UNITED STATES MARINE CORPS
MARINE AIR GROUND TASK FORCE TRAINING COMMAND
MARINE CORPS AIR GROUND COMBAT CENTER
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CCO 5800.11A
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FEB 0 1 2002

COMBAT CENTER ORDER 5800.11A

From: Commanding General, Marine Air Ground Task Force Training Command, Marine Corps Air Ground Combat Center
To: Distribution List

Subj: PROCEDURES FOR THE COMBAT CENTER MAGISTRATE

Ref: (a) CCO P1630.8
(b) CCO P11101.12J
(c) 18 U.S.C. § 1382

Encl: (1) Script for the Magistrate Hearing
(2) Findings Worksheet
(3) Acknowledgement of Rights, Responsibilities, and Appeal

1. Situation. The quality of life and good order and discipline of the Combat Center can be greatly diminished by certain actions or omissions of the families residing on or visiting the Combat Center. The military members and their families residing in government quarters deserve a safe, cohesive, and attractive environment in which to raise their families. Except in unusual circumstances, the policy of this command is to refrain from taking adverse action against any military member or their family members until a neutral and detached hearing officer has conducted a fair hearing.

a. This Order sets forth parameters to adjudicate infractions committed onboard the Combat Center or government quarters (including 801 Housing). In addition, this Order also appoints a Combat Center Magistrate, who will conduct hearings and administer corrective action on cases referred by the Director, Installations and Logistics and the Staff Judge Advocate.

b. This Order in no way limits the authority of the Commanding General to take appropriate action without affording a hearing. This Order is for the internal management of the Combat Center and does not create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any person. This policy is promulgated primarily for the purpose of assuring efficient allocation of governmental resources.

2. Cancellation. CCO 5800.11.

3. Mission. To provide a forum to fairly and expeditiously adjudicate incidents of misconduct that occur on the Combat Center or government quarters. Specifically, incidents that call into question the behavior of a military member or family member who resides in government quarters or family members residing off-base, found guilty of committing an offense on base (such as, but not limited to, shoplifting or vandalism). In addition, this Order sets forth the new parameters governing the Combat Center Magistrate responsibilities.

4. Execution

a. Director, Installations and Logistics. Responsible for referring cases of individuals living in government housing who are not in compliance with housing regulations. Consult with the Staff Judge Advocate to determine if a case should be referred to the Magistrate for adjudication. In family housing cases, provide an appropriate representative to attend the Magistrate hearing who can provide information/advice as required.

b. Provost Marshal. Provide all applicable incident reports and investigations to the Staff Judge Advocate upon request.

c. Staff Judge Advocate. Responsible for referring non-government housing cases to the Magistrate. Specifically, incidents that call into question the behavior of a military member or family member residing in government quarters or family member residing off-base, found guilty of committing an offense on base such as shoplifting or vandalism. In non-government housing cases, the Office of the Staff Judge Advocate will disseminate Letters to Appear at the Magistrate hearing to the military member, family member, and the military member's chain of command.

(1) After the Director, Installations and Logistics has referred a government housing case to the Magistrate, the Office of the Staff Judge Advocate will gather all relevant documentary and testimonial evidence and arrange for its presentation at the Magistrate hearing.

(2) In addition, the Staff Judge Advocate will provide overall coordination for the Magistrate hearing. The Staff Judge Advocate will also provide a recorder to memorialize all findings made by the Magistrate. After the hearing, the Staff Judge Advocate will report to the Chief of Staff any recommendations for eviction from government housing and any recommendations for expulsion from the Combat Center.

d. Family Housing Officer. Provide information to the Director, Installations and Logistics regarding non-compliance of government housing regulations. Upon determination that a housing case will be referred to the Magistrate, coordinate with the Staff Judge Advocate and disseminate Letters to Appear to the military member, family member, and the military member's chain of command. Assist the Staff Judge Advocate in gathering relevant evidence in government housing cases presented to the Magistrate. Attend Magistrate hearing in cases involving government housing and provide information as required.

