

Naval Legal Service Command Manual



COMNAVLEGSVCCOMINST 5800.1H

COMNAVLEGSVCCOM INSTRUCTION 5800.1H

From: Commander, Naval Legal Service Command

Subj: NAVAL LEGAL SERVICE COMMAND (NLSC) MANUAL

Ref: See Appendix C

1. Purpose. To issue policy for the operation of Defense Service Offices (DSOs), Region Legal Service Offices (RLSOs), their respective detachments and branch offices, and the Victims' Legal Counsel Program (VLCP). There have been a number of significant changes in Department of the Navy (DON) and NLSC policy and structure since the issuance of COMNAVLEGSVCCOMINST 5800.1G, to include the creation or renaming of several NLSC positions, addition of the VLCP, realignment of Naval Justice School under the Judge Advocate General, changes in the Reserve Law Program, the codification of Commander's Critical Information Requirements (CCIR) for Commander, Naval Legal Service Command (CNLSC), changes to Uniform Code of Military Justice (UCMJ) Article 32 hearings, and the Military Justice Act of 2016. This instruction is a complete revision of the previous instruction and should be read in its entirety.

2. Cancellation. COMNAVLEGSVCCOMINST 5800.1G.

3. Scope and Applicability. This directive applies to all personnel, military and civilian, assigned or attached to NLSC headquarters and field units, including DSOs, RLSOs, the VLCP and their respective detachments and branch offices.

4. Responsibilities. This publication provides guidance and NLSC policy for the operation and administration of DSOs, RLSOs, their respective detachments and branch offices, and the VLCP. Commanding Officers (COs) and Officers-in-Charge (OICs) shall comply with this instruction. COs may deviate from the provisions of this instruction based on operational demands, organizational needs, and local conditions. As needed to address local circumstances, COs and OICs may promulgate internal command policies, operating procedures, regulations, and organizational structures consistent with this instruction. This instruction confers no rights for which there is an enforceable remedy.

5. Records Management. Records created as a result of this instruction, regardless of media or format, must be managed in per Secretary of the Navy Manual 5210.1 (series).

6. Review and Effective Date. Per OPNAVINST 5215.17A, NLSC will review this instruction annually around the anniversary of its issuance date to ensure applicability, currency, and consistency with Federal, Department of Defense, Secretary of the Navy, and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. This instruction will be in effect for 10 years, unless revised or cancelled in the interim, and will be reissued by the 10-year

anniversary date if it is still required, unless it meets one of the exceptions in OPNAVINST 5215.17A, paragraph 9. Otherwise, if the instruction is no longer required, it will be processed for cancellation as soon as the need for cancellation is known following the guidance in OPNAV Manual 5215.1 of May 2016.

7. Points of Contact. Policy questions pertaining to local operations should be directed to the Deputy Commander or the respective NLSC Director or Chief, Navy VLCP, as applicable.



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Releasability and distribution:

This instruction is cleared for public release and is available electronically only via OJAG Website, <http://jag.navy.mil> and the SECNAV Private SharePoint Portal, <https://portal.secnav.navy.mil/orgs/JAG/SitePages/Home.aspx>.

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CHAPTER 1 – NAVAL LEGAL SERVICE COMMAND STRUCTURE AND GOALS

0100 NAVAL LEGAL SERVICE COMMAND

Naval Legal Service Command (NLSC) is an echelon 2 command responsible for providing legal training and services worldwide to support Fleet and shore command readiness and the effective operation of the military justice system, and for performing such other tasks and functions as may be directed by the Chief of Naval Operations (CNO). NLSC mission, functions, and tasks are set forth in reference (a). NLSC command relationships are outlined in references (a) and (c) and are depicted in Appendix A.

0101 COMMANDER, NAVAL LEGAL SERVICE COMMAND

Commander, Naval Legal Service Command (CNLSC) reports to the CNO and is responsible for providing and overseeing Navy-wide legal services and related tasks in accordance with reference (a).

0102 DEPUTY COMMANDER

The Deputy Commander (DCOM) acts as the principal advisor and assists CNLSC in exercising command responsibilities. DCOM exercises such executive authority as CNLSC may direct, implements and monitors compliance with NLSC and higher policies and directives, and coordinates support requirements for subordinate units. DCOM acts for CNLSC during periods of temporary absence when circumstances do not permit referral to CNLSC. If CNLSC will be absent for a prolonged period, DCOM may perform the duties of CNLSC until CNLSC returns or a permanent relief is identified. DCOM is delegated authority to sign “by direction” all CNLSC directives pertaining to his/her duties except those requiring CNLSC signature by law or regulation. DCOM will brief CNLSC prior to signing any directive under this authority.

0103 SENIOR ENLISTED LEADER

The Senior Enlisted Leader (SEL) acts as the principal advisor to the CNLSC on matters regarding enlisted program policies and regulations through NLSC; maintains and promotes effectiveness and efficiency of chain of command; assists the Commander in all matters pertaining to welfare, health, job satisfaction, morale, collaboration, and training of enlisted personnel to promote traditional standards of good order and discipline; serves as principal point of contact between the command and the Master Chief Petty Officer of the Navy (MCPON) and relays information from the MCPON to appropriate levels within the Command; and represents NLSC and the Navy at community and civic functions when directed. The NLSC SEL reports directly to CNLSC, but will keep DCOM; Director, Region Legal Service Office (RLSO) Operations; Director, Defense Service Office (DSO) Operations; and Chief, Navy Victims’ Legal Counsel Program (VLCP) advised on matters under their cognizance. Additionally, the SEL provides advice and recommendations to the chain of command as well as to the Office of the Judge Advocate General (OJAG) Senior Enlisted Advisor (SEA).

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0104 EXECUTIVE STAFF

a. The NLSC Directors (Director, RLSO Operations and Director, DSO Operations) and Chief, Navy VLCP shall be responsible for coordinating headquarters oversight, management, and support of NLSC activities for RLSOs, DSOs, and the VLCP, respectively. Director, RLSO Operations (RLSO Ops) is the central point of contact on the CNLSC staff for RLSOs. Director, DSO Operations (DSO Ops) is the central point of contact on the CNLSC staff for DSOs. Chief, Navy VLCP is the central point of contact on the CNLSC staff for the VLCP.

(1) The NLSC Directors and Chief, Navy VLCP shall be responsible for supervising, directing (as appropriate), and coordinating the operations of the RLSOs, DSOs, and VLCP, respectively, and shall be kept informed of all matters pertaining to that work. All persons attached to offices within NLSC, except those directly responsible to CNLSC, shall be subordinate to the NLSC Directors and Chief, Navy VLCP while they are executing the duties of their office.

(2) The NLSC Directors and Chief, Navy VLCP have CNLSC-delegated signature authority for matters pertaining to the work of the RLSOs, DSOs, and VLCP, respectively. Sub-delegation of this signature authority requires the express permission of CNLSC.

(3) CNLSC letterhead is authorized for use by NLSC Directors and Chief, Navy VLCP in their positional capacities. This authority may be delegated.

b. The Assistant Judge Advocate General for Operations and Management (AJAG 06) coordinates and directs AJAG 06 Codes that perform NLSC Operations Support Staff functions to facilitate coordination across NLSC equities. This includes administration and logistics; manpower and military personnel; civilian personnel hiring, timekeeping, and performance; personnel security; operations research and analytics; organizational change; physical and operational security; facilities; information technology; budget and resourcing; and reserve program support. AJAG 06 Codes performing NLSC Operations Support Staff functions may coordinate directly with NLSC commands on routine and necessary matters, but should ensure proper coordination with DCOM, NLSC Directors, and/or Chief, Navy VLCP.

c. The OJAG Special Assistant for Strategic Planning (SASP) provides CNLSC support on strategic planning efforts; special initiatives, projects and tasks; and metrics, surveys and assessments.

d. The Public Affairs Officer (PAO) is the Special Assistant to CNLSC for public affairs and communication strategy. The PAO functions as the media point of contact, and develops or adapts a NLSC communications strategy to ensure accurate and effective information reaches external and internal audiences.

e. The NLSC Inspector General (IG) is a Special Assistant to NLSC activities as required by SECNAVINST 5430.57H. The IG advises CNLSC concerning the efficiency, effectiveness, readiness, and morale of NLSC activities; conducts assessments, inspections, and investigations

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as directed by CNLSC; and liaises with the Office of the Naval Inspector General on matters relating to NLSC.

0105 NLSC FIELD ORGANIZATION

a. The NLSC field organization is composed of DSOs, RLSOs, and VLCP and their respective detachments and branch offices, as defined in reference (a). DSO, RLSO, and VLCP activities are referred to in this Manual as “NLSC activities.” Chapters 1 through 11 of this Manual apply to all NLSC activities. Chapters 12 and 13 apply to DSOs. Chapters 14 through 17 apply to RLSOs. Chapter 18 applies to the VLCP. Each DSO, RLSO, and VLCP activity is assigned primary responsibility for the provision of certain legal services in a defined geographic area of responsibility (AOR). COs shall work together and with client commands to resolve any question regarding which servicing office is responsible for providing services to a unit in transit from one geographic area to another. Unresolved issues will be referred to the respective NLSC Director for resolution.

b. The primary mission of NLSC is to provide legal services in support of fleet operational readiness. Accordingly, the highest priority will be given to fleet and operational units, particularly those deployed or preparing to deploy. NLSC’s focus is the operational readiness of the Navy and its personnel.

c. Personnel assigned to NLSC activities are not in the permanent administrative chain of command of local line commanders and do not report to region commanders. However, all NLSC activities are subject to the area coordination authority of local area and region commanders.

d. VLCP personnel are detailed to RLSO unit identification codes (UICs) solely for administrative and maintenance as outlined in CNLSC Instruction 1300.2 of 9 August 2022 (Assignment of Navy Victims’ Legal Counsel Program (VLCP) Personnel to Region Legal Service Offices (RLSOs)). In accordance with reference (d), Chief, Navy VLCP is the designated reporting senior for all VLCP personnel fitness reports and enlisted evaluations.

e. Financial responsibility for costs incurred in support of courts-martial services will be allocated in accordance with Section 0145 of reference (b). When other legal services are involved, travel and per diem expenses, including those for legal assistance trips out of the local area, will be paid by the requesting command. VLCP personnel travel expenses and costs incurred in support of courts-martial or other mission-related duties will be funded by the VLCP budget, excluding any expenses incurred by or for victims or witnesses.

0106 SERVICE GOALS

a. NLSC personnel will deliver timely advice and services tailored to Fleet and Sailor needs and rooted in law, regulation, and the protection of rights so the Navy is always ready to fight and win at sea. In meeting the needs of the client, all personnel shall strive to deliver prompt, courteous, and professional legal services. Together NLSC will deliver decisive legal solutions to

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the Fleet, Sailors, and their families. By enabling operations, promoting force readiness, and preserving good order and discipline, we ensure our Navy can fight and win at sea.

b. All NLSC personnel are governed by the Judge Advocate General's Corps (JAGC) Governing Principles; the JAGC Strategic Framework; the NLSC Mission, Vision, and Priorities; and the JAGC Rules of Professional Responsibility (reference (e)), and shall strive to uphold the highest standards of their profession and the JAGC, giving special emphasis to courtesy and respect for each other.

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CHAPTER 2 – NAVAL LEGAL SERVICE COMMAND POLICIES AND PROCEDURES

0200 COMMANDER’S CRITICAL INFORMATION REQUIREMENTS (CCIRs)

NLSC personnel provide services worldwide and have a responsibility to provide timely situational awareness reporting to headquarters’ leadership about events that impact NLSC activities. This reporting supports leadership decision-making as well as headquarters notification by echelon 3 commands. CCIRs are key elements of information that directly affect CNLSC’s decision-making and dictate the successful execution of military operations. CNLSC CCIR reporting requirements are promulgated separately via CNLSC Notice 3100.6. Echelon 3 commands and the VLCP are also encouraged to promulgate CCIRs.

0201 CHAIN OF COMMAND

a. The two-way chain of command is the preferred channel for official communication. Occasionally, it may be necessary to deviate from the normal chain, but the subordinate or senior who bypasses an intermediate should apprise that person as soon as practicable. However, this policy does not restrict a person’s right to communicate with a member of Congress, inspector general, or other official in accordance with the protections afforded under section 1034 of reference (f), as implemented by reference (g), or other applicable whistleblower protection statutes. COs should be freely accessible to all personnel, but intermediates in the chain of command should ordinarily be consulted first as to any matters of official interest to them.

b. Under normal circumstances, NLSC COs will be the point of contact for official matters affecting his/her command. Delegation of authority to the CO’s staff to initiate informal communications with CNLSC/DCOM/NLSC Directors, and HQ staff is a matter within the discretion of the CO.

