and in accordance with regulation?

05 Evaluations

05 001 - Are FITREPS and proficiency/conduct marks processed in a timely manner?

05 002 - Does the RDC have a person designated as a "trusted assistant" for the processing of reports, and if so, who?

05 003 - Does the RDC maintain a master fitrep "matrix" identifying the MRO/RS/RO relationships?

05 004 - Has the CDC Chief been designated/identified as command reviewer for all enlisted fitreps?

05 005 - Is there an established billet description for each billet within the RDC's region?

05 005 - How does the RDC identify and address conflicts when writing fitness reports on conflicted counsel?

06 Awards

06 001 - How does the RDC ensure his counsel are properly recognized for their time in the DSO? Are letters of continuity drafted and submitted for personnel changing duties within the LSSS/LSST?

06 002 - What criteria does the RDC have for selection of the Regional DECOY?

07 Military Training Requirements

07 001 - Does the RDC maintain a copy of the LSSS/LSST training plan?

07 002 - How does the RDC track training requirements for DSO personnel assigned to his region?

07 003 - Are all Regional DSO PFT, CFT, Rifle and Pistol qualifications up to date?

08 Record and File Maintenance

08 001 - Are retained correspondence files properly created, maintained, and stored in a dedicated file retention area? SECNAV M-5210.2 Chap 1 & 2; MCO 5210.11E par 4A; NAVMC 5210.11E

08 002 - Does each retained correspondence file folder have disposal instructions on the outside of the folder, and are they properly retired/disposed of when appropriate? SECNAVINST 5210.8D par 7C.(5); MCO 5210.11E; SECNAV M-5210.1; NAVMC 5210.11E

08 003 - Are all retained correspondence files utilizing the member's DOD ID Number? DODI 1000.30

08 004 - Is all privacy act information contained in retained correspondence files cross shredded when disposed? MCO 5210.11E

08 005 - Is each retained correspondence file properly labeled with a standard subject identification code and open/closed dates? SECNAV M-5210.2; NAVMC 5210.11E

08 006 - Are written internal control procedures (e.g. SOP binders, Policy Memoranda) maintained and updated? MCO 5200.24D; MARADMIN 016/05; NAVMC 5210.11E

08 007 - Are there Regional control measures in place to ensure access to both the DSO SharePoint and CIS pages are restricted to individuals that require it and are access rosters maintained and updated on a quarterly basis? 5 U.S.C. § 552A (PRIVACY ACT)

08 008 - Is the RDC Office staffed with a personnel administrative clerk? If not, does the RDC see a need for a junior enlisted personnel administrative clerk? If so, explain.

08 009 - What Regional control measures are in place to ensure every GCM case file contains a filed motion for investigator assistance or memoranda for the record explaining the reasons why one was not requested?

09 Legal Services

09 001 - Does the RDC maintain a personal caseload, and if so, what is the average number of cases the RDC does per calendar year?

09 002 - Does the RDC delegate detailing authority? If so, does he maintain delegation authority letters? Attach copies.

09 003 - In cases where the RDC is detailed, is the standard notification of representation delivered to the Trial Counsel? Attach the most recent copy.

09 004 - What mechanisms are in place for IMC requests within the Region? Describe.

09 005 - How does the RDC define a "complex case" and what procedures does the RDC have in place to ensure Regional SDCs consult in accordance with CDC PM 3.1 (series)?

09 006 - What procedures has the RDC established for the region to identify

Senior Defense Counsel (Branch Office) Inspection Checklist

Inspector: _____ **Date:** _____

01 General

01 001 - How does the SDC publish CDC and RDC CIRs to his/her Branch Office? Does the SDC have his/her own CIRs?

01 002 - Is the SDC appointed and designated in writing using the standard format?

01 003 - Has the SDC been delegated detailing authority as required by CDC PM 3.1 (series)?

01 004 - Does the SDC and his Chief receive the local Brig or Confinement report in accordance with CDC PM 3.1 (series)?

01 005 - When was the last time the SDC visited the local confinement facility used to house pretrial detainees? What were the conditions of pretrial confinement?

01 006 - Are CDC, RDC and SDC photos displayed as required?

01 007 - Are the DSO Mission Statement, Creed, Gen Mattis' letter, Mental Health Contact Information, and D-Stress poster displayed as required?

01 008 - Does the SDC maintain a master military training/CLE training plan?

01 009 - Have all Counsel conducted an in-call with the Circuit Military Judge, their LSST/LSSS OIC, and at least one local SJA in accordance with CDC PM 2.1 (series)?

01 010 - When was the last time the SDC personally met with the local SJAs, individually or as a group?