e. Director, Marine Corps Community Services. Provide a representative from Intervention and Treatment (I&T) to attend the Magistrate hearing in cases where I&T is already involved, may become involved, or their expertise is of value in rendering a decision. Provide a volunteer coordinator to attend Magistrate hearings. This individual will be responsible for coordinating community service assignments and reporting completion to the Magistrate.

f. Combat Center Magistrate. The Magistrate billet will be filled by a qualified Judge Advocate, or other designee appointed by the Commanding General. The Magistrate's responsibilities are to ensure good behavior, cleanliness and tidiness aboard the Combat Center, and that appropriate corrective action is taken to maintain those standards.

(1) The Combat Center Magistrate may consider any case referred to him such as but not limited to non-compliance of housing regulations, vandalism, or shoplifting from the exchange. Traffic offenses will usually be resolved by the Traffic Court per the current edition of reference (a). The Family Advocacy Program will usually resolve incidents of family violence.

(2) The Magistrate's determination will be effective immediately. The corrective action awarded by the Magistrate will remain in full force and effect until an appeal has been granted by the Chief of Staff. The member must abide by the terms of the corrective action during the appeal process. The Commanding General's approval will be required in cases of eviction or expulsion from the Combat Center.

g. Notices to Appear before the Magistrate

(1) Conduct Issues. The Office of the Staff Judge Advocate will send out the Letter to Appear before the Magistrate to the military member, family member, and chain of command. The letter will state the time, place, and date of hearing. The Office of the Staff Judge Advocate will also advise the military member and his/her chain of command by e-mail.

(2) Family Housing Issues. Upon referral to the Magistrate, the Housing Officer, in coordination with the Staff Judge Advocate, will send out the Letter to Appear before the Magistrate. The letter will include any previous citations as enclosures. This letter will direct the resident to appear before the Magistrate on a specific date. It will also require a member of the resident's command to appear with the resident at the Magistrate's hearing. The letter will be sent by regular mail and by e-mail.

h. Conduct of the Hearing

(1) The Magistrate will call the hearing to order. The MAGTFTC Sergeant Major will attend the hearing as an advisor. A representative from the Installations and Logistics (I&L) Directorate will attend cases involving family housing, and a representative from I&L will attend pertinent cases. These representatives will provide advice/information as required. The company commander (or designated alternate) must attend as a command representative along with the military member and his/her pertinent family member(s). The military member will wear the utilities uniform. The hearing will be conducted in the Commanding General's Conference Room (Building 1559) at 1500 every Thursday, unless no cases require attention.

(2) Individuals brought before the Magistrate will be advised of their rights, the purpose of the hearing, and why the hearing was called. Enclosure (1) provides recommended procedures for the conduct of the hearing. The individual(s) will have a full and fair opportunity to present matters that show that they have met the standards of the Combat Center or that rebut allegations of wrongdoing. Additionally, they shall be allowed to question witnesses and to present matters in extenuation or mitigation. The Magistrate may ask questions to the family member, the sponsor, or command representative about the incident. Formal rules of evidence and hearing procedures will not apply to the proceedings; however, matters presented should be limited to those relevant to the issues pending before the Magistrate. The Magistrate may refuse to hear matters that are not relevant or that are cumulative.

(3) The Magistrate will deliberate in closed session and determine whether reasonable grounds exist to believe the allegation(s)/violation(s) occurred. The Magistrate will then announce the findings.

(4) The Magistrate will complete the findings worksheet contained in enclosure (2). The findings will take effect immediately (except in the case of eviction from housing or expulsion from the Combat Center). The findings will be in full force and effect until an appeal is granted by the Chief of Staff.

(5) The Magistrate may take the following actions without the Commanding General's approval:

(a) Execute suspended eviction from government quarters per reference (b).

(b) Execute suspended expulsion from the Combat Center per reference (c).

