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5800  
CDC  
24 Sep 15

**CDC POLICY MEMO 2.6**

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

**Subj: POLICY FOR PERSONNEL DETACHING FROM THE DSO UPON  
COMPLETION OF A DSO TOUR**

Encl: (1) Detaching defense counsel checklist  
(2) Detaching defense clerk checklist

1. Purpose. To provide policy guidance on and establish a better understanding of the ethical obligations incumbent upon Defense Services Organization (DSO) personnel, both officer and enlisted, on the occasion of their detaching from the DSO.

2. Discussion.

a. The Marine Corps Defense Services Organization operates as a global law firm. Members of the DSO commonly share case related information, themes, and theories with each other through SharePoint, case consultations, and casual conversation. As a result DSO attorneys become privy to a host of confidential, if not privileged, information, documents and materials. Upon conclusion of a tour in the DSO, defense counsel and defense clerks depart with extensive knowledge of protected and privileged information related to ongoing cases. As such, when detaching from the DSO defense counsel and defense clerks alike have a continuing ethical and legal obligation to protect and maintain important, confidential, and privileged information, not only in relation to their clients and cases, but also in relation to the clients and cases of which they have become aware.

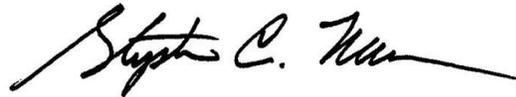
b. Due to the unique nature of the Judge Advocate community departing DSO members sometimes transfer to other adversarial billets, such as Victim's Legal Counsel or Trial Counsel. These transfers sometimes occur contemporaneous with the prosecution of cases of which the former DSO member maintains personal, professional, confidential or privileged information obtained as the result of a communication with another defense counsel or supervisory attorney. For this reason such transfers are ill-

advised. Given the opportunity for conflicts of interest, actual or perceived, such transfers are fraught with peril. While the transfer of personnel other than Regional and Senior Defense Counsel is outside the scope of my authority as Officer-in-Charge of the DSO, to the extent I can influence it, these types of billet transfers will be discouraged.

c. As a final aspect of the DSO training pipeline I want to emphasize the importance of ensuring DSO members depart our organization with a thorough understanding of their responsibilities to safeguard and protect information they obtained as the result of their DSO tour.

3. Policy. Each detaching member of the DSO will complete the appropriate enclosure no later than seven (7) business days prior to assumption of a new, non-DSO billet. After reviewing and completing the checklist, the departing DSO member and the cognizant supervisory DSO attorney will review the checklist together and verify that all roles and responsibilities are properly understood. The DSO branch office will maintain a copy of the completed checklist for a period of two years. The completed checklist is subject to inspection.

4. Conclusion. 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

NMCTJ Code 52, OJAG

# Marine Corps Defense Services Organization

## Detaching Defense Counsel (4402/4401) Checklist

*Instructions: Print this checklist and mark the blocks as you complete each item. You may complete in any order but should completion is required no later than seven days prior to detaching from the DSO. After you complete the checklist, meet with your supervisory counsel to review each of the topics. Your supervisory attorney will initial on the line for each topic, confirming your completion and understanding. A copy of the completed checklist will remain with the DSO branch office for a period of two years.*

**Attorney name:** \_\_\_\_\_

**Date DSO tour began:** \_\_\_\_\_

**Anticipated DSO tour end date:** \_\_\_\_\_

**Anticipated next billet assignment:** \_\_\_\_\_

**Supervisory Attorney Reviewer:** \_\_\_\_\_

\_\_\_\_\_ **JAGINST 5803.1(series):** *Read and understand the following sections*

- 1.6 CONFIDENTIALITY OF INFORMATION
- 1.7 CONFLICT OF INTEREST: GENERAL RULE
- 1.9 CONFLICT OF INTEREST: FORMER CLIENT
- 1.10 IMPUTED DISQUALIFICATION
- 3.8 SPECIAL RESPONSIBILITIES OF TRIAL COUNSEL AND OTHER GOVERNMENT COUNSEL

\_\_\_\_\_ **MCO P5800.16(series):** *Read and understand the following sections*

- Paragraph 2001(4): Attorney-Client Relationships
- Paragraph 2002(6): Defense Counsel
- Paragraph 2003(5): Tour Length
- Paragraph 2004: Reassignment

\_\_\_\_\_ **CDC Policy Memo 1.3:** *Read and understand the following sections*

- Paragraph 3(e): Case file retention

\_\_\_\_\_ **Case Status**

- List any ongoing cases or administrative separations cases pending:

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- List any cases or administrative separations cases pending convening authority/separation authority action:

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# Marine Corps Defense Services Organization

Detaching Defense Counsel (4402/4401) Checklist

- List any special or general courts-martial cases still pending appellate review:

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I have reviewed the aforementioned references and discussed my responsibilities as a departing member of the DSO with my supervisory counsel. I understand that all confidential information I was privileged to as a member of the DSO must be safeguarded and protected. I will not use any privileged information gained during my time in the DSO in any manner during any follow on billet to which I am assigned.

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Attorney Signature

Date

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Supervisory Attorney Signature

Date



# Marine Corps Defense Services Organization

## Detaching Defense Clerk (4421) Checklist

*Instructions: Print this checklist and mark the blocks as you complete each item. You may complete in any order but should completion is required no later than seven days prior to detaching from the DSO. After you complete the checklist, meet with your supervisory counsel to review each of the topics. Your supervisory attorney will initial on the line for each topic, confirming your completion and understanding. A copy of the completed checklist will remain with the DSO branch office for a period of two years.*

**Defense clerk name:** \_\_\_\_\_

**Date DSO tour began:** \_\_\_\_\_

**Anticipated DSO tour end date:** \_\_\_\_\_

**Anticipated next billet assignment:** \_\_\_\_\_

**Supervisory Attorney Reviewer:** \_\_\_\_\_

\_\_\_\_\_ **JAGINST 5803.1(series):** *Read and understand the following sections*

- Paragraph 4(d)
- 1.6 CONFIDENTIALITY OF INFORMATION
- 1.7 CONFLICT OF INTEREST: GENERAL RULE
- 1.9 CONFLICT OF INTEREST: FORMER CLIENT
- 1.10 IMPUTED DISQUALIFICATION
- 3.8 SPECIAL RESPONSIBILITIES OF TRIAL COUNSEL AND OTHER GOVERNMENT COUNSEL

\_\_\_\_\_ **MCO P5800.16(series):** *Read and understand the following sections*

- Paragraph 4001(4): Attorney-Client Relationships
- Paragraph 4002(6): Defense Counsel
- Paragraph 4004: Reassignment
  
- List all DSO attorneys to whom you have provided material support for any special or general courts-martial cases still pending appellate review or any Board of Inquiry or administrative separation board currently pending:

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I understand that although the Rules in JAGINST 5803.1 do not apply directly to non-attorneys, they do define the type of ethical conduct that is expected of me as a legal clerk. I have reviewed the aforementioned references and discussed my responsibilities as a departing member of the DSO with my supervisory counsel. I understand that all confidential information I was privileged to as a member of the DSO must be safeguarded and protected. I will not use any privileged information gained during my time in the DSO in any manner during any follow on billet to which I am assigned.

\_\_\_\_\_  
Defense Clerk Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Supervisory Attorney Signature Date

