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In Reply Refer To:
3000
CDC
20 Oct 14

CDC POLICY MEMORANDUM 3.2

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

Subj: SUBMISSION OF FITNESS REPORTS FOR DSO MARINES

Ref: (a) MCO P1610.7F w/ch 1-2
(b) MCO P5800.16 (series)
(c) CDC PM 3.1 (series) (Detailing and Individual Military Counsel Determination Authority)
(d) JAGINST 5803.1D (Rules of Professional Conduct)

Encl: (1) DSO RO Worksheet Memorandum
(2) Authorized Billet Descriptions

1. Purpose. To establish standard procedures within the Marine Corps Defense Services Organization (DSO) for writing, reviewing and submission of fitness reports for Marines assigned to the DSO.

2. Discussion. There is no greater opportunity to have impact on a Marine's career than the fitness report. Little we do as leaders has more impact and shelf-life with regard to such things as future assignments, promotions, and schools. Consequently, drafting and submitting timely, accurate, and appropriate fitness reports is fundamentally important to me. I intend for leaders in the DSO to submit meticulously drafted, honestly prepared, consistently evaluated, and timely submitted performance appraisals via the Automated Performance Evaluation System (APES). While the Reporting Senior (RS) and Reviewing Officer (RO) are most responsible for ensuring the integrity of the process, this is a team effort—all Marines who write, review, and receive fitness reports must work together to ensure expectations are properly communicated and performance is properly evaluated. Such communication, however, cannot begin, and neither should it end, with the fitness report. It must begin with "first contact" between the RS and Marine Reported On (MRO), the point in time when they begin their professional

Subj: SUBMISSION OF FITNESS REPORTS FOR DSO MARINES

relationship, and must continue until their professional relationship ends.

3. Policy. Fitness Reports will be written in strict compliance with reference (a) and will properly document observations and assessments of individual performance, personal qualities, character, and the potential to serve at a more senior level. All Fitness Reports submitted for Marines assigned to the DSO shall be submitted in a timely manner using APES through Marine Online (MOL). All reports must be completed so that they arrive at Headquarters Marine Corps, Manpower Management Support Branch (MMSB) no later than 30 days after the end of the reporting period. To assist in meeting these requirements and to address the unique issues related to serving in the DSO, the following procedures are mandated.

a. Billet Descriptions: All DSO Marines will have a written billet description. DSO leaders are tasked with ensuring each Marine has a clear understanding not only of the billet description, but also the leadership's expectations based on that billet description. Use the MROW as a tool to ensure billet description clarity.

(1) The RS is the first officer in the reporting chain senior to the MRO. Each RS is responsible for meeting face-to-face with each MRO not less than 14 days from the initiation of their reporting relationship in order to provide a copy to each MRO of their billet description, and to discuss billet expectations.

(2) Billet descriptions will be standardized to the maximum extent possible. See enclosure (2) for authorized billet descriptions.

(3) There may be occasions where officers and enlisted personnel are assigned to the DSO for a limited period of time. Billet descriptions for such personnel will be the same as for others holding similar billets, but the RS will explain the limited time period in Section I of the Fitness Report.

b. Submission Timelines.

(1) *Marine Reported On Worksheet (MROW)*: Not only do MRO and RS require a clear understanding of the Marine's billet description, but in order to draft an appropriate report they also need a clear understanding of the Marine's accomplishments during the reporting period. The MROW is a tool used to ensure

Subj: SUBMISSION OF FITNESS REPORTS FOR DSO MARINES

clarity between the parties. It may also be used a tool for periodic counseling sessions. In terms of submission for purposes of fitness reports, it is used by the MRO to provide a summary of billet accomplishments to the RS, and by the RS to periodically re-validate the MROs billet description. MROs shall ensure that their MROW is with their RS seven days prior to the end of the reporting period. In addition to raw data related to performance such as number of contested trials, guilty pleas, administrative separation boards, NJP counselings, etc., include such items as significant events, awards, and professional military education (PME). Unless otherwise directed or authorized, forwarded the MROW via the Automated Performance Evaluation System (APES).

(2) *Non-Adverse Reports:* The RS will complete and submit fitness reports which are not adverse to the Reviewing Officer (RO) not later than 14 days after the close of the reporting period. Submit the report to the RO via APES. Once submitted, notify the RO via email that the report is pending action. Attach a completed copy of enclosure (1) to the email. The RO will ensure he or she completes and submits Fitness Reports to Manpower Management Support Branch (MMSB) not later than 30 days after the close of the reporting period.