0202 KEEPING THE COMMANDING OFFICER INFORMED

Personnel are expected to inform the CO promptly of events warranting attention. Incidents that fall within the CCIRs should be brought immediately to the attention of the CO and reported in accordance with CNLSC Notice 3100.6.

0203 FAIRNESS AND IMPARTIALITY

A fundamental element of NLSC’s mission is to assist line and staff commands in maintaining good order and discipline. In matters involving military justice or administrative separation matters, NLSC is committed to ensuring every accused or respondent, respectively, receives due process of law. This involves the right to a prompt, fair hearing before an impartial decision-maker, with the effective assistance of loyal and zealous counsel. NLSC is also committed to ensuring every victim and witness of a crime receives the information, services, and support to which they are entitled. This involves treating victims and witnesses with dignity and respect; mitigating, within the means of available resources and in accordance with applicable law, any physical, psychological, and financial hardship suffered; and making all reasonable efforts to

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foster cooperation. NLSC is dedicated to ensuring all clients and other parties are treated with dignity and fairness.

0204 UNIFORMS

The Navy region commander prescribes the authorized uniform of the day. When the Navy Working Uniform (NWU) is authorized and worn as a working uniform, NLSC personnel shall wear khakis or the appropriate Navy service uniform one day per week as designated by the CO, unless a region commander has a specific policy that mandates daily wear of the NWU. The purpose of wearing khakis or the appropriate Navy service uniform one day per week is to ensure the professional appearance of NLSC personnel. The detailed military judge prescribes the authorized uniform for courts-martial.

0205 PROFESSIONAL PERFORMANCE OF DUTY AND MILITARY APPEARANCE

NLSC personnel represent both the legal and military professions and must set the best possible examples of ethical, moral, and responsible conduct on and off duty. They should project an exemplary military bearing in their daily demeanor, appearance, and observance of naval customs and traditions.

0206 PHYSICAL READINESS

NLSC personnel are required to meet the physical readiness standards in reference (h). Personnel of other services will comply with the physical readiness standards of their own services. COs shall actively support the goal of attaining and maintaining physical fitness by allowing assigned personnel to participate in physical fitness activities for a minimum of three hours each week when mission and operational requirements permit. COs shall assign Command Fitness Leaders (CFLs) and Assistant Command Fitness Leaders (ACFLs) in accordance with reference (h). The CFL will assist individuals in complying with physical readiness requirements and advise the CO on the state of command physical readiness.

0207 EQUAL OPPORTUNITY AND COMMAND MANAGED EQUAL OPPORTUNITY PROGRAM

a. All DON personnel shall operate in an environment free from, and no personnel may be the subject of, illegal discrimination, including unlawful distinctions based on race, color, religion, sex (including gender identity), national origin, or sexual orientation. Differences based on rank, grade, seniority, official position, authority, superior abilities or performance, or other lawful factors are not inconsistent with this policy.

b. COs shall ensure a Command Managed Equal Opportunity (CMEO) program is established at their commands in accordance with the requirements of reference (i) and that they create and maintain a military equal opportunity environment that incorporates the policies set out in that instruction. COs shall issue their personal Equal Opportunity (EO) policy statement to the command and conduct a command climate assessment within 90 days of taking command

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and at least annually thereafter. The results of the most recent assessment will be included in the CO's turnover.

0208 PREVENTION OF SEXUAL HARASSMENT

a. Policy. As defined by reference (j), sexual harassment is wrong and will not be condoned or tolerated. It is unprofessional and adversely affects morale, discipline, productivity, and ultimately, the mission of the command. Violation of the prohibition on sexual harassment will result in appropriate administrative and/or disciplinary action. Supervisors and managers must take affirmative measures to prevent sexual harassment.

b. Responsibilities. COs, Executive Officers (XOs), OICs, Branch Heads, and Department Heads (DHs) are responsible for ensuring persons under their authority receive training on the identification, prevention, resolution, and elimination of sexual harassment. All supervisors and managers shall adhere strictly to, and enforce, DON policy on preventing and eliminating sexual harassment. Newly reporting COs shall issue a clear statement prohibiting sexual harassment and are encouraged to incorporate this statement into the EO policy statement required by paragraph 0207 of this Manual.

c. Procedures. NLSC members will follow the procedures listed in reference (j) for submitting, handling, and resolving sexual harassment reports.

0209 SEXUAL ASSAULT PREVENTION

NLSC will fulfill the responsibilities delineated in reference (k) regarding the Navy Sexual Assault Prevention and Response Program. COs shall ensure command personnel receive regular training (at least annually) on the various legal issues of the program, including those relating to victim privacy, victim support services, retaliation and reprisal, a command climate that encourages the reporting of incidents, and military justice support.

0210 FAMILY ADVOCACY PROGRAM

a. DSO personnel may assist active-duty Service Members and other persons eligible for legal assistance under section 0705 of reference (b) who are alleged offenders in all aspects of seeking review of an adverse Incident Determination Committee (IDC) determination. If workload does not permit or where conflicts of interest exist, the DSO will attempt to refer a case to another DSO activity or attempt to make other appropriate arrangements.

b. Staff Judge Advocates (SJAs) and command services attorneys will advise commands regarding compliance with the Navy's Family Advocacy Program (FAP). See reference (l).

c. COs and OICs shall ensure command personnel receive all appropriate training per reference (1).

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0211 VICTIM AND WITNESS ASSISTANCE PROGRAM

The Victim and Witness Assistance Program (VWAP) is critically important to the Navy and the JAGC. References (m) and (n) and section 548 of the FY20 NDAA, Public Law 116-92 (soon to be incorporated into an update to reference (m)), prescribe procedures to implement the VWAP in the DON. DSOs and RLSOs are instrumental in the implementation and success of this program. Processes and procedures relating to the implementation of the VWAP in NLSC are found in reference (o). Although RLSOs have the primary role in implementing the program within NLSC, every NLSC activity may have some involvement and should be aware of the program and the methods of administration.

0212 NAVY FAMILY CARE PLANS

Service Members are responsible for ensuring adequate care for their dependents at all times. Reference (p) requires a family care plan for single parent Service Members, dual military couples with custody of a minor child or children, married Service Members who have custody of a child or children from a prior relationship, Service Member who are legally responsible for an adult family member who is incapable of providing for themselves, and Service Members with family circumstances or other personal status changes that result in the Service Member becoming legally and primarily responsible for the care of another person. The plan, which utilizes NAVPERS Forms 1740/6 and 7, outlines the means of financial, medical, and logistical support to be provided to dependents during the absence of the member due to military duty. NLSC COs and OICs shall ensure all command personnel who are subject to these support obligations complete a family care plan within 60 days of either arriving at the command or experiencing a material change in circumstances affecting the need for a plan or an existing plan. COs shall also designate a collateral duty Family Care Plan Coordinator to assist Service Members affected by this policy.

0213 SUICIDE PREVENTION AND VICARIOUS TRAUMA TRAINING

a. COs are responsible for designating a Suicide Prevention Coordinator in writing and ensuring that all personnel are trained on the identification of suicide warning signs, preventive measures to minimize risk, and administrative procedures to be followed in appropriate cases. See references (q), (r), and the CO's Suicide Prevention and Response Toolbox, available at <https://www.mynavyhr.navy.mil/Support-Services/21st-Century-Sailor/>. In particular, all defense counsel, trial counsel, Victims' Legal Counsel (VLC), and legal assistance attorneys, as well as military and civilian paralegals and Fleet Sailors whose duties relate to military justice and legal assistance shall receive annual training in suicide prevention, and completion of such training shall be an inspection item for the NLSC Inspector General. Naval Justice School (NJS), Defense Counsel Assistance Program (DCAP), and Trial Counsel Assistance Program (TCAP) (as appropriate) are responsible for ensuring training material is available.

b. All defense counsel, trial counsel, and VLC shall, at a minimum, receive annual training regarding vicarious trauma that can be caused by exposure to evidence such as child pornography, death of infants, acts of violence, etc. This requirement extends to other members of the trial, defense, and VLC teams with exposure to this type of evidence. Completion of such

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training will be an inspection item for the NLSC Inspector General. NJS, DCAP and TCAP (as appropriate) are responsible for ensuring training material is available. Training requirements for VLC are contained in Chapter 18.

0214 TRAINING AND EDUCATION RESPONSIBILITIES

a. A primary duty of COs is to train subordinates. COs shall take an active, personal leadership role in professional development of command personnel. Every practicable effort will be made to ensure command personnel participate in training courses (Navy or civilian), subject to budget availability. In addition, COs have a special responsibility to ensure junior personnel are familiar with Naval traditions and operations. Chapters 8 and 11 contain more specific guidance on training related to classified information and national security cases.

b. NLSC COs shall comply with the JAGC Training Program in accordance with reference (s).

c. See section 0306 for a discussion of the Professional Development and Training Officer (PDTO).

0215 PERSONNEL ASSIGNMENTS

a. COs are responsible for personnel assignments within their units, with the exception of officers O4 and above, who are detailed to specific billets by the JAG and CNLSC. Unless otherwise authorized by CNLSC, all judge advocates in the Professional Development and Training Program will be assigned to RLSOs and will complete Professional Development Standards (PDS) during a six-month Command Services rotation and a six-month Legal Assistance rotation within the first year of reporting to the RLSO. After the initial 12 months, judge advocates in the Professional Development and Training Program will complete a 12-month rotation in Trial Services (either RLSO or DSO) and complete the associated PDS. If this 24-month period is interrupted by a deployment or other assignment, the judge advocates in the Professional Development and Training Program will return to complete the rotation sequence and the associated PDS for each practice area. Judge advocates in the Professional Development and Training Program will transfer between RLSOs and DSOs under Permanent Change of Activity (PCA) orders. Waiver requests to deviate from the rotation sequence or duration should be submitted to the DCOM. See reference (t).

b. Upon completion of the 24 months and the PDS, a judge advocate in the Professional Development and Training Program who has not yet executed Permanent Change of Station (PCS) or Amphibious Readiness Group / Individual Augmentee deployment orders may assume core duties as prescribed by cognizant DSO or RLSO CO until execution of such orders.

c. COs have full discretion to determine whether to conduct Legalman (LN) rotations within their commands, including timing and duration. Rotating LNs through different departments may be warranted to solve manning needs and allows the LN to contribute and gain useful practical experience in different practice areas which may better prepare them for future assignments. However, frequent short-term rotations may degrade mission capability by

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reducing the LN's ability to become proficient in and meaningfully contribute to the mission in the particular area. COs should carefully weigh these factors when approving individual LN rotations, prioritizing mission requirements and secondarily individual professional development.

d. Collateral duties will be assigned as necessary. When appropriate, DSOs, RLSOs, and VLC are encouraged to share collateral duties.

0216 OVERLAPPING RESPONSIBILITIES

COs of DSOs and RLSOs with overlapping geographic areas of responsibility or common facilities (including detachments and branch offices) are encouraged to use memoranda of understanding (MOUs) or similar agreements to divide and/or share collateral duty responsibilities common to both, such as building security, building maintenance, as well as other duties, assets, benefits, or responsibilities of mutual interest.

0217 PROFESSIONAL RESPONSIBILITY AND ETHICS

a. All judge advocates, other attorneys when practicing under the supervision of the Judge Advocate General (JAG), and, when appropriate, non-lawyer assistants are subject to reference (e) with regard to professional and ethical conduct.

b. COs and OICs shall designate supervisory attorneys, as defined in reference (e), and ensure that all subordinate covered attorneys are aware of their supervisory attorney.

c. COs and OICs will discuss professional responsibility and ethics with newly reporting judge advocates and civilian attorneys during check-in interviews, incorporate professional responsibility and ethics training into their annual command training and professional development program. , and ensure LNs, are trained on appropriate ethical conduct.

d. COs and OICs will ensure members assigned to their command - including LNs, limited duty personnel, and other civilian support personnel - adhere to appropriate ethics and professional responsibility rules and standards of conduct, receive annual ethics and professional responsibility training, and are properly supervised in accordance with applicable ethical, professional responsibility, and standards of conduct requirements and guidance.

0218 MEDIA AND RELEASE OF INFORMATION

a. While courts-martial are generally open forums, COs should be vigilant to protect the rights of Service Members and the dignity of the courtroom and other command spaces. COs will ensure Rules for Courts-Martial (R.C.M.) 806, 0142 and 0143 as set forth in reference (b), and Rule 3.6 of reference (e) ("Extra-Tribunal Statements") are followed. Guidance and assistance must be obtained from the local Public Affairs Office (PAO) before information about legal services being performed by NLSC personnel is disseminated. If a PAO contacts NLSC personnel for information or comments about official or legal matters, the PAO should be directed to the CO. See Appendix B for further guidance.