01 011 - Has the SDC personally met with/conducted an in-call with the Supervisory Special Agent In Charge?

01 012 - What mechanisms are in place for the SDC to receive regular feedback from military judges concerning the performance of Counsel?

01 013 - How do Counsel in this Branch Office collaborate on cases with other DSO attorneys worldwide?

01 014 - Do Counsel in this Branch Office have laptop computers and webcams?

01 015 - Do Counsel in this Branch Office have DCO accounts, and how are they used?

01 016 - What procedures are in place in the case of a search authorization for DSO spaces?

01 017 - Are the DSO spaces properly identified with appropriate exterior and

interior signage?

01 018 - Does the DSO Branch Office have all the equipment necessary to accomplish its mission, including but not limited to:

- Television and DVD player/VCR
- A cross-hatch shredder
- Color printers, copiers, and scanners
- Laptop computers
- Adobe Pro (most current version)
- MS Office Professional
- An audio player capable of playing a variety of audio files including those from Hearings and Courts, but also those provided in discovery or otherwise
- At least one Webcam per office
- At least one air-card per office
- At least one digital video and/or still camera per office
- At least one evidence ruler
- At least one digital audio recording device

01 019 - Does the Branch Office have the office supplies it needs to accomplish its mission?

01 020 - Do all personnel in the Branch Office have access to a printed or electronic version of the following publications?

- MCM (2012 ed.) and Supplement (2012 ed.)
- Military Judge's Benchbook
- MCO 5800.16B Ch 1 (LEGADMINMAN) (LSAM after publication of change)
- MCO P1900.16F Ch 2 (MARCORSEPSMAN)
- JAGINST 5800.7F (JAGMAN)
- United States Navy Regulations
- Rules of Court
- JAGINST 5803.1D (Rules of Professional Conduct)
- Trial Guide
- Article 32 Investigating Officer's Guide
- MCO 5800.14 (Victim Witness Assistance Program)
- MCO 1752.5B (SAPR Program)
- NAVMC 3500.82 (Legal Services T&R Manual)
- MCO 1200.17E (MOS Manual)

02 Personnel

02 001 - What is the Branch Office current FY Structure by Grade & MOS?

02 002 - What is the total on hand in this branch office by Grade & MOS?

02 003 - How does the SDC track personnel leave with regard to the docket and/or training requirements to ensure Counsel are present when required?

02 004 - Have all Counsel completed and submitted the Bio Data Sheet in accordance with CDC PM 2.1 (series)?

02 005 - Have all Counsel completed the New DC Orientation Checklist?

02 006 - Do Counsel adopt seasonal uniform changes in the courtroom?

- 02 007 - While in court do Counsel wear all ribbons to which entitled?
- 02 008 - Are Counsel in compliance with the Military Appearance Program in accordance with standards established by MCO 6110.3 W/CH 1?
- 02 009 - Are all Defense Counsel appointed in writing? Are Support personnel assigned to the DSO in writing?
- 02 010 - Do all Defense Counsel have an established rotation date?
- 02 011 - What is the average length of time an attorney spends as a Defense Counsel in the Branch Office? Give actual numbers, not estimates.
- 02 012 - What is the average length of time a Marine spends as a Defense Clerk in this Branch Office? Give actual numbers, not estimates.
- 02 013 - Is the information on each DSO member correct on SharePoint?
- 02 014 - Have DSO personnel established SharePoint alerts in accordance with CDC PM 2.1 (series)?
- 02 015 - Have all Branch Office personnel signed the 4421/4401 Statement of Understanding in accordance with CDC PM 2.2 (series)?
- 02 016 - What mechanisms are in place in the Branch Office to ensure personnel no longer have access to CIS and SharePoint upon their transfer or upon change of duties with the LSST/LSSS?
- 02 017 - How are 4421s being used in the Branch Office? Do they support all Counsel or just the SDC?
- 02 018 - Do all personnel (officer and enlisted) in the Branch Office have a Lexis account?
- 02 019 - Have all personnel (officer and enlisted) in the Branch Office been trained in legal research on Lexis? When was the last time Lexis training was held?
- 02 020 - How does the Branch Office access 3270?
- 02 021 - Have all 4421s been trained on how to draft motions, position papers, to IRAC, and use the Blue Book?
- 02 022 - Do all 4421s have a proper understanding of the SDC's expectations and duties?
- 02 023 - Do all 4421s have a proper understanding of DSO procedures related to NJP, Administrative Separations, Special Courts-Martial, Article 32 Hearings, and General Courts-Martial?
- 02 024 - Do all 4421s have a proper understanding on the limitations related to the provision of legal advice by a non-attorney?
- 02 025 - How does each Defense Counsel stay organized? How do they each track deadlines, emails, phone messages, and appointments?
- 02 026 - Does each DSO office space present a neat, professional, military

appearance? Is there any offensive or potentially offensive material displayed?

