



UNITED STATES MARINE CORPS
CHIEF DEFENSE COUNSEL OF THE MARINE CORPS
MARINE CORPS DEFENSE SERVICES ORGANIZATION
755 SOUTH COURTHOUSE ROAD, BUILDING 2, SUITE 1000
ARLINGTON, VA 22204-2482

IN REPLY REFER TO
1500
CDC
15 Jan 19

CDC POLICY MEMORANDUM 4.1B

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

Ref: (a) Long-Range Training Calendar

Encl: (1) Sample Training Program

Subj: DEFENSE SERVICES ORGANIZATION ANNUAL TRAINING PROGRAM

1. Purpose. To formalize an annual Defense Services Organization (DSO) defense counsel and defense enlisted support personnel (defense services specialists) training program.

2. Discussion

a. **Due to the importance of the mission of a Marine Defense Counsel, I will not accept mediocrity and complacency in our DSO Annual Training Program.** Effective immediately, the DSO Chief and the Officer-in-Charge, Defense Counsel Assistance Program (OIC DCAP) are responsible for the learning and professional development of defense counsel and defense services specialists serving in the DSO.

b. The Military Justice Act of 2016 (MJA-16) legislation modified nearly every aspect of the military justice process, to include establishing new criminal offenses and redefining others, vesting military courts with expanded powers, amending the authority of commanders, and streamlining post-trial processing. MJA-16 was also implemented on 1 January 2019. Notwithstanding these facts, our DSO Annual Training Program will address the fundamentals of being a member of the DSO.

c. Our annual training program is designed to take basically trained lawyers and legal services specialists and make them competent military defense counsel and defense services specialists. Regarding defense counsel, the program is designed with a building block structure, whereby the training moves from the most basic to more complex. Ideally, the program will be followed in order; however, due to the availability of Operation and Maintenance (O&M) appropriations, funding for official travel, training course scheduling and the inherent unpredictability of the arrival of new counsel, this is not always possible.

d. The training program for our defense services specialists is designed to utilize our highly talented enlisted personnel to their fullest potential to both better support defense counsel and to enhance the careers of our enlisted Marines, within and outside of the Marine Corps.

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3. Policy

a. The DSO Annual Training Program is developed, facilitated, and supervised by the DSO Chief and the OIC DCAP.

b. The DSO Chief's and the OIC DCAP's duties and responsibilities include creating curriculum, selecting nominees for various courses, allocating funds, selecting instructors, and personally providing training. The OIC DCAP is supported by our Reserve Training Officers (RTO), Senior Defense Counsel (SDC), Regional Defense Counsel (RDC), and Attorney Advisors in coordinating and facilitating the DSO training program. It is imperative that the OIC DCAP liaise with SDCs, RDCs, and Attorney Advisors, as well as interview all active and reserve defense counsel within the DSO, to identify and assess training and development needs, then deliver and oversee the training of the DSO.

c. Historically, the DSO training program for all defense counsel includes Defense Counsel Orientation (DCO), Basic Trial Advocacy Course (BTA), DSO-Wide Training, Defending Sexual Assault Cases (DSAC), and Core Outside Training.

(1) DCO. DCO is a basic training course offered twice a year, once in San Diego (typically March) and once at MCB Camp Lejeune (typically August). The training curriculum is created by the Naval Justice School (NJS) in conjunction with the OIC DCAP and Navy OIC DCAP and is designed to address most basic matters defense counsel will encounter during their tours. Counsel are nominated by their respective RDC pursuant to the schedule within the reference and forwarded to the OIC DCAP. DCO is most beneficial for those counsel who have not served in a litigation billet in the past; the requirement to attend may be waived by the relevant RDC.

(2) BTA. BTA is a five-day course, offered twice a year in Newport, RI (typically once in April and once in July), and focuses on basic trial advocacy skills. NJS develops the curriculum with input from the OIC DCAP. All counsel who are serving in their first litigation billet are highly encouraged to attend once during their DSO tour. Counsel are nominated for BTA by their respective RDC pursuant to the schedule within the reference, and the nominations are forwarded to the OIC DCAP for final selection.