(3) *Adverse Fitness Reports:* Adverse reports will be processed in accordance with Chapter 5 of reference (a). The Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC) will be the third officer reviewer for all adverse officer reports. The CDC will be the third officer reviewer for all adverse enlisted reports unless the CDC is in the reporting chain. The Deputy SJA to CMC will be the third officer reviewer for adverse enlisted reports when the CDC is the RO.

c. Reporting Senior Responsibilities.

(1) Preparing, advising and counseling each Marine on his or her billet description in accordance with paragraph 3.a. *infra*.

(2) Ensuring the timely processing of reports under his or her cognizance. While the MRO bears responsibility for preparing the MROW, this does not abrogate the leadership's responsibility to supervise the submission of an MROW via APES. As such, each RS is responsible for ensuring that an MROW is completed on each MRO and that a fitness report is ready to be generated in APES not later than seven days prior to the end of the reporting period.

Subj: SUBMISSION OF FITNESS REPORTS FOR DSO MARINES

(3) Ensuring proper review of enlisted reports. Each RS is encouraged to designate the DSO Chief as an enlisted reviewer. Otherwise, when writing reports on enlisted Marines, the RS is encouraged to consult with the DSO Chief to ensure the particular requirements of enlisted reports are properly addressed.

(4) Counseling his or her Marines on their report markings and comments. Upon submission of the report to the RO, each RS will discuss the markings and comments in a private, face-to-face counseling session with each MRO. Each RS is tasked with accomplishing this counseling in a timely fashion and answering any questions the MRO may have on markings and recommendations. The focus of such counseling should be growth or improvement of the MRO and career advice.

(5) Managing his or her RS profile. Each RS is responsible for managing his or her RS profile, and carefully balancing their reports accordingly. Don't be afraid to "explore the space" on your profile in order to allow exceptional Marines to shine. For those exceptional Marines being reported on among a group of exceptional Marines in a large profile, use "break out" comments and speak directly to Board members.

d. Reviewing Officer Responsibilities.

(1) RO leaders in the DSO are primarily responsible for the execution of this policy letter, and are directly responsible for implementing my intent and the guidelines contained in reference (a).

(2) Each RO is further responsible to provide the experienced leadership, supervision, and detached point of view necessary to ensure consistent, accurate, and unbiased evaluations. Each RO will closely scrutinize all reports prior to their submission to MMSB.

(3) Each RO will be familiar with paragraph 2004 of reference (a) in detail.

e. Reporting Chain Restrictions.

(1) DSO members may not be the RS or RO for other DSO members who have clients with a conflict of interest with one of their clients. See paragraph 3 of reference (c).

Subj: SUBMISSION OF FITNESS REPORTS FOR DSO MARINES

(2) With the exception of those in the grade of O-6, RS and RO "same grade reports" are not authorized absent specific exception granted in writing by me.

f. Fitness Reports For Periods of Transition: There will be occasions when DSO personnel transition or rotate to other duties within an LSSS or LSST, yet retain some degree of defense responsibility. Under such circumstances the following applies:

(1) The transitioning Marine shall receive a fitness report reflecting that the reporting period ended on the day before the Marine begins his or her new duties.

(2) The reporting occasion for these Fitness Reports shall be "Transfer (TR)," and shall contain the following directed comment in section I:

"MRO is changing billets and will be assuming duties as [new duty assignment] under a different RS; however, MRO still has remaining defense counsel responsibilities and will receive a simultaneous report authorized per para. 2010, MCO P1610.7F upon completion of those responsibilities."

(3) When the transitioning Marine completes all defense counsel duties, he or she shall receive a final Fitness Report as a member of the DSO with an end date of the reporting period that coincides with the date that all remaining defense counsel responsibilities are complete. The reporting occasion for these Fitness Reports shall be "Change of Reporting Senior (CH)."

(4) Should another reporting period occur between the date the Marine transitions and the date the Marine completes his or her defense duties (e.g. promotion, annual or semi-annual), the transitioning Marine shall receive a simultaneous report reflecting he or she retains defense duties.

(5) Each report submitted in accordance with this paragraph will be a simultaneous report as authorized by paragraph 2010 of reference (a) and Figure 2-1 of reference (b) and will contain the following directed comment:

"This is a simultaneous report as authorized per para. 2010, MCO P1610.7F reporting MRO's successful completion of MRO's duties as defense counsel during the reporting period."