02 027 - Is each DSO office equipped with sufficient office furniture, including chairs and desks?

02 028 - Are there any potential fire or equipment hazards, is there a properly displayed emergency/fire exit plan, and do all DSO personnel in the Branch Office understand what to do in case of an emergency or fire?

02 029 - Is there a panic button anywhere in the office?

02 030 - How does the SDC conduct holiday and weekend liberty and safety briefs?

02 031 - Does the DSO Branch Office have a phone tree or other non-duty hours contact procedure?

03 CLE

03 001 - How does the SDC ensure his/her Marines are afforded reasonable opportunities to attend schools in order to maintain their CLE requirements?

03 002 - Are counsel being afforded opportunity to attend CLE outside of their regions (e.g., attend training other than RDC or SDC training)?

03 003 - Has each Counsel had the opportunity to attend at least one CLE outside his/her region?

03 004 - How does the SDC track CLE assignment and (as required) expenditures?

03 005 - How does the SDC ensure travel authorizations and vouchers are submitted and processed via DTS in a reasonable amount of time?

03 006 - Does the SDC have a local training program to train subordinate Counsel?

03 007 - How often does the SDC conduct local training for his Branch Office?

03 008 - Attach a copy of the local training curriculum/plan.

03 009 - Are 4421's given the opportunity to attend the Legal Research & Writing and Legal Ethics courses provided by the Naval Justice School, Newport, RI? How many from this Branch Office have attended?

03 010 - What other CLE opportunities have Branch Office 4421's been provided in the past FY, both within the DSO region and otherwise?

04 Evaluations

04 001 - How does the SDC track fitness reports?

04 002 - Does the SDC maintain a master fitrep "matrix" identifying the MRO/RS/RO relationships?

04 003 - Are FITREPS and proficiency/conduct marks processed in a timely manner?

04 004 - Has the DSO Legal Chief been designated/identified as command reviewer for all enlisted fitreps processed in the DSO Branch Office?

04 005 - Does every individual have an established billet description in accordance with MCO P1610.7F

05 Awards

05 001 - Are recommended awards forwarded to the approval authority in a timely fashion and prior to a Marines departure?

06 Military Training Requirements

06 001 - Does the SDC maintain a training plan?

06 002 - Are rifle, pistol, PFT, CFT MCMAP and other military training requirements current for Marines assigned to the Branch Office?

06 003 - How does the SDC ensure that his Marines are afforded range and other military training opportunities on par with other Marines in the LSST/LSSS?

06 004 - Are all Marines in the Branch Office enrolled in PME appropriate to their grade?

07 Detailing and IMC Requests

07 001 - How does the SDC detail Counsel to cases?

07 002 - How does the SDC maintain Detailing Letters in his/her Branch Office?

07 003 - How does the SDC manage termination of detailing in relation to established tour lengths? Does the SDC use the standard format letter, and is it provided to the LSST/LSSS OIC and CDC?

07 004 - How does the SDC ensure his new Counsel complete the New DC Orientation Checklist prior to being detailed cases?

07 005 - How does the SDC maintain New DC orientation Checklists?

07 006 - Does the SDC allow new Counsel to sit as second chair in cases prior to completion of the New DC Orientation Checklist?

07 007 - What is the average time from notification to detailing for Marines not in pretrial confinement? Give actual numbers, not estimates.

07 008 - What is the average time from notification to detailing for Marines in pretrial confinement?

07 009 - Is the standard notice of representation sent to the Trial Counsel within the required timeline in accordance with CDC PM 3.1 (series)?

07 010 - How does the SDC define a "complex case" and what procedures are in place to ensure each case is detailed to Counsel with experience appropriate to the charged offenses?

07 011 - How does the SDC ensure compliance with the requirement of CDC PM 3.1 (series) to consult with the RDC before detailing a complex case?

07 012 - How does the SDC manage IMC requests, and are they processed in accordance with the requirements of CDC PM 3.1 (series)?

07 013 - How does the SDC exercise the release of Counsel for good Cause to sever the Attorney-Client relationship in compliance with CDC PM 3.1 (series)?

07 014 - What procedures are in place to allow the SDC to identify and address conflicts within his Branch Office?

07 015 - What procedures are in place to request Navy DSO support in conflict cases?

08 Case Management, Records and Files Management, and Office Management

08 001 - Are attorneys in the Branch Office updating CIS in accordance with CDC PM 1.3 (series)?