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b. COs will follow the reporting procedures in CNLSC Notice 3100.6 and report when an incident/event occurs having potential high visibility or media interest or when a NLSC activity (e.g., the conduct of a high-visibility court-martial) generates media interest. DSO COs must comply with this requirement only in so far as it does not affect defense counsel's professional responsibilities and duty of loyalty to individual clients.

c. The Privacy Act, section 552a of references (u), and reference (v) prohibit the unauthorized release of information maintained in a PA system of records. In releasing any information, NLSC personnel will adhere to the requirements of the PA and will coordinate all releases of information, including interviews and publications, with the CO.

d. Public information and access to military judicial proceedings promotes public awareness and confidence in the military justice system. The release and dissemination of information pertaining to military justice matters, including accused persons, will be accomplished primarily via the convening authority's PAO pursuant to section 0142 of reference (b). Article 140a of the UCMJ directs the DoD to facilitate public access to military justice docket information, filings, and records, taking into consideration restrictions appropriate to judicial proceedings and military records. Docket information will be provided and updated on an ongoing basis, taking into account security and other considerations. Reference (w) sets specific requirements for posting court-martial dockets online. Website disclaimers will mention that the schedule contains only those cases for the upcoming week, that the schedule is subject to change, and that individuals are presumed innocent unless and until proven guilty and that charges are only allegations until proven otherwise in a court of law. Court filings, dockets, and records will be redacted to comply with the PA. Additional redaction or restrictions on disclosure may be necessary in overseas locations due to host nation sensitivities and other factors.

0219 SECURITY

a. Physical Security. All personnel are assigned responsibility for the physical security of command, detachment, and branch office spaces. COs are responsible for ensuring spaces and government property are protected and used only for authorized purposes. Command property must be inventoried and marked in accordance with reference (x) and (y). Each NLSC activity shall assign a command physical security officer consistent with reference (z). Reference (z) contains information on the duties of command physical security officers.

b. Sensitive and Classified Information. Each DSO and RLSO office should have at least one locking cabinet available for overnight protection of Personally-Identifiable Information (PII), including trial tapes, computer media and other sensitive material. All files containing PII must be safeguarded. Classified material must be stored in a General Services Administration (GSA)-approved security container and maintained pursuant to reference (aa).

c. Information Assurance Management. All personnel should be aware of the measures necessary to protect and defend information and information systems to ensure the confidentiality, integrity and availability of their data regardless of the form the data may take: electronic, print, or other forms (i.e., CD/DVDs, hard-drives, portable computers). The PA, Freedom of Information Act (FOIA), Federal Information Security Management Act, and other

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DoD security directives must be obeyed. NLSC command Administrative Officers (AOs) are responsible for maintaining the security of command information systems in accordance with reference (ab).

d. Information, Personnel, and Physical Security Management. Commands must safeguard the access, transmission, and destruction of classified information. Additionally, they must ensure that personnel who are entrusted with access to classified information are properly trained, loyal, reliable, and trustworthy. To execute these duties, COs shall appoint an Activity Security Manager (ASM) in accordance with references (ab) and (ac) to manage the Command Personnel and Information Security Programs.

0220 ANTITERRORISM/FORCE PROTECTION TRAINING

Reference (ad) is designed to ensure antiterrorism/force protection awareness throughout the Navy. All NLSC activities shall comply with this instruction and local implementing directives of Navy commanders. OJAG Code 67 is the NLSC Force Protection/Antiterrorism Training point of contact and is available to assist with NLSC activity compliance with governing instructions, including providing training, information, and references. See also reference (ae).

0221 MANAGEMENT INFORMATION SYSTEMS

Each RLSC shall utilize JAG Enterprise Systems (JES), or its successor system, in accordance with current guidance to manage conflict of interest avoidance and legal assistance and Wolverine or its successor case management system to document and track military justice proceedings. DSO shall utilize JES, or its successor system, and SharePoint in accordance with current guidance to manage conflict of interest avoidance and to document and track personal representation services. The VLCP shall utilize adequate and available case tracking systems to allow for conflict checking while ensuring privacy and appropriate access.

0222 COMPUTER PROCUREMENT AND APPLICATIONS DEVELOPMENT

a. OJAG Code 67, Technology, Operations and Plans, is responsible for providing information technology (IT) support to NLSC activities. This technical support exists to:

(1) Ensure procurement, development, use, and safeguards for IT hardware, software, and data complies with current DoD and DON issuances and is consistent with JAG/NLSC policy;

(2) Establish hardware and software standards and direction;

(3) Provide IT training and assist activities in developing IT training plans;

(4) Assist end-users in the analysis, design, and development of automated applications with appropriate documentation; and

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(5) Provide technical assistance for requirements analyses, hardware and software upgrades, and related problems.

b. The following procedures are established to accomplish the foregoing responsibilities and to ensure the effective and efficient use of resources:

(1) IT Procurement. Activities requiring new IT computing devices (e.g., desktop computers, laptops, Microsoft Surface Pros, tablets, etc.) must coordinate with the OJAG Code 67 IT team, which will validate and submit any necessary purchase requests. Purchase requests for IT peripherals (keyboards, mice, storage devices, software, etc.) should be submitted to JAG Consolidated Administrative Business (JCAB) Office, which will coordinate with OJAG Code 67 to ensure items meet all required cyber security requirements. For multi-function devices (MFDs) (i.e., devices that perform copying, printing, scanning, and/or faxing functions), submit a funding request with justification to Code 64. JCAB or Code 64 will then coordinate with the Code 67 IT team to ensure the device is available for purchase from the Defense Logistics Agency (or a contractor if granted a Defense Logistics Agency waiver) and allowed on a DON network and that relevant supply chain risk management and other regulations are followed during procurement and implementation.

(2) Applications Development. Activities desiring to automate a function or change an existing function within an application shall consult with the OJAG Code 67 IT team. End-user development of applications is discouraged since the Navy and OJAG are striving for standardization to improve business processes and lower IT costs. All commercial off-the-shelf (COTS) software must be DON approved. Activities desiring COTS software shall contact the Code 67 IT team to ensure the software is approved by the DON.

(3) Requirements Analysis, Training, and Technical Assistance. Activities desiring a review of IT needs, training, or other related technical assistance shall submit a memorandum request to OJAG Code 67 identifying the requested assistance, copying their respective NLSC Director or Chief VLCP.

0223 INFORMATION TECHNOLOGY ASSIST VISITS

a. Where Legal Technology Specialists have not yet been deployed, information technology assist visits allow computer technicians and management personnel from OJAG Code 67 to visit DSOs, RLSOs, detachments, and branch offices, assist their local IT efforts, and further the integration of JAGC IT standards. These visits are not inspections. The only formal report prepared will be a brief for the CO at the end of the visit.

b. Information technology assist visits are scheduled with the consent of the CO after preliminary discussions concerning the command's particular requirements. Decisions concerning team members and visit length are made in light of those requirements.

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0224 SUPPORT OF NAVY-MARINE CORPS TRIAL JUDICIARY

a. Support for the judiciary shall be provided as required by references (af) and (ag). The Navy-Marine Corps Trial Judiciary (NMCTJ) in Washington, D.C., and the military judges in each of the judicial circuits of the NMCTJ, are assigned and report to the JAG. For Navy judges, the RLSO in the circuit where the judge is assigned will be responsible for providing administrative support. For Marine judges, the Legal Services Support Section (LSSS) where the judge is assigned will be responsible for providing administrative support.

b. Administrative support will include (1) office spaces and furniture; (2) office equipment and supplies, including printers, copiers, and scanners; (3) telephone, internet and internet access, and other communications services; and (4) computers and technical support, including technology upgrades and refreshes.

c. Administrative support will also include clerical assistance with personnel competent to perform clerical duties including, but not limited to: maintenance of court-martial dockets of the military judge(s); assistance in scheduling of cases; and provision of essential secretarial and administrative services for the military judge(s). This support is contingent on availability of personnel and the Circuit Military Judge, and RLSO CO or OIC of the LSSS or Legal Services Support Team (LSST), validating the support requirement. Military personnel assigned to provide clerical assistance will typically be on temporary duty (TDY) orders, with the Circuit Judge or Deputy Circuit Judge serving as the reporting senior and will not be assigned other duties. While this support is generally not required for Circuit Military Judge offices that have Navy LNs or Marine Corps Legal Service Specialists assigned, very busy locations such as the Navy's Central Judicial Circuit (Norfolk, VA) and the Marine Corps' Western Judicial Circuit (Camp Pendleton, CA) will often need such additional support.

d. RLSOs, detachments, and branch offices shall provide official vehicles for official judiciary travel whenever feasible.

e. DSOs/RLSOs/VLCP, detachments, and branch offices, to the extent consistent with the maintenance of the independence and impartiality of the trial judiciary, are encouraged to involve military judges in career planning, development and training, regional planning of legal services, speaking, and social engagements.

0225 COMMAND INSPECTIONS (ARTICLE 6, UCMJ) AND INTEGRATED RISK MANAGEMENT PROGRAM

a. Inspections are an inherent function of command and are required to ensure proper and efficient accomplishment of assigned missions. CNLSC will oversee a formal program to implement, monitor, and improve the effectiveness of internal controls across the NLSC. Inspections of VLCP activities, DSOs, RLSOs, and their respective detachments, branch offices, and offices, as appropriate, will generally be conducted as required by the applicable instruction.

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b. NLSC COs shall appoint, in writing, a command Integrated Risk Management Program (IRMP) coordinator and alternate responsible for the administration and coordination of the IRMP and its reporting requirements in accordance with reference (ah).

0226 QUARTERLY CRIMINAL ACTIVITY, DISCIPLINARY INFRACTIONS, AND COURTS-MARTIAL REPORT

Reference (ai) requires naval activities to submit the Quarterly Criminal Activity Report (QCAR), which reports military justice and non-judicial punishment statistics to the first General Court-Martial Convening Authority in the administrative chain of command. All NLSC commands shall submit the QCAR to the designated CNLSC Staff Judge Advocate on the 8th day of January, April, July, and October. The designated CNLSC Staff Judge Advocate will submit a consolidated report to OJAG Military Justice Administration Division (Code 40) no later than the 30th day of the aforementioned months. Negative reports are required.

0227 DRUG AND ALCOHOL PROGRAM

COs will implement the Navy's alcohol and drug abuse policies and programs. A command Drug and Alcohol Program Advisor (DAPA) will be appointed and trained in accordance with reference (aj). Commands are authorized to coordinate with the Region DAPA to fulfill requirements of this instruction.

0228 RECRUITING

COs in NLSC are primarily responsible for recruiting and recruiting-related activity in their assigned geographic AOR, with support from Code 61. The JAGC needs intelligent, diverse, creative, and energetic people willing to serve their country in a team-oriented, inclusive, and demanding environment. Recruiting efforts must account for the multi-dimensional backgrounds reflected in the Nation we serve, therefore we pursue broad outreach to American Bar Association (ABA) accredited law schools, affinity group organizations, and minority-serving institutions. The ultimate goal of all recruiting activity is to commission the highest quality candidates by identifying the best "whole person" talent. Diversity of thought, ethnicity, socio-economic background, gender, race, and geography will ensure continued maximum mission readiness and effectiveness of the JAGC in a changing world. In accordance with reference (ak), the following information is provided to assist in the recruiting effort.

a. Comprehensive Recruiting. NLSC COs shall adopt a comprehensive recruiting approach using an array of recruiting tools and assets in a complimentary manner, with the aim to synchronize recruiting with the JAGC's inclusion and diversity efforts. The approach shall leverage the Diversity Liaison Program; alumni networks; professor networks; and Master of Laws (LL.M.), Law Education Program (LEP), and In-service Procurement Program (IPP) students to support engagement with minority-serving institutions, diversity organizations, and pipeline programs.

b. Outreach. Building and maintaining a network of professional relationships with law schools is critical to recruiting success. At a minimum, NLSC COs shall make personal contact

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with the career services offices of every ABA-accredited law school within the CO's recruiting AOR. COs are encouraged to hold JAGC information panel sessions, engage with student groups, support moot court competitions, and maximize the use of diversity liaisons and alumni support at all recruiting events. VLCP personnel and Reserve judge advocates should support recruiting events to the maximum extent possible within manpower and mission constraints. Finally, COs are encouraged to participate in career fairs and similar events to publicize and identify licensed attorneys for direct appointment.

c. Law Education and In-Service Procurement Programs. NLSC COs shall engage personally and encourage their personnel to engage with commands and career counselors within the AOR to publicize and identify strong candidates for the LEP and IPP.

d. Funding. NLSC COs who require supplemental funding to execute recruiting plans must submit their request, in advance of any travel, to Code 61.

e. Officer Recruiting Metrics. At the end of the fiscal year, Code 61 will request metrics on all recruiting efforts in each recruiting AOR during the fiscal year. NLSC COs may designate an officer to forward the report.

f. Recruiting Materials. NLSC COs with an assigned recruiting AOR should request Navy and JAGC recruiting materials from their local Navy Recruiting District (NRD). If the local NRDs cannot meet the demand, commands should contact Code 61 for assistance. Code 61 will provide commands with JAGC-specific recruiting materials.

g. Ongoing Mentorship of Applicants and Professionally Recommended Candidates. Meaningful engagement with and mentorship of prospective applicants throughout the recruiting process ensures that accessions boards have the maximum amount of information in order to make the highest confidence decisions. While Code 61 and JAGC detailers are responsible for maintaining regular contact with all professionally recommended candidates, this does not preclude ongoing mentoring relationships and assistance during the commissioning process.