Subj: SUBMISSION OF FITNESS REPORTS FOR DSO MARINES

(6) The exact date when an officer completes all defense counsel duties is situation-dependent, largely based on the number of clients retained, and the administrative, non-judicial, and judicial corrective actions that each client faces. However, at a minimum, the following events must occur, as applicable, and each client must be counseled regarding their completion before defense counsel duties may be considered complete:

(a) Results of NJP are completed and, in the case of officers, submitted to Higher Headquarters.

(b) Separation Authority Action on all enlisted administrative separation proceedings is complete.

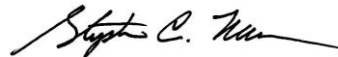
(b) Submission of the Report of BOI by the Convening Authority to Higher Headquarters for all Boards of Inquiry.

(c) Convening Authority Action on all special and general courts-martial cases.

(d) Negotiated settlement to a forum lower than a special court-martial, including withdrawal when applicable.

g. Seeking Release Prohibited: DSO attorneys shall never seek a release from DSO clients purely for the purpose of pursuing deployment opportunities or facilitate transfer to other duties. Once established, the attorney-client relationship may only be severed under the provisions of Rule for Courts-Martial (R.C.M.) 505 and 506, reference (d) and relevant CDC Policy Memos.

4. Conclusion. CDC PM 3-12 is hereby cancelled. 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

1611
RDC
13 Jun 2012

From: Regional Defense Counsel, XXXX Region
To: Chief Defense Counsel

Subj: FITNESS REPORT IN THE CASE OF MAJOR I. M. MARINE, U.S. MARINE
CORPS (AN OCCASION; FROM 20110601 TO 20120531)

1. Date Submitted to APES. 13 Jun 2012.

2. Background Information.

a. Is the MRO PME complete for grade or currently enrolled? Yes, MRO completed U.S. Marine Corps Command and Staff College through the Distance Education Program.

b. Is MRO in zone for promotion? Yes, MRO is in zone for the next promotion board.

c. What is MRO's desired follow-on assignment? MRO seeks an operational law billet with forward deployed forces in the U.S. Central Command Area of Responsibility and to be looked for command when eligible.

3. Additional Information.

a. MRO's commitment to PME is illustrated by his willingness to volunteer to teach classes for the Expeditionary Warfare School Non-resident course aboard Base. Furthermore, MRO had two articles published during the reporting period: "How to PT and do PME While an SDC" in the Army Lawyer; and, "Leadership and Legal Service Support" in the Marine Corps Gazette.

b. MRO's ability to fulfill Senior Defense Counsel requirements while simultaneously being fully engaged in PME and other duties is an illustration of MRO's tireless work ethic. Moreover, MRO is able to maintain balance personally and professionally despite the demands that nine children have upon MRO and MRO's spouse.

c. MRO is a team builder and thrives as a mentor.

Enclosure (1)

Subj: FITNESS REPORT IN THE CASE OF MAJOR I. M. MARINE, U.S. MARINE CORPS (AN OCCASION; FROM 20110601 TO 20120531)

4. Reporting Senior's Profile for the Appropriate Grade.

RS High for Grade till this Report	5.0
RS Low for Grade till this Report	3.0
RS Avg for Grade till this Report	4.0
MRO Avg (this report)	4.0
For all reports of this grade I rank MRO	This is my 17th FitRep on a Major as an RS and MRO ranks 9 of 17

5. Recommended RO Comments. MRO is an outstanding MAGTF Officer and judge advocate. MRO set the conditions for success for his Defense Team while simultaneously obtaining excellent results for all of MRO's clients. MRO did a superb job fulfilling duties as Acting Regional Defense Counsel in the RDC's absence. MRO superbly assisted my office with the planning and execution of conferences and training events. A humble but incredibly capable professional, MRO is a valued and trusted member of the Defense Services Organization. MRO cares about his Team, our clients, works hard to support the mission, and makes a positive impact throughout the DSO. Highest Recommendation for Promotion, School, and Command.