08 002 - Are there Regional control measures in place to ensure access to both the DSO SharePoint and CIS pages are restricted to individuals that require it and are access rosters maintained and updated on a quarterly basis? 5 U.S.C. § 552A (PRIVACY ACT)

08 003 - Does the Branch Office maintain local forms? Obtain copies.

08 004 - How do counsel and support personnel store and access local and/or DSO-wide forms?

08 005 - How are files maintained? Are they properly secured in accordance with JAGINST 5803.1c? Inspect for the following:

- Can each individual Attorney's office be secured, and who has access?
- Is there accountability for office keys, and how?
- Who in the LSST/LSSS has master keys to the defense spaces, and how is their entry/exit controlled?
- Does the office have file cabinets which can be locked or otherwise secured?
- Do attorneys have lockable desk drawers?

08 006 - Does each client case file have at least the following:

- Standard Detailing Letter
- Notification of Representation Letter
- Charge Sheet/Notification letter
- Client Interview Checklist
- Coping With Stress Letter
- Potential Witness List (with contact information)
- Discovery Request(s)
- Termination of Representation Letter (as appropriate)

08 007 - Are retained files properly created, maintained, and stored in accordance with CDC PM 1.3 (series)

08 008 - What procedures are in place for Counsel who EAS or PCS to take their files with them?

08 009 - Does each retained file folder have disposal instructions on the outside of the folder, and are they properly retired/disposed of when

appropriate? SECNAVINST 5210.8D par 7C.(5); MCO 5210.11E; SECNAV M-5210.1; NAVMC 5210.11E; and CDC PM 1.3 (series)

08 010 - How are retained correspondence files identified, by SSN or EDIP?

08 011 - Is all privacy act information contained in retained correspondence files cross shredded when disposed? MCO 5210.11E

08 012 - Is each retained correspondence file properly labeled with a standard subject identification code and open/closed dates? SECNAV M-5210.2; NAVMC 5210.11E

08 013 - Are written internal control procedures (e.g. SOP binders, Policy Memoranda) maintained and updated? MCO 5200.24D; MARADMIN 016/05; NAVMC 5210.11E

08 014 - What procedures are in place to manage Personally Identifiable Information (PII) in accordance with MCO 1553.3b? What procedures are in place to ensure PII is not available on desktops or on white boards during client meetings?

08 015 - Is the Branch Office staffed with a personnel administrative clerk? If not, does the SDC see a need for a junior enlisted personnel administrative clerk? If so, explain.

08 016 - How does the SDC track deadlines for subordinate Counsel's dockets in the office?

08 017 - How does the SDC exercise his responsibility to supervise Counsel throughout the litigation process? How does the SDC provide feedback (ask both the SDC and Counsel)?

08 018 - What procedures are in place in the Branch Office for the conduct of "murder boards" and moots?

08 019 - What procedures are in place in the Branch Office to ensure every GCM case file contains a filed motion for investigator assistance or memoranda for the record explaining the reasons why one was not filed?

09 NJP/31b/Administrative Separation Rights Counseling:

09 001 - What procedures are in place for to provide Marines in need with their rights related to Non-Judicial Punishment, their rights when suspected of an offense under Article 31b, and their rights when notified of being processed for administrative separation?

09 002 - What is the policy for Counsel meeting with walk-in Marines with regard to the confidentiality of the communications between that Marine and the Counsel?

09 003 - What is the policy for formation of attorney-client relationships with walk-in Marines? Does the policy change with regard to the rank of the individual who walks in?

09 004 - What mechanisms are in place for the SDC to ensure policies and procedures with regard to confidentiality and formation of an attorney-client

relationship are effectively communicated to Marines who walk in for counseling?

09 005 - What mechanisms are in place to account for the presence of walk-in personnel within the Branch Office? Is there a log book? Do they check in with a clerk? What information is obtained and how is it retained?

10 Professional Responsibilities:

10 001 - Are all assigned judge advocates and civilian attorneys licensed and in good standing with all licensing authorities? (JAGINST 5801.2A, para. 3-2A; JAGINST 5803.1, Rule 8.6; MARADMIN 049/12)

10 002 - Does the DSO Branch Office maintain proof of good standing for all judge advocates and civilian attorneys attached to it? (JAGINST 5801.2A, para. 3-2A; JAGINST 5803.1D, Rule 8.6; MARADMIN 049/12)

10 003 - Does the DSO Branch Office comply with the prohibition against maintaining files regarding professional responsibility complaints other than supervisory attorneys' personal files? (JAGINST 5803.1D, para. 14.b.)