0229 TRAVEL SAFETY POLICY

a. Leaders at all levels must promote safe travel practices with respect to subordinates' proposed travel plans, mode and length of travel, and other matters as appropriate. Although directly applicable to TDY travel, commands should also apply the principles in this policy to PCS and personal travel.

b. The immediate pressures of preparing for and executing the substantive mission can tempt NLSC members to undervalue the importance of planning for safe travel both before and after the event requiring travel (e.g., the trial, administrative separation (ADSEP) board, command visit, or other mission event). COs must provide useful training for personnel and supervisors, and set expectations for command and personnel engagement before travel safety is compromised or travel arrangements become a mission inhibitor.

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c. Defense Travel System (DTS) procedures for obtaining orders and finalizing a travel itinerary can be complicated, particularly for orders funded by sources outside NLSC. Timely training on existing procedures and tools can provide information needed to make sound decisions based upon Operational Risk Management principles. References (al), (am), and (an) pertain.

d. The following guidelines apply:

(1) Travel safety training is required prior to any TDY travel of judge advocates in the Professional Development and Training Program and LNs in their initial tour as LNs, and is encouraged for all personnel. Initial travel safety training will be provided at NJS with command specific refresher training to follow at ultimate duty station, normally completed as part of command indoctrination. This training will:

(2) Discuss travel entitlements (e.g., fly vice drive in a personally owned vehicle/rental, overnight stays, etc.), daily driving limit presumptions (hours/mileage), and circumstances which allow overnight lodging following completion of the TDY mission.

(3) Discuss the command's normal travel approval process, points of contact, and any additional command guidance related to travel procedures and safety.

(4) Emphasize the importance of rest and the danger of driving while fatigued, cover ORM principles, and provide familiarization with the Travel Risk Planning System, available at <https://trips.safety.army.mil/navy/HOME>.

(5) Direct personnel to contact the chain of command during travel if unsafe travel considerations could warrant modification of the travel itinerary.

e. Judge advocates in the Professional Development and Training Program and LNs in their initial tour as LNs will not conduct TDY travel in their first 30 days with the command unless specifically authorized by the CO, and then only after receiving the travel safety training discussed above.

f. Personnel will not conduct TDY travel without a Government Travel Charge Card (GTCC). GTCC paperwork is completed during the check-in process and triggers other items needed to prepare and execute travel.

g. Personnel without orders approved in DTS 96 hours prior to travel must contact the funding command(s) and notify their own chain of command. The JCAB office is available to provide assistance or advice, even if NLSC is not the funding command.

h. Personnel **will not** depart on TDY travel without approved orders in hand, unless specifically authorized by the CO.

i. When personnel stay an additional day based upon travel safety considerations, the additional day of per diem should be covered by the source funding the travel. If a non-NLSC

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funding source is unwilling to pay, NLSC will fund the additional per diem. Whenever possible, the chain of command will be contacted in advance.

0230 TDY APPROVAL AUTHORITIES

a. COs are the TDY approval authorities for RLSOs and DSOs. They must exercise this authority in compliance with section 0229 of this chapter. This authority is not delegable beyond the level of XO.

b. Chief, Navy VLCP may designate TDY approval authority for VLCP members. Chief, Navy VLCP and any designees must exercise this authority in compliance with section 0229 of this chapter. This authority is not delegable below the level of O5 or GS 14.

c. TDY approval authorities will follow the current DoD and DON Conference Guidance before approving TDYs that involve conference hosting or attendance.

d. NLSC COs and normal TDY approval authorities may approve attendance at non-DoD-hosted conferences that are not on the “White List” where the total cost of the conference is less than \$100,000 and less than \$3,000 per person and less than \$600 per person per day. The DCOM is the approval authority for non-DoD-hosted conference attendance requests where the total cost of the conference is less than \$100,000 but more than \$3,000 per person or more than \$600 per person per day. Consult reference (ao) for conference attendance guidance.

0231 DISASTER PREPAREDNESS

a. Reference (ap), NLSC’s disaster response supporting plan, assigns responsibilities and describes legal support to be provided in response to a variety of natural or man-made catastrophic events. Over the years it has provided the framework for OJAG/NLSC response efforts following hurricanes, flooding, wildfires, collisions, shipboard and installation fires, plane crashes, and on-base mass casualty incidents. The plan specifies legal assistance and claims requirements, and directs RLSOs to provide support as required. It is essential that RLSOs have written contingency plans and designated points of contact throughout its AOR who are familiar with Support Plan (SUPLAN) 3440 and its requirements, as well as a cadre of individuals who are prepared to execute the responsibilities contained therein should the need arise. To ensure mission success, RLSOs should conduct a periodic review of the SUPLAN and their contingency plans.

b. The OJAG Code 15 Director serves as the OJAG/NLSC Disaster Response Program Manager. The Disaster Response Program Manager is responsible for coordinating disaster response planning, programmatic development, and disaster response and readiness training.

CHAPTER 3 – ORGANIZATION, AUTHORITY, AND RESPONSIBILITIES

0300 DSO FUNCTIONAL AREAS

DSOs will be organized to most efficiently and effectively provide legal services and mission functions in the following areas:

- a. Court-martial defense;
- b. Personal representation, including foreign criminal proceedings (overseas DSOs);
- c. ADSEP Board and Board of Inquiry (BOI) Representation;
- d. Representation at Initial Reviewing Officer Pre-Trial Confinement Hearings;
- e. Legal assistance, where necessary to meet the needs of the Navy;
- f. Legal assistance surge support; and

g. In conjunction with the RLSOs, professional development coordinated by the PDTO as outlined in paragraph 0306.

0301 RLSO FUNCTIONAL AREAS

RLSOs will be organized to most efficiently and effectively provide legal services and mission functions in the following areas:

- a. Trial counsel services/court-martial prosecution;
- b. Command advice/administrative law;
- c. Court reporting;
- d. Legal assistance;
- e. International law (overseas RLSOs);
- f. Environmental law;
- g. Ethics and standards of conduct counseling;
- h. Foreign criminal jurisdiction (overseas RLSOs);
- i. Claims services as necessary by needs of the Navy;
- j. Command administration;

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k. Legal assistance surge support; and

l. In conjunction with DSOs, professional development coordinated by the PDTO as outlined in paragraph 0306.

0302 COMMAND ORGANIZATIONAL STRUCTURE

a. Each NLSC command shall be organized to best meet the needs of its clients and customers, consistent with personnel, fiscal, and physical resources, as well as geographic location.

b. Local conditions may require variations in organizational structure. Furthermore, because NLSC activities cover large areas of responsibility, non-traditional organizational structures may be appropriate. For example, DHs may, in some commands, best be located in a detachment vice the parent command. Such organizational innovation is permitted and encouraged when it promotes efficiency and the overall mission. Also, functions may be contained within a department at the discretion of the CO. In some commands, it will be necessary for personnel to serve in multiple capacities.

c. Command detachments and branch offices will be established or disestablished by CNLSC as needed. Authorization to establish or disestablish detachments or branch offices shall be requested through the cognizant NLSC Director with consultation with OJAG Code 67 to ensure procedural requirements are satisfied. When detachments and branch offices are established or disestablished, commands should coordinate with OJAG Code 67 to ensure that reference (a) is updated accordingly.

0303 COMMANDING OFFICERS AND OFFICERS IN CHARGE

a. The duties and responsibilities of COs and OICs are set forth in Chapter 8 of reference (aq), as well as throughout this Manual. Specific DSO mission areas are discussed in Chapters 12 and 13 of this Manual, and DSO COs are responsible for meeting those objectives. Specific RLSO mission areas are discussed in Chapters 14 through 17, and RLSO COs are responsible for meeting those objectives. Specific NJS mission areas are discussed in Chapter 18 and the NJS CO is responsible for meeting those objectives. A branch office does not have an OIC within the meaning of reference (b). The presiding officer aboard a branch office is a branch head. Branch heads shall report via an OIC or DH on a command's organizational chart. A branch head is expected to maintain and operate their branch office with specific authority as prescribed in this Manual and as otherwise delineated by the CO and XO.

b. COs and OICs shall expeditiously process all requests for military justice services in accordance with Chapter 11 of this Manual. At times, a NLSC activity may experience a sudden increase in service needs or expertise, exceeding the capacity of permanently assigned personnel/resources. In these situations, COs and OICs are expected to seek assistance from the chain of command. Conversely, NLSC activities should keep CNLSC apprised via the

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respective NLSC Director or Chief, Navy VLCP when command personnel/resources can be shared, even if on a temporary basis among RLSOs or DSOs.

c. COs and OICs shall establish a command-wide mentoring program, consistent with reference (ar) and other current guidance from CNLSC. This program shall provide career guidance and leadership advice by partnering senior personnel with junior personnel. Moreover, COs and OICs shall also create a structure to pass relevant information and guidance from senior to junior personnel.

d. To maintain necessary leadership, either the CO or XO should be present during regular working hours. If the CO will be absent for longer than two days, the CO will notify CNLSC via his/her respective NLSC Director. If both the CO and XO will be absent for a full work day, then the CO will notify DCOM via the respective NLSC Director as applicable. OICs will coordinate leave or other lengthy absences with the CO.

e. Detaching Letter Report

(1) Prior to detaching, each CO will forward to CNLSC via the incoming CO, copying the respective NLSC Director, a detaching letter report which analyzes and evaluates his/her former command's accomplishments and deficiencies, if any. See Article 0807, reference (aq). This letter report will be a frank expression of the CO's evaluation of progress made by the command as well as the status of any unaccomplished goals or objectives. This report shall discuss the support provided to the NLSC command, both locally and at the CNLSC/OJAG level. COs shall request similar reports from detaching OICs.

(2) To the extent possible, detaching letter reports will be treated as sensitive communications to be reviewed only at the highest appropriate level. Each CO is expected to be candid and provide a critical analysis of his/her activity, any co-located NLSC activity, and NLSC headquarters.

(3) A copy of this report will be placed in the CO's turnover file.

(4) The relieving CO will comment on any deficiencies noted in the detaching letter report or otherwise in a relief-of-command report to be sent to CNLSC's personal attention, as required by Article 0807 of reference (aq).

0304 EXECUTIVE OFFICERS

The XO is the direct representative of the CO, reference (aq), and all orders issued by the XO have the same effect as though issued by the CO. The XO conforms to and executes the policies and orders of the CO and keeps the CO informed on all significant matters pertaining to the command. Under the CO, the XO is primarily responsible for the organization, performance of duties, good order and discipline of the entire command, and generally for those matters prescribed in Articles 0803, 0805, 0806, 1005, 1039, 1061, and 1077 of reference (aq). Official communications from subordinates to the CO normally are transmitted through the XO; however, the XO will recognize the right and duty of DHs, assistants to the CO, and command

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liaison officers to confer directly with the CO, at the CO's discretion, on matters relating to their assigned areas of responsibility. The XO is expected to execute the responsibilities of the CO when the CO is not reasonably available. The XO succeeds to command in the CO's absence.

