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24 June 2016

MEMORANDUM

From: C. M. Lederer
Acting Judge Advocate General

Reply to: CG-LMA-D
Attn of: LCDR M. J. Meyer
(202) 664-7883

To: Distribution

Subj: STANDARD OPERATING PROCEDURE CGJAG 022C – DETAILING DEFENSE
COUNSEL TO COAST GUARD MEMBERS

Ref: (a) Navy & Coast Guard MOU on Mutual Support in Military Justice Matters
(b) TJAG's SOP Memo CGJAG 017A- *Creating Client Representation & Advocacy Opportunities for Junior Judge Advocates*
(c) Military Justice Manual, COMDTINST M5810.1 (series)
(d) Manual for Courts-Martial (2012)
(e) Military Separations Manual, COMDTINST M1000.4 (series)
(f) Administrative Separation Board Manual, PSCINST M1910.1 (series)
(g) Administrative Investigations Manual, COMDTINST M5830.1 (series)
(h) Military Assignments and Authorized Absences Manual, COMDTINST M1000.8 (series)

1. Purpose. This memorandum supersedes SOP 22B, cancels SOP 23, and implements references (a) through (h) to provide guidance for detailing judge advocates as military defense counsel to members facing military justice and administrative actions. This memorandum does not apply to the detailing of counsel to respondents within the Physical Disability Evaluation System.

2. Action. CG-094M-D shall detail counsel for all military justice and administrative matters in a manner that is consistent with references (a) through (g) as well as this SOP and its enclosures and will provide the Judge Advocate General with a semi-annual report addressing trends and issues associated with the detailing function as well as overall compliance.

3. Discussion.

a. Delegation of Authority to Detail Counsel. CG-LMA-D is hereby delegated the authority and assigned the responsibility for detailing military defense counsel to all Coast Guard military justice and administrative actions in accordance with established law and policy and the procedures set forth herein. CG-094M-D will identify defense counsel primarily from either Navy Defense Services Offices (DSO) pursuant to reference (a) or within CGJAG pursuant to

reference (b). These source commands may identify counsel that they recommend be detailed to pending Coast Guard cases. CG-094M-D will review these recommendations to assure that the identified counsel are sufficiently qualified to provide the defense services necessary for the case and do not present any conflicts of interest. If so qualified, CG-094M-D may then detail the judge advocate as defense counsel for that member. The detailing letter authorizes the formation of an attorney-client relationship, establishes the scope of representation within that relationship, and serves as the basis for authorizing travel orders and funding. The detailing of counsel is a discretionary resource decision guided by policy, statute, and the availability of qualified counsel.

b. Representation. Coast Guard members are entitled to be represented by detailed military defense counsel at any proceeding involving pretrial confinement, at special and general courts-martial, administrative separation hearings, boards of inquiry, formal boards of investigation, courts of inquiry, line of duty / misconduct hearings, and any custodial interrogation conducted by or on behalf of military authorities. Detailing letters are required for these proceedings.

c. Consultation. Coast Guard members are entitled to consult with a military attorney when considered the subject under the following circumstances that may not otherwise warrant formal representation: command directed mental health evaluations, non-judicial punishment, summary courts-martial, relief from primary duties, relief for cause, aviation evaluation boards, contemplated actions under UCMJ Article 138, and special professional review committee appeals conducted pursuant to the CG Medical Manual. While consultation services must be authorized by CG-LMA-D, detailing letters are not required.

d. Discretionary Authorization. In addition to paragraphs 3.b and 3.c above, CG-LMA-D may exercise discretion to authorize military defense counsel to provide representational or consultation legal services not inconsistent with existing law or policy.

e. Procedure for Requesting Counsel. In any matter in which a Coast Guard member is entitled to be represented by counsel, the Staff Judge Advocate, trial counsel or government counsel, as appropriate, shall generate a request for military defense counsel in accordance with this paragraph. The request shall be submitted to CG-LMA-D via email to the group address HQS-DG-LST-CG-LMA-D and contain the following:

- i. Name of accused / respondent.
- ii. Personal phone number of accused / respondent.
- iii. Name and contact information of trial or government counsel.
- iv. Type of proceeding.
- v. Copy of charge sheet or notice initiating action.
- vi. Unredacted copy of the relevant investigation(s).

f. Termination of Legal Services. Legal services provided under this memorandum will terminate upon the conclusion of the matter in which they were provided, upon order of a court of competent jurisdiction, or upon the issuance of a letter of withdrawal from CG-LMA-D stating whether or not an attorney-client relationship was formed and good cause for the termination of legal services, provided such termination is not inconsistent with Rule for Courts-Martial 505 or 506.

4. Responsibility. CG-LMA-D shall provide a copy of this memorandum to the Chief of Staff of the Navy DSO and all Coast Guard Staff Judge Advocates and shall detail defense counsel in accordance with the procedures set forth herein. Staff Judge Advocates, government or trial counsel, as appropriate, will forward all requests for defense counsel to CG-LMA-D in accordance with the procedures set forth herein. Navy DSOs, consistent with reference (a), should be guided by this memorandum in identifying available defense counsel and making provisional assignment decisions.

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