Report of
The Staff Judge Advocate
to the
Commandant
of the Marine Corps

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1.0 Introduction

The mission of Marine Corps Legal Services is to provide efficient and appropriate legal advice and support to Commanders, Marines, Sailors, and their families in order to promote the readiness of the force and contribute to Marine Corps mission accomplishment. In accomplishing the legal services mission, Marine judge advocates fill two basic roles: Command Legal Advisor and Legal Service Support Provider. The mission of command legal advice is accomplished through the Staff Judge Advocate (SJA), who provides independent legal advice to Commanders on all issues, including military justice, operational law, and installation law. As a supporting arm, Legal Service Support Sections (LSSS) and Legal Service Support Teams (LSST) provide legal service support to commanders, individual Marines and Sailors, and their families. This general support includes military justice services (prosecution, defense, and courts-martial review), personal and family legal assistance, civil law/ethics, administrative law, and claims. The legal community is comprised of Marine judge advocates, Marine Legal Administration Officers (LAOs), and enlisted Marine Legal Services Specialists. This community also includes a small but important group of “Civilian Marines” who serve in attorney, paralegal, and other support positions. The Marine Corps Legal Services community is built to go where the Marine Corps goes, and must be ready to provide legal advice and support in any clime or place.

2.0 Training

As part of the Marine Corps legal community’s continuous effort to be the gold standard of legal service support within the Department of Defense, the Marine Corps places a premium on the professional development of our Marines. In the last academic year the Marine Corps provided funding for nine judge advocates to attend civilian law schools to obtain Master of Laws (LL.M.) degrees. An additional 15 judge advocates received their LL.M. from the Army’s ABA accredited Judge Advocate General’s Legal Center and School (TJAGLCS). In the upcoming academic year the Marine Corps anticipates sending five judge advocates to civilian schools and 20 to TJAGLCS in pursuit of their LL.M.

Additionally, staff noncommissioned officers (SNCOs) may enroll in the Degree Completion Program (SNCODCP). The program provides SNCOs the opportunity to spend up to eighteen months to complete their undergraduate degree studies at an ABA approved paralegal studies program. In the last academic year, one SNCO completed their paralegal degree and two SNCOs are currently pursuing their degrees as part of this program. Upon graduation, these SNCOs may be assigned to either regional trial counsel or defense counsel teams to provide paralegal litigation support.

In addition to pursuing advanced education, the Marine Corps provides its counsel and legal service specialists with formal training and trial preparation advice. For example, in February all Marine Corps prosecutors and defense attorneys attended separate week-long training courses designed to improve their litigation capability.
3.0 Practice Areas

3.1 Military Justice

The purpose of military justice is to promote and assist in maintaining good order and discipline, promote efficiency and effectiveness in the Marine Corps, and thereby strengthen the national security of the United States. Members of the Marine Corps legal community serve within the following military justice areas of practice: prosecution, defense, court reporting, appellate representation, trial and appellate judiciary, post-trial review, and victims’ legal counsel.

From January 1, 2017, to July 1, 2017, the Marine Corps held 66 general courts-martial (generally equivalent to felonies) and 91 special courts-martial (generally equivalent to misdemeanors). Of those 66 general courts-martial, 21 (32%) were contested and 17 (26%) resulted in full acquittals. Of the 91 special courts-martial, 27 (30%) were contested, with 16 (18%) full acquittals. During that same time period, the Marine Corps conducted 118 summary courts-martial. Summary courts-martial do not have a readily comparable judicial proceeding in the civilian world, but are generally used to adjudicate minor military offenses and are authorized to sentence a Marine or Sailor to 30 days in confinement.

3.2 Operational Law

Operational law addresses the international laws, foreign (host nation) laws, and domestic laws, regulations, and policies that directly affect the planning and execution of U.S. military operations across the globe. While traditionally associated with areas such as the law of war and rules of engagement (ROE), operational law also encompasses divergent areas such as international human rights law; intelligence law; international agreements; national authority to execute operations; review of contingency / operational plans for compliance with statute and regulations; information and cyberspace operations; noncombatant evacuation operations (NEO); sea, air, and space law; humanitarian assistance and disaster relief operations; detainee and interrogation operations; foreign security assistance; domestic operations; foreign and deployment-related claims.

Within the Marine Corps, international and operational law support is provided to commanders, their staffs, and their Marines by judge advocates in their role as command advisors. Additionally, Marine Corps attorneys specializing in operational and international law play a vital role in developing United States Marine Corps, Department of the Navy, and Department of Defense doctrinal publications. These attorneys also provide instruction to military and civilian audiences and liaison with foreign militaries and domestic and international non-government organizations.