6. Recommended RO Marks in the Comparative Assessment. My recommendation is highlighted below.

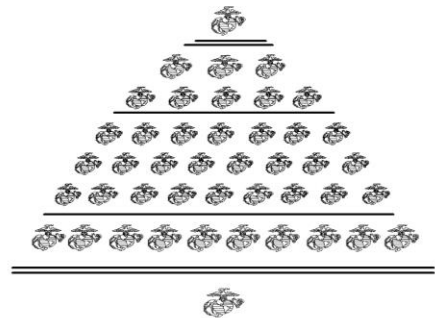
- THE EMINENTLY QUALIFIED MARINE **x** of X

- ONE OF THE FEW **x** of X
- EXCEPTIONALLY QUALIFIED MARINES **x** of X

- ONE OF THE MANY HIGHLY QUALIFIED **x** of X
- PROFESSIONALS WHO FORM THE** **x** of X
- MAJORITY OF THIS GRADE **x** of X

- A QUALIFIED MARINE **x** of X

- UNSATISFACTORY **x** of X



7. Respectfully submitted.

/S/
I. M. REPORTINGSENIOR

DEFENSE SERVICES ORGANIZATION BILLET DESCRIPTION EXEMPLARS

1. Regional Defense Counsel Example:

- Leader of the Marine Corps Defense Services Organization for the Western United States, supervising field grade, company grade, and enlisted personnel located at six different offices. Responsible for ensuring that zealous, ethical and effective defense services are provided to servicemembers facing administrative, non-judicial, and judicial actions in order to help protect and promote the due process, statutory and constitutional rights of clients and servicemembers seeking counseling services.
- Lead and mentor subordinate personnel while conducting site visits, observing court cases, observing board hearings, reviewing written motions and work products, and ensuring the fulfillment of all Defense Services Organization training requirements.
- Manage resources and personnel; coordinating with SJAs, Law Center Directors, Legal Section OICs. Assign or approve the assignment of defense counsel to specific cases.
- Liaison with Convening Authorities, military judges, and investigative agencies.
- Fulfill reporting requirements to the Chief Defense Counsel of the Marine Corps.
- Represent senior ranking servicemembers and others at courts-martial and boards.

2. Defense Services Organization Regional Noncommissioned Officer-In-Charge Example:

- Serve as Administrative Assistant to the Regional Defense Counsel for the Western United States; Responsible for: office reports; reporting requirements for cases and clients; support for the preparation and execution of training events; managing office calendar; liaison with government investigators, trial counsel, staff judge advocates, and commands relative to processing of cases; and, manage all office correspondence.
- Lead, supervise, train, & support all Marine Corps Defense Services Organization (DSO) enlisted personnel aboard 6 different offices serving the Western United States.
- Serve as Regional Defense Counsel Office Manager; Responsible for: managing an annual budget in excess of \$20,000.00; coordinating travel planning, execution, and travel claims; managing & maintaining DSO Defense Counsel SharePoint site; maintaining library, office records, information technology systems, communications equipment, and all supplies; liaison with higher headquarters; and, manage Government Vehicle.
- Serve as a paralegal assisting defense counsel with witness interviews, scheduling, investigative actions, legal research, & the creation of demonstrative exhibits.

3. Senior Defense Counsel Example:

- Leader of the Marine Corps Defense Services Organization (DSO) Office for MCAGCC 29 Palms, supervising subordinate judge advocates and Legal Services Specialists.
- Responsible for ensuring that zealous, ethical and effective defense services are provided to servicemembers facing administrative, non-judicial, and judicial actions in order to help protect and promote the due process, statutory and constitutional rights of both clients and for servicemembers seeking to obtain counseling services.

DEFENSE SERVICES ORGANIZATION BILLET DESCRIPTION EXEMPLARS

- Provide representation and zealous advocacy for servicemembers pending courts-martial, involuntary Administrative Separation proceedings, and Boards of Inquiry.
- Lead, supervise, and mentor subordinate personnel by: observing court cases and board hearings; reviewing written work products; Conduct PME and MOS training in order to fulfill all DSO training requirements; &, attend DSO Regional meetings and conferences.
- Manage resources and personnel; coordinate and liaison with SJAs, Convening Authorities, military judges, investigative agencies, & other DSO Offices and members.
- Assign defense counsel to specific cases; fulfill all DSO reporting requirements.

4. Defense Services Organization Office Non-Commissioned Officer-In-Charge Example:

- Serve as Administrative Assistant to the Senior Defense Counsel for the [office name] responsible for: office reports; support for the preparation & execution of training events; managing office calendar; liaison with government investigators, trial counsel, staff judge advocates, & commands relative to processing of cases; &, manage all office correspondence.
- Assist the Senior Defense Counsel in fulfilling Defense Services Organization training requirements.
- Serve as an Office Manager: support management of annual budget; coordinate travel planning, execution, and claims; manage & maintain Defense Counsel SharePoint site; maintain library, office records, information technology systems, communications equipment; and manage and maintain all supplies.
- Serve as a paralegal assisting defense counsel with witness interviews, investigation, legal research, & the creation of demonstrative exhibits.

