



UNITED STATES MARINE CORPS
MARINE CORPS BASE HAWAII
BOX 63002 KANEHOE BAY HI 96863-3002

IN REPLY REFER TO:
BaseO 5821.1C
IS
29 FEB 2012

BASE ORDER 5821.1C

From: Commanding Officer, Marine Corps Base Hawaii
To: Distribution List

Subj: BASE MAGISTRATE HEARINGS FOR SERVICE MEMBERS, FAMILY MEMBERS, AND
JUVENILE MATTERS

Ref: (a) SECNAVINST 5822.1B
(b) BO 5510.20B

Encl: (1) Marine Corps Base Hawaii Military Magistrate Appointment Letter
Example
(2) Record of Hearing Example
(3) Result of Magistrate Hearing Example

1. Situation. Pursuant to the references, this Order publishes the authority and procedures for hearings conducted by the military magistrate (Base Magistrate), Marine Corps Base (MCB) Hawaii for service members, family members, civilians and juveniles.

2. Cancellation. Base Order 5821.1B.

3. Mission. The Commanding Officer, MCB Hawaii appoints a member of the Office of the Staff Judge Advocate (SJA) as the Base Magistrate per enclosure (1). The mission of the Base Magistrate is to conduct hearings to adjudicate alleged violations, infractions, and offenses committed by service members, family members, civilians and juveniles aboard MCB Hawaii, and to impose administrative sanctions as appropriate when such allegations are substantiated. In addition to imposing administrative sanctions, the Base Magistrate may refer cases involving serious misconduct or repeat offenses to appropriate civilian authorities for prosecution. Routine traffic violations are not adjudicated under this Order, but will be referred to the Base Traffic Court and/or U.S. Magistrates' Court, as appropriate. The Base Magistrate will conduct impartial hearings regarding matters aboard this installation. Base Magistrate hearings will be conducted at minimum monthly, but more frequently as required and coordinated by the Base Inspector. The SJA will advise the Office of the Provost Marshal, as necessary, and Base Inspector's Office of scheduled dates, times and locations for administrative hearings.

4. Execution

a. Conduct of Base Magistrate Hearings

(1) The Base Magistrate conducts administrative hearings regarding alleged misconduct to adjudicate said allegation(s) and determine what administrative sanction(s), if any, are appropriate.

(2) Sponsors will accompany their family members to hearings. To the maximum extent possible, a command representative will accompany service

members to service members' hearing and to hearings for service members' family members.

(3) Each party subject to Base Magistrate hearings will be afforded the following rights:

(a) The right to have his or her case decided by a preponderance of the evidence.

(b) The right to be represented by a spokesperson, if the spokesperson is available at the time of the hearing (i.e., hearings will not be rescheduled due solely to unavailability of a desired spokesperson).

(c) The right to review, prior to the hearing, the investigative report alleging the misconduct and any other documents being considered by the Base Magistrate.

(d) The right to make a statement or to remain silent.

(e) The right to have witnesses present at no expense to the government, if the witnesses are available at the time of the hearing. It is the responsibility of the party to make all arrangements and ensure the presence of the desired witnesses. Hearings will not be rescheduled due to witnesses' failure to appear or unavailability.

(f) If a party fails to appear at a scheduled hearing, he or she is considered to have waived all rights afforded under paragraphs 4a(3)(a) through 4a(3)(e), and the hearing may proceed in the party's absence.

(4) Upon completion of the hearing, the Base Magistrate will prepare a Record of the Hearing per enclosure (2). The record will include a summary of the evidence presented, including the testimony of the witnesses, all favorable and unfavorable information presented, and the Base Magistrate's decision.

(5) The Base Magistrate will maintain a hearing log and will have the sponsors' party sign the Results Letter per enclosure (3).

(6) The Base Inspector will send a copy of the Results Letter to the service member/sponsor or civilian party within five business days after the hearing. The original Results Letter will be forwarded to the sponsor via his/her Commanding Officer or appropriate command chain.

(7) The Base Magistrate may take one or more of the following administrative actions:

(a) Counsel and warn.

(b) Place a family member party on probation, the terms of which may include, but are not limited to: restitution, performance of community service, curfew, limitation to quarters, and/or appropriate counseling or therapy.

(c) Restrict or deny a family member party's MCB Hawaii privileges, e.g., commissary, exchange, theater, special services activities, and/or on-base driving privileges.

(d) Issue an order debarring a military sponsor (whether or not the military sponsor is an actual party) and/or the military sponsor's family member party(ies) from Base housing.

(e) Issue an order of debarment from the Base or parts thereof to any party.

(f) Refer any potential criminal charges to the city and county of Honolulu, Office of the Prosecuting Attorney, or to the Special Assistant U.S. Attorney, as appropriate, for prosecution.

b. Appeals. Any appeal of the Base Magistrate's decision must be made to the Commanding Officer, MCB Hawaii in writing within five days of the hearing, via the Base Inspector.

c. Responsibilities of the Base Inspector, Base Magistrate and Service Members (Sponsors)

(1) The Base Inspector refers cases to the Base Magistrate for appropriate adjudication. The Base Inspector will issue all resulting debarment letters and enter into the Consolidated Law Enforcement Operation Center database in accordance with reference (b). The Base Inspector maintains the MCB Hawaii Debarment list.