(c) Revocation or suspension of base privileges.

(d) Direct community service.

(e) Issue warning letter.

(f) Suspension of any or all of the above actions.

(6) Actions the Magistrate may recommend which require the Commanding General's approval:

(a) Eviction from government quarters per reference (b);

(b) Expulsion from the Combat Center per reference (c).

(7) The military member or family member can appeal the decision to the Chief of Staff via the Staff Judge Advocate and the Center Inspector in writing within five working days of the date of the Magistrate hearing. No additional hearing is required to act on the appeal. Enclosure (3) will be completed prior to the conclusion of the Magistrate hearing.

(8) If community service is awarded, the individual will be notified when they must reappear to confirm completion of the required service. As the family member liaison, the Volunteer Coordinator within the Family Service Center, will present the record of the completion of required community service.

(9) Every suspension includes a requirement for good conduct. Any incident occurring while on suspension (6 months from the date of the hearing), vacates the suspension at the discretion of the Magistrate. No further proceedings are necessary. In cases of suspended expulsion or eviction, the Commanding General vacate the suspension; no additional hearing is required. Appeals can be made within five days of notification of expulsion or eviction to the Commanding General.

(10) No report to the Commanding General is required at the conclusion of the Magistrate hearing; however, the Staff Judge Advocate will

inform the Commanding General if the Magistrate recommended eviction or expulsion.

5. Administration and Logistics. Distribution Statement A-1 directives issued by the Commanding General are distributed via the e-mail. This Order can be viewed at http://www.29palms.usmc.mil/dirs/manpower/adj.

6. Command and Signal

a. Command. This Order is applicable to the Marine Corps Total Force.

(1) Commanding General. The Combat Center Magistrate will be appointed by letter from the Commanding General.

(2) Chief of Staff. Take action on appeals after considering the recommendations of the Magistrate, Staff Judge Advocate, and Center Inspector.

(3) MAGTFTC Sergeant Major. Attend Magistrate hearings as a non-voting advisor.

b. Signal. This Order is effective the date signed.

F. M. STEWART
Chief of Staff

DISTRIBUTION: A-1

Script for the Magistrate Hearing

Magistrate

1. My name is _____, I am the Combat Center Magistrate appointed by the Commanding General. This hearing is convened by the order of the Commanding General.

The recorder is _____.

2. The Magistrate will then name all other persons present, i.e.; MAGTFTC Sergeant Major, Housing Representative, Command Representative, Volunteer Coordinator, etc.

3. You have been called to this hearing because of (allegation(s) that (you) your (son/daughter/spouse/guest) has been involved in (an) incident(s) of misconduct)) (violations of family housing regulation) aboard the Combat Center, specifically:

4. (List the misconduct or housing citations and date).

5. This Hearing is not a judicial proceeding, and I am not bound by the formal rules of evidence. An investigation into the allegation(s)/violation(s) has already taken place and there will not be a reinvestigation of the allegations. However, I will hear and consider any statements by you or any witnesses related to the incident(s) in question. I will also consider evidence reasonably available that may be helpful in reaching a fair decision without undue delay.

6. These proceedings serve the Commanding General's interest in holding family members accountable as well as enforcing the standards of the military community. Its purpose is also to educate members by stressing that with the privileges come the responsibilities to conform to the requirements of the law and to conduct themselves properly within the military community.

7. The rationale for these proceedings include:

a. Determine whether reasonable grounds exist to substantiate the allegation(s)/violation(s).

b. Assess the seriousness of the incident; and

c. Recommend appropriate corrective action, which may include the following:

(a) Revocation or suspension of privileges.

(b) Warning Letter.

(c) Community Service.

(d) Suspension of any of the above corrective actions.

If I determine any of the above corrective actions apply, my determination will be effective immediately. My determination will remain in full force and effect until such time an appeal has been granted by the Chief of Staff.