3.3 Military Personnel Law and Policy

Military personnel law and policy governs the actions and matters specified in Title 10, U.S. Code, relating to officer and enlisted active, reserve, and retired uniformed Service members of all grades. Such matters include, but are not limited to, policies and actions relating to
accessions, assignment and distribution, promotion (including Senate nominations and adverse promotion actions such as delay, withhold, and removal), separation (including retirements and involuntary administrative separation), and officer personnel actions and records related to misconduct and substandard performance. From January 1, 2017, to July 1, 2017, Judge Advocate Division, Headquarters Marine Corps, provided legal advice on over 971 issues involving military personnel law and policy, including 23 advisory opinions for the Board for Correction of Naval Records, 19 advisory opinions for the Performance Evaluation Review Board, written legal reviews for 15 enlisted administrative separations, and 12 written legal reviews of requests for Special Selection Boards. Additionally, Judge Advocate Division processed 133 officer misconduct cases for involuntary separation and conducted 76 screenings for adverse material involving Marines selected for promotion, command, education, and other personnel actions.

3.4 Legal Assistance

Marine Corps legal assistance promotes increased readiness of service members and enhances the morale and quality of life for military personnel, dependents, and other eligible clientsthrough provision of free, high quality attorney advice, outreach programs, referral services, and vigorous preventive law activities. In the first three quarters of FY17, legal assistance attorneys and support staff assisted 14,836 individuals, providing them with 80,082 services that included notarizations and legal counseling in domestic relations matters, victim assistance, landlord/tenant issues, estate planning, consumer law, military rights and benefits (e.g., Servicemembers Civil Relief Act (SCRA)) and immigration and naturalization. The offices also prepared 27,835 legal documents. Specialized civilian legal assistance attorneys provided help in disability-related education matters to families enrolled in the Exceptional Family Member (EFM) Program. Legal Assistance offices at Marine Corps Recruit Depot Parris Island and Marine Corps Recruit Depot San Diego provided legal assistance support for the Expedited Recruit Naturalization Program which enables non-citizen recruits to begin naturalization processing at Boot Camp where most obtain their citizenship upon graduation. In the first three quarters of FY17, 523 recruits were naturalized at the Recruit Depots. For Tax Year 2016, Marine Corps Volunteer Income Tax Assistance (VITA) Tax Centers prepared and filed 51,333 federal and state returns, saving service members, retirees, and their families $6,406,814 in preparation and filing fees they would have paid had they used civilian tax preparers.

3.5 Ethics

Ethics covers a variety of legal and regulatory requirements imposed upon the Marine Corps and its senior leaders by statute and regulation. Topic areas include financial conflicts of interest, gifts and payments, impartiality in performing official duties, use of government position and resources, outside employment and activities, post-government employment, support to non-federal entities, financial disclosure requirements for senior Marine leaders, and fundraising by Marines.
3.6 Civil & Administrative Law

Civil and administrative law encompasses the statutes, regulations, and judicial decisions pertaining to Marine Corps administration. Topic areas include command authority, access to military installations, use of command authority to regulate rights (speech, political activities, religion, etc.) on the installation, and authority off the installation. Other issues include service of process, civil litigation against the United States, government information practices (Freedom of Information Act (FOIA) and Privacy Act requests), extradition and immunity requests, complaints against military commanders, and the Navy’s Rules of Professional Conduct for Marine Corps judge advocates.

4.0 Changes to Our Practice


The FY14, FY15, FY16, and FY17 National Defense Authorization Acts (NDAA) have made significant changes to the Uniform Code of Military Justice (UCMJ). The NDAAAs have changed victims’ rights in the military justice system to align more closely with federal civilian practice, including the ability to petition Courts of Criminal Appeals for writs of mandamus in certain instances.

The FY17 NDAA included the Military Justice Act of 2016 (MJA 16). The MJA 16 created 37 new articles and revised 68 articles of the Uniform Code of Military Justice. The changes include new pre-referral subpoena authorities, pre-referral judicial authorities, a new special court-martial bench trial, fixed-member panels, segmented sentences, and significant post-trial revisions. The changes are expected to take effect no later than January 1, 2019. The Services are working on updating regulations, bench books, trial guides, and forms to meet the MJA 16’s requirements. A proposed executive order containing an entirely new Manual for Courts-Martial has been published in the Federal Register. The public comment period is open until September 11, 2017.

Finally, the Services are working on a training plan to ensure the entire military legal community is aware of and practicing law in accordance with the new changes.

4.2 Marine Corps Judge Advocate Board

Our senior Colonel Judge Advocates serve as Marine Corps Judge Advocate Board (MCJAB) Members and receive briefs from Operational Advisory Group (OAG) Leaders, who are generally Lieutenant Colonels, in order to analyze issues from the bottom up using this tried and proven OAG/Board Process. This OAG/Board Process draws from our experience and transfers knowledge and know-how across the Marine Corps in order to move our judge advocate community forward. The SJA to CMC has consistently reinforced that there is no stare decisis when it comes to any of the issues the Board considers. The Board makes decisions based on the current environment and resources available to our community. Upon conclusion of the MCJAB, the SJA to CMC reviews the topics, considers the recommendations of the Board and
makes informed decisions that endure for our community. By the end of FY17 forty-nine OAG topics will have been analyzed and decided upon.

5.0 Conclusion

The Marine Corps legal community continues to provide timely, efficient, and appropriate legal advice and support to Commanders, Marines, Sailors, and their families to promote the readiness of the force. The legal community will continue to meet the high standards we have set to ensure accountability and outstanding legal support.