



UNITED STATES MARINE CORPS

MARINE CORPS AIR BASES WESTERN AREA MIRAMAR
PO BOX 402001
SAN DIEGO CA 92145-2001

and
3d Marine Aircraft Wing, FMFPac
Miramar (San Diego), CA 92145-2038

ABO 5800.4B

MCABWA/SJA

3DWg/SJA

30 JAN 2001

AIR BASES ORDER 5800.4B

From: Commander, Marine Corps Air Bases, Western Area
Commanding General, 3d Marine Aircraft Wing

To: Distribution List

Subj: PROCEDURE FOR LEGAL MATTERS

Ref: (a) MCM, 1998
(b) JAGINST 5800.9
(c) MCO 5800.11A
(d) MCO P5800.8B

Encl: (1) Request for Legal Services
(2) Sample Supplemental Report of the Criminal Activity,
Disciplinary Infractions and Court-Martial Report

Reports Required: I. Quarterly Report, par. 9b(2)
II. Suspected Officer Misconduct Report, par. 9

1. Purpose. To establish procedures for legal matters within Marine Corps Air Bases Western Area (MCABWA) and the 3d Marine Aircraft Wing (MAW).

2. Cancellation. ABO 5800.4A.

3. Background. Legal personnel (MOS 44xx) and assets are permanently assigned to Marine Corps Air Stations (MCAS) Miramar, Camp Pendleton, and Yuma and to tenant units (primarily 3d MAW 1st Force Service Support Group (1st FSSG)) at these locations. Past attempts to maintain separate legal offices for each organization proved inefficient due to lack of sufficient numbers of personnel to staff every office and a duplication of functions. With the concurrence of all Commanders within MCABWA, having legal personnel or assets as part of their commands, these personnel and assets were consolidated into two Joint Law Centers located at MCAS' Miramar and Yuma. The two law centers operate under the aegis of the Commander, MCABWA, in accordance with the support mission of that organization. They are tasked with providing legal services support to all Marine Corps and Navy units within MCABWA, except for their primary legal services support from 1st FSSG and (Marine Corps Base (MCB)) Camp Pendleton.

4. Legal Service Support. Legal service support, as provided by the two law centers and the Legal Services Support Section (LSSS), consists of: The processing of Courts-martial and administrative discharge board cases; advice on nonjudicial punishment (NJP) appeals and non-board administrative discharge cases based upon homosexuality or misconduct; the assignment of defense counsel when required by regulations or statute; review of JAG Manual investigations, claims, and legal research for the supported Staff Judge Advocates (SJAs). The two law centers also provide for the prosecution of civilians who commit offenses aboard the Air Stations before a Federal Magistrate and a legal assistance program for personal legal problems encountered by active duty military personnel and their dependants. Prosecution of civilians before a Federal Magistrate, and legal assistance are provided to MCAS Camp Pendleton and tenant organizations by MCB Camp Pendleton by agreement with the command.

5. Staff Judge Advocate, Counsel Western Bases. The delivery of legal services must be distinguished from the rendering of legal advice to commanders and staff sections. By various statutes and regulations, the SJA of a command or Counsel Western Bases is the legal advisor to the command, depending upon the issue. The areas of responsibility are designated below. Nothing in this directive or in the consolidation of legal assets is intended to interfere with this structure.

a. Staff Judge Advocate, 3d MAW. Unless otherwise directed, the senior Marine Judge Advocate assigned to the 3d MAW will be the SJA. The SJA is a special staff officer and is responsible to the Commanding General, 3d MAW as their personal counsel on matters of ethics, criminal law, civilian proceedings, other legal matters, and for such other duties as the Commanding General may assign. In addition, the SJA will act as personal advisor to the various 3d MAW Commanding Officers and Staff Officers and will be responsible for the administration of legal matters within 3d MAW. The SJA is hereby delegated authority to act for and on behalf of the Commanding General, 3d MAW, with respect to all routine legal matters. This delegation includes authority to sign correspondence "By direction" of the Commanding General. The SJA is also delegated authority, as provided in reference (a), R.C.M. 505(c) (1) (B) (i), and reference (b), Section 0128, to excuse courts-martial members. With the exception of the SJA, all personnel with a primary 44xx MOS assigned to the 3d MAW will normally be sent to the law center servicing that geographic area, where assigned, as required by the Fleet Assistance Program (FAP). When the is absent, (e.g., leave, TAD, etc.), the Deputy SJA, 3d MAW, will fill

in as SJA, and is hereby delegated authority to act for and on behalf of the Commanding General, 3d MAW with respect to all routine legal matters. This delegation includes the authority to sign correspondence "By direction" of the Commanding General.

