

(b) Poor performance is properly addressed by the judge advocate's reporting senior through a variety of administrative actions, including fitness reports. Criminal misconduct is properly addressed by the judge advocate's commander through disciplinary action under the UCMJ or through referral to appropriate civil authority.

(c) Prior JAG approval is not required to investigate allegations of criminal conduct or poor performance of duty involving judge advocates.

(d) When, however, investigations into criminal conduct or poor performance reveal conduct that constitutes a violation of this part, or of the Code of Judicial Conduct in the case of judges, such conduct shall be reported to the Rules Counsel immediately.

(e) Inquiries into professional misconduct allegations will normally be held in abeyance until related criminal investigations are completed.

§ 776.78 Informal complaints.

Informal, anonymous, or "hot line" type complaints alleging professional misconduct must be referred to appropriate authority (such as the JAG Inspector General or the concerned commander) for appropriate inquiry. Such complaints are not, by themselves, cognizable under this part but may, if reasonably confirmed upon appropriate inquiry, be the basis of a formal complaint described in § 776.79.

§ 776.79 The complaint.

The complaint shall—

(a) Be in writing and signed by the complainant;

(b) State that the complainant has personal knowledge, or has otherwise received reliable information indicating, that:

(1) The judge advocate concerned is, or has been, engaged in misconduct that demonstrates a lack of integrity or a failure to meet the ethical standards of the profession, or both; or

(2) The judge advocate concerned is ethically, professionally, or morally unqualified to perform his or her duties; and

(c) Contain a complete, factual statement of the acts or omissions constituting the substance of the complaint, as well as a description of any at-

tempted resolution with the attorney concerned. Supporting statements, if any, should be attached to the complaint.

§ 776.80 Initial screening and Rules Counsel.

(a) The complaint shall be forwarded to the Judge Advocate General (Administrative Law Division) with a copy to the judge advocate concerned. The complaint shall be logged and then forwarded to the Rules Counsel.

(1) In cases involving Marine Corps judge advocates, the Director, Judge Advocate Division shall act as Rules Counsel.

(2) In all other cases, the Assistant Judge Advocate General (Civil Law) shall act as Rules Counsel.

(b) The Rules Counsel shall review the complaint to determine whether, if true,—

(1) It alleges ineffective assistance of counsel, or other violations of subpart B of this part, as a matter of defense in a court-martial, administrative board, or nonjudicial punishment proceeding and, if so, the Rules Counsel shall forward it to the proper appellate authority for appropriate action and return;

(2) In other cases, it establishes probable cause to believe that a violation of subpart B of this part or of the Code of Judicial Conduct has occurred.

(c) The Rules Counsel shall close the file without further action if the complaint does not establish probable cause to believe that a violation has occurred. The Rules Counsel shall notify the judge advocate concerned that the file has been closed.

§ 776.81 Charges.

(a) If the Rules Counsel determines that probable cause is established, he or she shall draft charges alleging violations of subpart B of this part or of the Code of Judicial Conduct and forward the charges, together with the original complaint and any allied papers—

(1) In cases involving Marine Corps judge advocates not serving as defense counsel or attached to Navy units, to the officer exercising general court-martial jurisdiction (OEGCMJ) over the concerned judge advocate, and request, on behalf of JAG, that the