Enclosure (1)

I may also determine that eviction from government quarter or expulsion from the installation is appropriate. However, in these instances the Commanding General will make the final decision.

8. You have the following rights:

a. To be present during discussion of the incident.

b. To make a statement to the Magistrate regarding the incident or any extenuating or mitigating circumstances.

c. To present any witnesses, evidence or statements of others to the Magistrate. I am not required to call witnesses or obtain evidence, if such information would not be helpful in reaching a fair decision or would result in delay of the hearing.

d. To be informed of the decision of the Magistrate at the conclusion of the hearing.

e. To appeal the Magistrate's decision within five days of today's date in writing to the Chief of Staff via the Office of the Staff Judge Advocate and Center Inspector.

9. (The Magistrate may ask questions of the family member, the sponsor or the command representative about the incident, corrective action already taken by the family, or impact upon the family of any sanction imposed.)

10. Does the Family Member have any statements, witnesses, or evidence to present?

11. Does the Sponsor/Military member have any statements, witnesses or evidence to present?

12. Does the Command Representative have any statements, witnesses or evidence to present?

13. _____ do you understand that I can impose the following corrective actions:

a. Recommendation to the Commanding General for expulsion from the installation.

b. Recommendation to the Commanding General for eviction from government housing.

c. Revocation or suspension of privileges.

d. Warning Letter.

e. Community Service.

f. Suspension of any of the above.

14. Do you have anything further to present?

15. This Hearing will be closed to deliberate, you are excused. Please wait outside for my decision.

16. (Recall Sponsor, Command Representative and Family Member.)

17. I, _____, find that the following corrective action is appropriate. See Enclosure (2).

18. (Provide and review enclosure (3) to the member.)

Findings Worksheet

Subj: FINDINGS BY THE COMBAT CENTER MAGISTRATE ICO

_____

1. The Hearing took place on _____ to consider the case of _____. Each individual was represented by _____ (sponsor) and a command representative from _____. It is alleged that _____ has committed the following misconduct or violation(s):

_____

_____

_____

_____

2. This represents the #_____ time _____ has been before the Combat Center Magistrate in the last 6 months. On _____ the Magistrate found that you engaged in the following misconduct or violations _____ _____ and awarded you

_____

_____ as corrective action.

During the hearing, the Magistrate reviewed the blotter entries dtd _____ and considered all the statements, witnesses and evidence presented by the parties.

3. The Magistrate finds the following:

___ (a) That there are no reasonable grounds to believe the allegation of misconduct/violation occurred OR

Enclosure (2)

___ (b) That there are reasonable grounds to believe the allegation of misconduct/violation did occur and the appropriate corrective action is:

a. ___ Verbal warning.

b. ___ Letter of Warning.

c. ___ Revocation or suspension of privileges/FAP services, specifically, _____
_____.

d. ____ Community Service: ___ Hours of Community Service to be completed by _____. You are ordered to appear before the Magistrate on _____ to report completion of your Community Service. Failure to appear or failure to complete your community service, without good cause shown, can result in further corrective action including eviction from family quarters or expulsion from the base. You are required to contact _____ at _____ to arrange the time, place and manner of your community service. Failure to abide by the conditions of community service will be grounds for further corrective action without the benefit of a hearing and may include eviction or expulsion.

e. ____Recommendation that you be evicted from government quarters.

f. ___ Recommendation that you be expelled from the Combat Center per 18 U.S.C. §1382.

g. ___ Suspension of _____. Your corrective action is suspended for a period of 6 months from the date of this hearing. By suspension I mean that the corrective action will not go into effect, and if no other misconduct or violation are reported during the next 6 months, the corrective action will be remitted. If, however, you commit further misconduct or violations, the suspension will be vacated (lifted) without a hearing and you have to comply with corrective action awarded by the Magistrate, which is _____. If this happens you will be notified in writing, at which time you may appeal the decision to vacate the suspension.

h. ___ Other Corrective action, specifically,
_____.

i. ___ No corrective action required.