b. Staff Judge Advocate, MCABWA. Unless otherwise directed, the senior Marine Judge Advocate assigned to MCAS Miramar will be the SJA for MCAS Miramar and MCABWA. The SJA is a special Staff Officer and is responsible to the Commander as personal counsel on matters of ethics, criminal law, civilian proceedings, other legal matters, and such other duties as the Commander may assign. In addition, the SJA will act as personal advisor to the various MCABWA Commanding Officers and Staff Officers, and will be responsible for the administration of legal matters within MCABWA. The SJA is hereby delegated authority to act for and on behalf of the Commander, MCABWA and the Commanding General, MCAS Miramar with respect to all routine legal matters. This delegation includes authority to sign correspondence "By direction" of the Commander MCABWA, and the Commanding General, MCAS Miramar. The SJA is also delegated authority, as provided in reference (a), R.C.M. 505(c)(1)(B)(i), and reference (b), Section 0128, to excuse court-martial members. When the SJA for is absent, (e.g., leave, TAD, etc.), the Deputy SJA, MCABWA, will fill in as SJA, and is hereby delegated authority to act for and on behalf of the Commander, MCABWA, and the Commanding General, MCAS Miramar, with respect to all routine legal matters. This delegation includes the authority to sign correspondence "By direction" of the Commanding General.

c. Staff Judge Advocate, 1st FSSG. The SJA of 1st FSSG is the primary legal advisor for all 1st FSSG detachments located within MCABWA. The law centers by agreement will provide to 1st FSSG detachments located at MCAS Yuma and MCAS Miramar all legal service support to include legal assistance. All personnel with a primary 44xx MOS assigned to 1st FSSG detachments within MCABWA will normally be sent in FAP status to a law center serving that geographic area.

d. Counsel Western Bases. The Counsel Western Bases maintains an office at Miramar typically manned by two civilian attorneys, designated Counsel, Marine Corps Air Bases Western Area. The Counsel, Marine Corps Air Bases Western Area is the primary legal advisor to Commander, MCABWA on all land use, real property, environmental law, appropriated fund contract law. The Counsel shares with the SJA, MCABWA, responsibility for legal issues involving labor law and Non-appropriated Fund Instrumentality (NAFI) contracting.

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6. Law Center Organization. The senior Marine judge advocate assigned to MCAS Miramar or 3d MAW is also assigned duty as the Director of Legal Services. The Director of Legal Services is responsible for the coordination of legal services provided by both law centers to include requests for military judges and the providing for defense functions. The organization of each law center and their relationship to the Navy-Marine Corps Trial Judiciary and defense function is as follows:

a. Joint Law Center, MCAS Miramar. The Joint Law Center at MCAS Miramar will operate under the immediate control of the Commanding General, MCAS Miramar. The Director of Legal Services is directly responsible for the operation, management, and organization of the MCAS Miramar Joint Law Center. All personnel with a primary 44xx MOS geographically assigned to MCAS Miramar, including tenant units, will normally be assigned duty at the MCAS Joint Law Center. In accordance with reference (a), R.C.M. 503(c)(1) and reference (b), Section 0120, the Director of Legal Services or their designate is delegated the authority to detail trial counsel to courts-martial to be held at the MCAS Miramar Law Center.

b. Joint Law Center, MCAS Yuma. The Joint Law Center at MCAS Yuma will operate under the immediate control of the Commanding Officer, MCAS Yuma. The senior Judge Advocate assigned to that command will normally be designated as the Joint Law Center Director and will be directly responsible for the organization and management of the MCAS Yuma Joint Law Center. All personnel with a primary MOS 44xx assigned to units at MCAS Yuma will normally be assigned to the Joint Law Center. Units located at MCAS Yuma will request all legal services from the Yuma Joint Law Center in accordance with procedures promulgated by the Commanding Officer, MCAS Yuma. For courts-martial cases held at MCAS Yuma, the Joint Law Center Director at MCAS Yuma, or in their absence their designate, is hereby delegated authority to detail trial counsel to courts-martial in accordance with reference (a), R.C.M. 503(c)(1) and reference (b), Section 0120, and to sign courts-martial orders "By direction" of the Commander, MCABWA, and the Commanding General, 3d MAW. The Director of Legal Services will provide technical advice on internal law center management to ensure, where possible, uniformity of procedures between law centers.