(2) The Base Magistrate prepares and issues all hearing results and privilege restriction letters.

(3) Sponsors must personally supervise all community service hours performed by their family members under this order and furnish any material(s) or transportation necessary to perform the service and/or make restitution. Individuals assigned to community service must report to the Base Inspectors Office within five business days of the hearing, for further information concerning community service. Failure to do so will result in an additional Magistrate hearing and administrative action.

(4) The Base Inspector will monitor and ensure all community service is performed satisfactorily. All community service will be performed on base. Exceptions will be considered on a case by case basis. No less than five hours of community service will be performed a week.

(5) The Base Inspector ensures all administrative sanctions imposed by the Base Magistrate are completed and documented as appropriate.

(6) Community service performed under this Order is the responsibility of the individual performing the community service or his/her sponsor. Community service performed in support of an organization or activity shall not require the direct involvement of the supported unit or activity.

5. Administration and Logistics. Points of contact regarding this Order are the Chief of Staff at 257-8877 or the Base Inspector at 257-8861.

6. Command and Signal

a. Command. This Order is applicable to MCB Hawaii, tenant commands and base personnel.

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


BRIAN ANNICHARIKO

DISTRIBUTION: A



BaseO 5821.1C

UNITED STATES MARINE CORPS
MARINE CORPS BASE HAWAII
BOX 63002 KANEOHE BAY HI 96863-3002

IN REPLY REFER TO:
5810
SJA

From: Commanding Officer, Marine Corps Base Hawaii
To: Major I. M. Marine XXX XX 1234/4402 USMC

Subj: MARINE CORPS BASE HAWAII MILITARY MAGISTRATE APPOINTMENT LETTER
EXAMPLE

Ref: (a) SECNAVINST 5822.1B
(b) BaseO 5821.1C

1. You are hereby appointed to conduct Base Magistrate Hearings for personnel stationed aboard Marine Corps Base (MCB) Hawaii to include all jurisdictions under MCB Hawaii. You will be guided in the conduct of your duties by the references.

2. You will familiarize yourself with the references and conduct Magistrate Hearings in accordance with the references. Your mission is to hear and dispose of violations, infractions, and offenses committed by service members, juveniles and other dependents aboard MCB Hawaii and to impose administrative sanctions when allegations of misconduct are substantiated. In addition to imposing sanctions, you may also refer cases involving serious misconduct or repeat offenders to appropriate authorities in accordance with reference (a).

3. This appointment will remain in effect until canceled or superseded by letter.

BRIAN ANNICHIARICO

Copy to:
Base Inspector
Sergeant Major
MP&A
SJA
File

Enclosure (1)

Record of Hearing Example

I am Major I. M. Magistrate, the base magistrate. The base Commanding Officer has appointed me to help maintain good order and discipline on the base. You are here because of an incident that occurred on

_____.

You have certain rights at this hearing

1. Right to have your case decided by a preponderance of the evidence.
2. Right to be represented by a spokesperson if available.
3. Right to review, prior to the hearing, any information I am going to consider.
4. Right to make a statement or remain silent.
5. Right to have witnesses present if they are reasonably available.

Record of Hearing

Name: _____
Date: _____

Witnesses: _____

Summary of Witness Testimony

Witness 1: _____

Witness 2: _____

Evidence Considered

Magistrate Findings: _____

Magistrate Adjudication: _____

I. M. MAGISTRATE



UNITED STATES MARINE CORPS
MARINE CORPS BASE HAWAII
BOX 63002 KANEEOHE BAY HI 96863-3002

IN REPLY REFER TO:
5800/2
SJA
DD MMM YY

From: Commanding Officer, Marine Corps Base Hawaii
To: Lance Corporal I. M. Marine, USMC

Subj: RESULT OF MAGISTRATE HEARING EXAMPLE

Ref: (a) BaseO 5500.15B
(b) Base Magistrate Hearing of 10 Aug 11

1. Reference (a) entrusts the Commanding Officer, Marine Corps Base (MCB) Hawaii with the responsibility for the safety of all persons using the facilities of this base as well as military security and law enforcement. It is essential that the base regulations and applicable state and city laws be strictly obeyed by all members of the community.

2. On 10 August 2011, you appeared before the Base Magistrate concerning your involvement in shoplifting which occurred on 10 July 2011. As a result of reference (b), the following administrative action was imposed:

Lance Corporal I. M. Marine is hereby given an Administrative Warning, and barred from all MCB Hawaii Exchanges for a period of one year, until 11 August 2012.

3. You are required to contact the Base Inspector's Office within five working days of receiving this letter. Point of contact in regards to the above subject is the Base Inspector's Office at 257-7717.

I. M. MAGISTRATE
Major, U.S. Marine Corps
Base Magistrate
By direction of the Commanding Officer

Copy to: Base Inspector, MCBH

Section
DD MMM YY

FIRST ENDORSEMENT on CO, MCBH ltr 5800/2 SJA of DD MMM YY

From: Lance Corporal I. M. Marine, USMC
To: Commanding Officer, Marine Corps Base Hawaii

Subj: RESULT OF MAGISTRATE HEARING

1. I acknowledge and understand the findings of the Base Magistrate Hearing held on 10 August 2011.

I. M. MARINE