DEFENSE SERVICES ORGANIZATION BILLET DESCRIPTION EXEMPLARS

5. Defense Trial Team Leader Example:

- Leader of the Marine Corps Defense Services Organization (DSO) Defense Trial Team XX at Camp Lejeune, supervising subordinate judge advocates and Legal Services Specialists.
- Responsible for ensuring that zealous, ethical and effective defense services are provided to servicemembers facing administrative, non-judicial, and judicial actions in order to help protect and promote the due process, statutory and constitutional rights of both clients and for servicemembers seeking to obtain counseling services.
- Provide representation and zealous advocacy for servicemembers pending courts-martial, involuntary Administrative Separation proceedings, and Boards of Inquiry.
- Lead, supervise, and mentor subordinate personnel by: observing court cases and board hearings; reviewing written work products; Conduct PME and MOS training in order to fulfill all DSO training requirements; &, attend DSO Regional meetings and conferences.
- Manage resources and personnel; coordinate and liaison with the Senior Defense Counsel, Regional Defense Counsel & other DSO Offices and members.
- Assign defense counsel to specific cases; fulfill all DSO reporting requirements.

6. Defense Counsel Example:

- Plan, coordinate, and conduct defense of Marine and Navy clients facing special and general courts-martial, boards of inquiry, post trial hearings, and administrative separation boards.
- Provide legal counseling to personnel considered for NJP, courts-martial, pretrial confinement hearings, Competency review Boards, and situations in which Article 31b, UCMJ, rights are invoked.
- Organize and maintain comprehensive client case files.
- Research, draft, and argue legal pleadings in pretrial hearings, during courts-martial, post trial hearings, and during administrative discharge proceedings.
- Seek clemency from convening authorities and address errors in post-trial documents.
- Prioritize workload to meet all administrative obligations and court appearances.
- Correspond with Convening Authorities, judges, staff judge advocates, and prosecutors.

DEFENSE SERVICES ORGANIZATION BILLET DESCRIPTION EXEMPLARS

7. Student Defense Counsel 4401 Example:

- Help Defense Counsel plan, coordinate, and conduct defense of Marine and Navy clients facing special and general courts-martial, boards of inquiry, post trial hearings, and administrative separation boards.
- Help Defense Counsel provide counseling to personnel considered for NJP, courts-martial, pretrial confinement hearings, Competency review Boards, and situations in which Article 31b, UCMJ, rights are invoked.
- Assist in the maintaining comprehensive client case files.
- Research and draft legal pleadings in pretrial hearings, during courts-martial, post trial hearings, and during administrative discharge proceedings.
- Assist Defense Counsel with correspond with Convening Authorities, judges, staff judge advocates, and prosecutors.

8. Reserve Regional Defense Counsel Example:

- Help the Regional Defense Counsel ensure that zealous, ethical and effective defense services are provided to servicemembers facing administrative, non-judicial, and judicial actions in order to help protect and promote the due process, statutory and constitutional rights of clients and servicemembers seeking counseling services.
- Provide input and feedback to Chief Defense Counsel on matters related to defense services throughout the Marine Corps
- Provide general guidance, training, mentoring, and assistance to all defense counsel assigned to USMC Bases and Stations located in the Eastern United States.
- Provide on-call assistance to all defense counsel in the region regarding research, motion practice, conflicts of interest, and professional responsibility
- Develop, review, edit, and provide training and education for all defense counsel assigned to the Marine Corps Defense Services Organization.
- Provide defense services to senior officers and enlisted Marines as necessary

9. Reserve Regional Training Officer Example:

- Help the Regional Defense Counsel ensure that zealous, ethical and effective defense services are provided to servicemembers facing administrative, non-judicial, and judicial actions in order to help protect and promote the due process, statutory and constitutional rights of clients and servicemembers seeking counseling services.
- Develop training program and practical training exercises, in coordination with the Active duty and Reserve RDC-_____, to maintain the military justice proficiency of reserve and active-duty judge advocates in the _____ region
- Prepare course materials, in conjunction with the other Defense sub-det training officers, for the USMC Defense Services Organization training events.
- Prepare and draft references for publication in order to instruct the DSO on policies and procedures required by the Chief Defense Counsel.