c. Defense Functions. The organization of defense counsel in the Marine Corps is controlled by reference (c). Pursuant to that order, the Director of Legal Services will provide personnel and

administrative support that is required to adequately provide for defense functions for supported commands. The functions performed by defense counsel when so assigned include, but are not limited to, advice and when required by statute or regulation representation of Marines and Sailors in such matters as competency review board, field flight performance, nonjudicial punishment, administrative separation proceedings, pretrial confinement hearings, pretrial investigations, and courts-martial. The Director of Legal Services will assign counsel to perform defense functions or relieve counsel from such duties if not a PCS transfer, only after consulting with the Law Center Director at MCAS Yuma and the Senior Defense Counsel (SDC) assigned to MCAS Miramar Joint Law Center. In accordance with reference (c), assigned defense counsel will have fitness reports completed by the SDC or the Regional Defense Counsel (RDC), MCB, Camp Pendleton, California, as appropriate. The Reviewing Officer for such reports will be the RDC or Chief Defense Counsel of the Marine Corps, as appropriate.

d. Military Judges. Trial Judges for courts-martial conducted at the two law centers are obtained by requesting a Military Judge be provided from the Sierra Circuit of the Navy-Marine Corps Trial Judiciary. The majority of judges for this circuit are located at MCB Camp Pendleton. The manner of docketing cases is under the control of the Trial Judiciary. Requests for a trial judge will be directed to the chief judge of the circuit at MCB Camp Pendleton.

7. Request for Legal Service. Commanders and Staff Officers should seek legal advice from the SJA of their command. Because of the geographic separation of installations, the Law Center Director at MCAS Yuma is authorized to give such legal advice to Commanders located at that installation as would normally be given by an SJA. However, they may not give such advice if a Staff Judge Advocate's opinion or recommendation is specifically required by statute or regulation. In the latter situation such requests will be forwarded to the appropriate SJA. As a matter of routine staffing, the Law Center Directors will keep the SJAs informed when they have rendered advice in their stead. Since the LSSS and the Office of the Staff Judge Advocate, Camp Pendleton may be unaware of current policies in MCABWA or 3d MAW, requests from MCAS Camp Pendleton and tenant units for advice other than listed below should be directed to the appropriate SJA. Direct liaison with the Joint Law Centers, and 1st FSSG, LSSS is, however, authorized for commanders, investigators, and in some cases individuals in the following areas:

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a. Requests from investigating officers, military police, Criminal Investigative Division (CID) or Naval Investigative Service (NIS) agents, etc., for advice on proper procedures connected with an investigation.

b. Requests for the drafting of convening orders and court-martial charges.

c. Requests that a courts-martial or administrative discharge board be conducted.

d. Requests for the detailing of a defense counsel when a commander or investigator (JAG Manual, CID, NCIS, etc.) feels appointment of a defense counsel is appropriate or required by regulations.

e. Direct individual contact with the Joint Law Centers and Joint Legal Assistance, MCB Camp Pendleton is authorized when a service member, active duty or retired, or their dependent wishes to consult an attorney about a personal legal problem.

8. Unit Legal Coordinator. Every unit under 3d MAW and MCABWA (group, station, squadron) will appoint an officer as the unit Legal Officer. That officer will act as a liaison between the command and the Joint Law Center serving their command. The group or squadrons will keep the Law Center serving their command informed of the name and phone number of their legal officer.

