UNITED STATES MARINE CORPS
2D MARINE AIRCRAFT WING
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Policy Letter # 07-06

From: Commanding General, 2d Marine Aircraft Wing
To: All Commanding Officers, 2d Marine Aircraft Wing

Subj: POLICY ON DISPOSITION OF OFFENSES IN THE MILITARY JUSTICE SYSTEM THAT HAVE BEEN, OR ARE IN THE PROCESS OF BEING, ADJUDICATED BY CIVILIAN AUTHORITIES

Ref: (a) JAGINST 5800.7C (JAGMAN) para 0124
(b) MARCORSEPMAN para 6210.6

1. Purpose. To modify the 2d MAW policy requiring the Commanding General's approval prior to referring criminal charges to a court-martial or disposing of charges at nonjudicial punishment (NJP) whenever the same or similar charges are pending resolution in the civilian criminal justice system.

2. Cancellation. Policy Letter # 5-05

3. Background. When criminal charges have already been adjudicated in the civilian criminal justice system, reference (a) prohibits referral of charges arising from the same act or acts to a special or general court-martial without prior permission from the Judge Advocate General of the Navy, or referral of charges to a summary court-martial or disposition at NJP without prior permission from the General Court-martial Convening Authority (CG, 2d MAW). Reference (a) further states that such permission should only be granted "in those unusual cases where trial by court-martial or the imposition of nonjudicial punishment is considered essential in the interests of justice, discipline, and proper administration within the naval service."

Unlike charges that have already been adjudicated in the civilian judicial system, **there is no requirement for commanders to seek prior approval before taking NJP or court-martial action on charges that are pending civilian adjudication.** By way of

example, when Marines are apprehended off base for allegedly driving while intoxicated (DWI) or driving under the influence (DUI), commanders are free to dispose of the offenses at NJP or court-martial prior to adjudication by civilian authorities.

There may, however, be valid reasons in any given case for commanders to defer taking action under the UCMJ when charges are pending adjudication in the civilian criminal justice system. In order to ensure that commanders take into account all relevant factors and issues, commanders **shall** consult with the Wing Staff Judge Advocate (SJA) prior to initiating special or general court-martial proceedings when charges are pending civilian adjudication, and are **highly encouraged** to consult the Wing SJA before disposing of such charges at summary court-martial or NJP.

Reference (b) permits commanders to process Marines for commission of a serious offense under certain circumstances without a civilian or military conviction for the underlying criminal allegation. When commanders defer to civilian authorities to adjudicate offenses in the civilian judicial system, they should consider whether the facts and circumstances make immediate initiation of administrative separation processing appropriate. By way of example, if a Marine is being held in a civilian jail pending trial on felony charges, it may in some cases be appropriate to initiate administrative separation proceedings for commission of a serious offense rather than await the results of the civilian judicial process. Commanders are highly encouraged to consult with the Wing SJA before initiating such administrative separation processing to ensure they take into account all relevant factors and issues.

K. J. GLUECK, JR.