0305 DEPARTMENT HEADS

a. DHs represent the CO in their respective departments. All persons assigned to a department are subordinate to and shall obey the orders of the DH, subject to the requirement for defense counsel independence in the course of assigned representation.

b. The baseline duties of a DH are outlined in reference (a). DHs shall familiarize themselves with that reference upon assumption of duties. DHs will, among other things:

(1) Be responsible for the effectiveness of their departments. To that end, they will organize the department; prescribe the duties of personnel assigned; plan, direct, and supervise the work and training of personnel; ensure work assigned to civilian employees of the department conforms to position descriptions; ensure compliance with policies, procedures, and regulations prescribed by the CO and higher authorities; and take necessary action to correct any deficiencies;

(2) Keep the CO and XO informed of the status of workload and personnel within the department, the existence of any condition or circumstance that may adversely affect the operation of the department, and noteworthy accomplishments of the department or assigned personnel;

(3) Initiate timely officer fitness report worksheets, enlisted evaluations, and civilian performance appraisals, thoroughly and accurately describing the duties performed and the character of performance by all persons assigned to the department, including persons assigned for temporary or reserve training duty;

(4) Ensure economy in the use of public money and supplies; be responsible for the proper utilization, care, preservation and maintenance of assigned equipment and facilities;

(5) Be responsible for the maintenance of records and turnover files and submit timely and accurate periodic reports, including productivity reports;

(6) Anticipate the personnel and material needs of the department and submit timely requests to fulfill requirements; and

(7) Inform and educate area commands concerning legal matters under the cognizance of the department.

c. As supervisory attorneys, DHs play an important role in professional responsibility. DHs should provide periodic professional responsibility training and discussions as well as administer appropriate oversight to subordinates, judge advocates in the Professional Development and Training Program and other supervised personnel. This should be done, in coordination with the

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PDTO, to ensure that they maintain conflict logbooks and assist with spot-checks in accordance with reference (t).

d. Turnover files will be maintained by each NLSC activity department. It is the responsibility of each DH to ensure currency and efficacy. Up-to-date information concerning operations, points of contact, forms, and pending caseloads will ensure a smooth transition without diminution of service. At a minimum, a turnover file will contain the following:

- (1) A short statement of functions performed;
- (2) Source of work;
- (3) Department organizational chart and current staff roles;
- (4) Brief description of files, correspondence and reference materials;
- (5) Regulations pertinent to department or division operation;
- (6) Instructions, notices and other resource material needed for basic understanding of department or division operation;
- (7) Required reports (nature, source requiring or prescribing, when due);
- (8) Current productivity reports; and
- (9) Problem areas and conflicts, if any.

0306 PROFESSIONAL DEVELOPMENT AND TRAINING OFFICER (PDTO)

a. Each RLSO and DSO will have a detailed or collateral duty PDTO per reference (cm). The PDTO will work with RLSO, DSO, VLCP and NJS chains of command to oversee and coordinate the professional development of JAGC personnel. Professional development includes several lines of effort aimed at developing JAGC personnel as leaders as outlined in the Navy Leader Development Framework and legal professionals.

b. PDTO responsibilities include (reference (cm)):

(1) Execute the Professional Development and Training Program, supported by NJS, in accordance with references (s), (t), and (at);

(2) Support NLSC SELs, COs, and non-NLSC supervising attorneys with the execution of the LN Professional Development and Training Program and the LN Paralegal Education Program in accordance with references (s) and (av);

(3) Coordinate with OJAG Code 66 to support civilian training requirements in accordance with references (aw) and (ax);

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(4) Coordinate with NJS and other PDTOs and share professional development opportunities and information; and

(5) (For RLSO PDTOs) Ensure all JAGC members within the RLSO's area of responsibility are aware of professional development opportunities, including courses at NJS and other military schools.

0307 COMMAND SENIOR ENLISTED LEADER (SEL)

a. Normally, the senior enlisted member of the command shall be appointed as the Command SEL per reference (az). The Command SEL reports directly to the CO, but will keep the XO, DHs, OICs, Branch Heads, and the PDTO advised on matters under their cognizance. The Command SEL will perform the duties prescribed in references (as) and (az) and such other duties as may be prescribed by the CO. Per reference (az), Command SEL duties include, but are not limited to:

(1) Command SELs are first and foremost leaders. As leaders, they are responsible to establish and maintain the conditions that provide all command personnel with the opportunity to be successful, and to do so while treating each other with dignity and respect;

(2) Provide advice and recommendations to the chain of command as well as to the OJAG SEA and CNLSC SEL;

(3) Mold a Chief Petty Officer (CPO) Mess climate that serves to develop and maintain institutional and technical expertise and operational readiness, foster esprit-de-corps, and hold the CPO mess to the highest possible standards of personal and professional excellence;

(4) Actively teach, uphold, and enforce standards;

(5) Provide leadership to enlisted Sailors and assist in the growth, training, and professional development of junior officers and judge advocates in the Professional Development and Training Program;

(6) Promote and instill the Navy ethos and Navy core values in all Sailors. Educate and inspire CPO messes to embrace Master Chief Petty Officer of the Navy's mission, vision, and guiding principles;

(7) Promote and instill a culture of excellence throughout the command, sharing responsibility for successful training, certifications, and assignments.

(8) Assist COs in all matters pertaining to welfare, health, job satisfaction, morale, utilization, and training of Sailors in order to promote standards of good order and discipline;

(9) Advise the CO on formulation and implementation of changes in policy affecting the command;

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(10) Promote and ensure official ceremonies honoring Sailors are embraced and executed;

(11) Ensure heritage and tradition are key components of Sailor development;

(12) Lead the CPO mess on the development of character, pride, and professionalism in all Sailors;

(13) Provide oversight on the delivery of proper, accurate and timely communications throughout the commands;

(14) Communicate with and support Navy families; and

(15) Maintain awareness of and assist with command programs designed to ensure a professional command culture and climate.

b. Command SELs shall closely coordinate with PDTO, and DHs as appropriate, on matters of professional development. This includes coordination on the implementation of the LPEP, the LN PQS, and LN Professional Development Training (PDT).

c. Command SELs, in coordination with the PDTO and DHs, shall advise and assist the CO in developing and implementing a LN Collaboration plan in accordance with reference (ba). Command SELs, in coordination with the PDTO and DHs, shall help ensure all junior personnel – officer, enlisted, and civilians - are provided the tools, training, and feedback needed for optimal integration of LNs into the daily provision of legal services and utilization of LNs to their full potential in accordance with reference (ba).

0308 SENIOR LEGALMAN

Each CNIC Region will have one individual appointed as the Senior LN. The NLSC SEL will designate the individual in writing. This designation may include responsibility for more than one Region. The Senior LN in each AOR is responsible for: Final review and submission of all LN Conversion packages and chairing all LN Conversion Boards within the assigned AOR; ensuring compliance with the LN Mentoring Program and LN PQS in coordination with AOR Triads; and ensuring their AOR has effective Professional Development Training with maximum participation from every LN assigned in the AOR.

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CHAPTER 4 – PERSONNEL

0400 WORKING HOURS

Working hours will normally coincide with those of local line activities. The CO may set different hours to comply with local policy, but normally no workday should be shortened to less than 8 hours nor any work week shortened to less than 40 hours (except for holidays, special liberty, emergencies, etc.).

0401 LEAVE AND LIBERTY

Leave, liberty, and administrative absence of military personnel shall be administered in accordance with the MILPERSMAN and appropriate Marine Corps orders. Unauthorized absences of officers shall be reported to the respective NLSC Director or Chief, Navy VLCP.

0402 LEAVE, ABSENCES, AND OVERTIME OF CIVILIAN PERSONNEL

Leave and absences shall be administered in accordance with DON policy, local Human Resources Office (HRO) directives, and union agreements, when applicable. Flex hours, teleworking, or other alternate working arrangements for any NLSC employee requires the advance approval of the employee's supervisor with notification to Code 64. Paid overtime must be authorized in advance by the CO or XO. COs or XOs must first verify the availability of funds with Code 64 before authorizing paid overtime. If exigent circumstances make advanced approval not possible, the CO or XO must contact Code 64 as soon as possible. Because overtime involves the commitment of additional funds, only the Comptroller or Deputy Comptroller can approve overtime in the payroll system (SLDCADA). Compensatory time earned must be authorized in advance by the employee's supervisor with notification to Code 64. Because compensatory time earned may result in a commitment of additional funds, only the Comptroller or Deputy Comptroller can approve compensatory time in the payroll system. Consult JAG/CNLSCINST 12640.1 (series) for detailed guidance on civilian timekeeping policy and procedures.

0403 TELEWORK

COs are encouraged, where appropriate, to favorably consider telework as a tool for mission accomplishment, quality of life, and readiness, on a recurring or situational basis. Telework may also be used as a tool to improve performance or to facilitate professional development. Telework agreements will be documented on a DoD Telework Agreement (DD Form 2946). All telework arrangements will comply with reference (bb).

0404 PERSONNEL PERFORMANCE EVALUATIONS

a. Officer fitness reports, enlisted performance evaluations, and civilian performance appraisals affect the career, promotion, and duty-assignment opportunities of the persons concerned and have a direct effect on the efficiency and morale of the command. An individual has a right to expect performance to be accurately and timely reflected in the next required

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fitness report, evaluation, or appraisal. Succinct, honest appraisals best serve all parties and the Navy.

b. Navy officer fitness reports and enlisted evaluations will be prepared and submitted in accordance with reference (d).

c. Marine Corps officer reports will be prepared and submitted in accordance with reference (bc) and the Memorandum of Agreement between the JAG and the SJA to the Commandant of the Marine Corps of 13 December 2016. Marine Corps Officer reports which require CNLSC endorsement as reviewing officer will be expeditiously forwarded with a proposed endorsement.

d. Coast Guard officer reports will be prepared and submitted in accordance with references (bd) and (be). When necessary, COs will coordinate the routing and approval of Coast Guard officer reports through Coast Guard judge advocate channels, as appropriate.

e. Civilian performance appraisals will be prepared and submitted in accordance with volume 431 of reference (bf) for all but OCONUS local national employees. Supervisors should ensure they obtain and maintain appropriate access to MyBiz+ via Defense Civilian Personnel Data System by submitting a request to OJAG Code 66 at Code66_CivPers@navy.mil. Creation of performance plans should be established within 30 days of new civilian employees reporting onboard. If an employee or supervisor departs during the rating cycle, a narrative statement should be completed via MyBiz+. Managing an employee's performance is important and should be done in conjunction with his or her Position Description. Questions about establishing a performance plan should be directed to Code 66.

f. Required mid-term performance counseling is a major focus of the fitness and evaluation reporting system. Such counseling should be a frank, open discussion of individual performance with reference to the performance traits noted in the appropriate form. The purpose of the mid-term counseling is to enhance professional growth, encourage personal development, and improve communications, both personally and professionally, among all members within the command. Documentation of this counseling is a requirement.

g. CO Fitness Report Inputs. COs shall submit to CNLSC, via their respective NLSC Director, fitness report input, including accomplishments and other information pertaining to the reporting period. These summaries must be received by CNLSC at least 45 days before the last day of the reporting period ("regular" or "detaching"). DCOM may promulgate further guidance.

h. Timeliness. Supervisors are expected to complete and debrief performance evaluations within established timelines. Commanding Officers and Chief VLCP shall report via their weekly reports to CNLSC any performance evaluations that are more than 30 days past due and note measures being taken to address the delinquency.

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0405 AWARDS

a. Recognition of noteworthy performance is essential for morale, motivation, and retention. Depending on the accomplishment, the appropriate recognition might be: verbal praise; comment in the enlisted evaluation, civilian performance appraisal, or fitness report; a CO's letter of appreciation or commendation; a recommendation for a personal decoration; nomination for Service Member/junior officer/civilian of the quarter or year; nomination for LN of the year; or nomination for a Superior Performance award. For more information on awards, see references (bg) – (bj). Code 61 also assists in the advertisement and solicitation of nominations for external awards, such as from the ABA. Questions regarding civilian awards should be directed to Code 66.

b. Consistent with the requirements articulated in reference (bg), appropriated funds may be used to purchase trophies, plaques, coins and other awards under the following conditions:

(1) The awards program must be officially established and announced;

(2) Generally, the award must be of a continuing nature (e.g., Sailor of the month);

(3) Where the awards are made on a one-time basis, the accomplishments must be unique and clearly contribute to increased effectiveness or efficiency of the activity or service (i.e., awards for community service are not included under this authorization); and

(4) Cash awards are excluded from this authorization.

c. COs may use appropriated funds for monetary and non-monetary awards and may grant time-off awards to civilian employees. Such awards are subject to CNLSC annual budget and time-off guidance, normally disseminated by OJAG Code 66.

d. For JAGC military and civilian recognition awards guidance and submission procedures, see references (bh), (bi), and (bj).

0406 COMMAND DUTY OFFICER

a. COs shall designate a duty judge advocate as Command Duty Officer (CDO), as appropriate, during working hours and non-working hours. In the discretion of the CO, CPOs may be designated as CDO. In addition, some duty officer responsibilities may be shared by DSOs and RLSOs in accordance with a memorandum of understanding (MOU). See paragraph 0215 of this Manual. Small detachments and branch offices may be exempted from this requirement by the CO, but in such cases local commands should have points of contact for after-hours service.

b. The CDO watch may be a telephone watch and will be maintained for the purpose of providing legal advice on urgent problems arising outside normal working hours. Such availability will include conferring personally with a requesting command, or providing a referral, as appropriate. In the event a CPO is serving as CDO, there will also be designated

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judge advocates available to provide emergency legal advice requiring an attorney. The CDO is the representative of the CO or OIC during the period of the watch and will inform that officer (or the XO) of significant problems. The CDO may be assigned traditional responsibilities incident to any command watch (e.g., security, personnel, weather bills, and facilities issues). The CDO shall maintain a duty log.

c. COs may promulgate an enlisted watch bill to support the CDO.

d. On working days, the DSOs/RLSOs should normally be staffed by the watch or other personnel for a reasonable time (30 to 60 minutes) before and after normal working hours to include extended working hours for court-martial support. Telephone equipment and call routing must function correctly so calls are answered promptly.