(3) DSO-Wide Training. The DSO-Wide training is a five-day training course offered once a year (typically February) and is attended by all members of the DSO. It focuses on specific themes, relevant to the current military justice environment, and their effects on the DSO. The training curriculum and selection of instructors are determined by the OIC DCAP, with support from the RDCs, SDCs, and Attorney Advisors.

(4) DSAC. DSAC is a five-day military specific course offered once a year (typically September) and focuses on sexual assault litigation skills. All defense counsel are required to attend DSAC at least once during their DSO tour. Counsel are nominated for DSAC by their respective RDC pursuant to the schedule within the reference and forwarded to the OIC DCAP for final selection. The training curriculum and selection of instructors are determined by the OIC DCAP, with support from the RDCs, SDCs, and Attorney Advisors.

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(5) Core Outside Training. Core outside training are specific courses selected by the OIC DCAP with support from the RDCs, SDCs, and Attorney Advisors, offered by civilian or non-DoD governmental organizations. These courses focus on “graduate” level trial advocacy skills and are taught by attorneys with significant litigation experience. Counsel are nominated for these courses by their respective RDC pursuant to the schedule within the reference and forwarded to the OIC DCAP for final selection. All defense counsel should attend at least one of the following courses during their tour:

- (a) Trial Practice Institute, National Criminal Defense College, Bristol, RI.
- (b) Bronx Defenders Academy, Long Island City, NY.
- (c) Federal CJA Trial Skills Academy, Indianapolis, IN.
- (d) Alternate Defense Counsel’s (ADC) Trial Advocacy Program, Denver, CO.

d. The following is guidance regarding the general training of defense services specialists:

(1) All Regional Defense Chiefs and Branch Office NCOICs are highly encouraged to attend the following courses:

- (a) Legal Ethics for Paralegals, Naval Justice School, Newport, RI;
- (b) Paralegal Research and Writing, Naval Justice School, Newport, RI; and
- (c) Paralegal Litigation Support Course, Naval Justice School, Newport, RI.

(2) Although Regional Defense Chiefs and Branch Office NCOICs are highly encouraged to attend, leadership should try to send as many of their defense services specialists to these courses as the mission permits.

e. RDC and SDC Training. RDC and SDC training is not part of the general DSO training program. RDC and SDC training is developed, facilitated, and supervised by the respective RDC and SDC. The DSO Chief, the OIC DCAP, and the Attorney Advisors are in a supporting role to the RDC and SDC for their training programs.

(1) RDC training is required once per quarter. SDC training is required once per month. While there is no Chief Defense Counsel (CDC) mandated curriculum for RDC and SDC training, there are certain topics that should form the core of training for every defense counsel during their tenure in the DSO. Please see enclosure (1) for a sample training program and a list of suggested topics.

(2) Defense services specialists shall be included in all RDC and SDC training, and some topics should explicitly focus on their mission. Additionally, ethics training for both defense counsel and defense services specialists will occur at least twice a year.

(3) The RDCs and SDCs develop and implement their training based on the unique and relevant needs of their Marines. The OIC DCAP and the Attorney Advisors support RDC, SDC,

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and RTO in facilitating their respective training. The OIC DCAP should be informed as to what topics RDC and SDC training cover to improve and better focus the general training program.

4. Conclusion. NLT 15 June 2019, the OIC DCAP will reconcile the annual training program with emerging requirements brought about by MJA-16 with RTOs, SDCs, RDCs, Attorney Advisor East, Attorney Advisor West, and NJS to remain on the leading edge of changes in legislation and reduce the potential for mediocrity and complacency in the DSO Annual Training Program. CDC Policy Memo 4.1A is cancelled. This CDC Policy Memo is effective immediately.

