



UNITED STATES MARINE CORPS
CHIEF DEFENSE COUNSEL OF THE MARINE CORPS
MARINE CORPS DEFENSE SERVICES ORGANIZATION
701 SOUTH COURTHOUSE ROAD, BUILDING 2 RM 1D130
ARLINGTON, VA 22204-2482

IN REPLY REFER TO:
5800
CDC
2 Feb 24

CDC POLICY MEMORANDUM 1.2C

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

Subj: CHIEF DEFENSE COUNSEL'S CRITICAL INFORMATION REQUIREMENTS

Ref: (a) CDC Policy Memo 1.3B (Records Management)
(b) JAGINST 5800.7F W/CH3 (JAGMAN)
(c) CDC Policy Memo 1.6 (DSO Independence)

1. Purpose. To update the Chief Defense Counsel's (CDC) Critical Information Requirements (CIR) and ensure the timely and effective sharing of information within the Defense Services Organization (DSO).

2. Discussion. CDC's CIRs are significant events the CDC must be made aware of as soon as practicable. Timely and accurate reporting of CDC CIRs following a triggering event significantly enhances the ability of the CDC to make timely decisions and initiate appropriate actions.

3. Policy: CDC's Critical Information Requirements. There are two categories: (1) Immediate Reportable Items and (2) Items Reportable through the Regional Defense Counsel (RDC). DSO personnel must report all CIRs via e-mail to their respective RDCs. The RDC will then ensure the CIR is properly loaded into SharePoint (SP) through the DSO Document Library. DSO personnel must annotate all CIR cases on the DSO's Case Information System (CIS) and as required by CDC reporting requirements of reference (a).¹

a. Immediate Reportable Items to the CDC. All members of the DSO will immediately report to the CDC, through their respective RDCs, the CIRs listed below. CIRs specific to a case will be noted in CIS. The RDC will send a courtesy copy of the email to the Deputy CDC and cognizant SDC.

¹ This memorandum in no way constricts defense counsel from raising necessary and timely objections; in these circumstances, reporting requirements should be made as soon as practicable.

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(1) Any suicidal ideation, gesture, attempt, or actual by a DSO member or detailed or walk-in client, if known.

(2) Death, serious injury, life-threatening health issue, or hospitalization more than 24 hours of any DSO member or any DSO client.

(3) Death, serious injury, or life-threatening health issue to any DSO member's immediate family (parent, spouse, or child).

(4) Any possible or suspected loss, compromise, or spillage of personally identifiable information (PII), classified material, or classified information by any DSO member.

(5) Any report of suspected misconduct or investigative or adverse administrative action of a member of the DSO, including but not limited to arrest, pretrial confinement, preliminary/command/Inspector General investigations or inquiries, preferral of charges against, notification of involuntary administrative separation processing or nonjudicial punishment, or any incident that requires an OPREP-3/SIR notification involving DSO personnel.

(6) Any initiation of contempt proceedings under Rules for Courts-Martial (R.C.M.) 801(b) and 809.

(7) Any allegation of unethical behavior or ineffective assistance of counsel (IAC) by a DSO member or other servicemember or civilian attorney representing a DSO client.

(8) Any allegation that another government attorney has/is acting unethically or has/is engaging in prosecutorial or other misconduct, prior to such claim being made in any motion, in any correspondence external to the DSO, or on the record in court or a board. This includes, but is not limited to judges, Staff Judge Advocates (SJA), Victims Legal Counsel (VLC), and legal assistance attorneys.

(9) Any media interest in an investigation or case concerning a DSO client.

(10) Any board or court hearing where a general or flag officer, convening authority, or staff judge advocate will be called as a witness.

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(11) Any motion or request to disqualify or recuse the military judge, prosecutor, SJA, or defense attorney.

(12) Any court-martial or civilian charges alleging a violation of Article 118 (or an attempted 118), UCMJ, or applicable civilian statute or that has been defined as a national security case under paragraph 0126 of reference (b).

(13) Any writ or Government Article 62 appeal, and any responses thereto.

b. Items Reportable to the RDC. All members of the DSO will immediately report to the RDC, via their SDC, the CIRs listed below. RDCs will promptly ensure the CIR is loaded into SP.

(1) Any interaction with a client, including individuals who are present for limited purposes such as Non-Judicial Punishment (NJP) counseling, who, in the estimation of the DSO member, appears to be at risk for suicide.

(2) Any allegation of misconduct² against an officer in the grade of O-4/CWO-4 or above, or an enlisted Marine in the grade of E-8 or above.

(3) Any relief of a Commanding Officer in the grade of O-5 or above.

(4) Any allegation of unlawful command influence (UCI), prior to such claim being made in any motion, correspondence external to the DSO, or a statement on the record in court or a board, including a copy of the draft motion or notice.

(5) Prosecutors or other government actors entering DSO workspaces without prior coordination with the relevant DSO personnel.

(6) The recommendation or approval of any DSO member's award via board or commander when lower than that submitted by the relevant DSO leader.

² Allegation of misconduct includes, but is not limited to, investigation or inquiry, preferral of charges, notification of administrative separation or intent to hold NJP, or receipt of administrative counseling or report of misconduct.

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(7) The recommendation or approval of any defense legal services specialist's performance markings when lower than what was submitted by the relevant DSO leader.

(8) The recommended denial or denial of any rights, privileges, or benefits accrued to any DSO member by virtue of their active military service, including leave requests.

(9) Any notification that a DSO defense counsel will be called as a witness in any court hearing or a DSO member (e.g., defense counsel, legal clerks, investigator, paralegal, attorney advisor) will be called by the government on any matter in any court hearing.

4. Reporting Requirements.

a. Email report. All email reports will include the following information:

(1) Category of CIR (immediate or through the RDC) and specific triggering event (e.g., death, injury, UCI);

(2) Name and Unit;

(3) Factual scenario: Who, What, Where, When, How, Why (without names); and

(4) A brief summary of follow-on actions by the command, military judge, law enforcement, defense counsel, or any other person involved.

b. RDC Reports. CIRs in paragraphs 3.a.(12) and (13) and 3.b.(2) shall be reported and updated monthly in the RDC's monthly report.

c. SharePoint. CIRs in paragraphs 3.a.(1) and 3.b.(1) shall be maintained in the Suicidal Client tab of SP. Paragraphs 3.a.(2) through (13) and 3.b.(2) through (9) shall be maintained in "All Other CIRs" folder of SharePoint and shall include a close-out entry.

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5. Conclusion. CDC PM 1.2B is hereby cancelled. This CDC Policy Memo is effective immediately.



V. C. DANYLUK

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Legal Chief of the
Marine Corps All
members of the DSO
NMCTJ Code 52, OJAG