4. The decision of the Magistrate, except for a recommendation of expulsion from the Combat Center or an eviction from family housing, takes effect immediately. You may appeal any decision of the Magistrate to the Chief of Staff, MAGTFTC, via the Staff Judge Advocate and Center Inspector, in writing, within 5 working days of this hearing, thus the last date for your appeal is _____. If you exercise this right to appeal the corrective action remains in full force and effect and you must comply with the terms of the corrective action unless and until you receive, from the Chief of Staff, direction that your appeal has been granted.

5. Failure to abide by any terms of your corrective action or a breach of the conditions imposed will result in further corrective action being taken to include eviction from family housing or expulsion from the Combat Center.

Further corrective action may be taken without benefit of a hearing. In such case you will be notified in writing and you then have the right to appeal, in writing, within 5 working days from the receipt of such letter in the manner I have already described.

6. You have before you an acknowledgement of the proceedings, your responsibilities and the right to appeal. I will now go over each portion of that form. If you have questions or concerns please bring them to my attention as we go through the form.

_____
Signature of Magistrate

Acknowledgement of Rights, Responsibilities, and Appeal

Subj: ACKNOWLEDGEMENT OF PROCEEDINGS, RESPONSIBILITIES, AND APPEAL RIGHTS

1. I, _____, understand that on _____, the Magistrate found that the following misconduct or violations occurred:

_____

_____

_____

2. I understand that the following corrective action has been awarded:

_____

_____

3. I understand that, except for expulsion from Combat Center or eviction from government housing, this decision is final and effective immediately.

4. I understand that I have the right to appeal this decision to the Chief of Staff, MAGTFTC within 5 working days of the hearing date, _____. My appeal must be in writing, temperate in tone and content, and addressed to the Chief of Staff, via the Staff Judge Advocate and Center Inspector. I may deliver my appeal directly to the Staff Judge Advocate, building 1515 or I may mail my appeal to: Staff Judge Advocate, MAGTFTC, Attn: Installation Law, Box 788103, 29 Palms, CA 92278-8103. I understand that even if I exercise the right to appeal, the corrective action awarded remains in full force and effect and I must abide by the terms of the corrective action unless I hear from higher authority, in writing, that my appeal request has been granted.

5. I understand that if the corrective action is suspended, the suspension period is for 6 months, at the end of which, if no further violation or misconduct is reported, the suspended corrective action will be remitted automatically. If, however, other misconduct or violations occur within 6 months from the date of the hearing, the suspension will be vacated, without the right to a further hearing, and the corrective action awarded will be imposed. If this happens, I will be notified that the suspended corrective action is in full force and effect and I must then abide by the terms imposed upon me as a result. I may appeal this decision within 5 working days in the same manner as provided in paragraph 4.

6. I understand that if I am directed to reappear before the Magistrate to report my completion or progress of corrective action, failure to appear shall be grounds to impose further corrective action, including expulsion from MAGTFTC or eviction from government housing, without the benefit of a hearing. I will be notified in writing if this occurs and will have 5 working days to appeal this decision in the same manner as set forth in paragraph 4.

Enclosure (3)

7. I understand that a breach of any conditions imposed by the Magistrate of the corrective action awarded may be grounds for imposing additional corrective action including expulsion from MCAGCC or eviction from family housing, without the benefit of a further hearing.

8. If community service is awarded I understand that I must contact _____ at _____ and arrange for time, place and manner of my community service. I also understand that I must complete my community service requirement by _____ and report back to the Magistrate by _____. Failure to do so, without good cause shown, will result in further corrective action being awarded, which may include eviction from base housing or expulsion from the Combat Center, without the benefit of a hearing. In such case I will be notified of the decision, and I will have 5 days to appeal the decision in a manner set forth in paragraph 4.

_____
Name

_____
Signature

_____
Date

_____
Name Parent/Guardian/Sponsor

_____
Signature

_____
Date