0407 SPONSORS FOR NEWLY-DETAILED PERSONNEL

COs are responsible for maintaining an effective sponsor program to help relocate military members and their families new to the Navy and the JAGC See reference (bk).

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CHAPTER 5 – ADMINISTRATIVE DEPARTMENT

0500 MISSION

The mission of the administrative department is to provide administrative, fiscal, personnel, and supply services, including but not limited to routing correspondence, preparing administrative reports, accounting, supplies, storage, filing, control of classified matter in accordance with references (aa) and (ab), mail, facility maintenance, property management, and physical security. The administrative department provides liaison support between the command and the JCAB unit for purchasing, contracting procurement, civilian recruitment, travel, and Government Travel Charge Cards (GTCCs). Information and personnel security materials are addressed in Chapter 8. The administrative department will, to the maximum extent practicable, provide administrative functions and services for detachments and branch offices in the chain of command.

0501 DUTIES AND RESPONSIBILITIES

a. The Administrative Officer (AO) shall:

(1) Serve as the principal assistant of the CO and XO focused upon administrative operations that ensure compliance with DoD and DON guidelines and requirements. Perform other administrative duties assigned by the CO or XO.

(2) Maintain regular and frequent contact with OJAG/NLSC subject matter experts/program managers and JCAB to ensure proper reporting, documentation, and requirements are communicated and effected in the following administrative areas.

b. Administrative Duties:

(1) Files normally maintained include copies of administrative correspondence generated by the command or received from other commands, personnel records, copies of DON instructions and notices distributed to the command, and instructions and notices local commands have deemed appropriate for distribution.

(2) Maintains and tracks all ongoing personnel actions for Active Duty and Reserve personnel. Oversees and manages all military documents submitted to Personnel Support Detachment (PSD) (or its successor unit) using the Transaction Online Processing System (TOPS) and Navy Standard Integrated Personnel System and liaising with PSD as necessary to resolve military pay/personnel issues, including E-leave processing. Coordinates with the JCAB office and OJAG Code 66 to support civilian personnel onboarding and out-processing.

(3) Liaises with OJAG Code 67 and assigned Legal Technologists to account for and provide logistical support for all IT assets, telephones, video teleconferencing, and all Navy and Marine Corps Intranet computer workstations, multifunctional devices and associated peripherals.

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(4) Serves as the command's Official Mail Manager, coordinating with the Mailroom Manager to include overseeing courier duties, organizing the recurring mail runs, ensuring operations are properly staffed, developing delivery schedules, and ensuring proper coordination of work.

(5) Serves as administrator of check-in and check-out for new and departing staff to include maintaining the comprehensive list of check-in/check-out POCs and procedures, ensuring all personnel are properly in and out-processed, and ensuring that the command SharePoint, directives, and Check-in/out procedures are current.

(6) Produces and maintains activity organization information and events (e.g., current rosters, manpower reports, directories, organizational listing, recall roster, personnel locators, check in/checkout, internal rosters) in accordance with established procedures.

(7) Oversees and manages administrative correspondence, including, but not limited to, evaluations, awards, personnel records and instructions/guidelines.

(8) Maintains a command tracker for all incoming taskers, administrative requirements, and recurring reports.

(9) Facilitates the rapid resolution of payment issues (either non-receipt of payment or unexplained offset against the agreed settlement amount) encountered by individual claimants, insurance companies, or their attorneys in dealing with the federal payment processing centers (Defense Finance and Accounting Service and the Judgment Fund).

(10) Administers and oversees multiple military and/or civilian programs within the command and meets various reporting requirements as articulated by DoD, and/or OJAG/CNLSC guidance. Day-to-day responsibility for program execution may rest with a subordinate or CO-designated collateral duty officer, however the AO is responsible for ensuring overall program compliance and effectiveness at the command. The AO, working with and through subordinates and/or collateral duty officers, is responsible to ensure programs are properly staffed with trained personnel, deadlines met, and appropriate training sessions scheduled. Programmatic areas of responsibility include, but are not limited to:

- (a) Civilian Employee Assistance Program;
- (b) Civilian Fitness and Wellness Program;
- (c) Command Individual Augmentee Coordinator;
- (d) Command Indoctrination Program;
- (e) Command Managed Equal Opportunity Program;
- (f) Command Pay and Personnel Administrator;

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- (g) Command Sponsorship Program;
 - (h) Drug and Alcohol Abuse Prevention;
 - (i) Records Management;
 - (j) Individual Medical and Dental Readiness;
 - (k) Navy Family Accountability and Assessment System;
 - (l) Navy Standard Integrated Personnel System;
 - (m) Ombudsman Administrative Support;
 - (n) Safety & Occupational Health (including Motorcycle Safety);
 - (o) Sexual Assault Prevention and Response Program;
 - (p) Federal Voting Assistance Program; and
 - (q) Directives Management Program.
- c. Budget Administration/Purchasing & Supply:
- (1) Provides the CO with direct support in financial management, fiscal policy, management control functions, administration of funds, command financial advice and assistance.
 - (2) Liaises with JCAB budget/supply personnel to ensure command supply documentation (e.g. requests, requisitions, quotes, receipts, etc.) is obtained and forwarded in accordance with standard operating procedures.
 - (3) Provides routine training to appointed staff on procurement of supplies.
 - (4) Liaises with command leadership and OJAG Code 64 to manage funding.
 - (5) Serves as the Command Property Coordinator, accounting for all General Equipment in accordance with established guidelines.
- d. DTS and GTCC:
- (1) Liaises with JCAB DTS and GTCC personnel to ensure command membership is properly trained.
 - (2) Facilitates interaction between JCAB and command members to resolve any travel issues.

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(3) Serves as alternate Authorizing Official for emergent travel situations in the event JCAB personnel are unable to approve authorizations.

(4) (*OVERSEAS ONLY*) Serves as assistant Agency Program Coordinator and administers command GTCC program and ensures all command members receive required GTCC training and accounts are properly established.

(5) Provides CO approved travel requirements to JCAB DTS monthly or as required.

e. Facilities:

(1) Serves as the command's Facilities Officer and coordinates with the Code 67 Facilities Officer to ensure that facilities are adequate and maintained.

(2) Prepares requests for quotes to vendors and public works for any repairs or new work required. Reviews statements of work for content, requests funding, and coordinates with Code 67, JCAB, installation personnel, and the vendor until work is satisfactorily completed.

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CHAPTER 6 – JAG COMBINED ADMINISTRATIVE BUSINESS OFFICE

0600 MISSION

Headquartered in Bremerton, WA, the JAG Combined Administrative Business (JCAB) Office reports to the AJAG 06 & Executive Director with additional duties to NLSC Leadership for support falling under their respective practice areas. JCAB provides high quality customer service to the NLSC enterprise worldwide and has complete program oversight and management of the following major programs to ensure audit and inspection readiness:

- a. Travel Program. DTS, GTCC, Debt Management Module, and management of the Centrally Billed Account.
- b. Procurement Program. Government Commercial Purchase Card (GCPC), Contracting / Ordering, and General Equipment Accountability.
- c. Security Program. Civilian personnel investigations and reinvestigations, civilian clearance evaluations, and foreign travel.
- d. Civilian Personnel Program. Civilian personnel hiring and recruitment actions, non-recruitment actions, and Total Workforce Management Services Administrator.
- e. Military Pay and Personnel Programs. Transfers and receipts, Official Military Personal File Manager, pay and allowances, and TOPS Administrator.

0601 GENERAL

- a. Worldwide support. JCAB's hours of operation are Monday – Friday, 0600 – 1430 (PST)
- b. After-hours support
 - (1) Personnel requiring DTS assistance outside these hours may call the Travel Assistance Center (TAC) at (888) 435-7146. The TAC is available 24 hours a day, seven days a week.
 - (2) OCONUS AOs are equipped with Government Purchase Cards for urgent and emergent needs.
- c. Desk guides and forms are located on the JCAB SharePoint site for all program processes.
- d. Functional email addresses. The use of functional email addresses ensures timely responses and actions for customers. The following functional email addresses are established in the NMCI Global Address List (GAL):

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JCAB@NAVY.MIL	All Staff
JCAB_CIVPERS@NAVY.MIL	Director & Deputy, Team Members
JCAB_DTS@NAVY.MIL	Director & Deputy, Team Leads, Team Members
JCAB_LEADS@NAVY.MIL	Director & Deputy, All Team Leads
JCAB_ORDERING@NAVY.MIL	Director & Deputy, Team Lead, Team Members
JCAB_PERS_ADMIN@NAVY.MIL	Director & Deputy, Team Lead, Team Members
JCAB_SECURITY@NAVY.MIL	Director & Deputy, Team Leads
JCAB_SUPPLY@NAVY.MIL	Director & Deputy, Team Leads, Team Members

**Due to transition to Flank Speed, the above functional email addresses may change. Check JAGNews or the JCAB portal page for updates.*

0602 REPORTING REQUIREMENTS

a. NLSC Activities. NLSC activities are required to submit the following documents to ensure all personnel are accounted for throughout the JCAB programs as appropriate.

(1) JCAB check in/out sheet. Required to be submitted **within five working days** of reporting or departing a command to JCAB_PERS_ADMIN@NAVY.MIL.

(2) Command rosters. Required to be submitted the **first week of each month** to JCAB_PERS_ADMIN@NAVY.MIL.

(3) Travel approval spreadsheet. Required to be submitted the **first week of each month** listing all routine and anticipated travel to JCAB_DTS@NAVY.MIL.

(4) Civilian incident reporting. Contact JCAB_SECURITY@NAVY.MIL. JCAB security will work with the CO and XO on the contents of the report and submit the report to the DoD Consolidated Adjudications Facility (DoDCAF) with CO's approval.

(5) Foreign travel. Command personnel, both civilian and military, are required to comply with foreign pre-travel requirements and to report foreign travel, including official and personal leave to JCAB_SECURITY@NAVY.MIL.

b. JCAB reports. JCAB will provide the following reports to NLSC activities. These reports assist in ensuring JCAB's programs are audit and inspection ready.

(1) Action Item Report (AIR). Sent **every Thursday** to every CO, XO, and AO. This report provides a list of documents that are required to ensure command personnel have the appropriate security clearance and are ready to travel.

(2) Purchase Request Action List. Sent **every Thursday** to every CO, XO, and AO. This report provides a list of all missing receipts, pending purchase requests for local pick-up or service calls.

(3) Status of Funds Report. Sent **every Thursday** to every CO, XO, and AO. This report provides a snap shot of the command's operating budgets.

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(4) JCAB CIVPERS Action Report (JCAR). Sent **every Thursday** to every CO, XO, and AO. This report provides the current status of all civilian hiring actions.

(5) Unsubmitted Voucher Report. Sent **every Wednesday** to travelers who have not submitted a travel voucher within five working day following completion of official travel.

CHAPTER 7 – COMMUNICATIONS AND CORRESPONDENCE

0700 TELEPHONE USAGE

- a. Telephone courtesy shall be practiced, monitored, and emphasized.
- b. Personnel will not accept charges for collect long-distance telephone calls unless the call is clearly official and necessary; document accepted calls immediately.
- c. The use of official telephones and government issued hand-held electronic devices shall be limited to the conduct of official business. Such official business may include emergency calls. Personal calls (such as calls to speak to spouse/minor children or to arrange for emergency repairs to residence or automobile) may be made if such use of official telephones does not adversely interfere with the performance of duties, is of reasonable duration and frequency, could not reasonably have been made at another time, or are provided for in an applicable collective bargaining agreement. Long-distance calls outside of official business are authorized if charged to one's home telephone number or other non-Government number, made to a toll-free number, charged to the called party if a non-Government number, or charged to a personal credit card. Personnel will guard against unauthorized use of official telephones.
- d. To minimize costs, NLSC activities should observe the following requirements when telephoning outside a local dialing area:
 - (1) The call must relate to official government business;
 - (2) The call will be made through the Defense Switched Network (DSN), Federal Telecommunication System, or other official long—distance telephone system, if possible; and
 - (3) COs shall establish appropriate management controls for usage of telephones.
- e. See paragraph 0810 regarding telephone calls discussing classified information.

0701 OFFICIAL INFORMATION EXCHANGE

All personnel will comply with references (bl) and (bm) concerning timeliness and content of reports to the chain of command, as well as the proper voice format, text/OIX format, and time limits for Operational Report (OPREP)-3 reports, unit SITREPS, and mishap reports. These reporting procedures will be included in the command training plan.