9. Action. Commanders will ensure strict compliance with the contents of this Order.

a. Legal Assistance Report. Paragraph 1913 of reference (b) requires that an annual legal assistance report (NAVJAG 5801/3) be submitted to the Judge Advocate General (JAG) (Code 63) via Director, Judge Advocate Division (JAL) by 10 October for the preceding fiscal year. The Director of Legal Services is responsible for this report for MCAS Miramar. The Law Center Director at Yuma is responsible for this report for MCAS Yuma and will submit it directly to JAG.

b. Criminal Activity, Disciplinary Infractions, and Courts-Martial Report

(1) Reference (b) requires that officers exercising general courts-martial authority submit quarterly to the Judge Advocate General, NAVJAG 5800/9A Criminal Activity, Disciplinary

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Infractions, and Courts-Martial Reports and Addendum. This report is due 30 January, 30 April, 30 July, and 30 October. The Joint Law Center at Miramar is responsible for submitting this report for the 3d MAW and MCABWA.

(2) In order to complete the above report, each unit of 3d MAW and MCABWA will submit a quarterly Supplemental Report to the Criminal Activity, Disciplinary Infractions and Court-Martial Report (enclosure (2)) to the Miramar Joint Law Center. If appropriate, this report will be submitted to and consolidated by the Group/Station Commander for submission. This report is due at the Joint Law Center, MCAS Miramar by 15 January, 15 April, 15 July, and 15 October. Negative reports are required.

c. Suspected Officer Misconduct Report. A report of any suspected officer misconduct will be immediately made via the chain of command to the Commander, MCABWA, or Commanding General, 3d MAW as appropriate. Only the Commanding General will authorize the report required by paragraph 4001 of reference (d) to Headquarters Marine Corps concerning the alleged misconduct.

d. Joint Law Center Support. Requests for the drafting of courts-martial charges and convening orders or the conducting of courts-martial will be submitted to the Joint Law Center using enclosure (1). Marine Corps Air Station Camp Pendleton and tenant units will adhere to procedures established by the 1st FSSG and MCB Camp Pendleton in obtaining legal service support or legal assistance.

10. Concurrence. The Commanding General, 3d Marine Aircraft Wing concurs in the provisions of this Order.


P. P. McNAMARA
Chief of Staff


T. A. CAUGHLAN
Chief of Staff

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13. REMARKS (Continued)

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ENCLOSURE (1)

ABO 5800.4B
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SAMPLE SUPPLEMENTAL REPORT FOR CRIMINAL ACTIVITY, DISCIPLINARY
INFRACTIONS AND COURT-MARTIAL REPORT

[LETTERHEAD]

5800
SJA/RPT
[DATE]

From: [TITLE OF ACTIVITY HEAD], [NAME OF ACTIVITY]
To: Director, Joint Law Center, MCAS Miramar
Subj: CRIMINAL ACTIVITY, DISCIPLINARY INFRACTIONS AND COURT-
MARTIAL REPORT FOR THE [1ST, 2ND, 3RD, 4TH] QUARTER 2001
Ref: (a) ABO 5800.4B

1. Per the reference, the following is submitted for the quarter
ending [DATE].

	MARINE	NAVY				
a. Number of personnel convicted:						
General Courts-Martial	0	0				
Special Courts-Martial	0	0				
Summary Courts-Martial	0	0				
Article 15 Punishment	0	0				
U.S. Federal and State Felony Convictions	0	0				
TOTAL:	<hr/> 0	<hr/> 0				
b. Discharges adjudged by the court:						
	<u>DD</u>	<u>BCD</u>	<u>DISMISS</u>	<u>DD</u>	<u>BCD</u>	<u>DISMISS</u>
General Courts-Martial	0	0	0	0	0	0
Special Courts-Martial	0	0	0	0	0	0
TOTAL:	<hr/> 0	<hr/> 0	<hr/> 0	<hr/> 0	<hr/> 0	<hr/> 0

ENCLOSURE (2)

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Subj: CRIMINAL ACTIVITY, DISCIPLINARY INFRACTIONS AND COURT-MARTIAL REPORT FOR THE 1ST QUARTER 2001

	MARINE	NAVY
c. Number of personnel acquitted:		
General Courts-Martial	0	0
Special Courts-Martial	0	0
Summary Courts-Martial	0	0
TOTAL:	<hr/> 0	<hr/> 0

	MARINE	NAVY
d. Disposition of drug abuse offenders:		
Article 15	0	0
Summary Courts-Martial	0	0
Special Courts-Martial	0	0
General Courts-Martial	0	0
TOTAL:	<hr/> 0	<hr/> 0

[SIGNATURE BLOCK]

ENCLOSURE (2)