



Publication of Military Justice Volume in LSAM

Background

Marine Corps Order 5800.16, Legal Support and Administration Manual (Short Title: LSAM), promulgates uniform service standards, policies, and procedures for the provision of legal support and unit legal administration in accordance with law, regulation, and policy. Change 2 to this order, published on 19 June 2020, adds Volume 16 (Military Justice) to this order.

Cancellation

Practice Directive 2-18 (Case Analysis Memo) is cancelled.

Applicability

Volume 16 of the LSAM applies to all judge advocates, legal administrative officers, litigation attorney advisors, legal service specialists, victim-witness assistance personnel, investigators, and administrative support personnel who provide military justice services within the Marine Corps, with the exception of personnel who serve in billets within the Defense Services Organization (DSO) and the Victims' Legal Counsel Organization (VLCO). Nothing in Volume 16 restricts the legal services provided by members of the DSO or the VLCO, whose missions, duties, and responsibilities are covered in Volumes 3 and 4 of the LSAM.

Discussion

Volume 16 incorporates topics that were previously covered in various Marine Corps Bulletins (MCBULs), Practice Directives, and Practice Advisories. It also incorporates the work of several Operational Advisory Groups in support of Marine Corps Judge Advocate Boards. Military Justice practitioners must be familiar with all nineteen chapters in Volume 16. Notable policy changes worth highlighting include:

1. Special Victim Qualified Trial Counsel (SVIP TC): Ensuring counsel have the training and experience necessary to litigate special victim cases is of primary importance to our community and the Marine Corps. Rigid qualification checklists may sometimes hinder this goal; leading to multiple co-counsel being detailed to cases when such detailing is not required. Volume 16 gives LSSS OICs more discretion to account for civilian, defense, VLC, or appellate litigation experience in determining trial counsel qualifications and to waive certain requirements, when appropriate.
2. Chapter 4 references payment to civilian guardians ad litem, when appointed by a military judge, to eliminate potential hurdles in the contracting process. The Chapter also grants victims and VLCs greater access to case-related materials when necessary to assert a potential right or make informed decisions, with due concern for the defense's right to assess whether witness testimony was influenced by access to the materials.

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3. Chapter 5 incorporates the findings of last year's SVIP case processing Operational Advisory Group and makes numerous refinements to the Case Analysis Memo (CAM) process.
 - The SJA may waive the requirement for a CAM in abusive sexual contact cases when the interests of justice support speedy resolution of the case without a CAM, and when the victim's preferences with respect to disposition and the SJA's waiver of the CAM requirement are memorialized.
 - No CAM is required when the SJA and RTC agree preferral is appropriate and there is no disagreement about the charging theory (Practice Directive 1-18 would have required an abbreviated CAM in these circumstances).
 - When a CAM is required, only 1 CAM is required per case unless the SJA specifically requests a new one (note: case chronologies must still document disposition decisions).
 - Non-responsive victims or victims who have not provided input after reasonable attempts to contact the victim waive the right to submit their preference after 30 days (note: supervisory counsel should be involved in determining whether the attempts were reasonable).The new CAM form is Enclosure (1) to this Directive. The purposes of these changes are to establish processes where victim input is considered and to avoid unnecessary delay in the military justice process.
 4. The National Capital Region LSSS is primarily responsible for processing national security cases and cases involving retirees. However, Chapter 6 does not infringe the authority of disposition authorities to select the optimal venue on a case-by-case basis.
 5. Chapter 14 outlines the responsibilities of an LSSS to support criminal justice information reporting, sex offender notification, and criminal indexing.
 6. Chapter 15 details Courtroom Security best practices- with the understanding that much of this Chapter is aspirational without a USMC or DON standard on physical security, infrastructure improvements, and staffing. JAD continues working on the development of a USMC standard on court security through a Navy/USMC Comprehensive Review Implementation Working Group.

Conclusion

While the previous paragraph highlights certain changes, Volume 16 implements many other recent changes in law and policy. Practitioners across the Marine Corps legal community will familiarize themselves with its contents and directives to ensure a uniform standard of practice, facilitate sound legal advice, and promote justice. Direct any questions about this Practice Directive to the JMJ Branch Head at (703) 693-9005, the JMJ Deputy Branch Head at (703) 693-8955, or TCAP at (703) 693-9299.