0702 REMOTE COLLABORATION

Use of authorized collaboration tools greatly enhance our warfighting and business process capabilities. COs must implement and encourage procedures to enhance remote collaboration and team dynamics. Consistent with the other provisions in this Manual, remote collaboration may be via the use of end-to-end encryption applications and web solutions as well as other authorized electronic means. The use of unauthorized collaboration tools could expose critical

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information or introduce vulnerabilities to Navy networks. COs must reinforce that the use of unauthorized commercial collaboration tools or commercial e-mail on government equipment is a violation of DON acceptable use policy, and DoD policy on handling Controlled Unclassified Information (CUI), reference (bn).

0703 DELIVERY OF LEGAL SERVICES VIA REMOTE MEANS

In order to improve the provision of client services and mitigate prospective conflicts in remote locations, COs must implement procedures to enhance remote legal services. Consistent with the other provisions in this Manual, services may be provided via the use of end-to-end encryption applications, encrypted electronic mail and other authorized electronic means. In addition to encrypted applications, telephone communication is authorized. Procedures shall include a means to confirm identification and eligibility of clients, as well as ensuring the confidentiality of the communications. Personnel shall be trained on the proper way to deliver legal services via remote means and prospective clients must, before the consultation or service is delivered, be apprised of and consent to this method of delivery.

0704 PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION

All emails that contain PII, either in the body or in any attachments, are required to be both digitally signed and encrypted per reference (bo). If the email containing PII cannot be digitally encrypted, utilize the DoD SAFE website at <https://safe.apps.mil/> to securely transmit the PII data, or create a password-protected Zip file containing the PII data for unencrypted email transmission and separately transmit the password to the recipient via an alternate method (i.e., phone, separate email, fax, etc.).

0705 SIGNATURE AUTHORITY AND PROCEDURE

a. Only the CO, or the XO in the CO's absence and with the CO's approval, shall sign actions, opinions, directives, or other command correspondence which:

- (1) Establish policy;
- (2) Deviate from established policy;
- (3) Exercise the CO's discretion;
- (4) Deny a request for services;
- (5) Are non-routine and addressed to higher authority;
- (6) Commit command resources or personnel to perform functions not routinely performed by the command;
- (7) Reply to a Congressional Inquiry (after consultation with relevant NLSC Director or Chief, Navy VLCP);

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- (8) Reply to a complaint;
- (9) Criticize an individual or organization; or
- (10) Involve controversial issues or matters likely to receive attention from higher authority.

b. “By direction” authority should be limited to routine documents and correspondence pertaining to specific areas of responsibility. Follow the format and guidance set forth in reference (bp).

0706 CLASSIFIED CORRESPONDENCE

Classified mail, messages, and documents shall be handled and safeguarded as prescribed in reference (aa) and (ab). Ensure any created documents are properly marked and stored in accordance with that instruction.

0707 CONTROLLED UNCLASSIFIED INFORMATION DESIGNATION

Official correspondence should be designated as being CUI if it contains matters exempt from compulsory public disclosure under the FOIA or must be protected from release to the general public or indiscriminate handling because of significant governmental concerns. The CUI marking serves to advise the addressee and others the correspondence contains exempt matters requiring special handling. References (bn), (bp), and (bq) pertain.

0708 LEGAL ASSISTANCE CORRESPONDENCE

a. Legal assistance attorneys must ensure their correspondence does not imply U.S. Navy or command sponsorship, because such correspondence is a private matter arising from the attorney-client relationship. Legal assistance correspondence will be prepared on distinctive legal assistance office letterhead, vice Command letterhead, per section 5-4 of reference (cb). All outgoing correspondence shall include disclaimer language, both preprinted on the legal assistance stationery, in a “footer” printed at the bottom of the page, and included in the text: “This letter is written by a legal assistance attorney on behalf of an individual client, and does not represent an official position of the Navy or the United States Government.”

b. Such correspondence will be signed by a legal assistance attorney. The term “by direction” or similar terminology will not be used. It will be filed separately from other command correspondence to safeguard confidentiality. Mailing envelopes will bear a distinctive Legal Assistance Office return address that includes the name of the attorney who has signed the letter.

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0709 TRIAL/DEFENSE/VICTIMS' LEGAL COUNSEL CORRESPONDENCE

To avoid possible implications of command sponsorship, command letterhead will not be used for correspondence from trial counsel, defense counsel, or counsel for respondents to convening or reviewing authorities concerning court-martial, administrative discharge, or disciplinary cases. Correspondence is to be prepared in standard naval letter format on plain letter-sized paper, with the "from" line as follows: "From: LT _____ JAGC, USN, Defense Counsel, Defense Service Office _____." The creation and use of department or individual letterhead is prohibited.

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CHAPTER 8 – CLASSIFIED INFORMATION AND PERSONNEL SECURITY

0800 PURPOSE

An effective security program requires the constant attention of all personnel. References (aa) and (ac) establish strict regulations and guidance for classifying and safeguarding classified information and for maintaining personnel security.

0801 PROGRAM MANAGEMENT

The security organization within NLSC activities is as follows:

a. Activity Security Manager (ASM). The ASM serves as advisor to the CO on Information Security Program and Personnel Security Program policies and is responsible for the management, formulation, implementation, and enforcement of security policies and procedures for the protection of classified information within the command. Each NLSC CO will appoint an individual in writing to serve as ASM at all commands that have a GS-11 AO. For all commands that have a GS-10 or below serving as AO, the OJAG Security Manager will serve as their ASM and the AO will serve as the Assistant ASM. The ASM:

- (1) Coordinates with the CO on information and personnel security matters, as appropriate;
 - (2) Ensures compliance with section 0219 of this Manual and reference (ac) pertaining to the effective management of a command security program;
 - (3) Conducts an annual review of the command information security program's and personnel security program's effectiveness and reports it to the CO; and
 - (4) Revises the local information and personnel security program as required.
- b. Top Secret Control Officers (TSCOs). COs of RLSO Southwest, RLSO Midlant, DSO West, and DSO Southeast will designate TSCOs in writing. In most cases, the ASM will be designated as the TSCO. The ASM must have the required clearance and must be prepared to handle Top Secret material. The TSCO will perform duties as outlined in reference (ac) and distribute and control the following:

- (1) Material transferred by the Armed Forces Courier Service; and
- (2) Other sensitive material handled through top secret channels.

c. ASM/TSCO Relationship. The same individual may hold both positions. If they are held by different persons, then the TSCO reports to the ASM, and the ASM is ultimately responsible to the CO for the command security program.

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d. Classified Material Control Center. To limit the potential for unauthorized disclosure of classified information, the command should centralize the receipt, storage, and control of classified information under the ASM.

0802 ORIGINATION, RECEIPT, TRANSMISSION, AND HANDLING OF CLASSIFIED MATERIAL

All personnel are required to abide by references (aa) and (ab) with regard to the origination, receipt, transmission, and handling of classified material.

0803 STORAGE OF CLASSIFIED MATERIAL

a. Responsibility. Each command will properly store all classified material in a GSA-approved security container. Personnel must ensure all classified material is secured at the end of the day and annotate the SF 701 (activity storage checklist) to secure the general spaces. SF 702 (security container check sheet) will be maintained conspicuously on each safe; it will be annotated when safes are opened, closed, and secured at the end of day. Computers containing classified information are to be safeguarded in accordance with references (aa) – (ab).

b. Safe combinations. Only those persons whose official duties require access to the safe and are cleared to the highest level of classified material in the safe should know the combination. Combinations shall be changed:

- (1) When receiving containers or locks;
- (2) When a person knowing the combinations leaves;
- (3) When a combination may have been compromised (e.g., when the security container has been unlocked and unattended); and
- (4) Annually.

c. The same combination shall not be used for more than one container. After each change, record combinations on Standard Form 700 (security container information), affix copy 1 of the SF 700 to the inside of the locking drawer of the container. Do not otherwise record combinations as safe combinations are classified to the same level as material stored in the safe. The other copy should be placed in the accompanying envelope, and given to the ASM to be stored in a separate GSA approved safe of the highest level of material stored in the safe for which the SF700 was generated.

d. Handling considerations. All personnel are required to abide by reference (aa) with regard to handling of classified information and materials.

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0804 SECURITY INSPECTIONS

The ASM shall conduct an annual security inspection to assess compliance. Results of the inspection will be reported to the CO. A copy will be forwarded to the respective NLSC Director and AJAG 06.

0805 DESTRUCTION OF CLASSIFIED MATERIAL

All personnel are required to abide by reference (aa) with regard to the destruction of classified material. Classified material awaiting destruction must be destroyed at least weekly and until destroyed must be stored in a GSA-approved security container which meets the requirements as set forth in reference (aa).

0806 REPRODUCTION OF CLASSIFIED MATERIAL

Classified material will not be reproduced without prior approval from the ASM. Refer to reference (aa) for specific guidance.

0807 SECURITY CLASSIFICATION, DOWNGRADING, DECLASSIFICATION AND MARKINGS

Reference (aa) provides detailed guidance for classification, downgrading, declassifying, and marking material, especially limitations on classifying information and improper reasons for classifying.

0808 PERSONNEL SECURITY CLEARANCE AND ACCESS

All personnel are required to check in with the ASM. Access will be granted on a “need to know” basis. The level of access is determined by billet requirements.

a. Eligibility for access. The number of persons assigned duties involving access to classified material will be kept to a minimum. The ASM periodically reviews the allocation of clearances and makes recommendations to the CO for warranted changes.

b. Issuance of security clearance. Military and civilian personnel clearances are adjudicated and granted by the DoDCAF. The ASM may grant an interim clearance and access to qualified personnel under certain circumstances. See reference (aa) regarding temporary accesses.

c. Continuous evaluation of eligibility. Each ASM will initiate a program for ongoing evaluation of the eligibility of personnel for continued access to classified information. When adverse information (for example, security violations, suspicion of criminal conduct, drug use, etc.) reflects an individual’s unsuitability for access, the information should immediately be forwarded to the ASM. The ASM will assess the circumstances, advise the CO on their options in regards to incident reporting and suspending access to classified information. The ASM will immediately submit incident reports to DoDCAF for evaluation or further investigation after consultation with the CO and OJAG security manager.

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d. National security cases and cases related to classified information. The COs of RLSO Mid-Atlantic and RLSO Southwest are responsible for providing trial counsel for any case in which charges could result in a national security case. The COs of DSO Southeast and DSO West are responsible for providing defense counsel to represent those accused in such cases. The COs will ensure that there is at least one counsel at each of these commands who is designated in writing as the primary national security case counsel. Those officers must have the requisite combination of training and experience to effectively discharge the duties of representing the United States, and the accused, in national security cases. Training and other information related to the processing of national security cases should be obtained through frequent liaison with OJAG Code 30. Per section 0126 of reference (b), OJAG Code 30 must be notified immediately in all cases where a possible violation of criminal law involves classified information, whether or not designated a national security case.

0809 PUBLIC MEDIA

In the event of public media inquiries, COs shall consult with the OJAG security manager and the OJAG PAO for further guidance.

0810 TELEPHONE CONVERSATIONS

Personnel shall not discuss classified material over non-secure telephones, nor should they use practices intended to hide information such as private code words or “talking around” classified information. Use of government telephones constitutes consent to communications security monitoring. Secure Terminal Equipment telephones or other secure network telephones must be used if classified information will be discussed.

0811 SECURITY VIOLATIONS

Reference (aa) provides detailed policy and guidance for the preliminary inquiry and investigation of security violations and the compromise of classified information. Promptly inform the ASM of any security violations. Reference (ac) outlines matters required to be referred to the Naval Criminal Investigative Service.

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CHAPTER 9 – NAVY RESERVE LAW PROGRAM

0900 BACKGROUND

This chapter describes the Navy Reserve JAGC structure to emphasize CNLSC's commitment to the Navy Reserve Law Program (NRLP) and to promote full integration of Reserve judge advocates and LNs into NLSC. Many Reserve personnel have expertise invaluable to the Active Component (AC). Close liaison shall be maintained by NLSC COs with their Reserve unit counterparts, to include programs that benefit both the AC and Reserve Component (RC). Reference (br) outlines the Reserve Component Judge Advocate Total Force Structure.

0901 DEPUTY JUDGE ADVOCATE GENERAL (RESERVE AFFAIRS & OPERATIONS)

The DJAG (RA&O), is a flag grade Reserve judge advocate who serves as JAG's primary advisor concerning Reserve affairs and leads the NRLP, recommending specific objectives, plans, policies, and initiatives for the program's maximum effectiveness and future development. DJAG (RA&O) also exercises JAG's UCMJ Article 6 billet assignment authority for Reserve officer billet assignments, serves when designated as President of Reserve judge advocate promotion selection boards, advises on professional training for Reserve personnel, and oversees the NR JAGC Awards Program. In the event of war or other national emergency, the DJAG (RA&O) mobilizes as Director of Operations.