W.N.P.H
W. N. PIGOTT

Distribution:
SJA to CMC
Legal Chief of the Marine Corps
LAO of the Marine Corps
LSSS OICs
LSST OICs
All Members of the DSO

DSO SAMPLE 12 MONTH TRAINING PROGRAM

OCTOBER	<u>SDC Training</u> 1. Practical Application Voir Dire (Acting Staff, Military Volunteers, Experienced DC) 2. Region Specific Issues (e.g., Recruiter Misconduct at MCRD San Diego/Parris Island Incl RFC & Loss of SDA; Jurisdiction in Okinawa; NCR Officer Misconduct, etc.)
	Legal Ethics for Paralegals Course
	Paralegal Research and Writing Course
NOVEMBER	<u>SDC Training</u> 1. Direct & Cross Practical Application w/Acting Staff and Advanced DC
	National Association of Criminal Defense Lawyers (NACDL) - Sex Assault & Child Victim Course, Las Vegas, NV
DECEMBER	<u>RDC Training</u> 1. Motions Practice/Page 58 Matters & Strategic Planning 2. Demo: Interviewing Prospective Expert/Investigator, Expert Cross-Examination, Defense Expert Direct Examination 3. Sentencing Preparation 4. Cross-Examination of SANE 5. Case Consultation Using Preparation Materials w/Interactive Theme & Theory
	Paralegal Litigation Support Course, NJS, Newport, RI
JANUARY	<u>SDC Training</u> 1. Sentencing 2. Cross, Direct, and Unsworn of Client
	DSO-Wide Training, San Diego, CA
FEBRUARY	Alernate Defense Counsel (ADC) Trial Advocacy Course, Denver, CO
MARCH	<u>RDC Training</u> 1. Avoiding IAC/Documenting the File 2. Objection Lecture, Demo, Drills 3. Foundation Lecture, Demo, Drills 4. Case Consultations (Bring Your File) 5. Demonstrative Evidence Lecture 6. Region Specific Issues
	Defense Counsel Orientation (DCO), San Diego, CA
	The Bronx Defenders Academy Trial Advocacy Course, Long Island, NY
APRIL	<u>SDC Training</u> 1. Hearsay & Impeachment Drills
	Legal Ethics for Paralegals Course, NJS, Newport, RI
	Paralegal Research and Writing Course, NJS, Newport, RI
	Basic Trial Advocacy (BTA), NJS, Newport, RI
MAY	<u>SDC Training</u> 1. Instructions (Emphasis on presenting case to ensure they are raised) 2. Practical Application Using Demonstratives
	Paralegal Litigation Support Course, NJS, Newport, RI
JUNE	<u>RDC Training</u> 1. Trial Preparation 2. How to Effectively Murderboard 3. Trial Presentation Rehearsal
	National Criminal Defense College (NCDC) Trial Practice Institute, Macon, GA

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JULY	<u>SDC Training</u>
	1. Plea Bargaining, Dives, & Providence
	National Criminal Defense College (NCDC) Trial Practice Institute, Macon, GA
	NACDL Annual Course (Rotating Topics and Location)
	CJA Trial Skills Academy, Indianapolis, IN
AUGUST	<u>SDC Training</u>
	1. Client Interview Including Demo of Meeting w/Client (Using Actors/Advanced DC)
	2. Opening Case (Bring Your Own File)
	3. Using Checklist
	4. Logging Notes
	5. File Organization/One Note
	<u>Basic Trial Advocacy (BTA)</u>
	Defending Sexual Assault Cases (DSAC), San Diego, CA
SEPTEMBER	<u>RDC Training</u>
	1. AdSep/BOI Practice
	2. Investigating the Case: Includes Triage & Organization; Theme & Theory
	3. Investigative Interviews
	4. Discovery & Production
	5. Voir Dire Lecture
	7. Remaining a Strong Advocate w/Superior Officer as MJ