0902 COMMANDER, NAVY RESERVE FORCES COMMAND

The NRLP is a self-managed program supported by Commander, Navy Reserve Forces Command (COMNAVRESFORCOM/CNRFC), an echelon 3 command under the cognizance of Commander, Navy Reserve Force (COMNAVRESFOR). COMNAVRESFOR is responsible for providing strategic depth and delivering operational capabilities to the Navy and Marine Corps as well as the Joint force while COMNAVRESFORCOM administers Navy Reserve programs and manages all assigned Navy Reserve resources. COMNAVRESFORCOM specifically provides support to the NRLP through various Reserve administrative functions, including officer assignments and manpower and fiscal resource allocation.

0903 NAVY RESERVE LAW PROGRAM

a. Units and Personnel Directly Supporting NLSC and OJAG. The NRLP manages the Reserve units and Selected Reserve (SELRES) billets and personnel that support OJAG and NLSC. Reserve units supporting NLSC include the Navy Reserve (NR) DSOs and NR RLSOs. Reserve units supporting OJAG include units aligned with the various OJAG branches and subordinate divisions. NLSC and OJAG supporting Reserve units, also known as Navy Reserve Readiness Units (NRRUs), were created and are funded to principally conduct readiness training as part of supporting NLSC and OJAG in the event of mobilization.

b. Units and Personnel Not Directly Supporting NLSC or OJAG. Reserve judge advocates and LNs are also assigned to Reserve units and SELRES billets outside of the NLSC and OJAG

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organizations. These units, billets, and personnel are managed by the NRLP, but are not within the NLSC or OJAG manpower structure.

0904 NAVY RESERVE LAW PROGRAM MANAGEMENT

a. The NRLP Director serves on a definite recall and is located at the Washington Navy Yard. Typically, the NRLP Director is a Navy Reserve O-6 judge advocate, with prior experience as an augment unit Commanding Officer and/or as a Reserve Component Command or Navy Reserve Region Readiness and Mobilization Command (REDCOM) Staff Judge Advocate. The NRLP Director, in close coordination with DJAG (RA&O), is the focal point for day-to-day operation and sustainment of the NRLP. Reference (br) pertains. The NRLP Director manages NRLP operational support, mobilizations, billets, training, discretionary funding, and personnel, and oversees NRLP accessions and recruiting. As part of managing operations of the NRLP, the NRLP Director also provides LN community management and oversight with the assistance of a LN, who is ordinarily a Legalman Chief (LNC) (E-7), either from the Active or Reserve Component, assigned to COMNAVRESFORCOM.

b. In collaboration with the NRLP Director, another member of the NRLP also serves on definite recall as the Force Judge Advocate, assigned to the Office of the Chief of Navy Reserve (OCNR), advising both the Chief of the Navy Reserve (CNR) and the COMNAVRESFOR and supporting the mission of managing, training, and administering the Navy Reserve Force and assigned resources as prescribed by CNO. The Force Judge Advocate for CNR and COMNAVRESFOR provides legal support to the Flag-level staff, including, but not limited to, advice on military justice matters, adverse administrative personnel actions, complaints of wrong, ethics training and review and legal assistance with Reserve Component-related legislative and policy initiatives. Additionally, the CNR/COMNAVRESFOR Force Judge Advocate also serves as a senior advisor to the DJAG (RA&O) and NRLP Director regarding Reserve Component funding, administration and personnel management. A senior Navy Reserve O-6 judge advocate, typically with prior experience as a NRRU Commanding Officer and as a staff judge advocate supporting Reserve Component activities, serves in the CNR/COMNAVRESFOR Force Judge Advocate assignment.

c. The NRLP Director is assisted in management of the Reserve NLSC units by a Director, Naval Legal Services, who oversees the NLSC Reserve units. Director, Naval Legal Services is a NRLP SELRES post-command O-6 judge advocate. The NRLP Director and Director, Naval Legal Services collaborate on various administrative and operational support issues impacting NLSC units, to include assignment of members, support for the active component, and training.

d. The NRLP Director is supported by a Reserve Program Director (RPD). Depending upon funding and billet availability, the RPD may be a non-judge advocate officer who is part of the Training and Administration of the Reserve (TAR) community or an NRLP SELRES member, either officer or senior enlisted, typically serving on long-term orders.

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0905 NAVY RESERVE ADMINISTRATIVE STRUCTURE AND SUPPORT

a. The Navy Reserve Force is currently divided into: (1) COMNAVRESFORCOM, which maintains administrative control over six Echelon 4 REDCOMs, the Expeditionary Combat Readiness Center (ECRC) and the Navy Reserve Professional Development Center (NRPDC); (2) Commander, Naval Air Forces Reserve (CNAFR); and (3) Commander, Naval Information Force Reserve (CNIFR).

b. COMNAVRESFORCOM, CNAFR, and CNIFR each have an assigned judge advocate on staff, typically in the grade of O-4 or O-5, performing long-term orders and providing day-to-day legal support. Depending upon billeting and funding, the judge advocate may be from the AC or RC.

c. Each REDCOM is assigned a drilling SELRES O-6 judge advocate with a two-year billet tenure as the SJA for the REDCOM commander. The SELRES REDCOM SJA is assisted by a drilling SELRES O-5 judge advocate as Deputy SJA. Additionally, an Assistant SJA, who is ordinarily an O-5 or O-4 reserve judge advocate, and a NRLP LN, usually at the grade of E-6 or E-7, provide day-to-day support, both serving on long-term active duty recall orders.

0906 NAVY RESERVE DEFENSE SERVICE AND REGION LEGAL SERVICE OFFICES

The NR DSO and NR RLSO units perform readiness training and provide ancillary support to specific active-duty DSO or RLSO commands. To better assist NRLP members in meeting mission requirements, the CO of the supported NLSC command shall assign an active-duty member within the command to serve as a liaison to the supporting Reserve unit and coordinate Reserve support. Additionally, the designated liaison should coordinate with the Reserve unit prior to the start of the fiscal year to develop a Unit Readiness Generation Plan, which identifies needs, priorities and requirements of the unit and the supported command.

0907 RESERVE EXPERTISE AND PARTICIPATION

a. The mission of the Navy Reserve Force is to provide strategic depth, achieve and support warfighting readiness within the Reserve Component and maintain mobilization readiness while delivering operational capabilities to the Navy and Marine Corps and Joint Force. To develop and sustain strategic and operational readiness, NRLP units will educate, train and develop expertise in the JAGC's core practice areas to build and enhance the critical knowledge, skills and abilities that allow Reserve personnel to seamlessly integrate with the AC.

b. Senior Reserve judge advocates are responsible for identifying, training, and mentoring junior Reserve judge advocates. To sustain a sufficient pool of Reserve judge advocates experienced and trained in core practice areas, senior Reserve judge advocates shall identify and mentor junior officers who express an interest or proficiency in an area of law falling into one of the core practice areas and implement long-term training and development plans to cultivate their skills. Reference (br) and the respective supporting reserve unit's Readiness Generation Plan or Individual Training Plan (ITP) memorialize the steps each Reserve judge advocate and LN must

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take in order to become fully qualified for the billet held. The utilization of Reserve personnel should be consistent with the training established by the Readiness Generation Plan and the ITP for the individual involved. Further, the CO of the Reserve NLSC unit will collaborate with their AC counterpart to ensure NRLP members are providing support to the AC that allows them to train to their mobilization billet in accordance with the guidance set forth in the 2022 Navy Reserve Warfighting Instructions, focusing upon the top priority of warfighting readiness.

c. In order to best leverage Reserve expertise, meet operational demands in a timely manner, and provide Reserve personnel opportunities to interact with their active duty counterparts, NRLP unit members may perform drills through Flexible (FLEX) IDR, Incremental IDTs, and telework, subject to approval by the supported command and the NRC. Reserve mobilization billet readiness is obtained by any of the following means:

(1) AT/ADT. Unless waived, SELRES members must perform not less than 14 days (exclusive of travel time) of AT/ADT annually. It is JAGC and COMNAVRESFORCOM policy that this minimum AT requirement be performed at the augment unit's identified supported command unless superseded by another required training. This policy may be waived on a case-by-case basis if equivalent training is to be performed elsewhere. Members are authorized to perform telework subject to approval by the supported command and the NRC.

(2) IDT. SELRES members are also required to perform at least 40 paid IDT drills each fiscal year. A drill is generally four hours of duty. The scheduling of drills at the supported command will be based on the requirements of the supported command, mandatory training requirements, and the availability of the Reserve member, all in primary support of warfighting and mobilization readiness.

(3) IDTT. IDTT is IDT with reimbursement for associated travel and includes training and operational support missions. Subject to eligibility requirements and specific circumstances, IDTT may be used for travel to the supported or training command or to mission requirements at alternative locations. However, based on regulatory limits imposed by the Joint Travel Regulations, IDTT may not be used for travel to the IDT orders permanent or administrative drill site. IDTT is distributed through processes and procedures established by COMNAVRESFORCOM.

(4) Other Training. Other Reserve training and support can be provided through Active Duty Training (ADT) and Active Duty for Operational Support (ADOS) funding. ADT and ADOS for OJAG and CNLSC are managed and executed through processes and procedures established by COMNAVRESFORCOM. NLSC commands with ADT or ADOS requirements for officers or enlisted shall collaborate with OJAG Code 61 and the NRLP for prioritization of JAGC missions for available funding. OJAG Code 61 will develop strategies and initiate protocols with the NRLP Director for funding and to identify personnel for approved requirements.

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0908 RESERVE EXPERTISE AND UTILIZATION

a. Reserve judge advocates and LNs should be utilized in a manner that balances the individual's expertise while developing skills that are vital to mobilization and warfighting readiness. Specialized training opportunities for officers should be provided in difficult and complex areas of military and operational practice as well as in leadership roles such as Officer in Charge, Training Officer, Operations Officer, DH and/or XO. Reserve LNs should be provided a wide variety of training rather than specialization or for administrative tasks and should also be provided meaningful leadership opportunities, including Senior Enlisted Leader (SEL), when appropriate and available.

b. Reserve judge advocates practicing military justice must be certified as a trial and defense counsel under UCMJ Article 27(b). A primary training mission of NRLP and NLSC activities is to increase proficiency as trial and defense counsel. Priority shall be given to ensure Reserve personnel obtain military justice training and experience during IDT and AT/ADT in order to fill mobilization billets. Reserve attorneys should not normally be detailed to represent clients at courts-martial, but Reserve attorneys, many with detailed experience in criminal and civil litigation, are available for consultation with Active Component personnel pertaining to case development and trial strategy. Reserve attorneys may be detailed to enlisted ADSEP boards, officer boards of inquiry and other administrative proceedings subject to their availability, and may be utilized to provide defense services in other cases where charges have not been preferred.

c. Reserve judge advocates provide experience, as well as a different perspective in the areas of command services and administrative law. They can assist in court-martial review, offer consultation for trial preparation and strategy, prepare charges and specifications, conduct JAGMAN and other investigations, and provide basic command advice. Many Reserve judge advocates have also served on active duty in SJA billets. They can also serve as Article 32, UCMJ Preliminary Hearing Officers and Summary Court-Martial Officers. Supported commands should monitor Reserve assignments and training in these areas to ensure an experienced Reservist is used when active-duty command services or SJA assistance is needed.

d. Every Reserve judge advocate assigned to provide legal assistance must be fully qualified and competent to practice in this area. They may be ideally suited for this role by virtue of their local bar memberships and knowledge of local law. They may be called upon to provide legal assistance and to train other legal assistance attorneys. Liaison should be maintained between AC legal assistance attorneys and their Reserve counterparts. Finally, Reserve judge advocates can assist isolated commands in the absence of local NLSC resources. Those assigned to provide legal assistance shall establish an active JES account and provide the required metrics via that account.

e. LNs assigned to billets with the NR DSO/RLSO units are capable of providing considerable assistance and support, and those personnel should receive realistic courtroom and paralegal training and experience.

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0909 NAVY RESERVE LAW PROGRAM ASSIGNMENTS

Reference (bs) requires periodic rotation between units. Senior officers are assigned SELRES billets through an administrative board under COMNAVRESFOR control known as APPLY. Billet tenure for NRLP unit CO (O-6) and XO (O-5) billets are two years. REDCOM SJA and REDCOM Deputy SJA assignments are also for two years. Billet tenure for non-command billets for senior and junior NRLP officers is three years. NRLP LNs are typically assigned to a billet for three years. Regular rotation of Reserve judge advocates and LNs enhances personal and professional development and career opportunities.

0910 PROFESSIONAL CONDUCT AND ETHICS OF RESERVE JUDGE ADVOCATES AND OTHER RESERVE PERSONNEL

a. Reserve judge advocates are subject to the Rules of Professional Conduct, reference (e), when performing duties subject to the supervision of the JAG.

b. The potential for a conflict of interest always exists for Reserve judge advocates and LNs engaged in private practice. There is also a potential for a conflict of interest for Reserve judge advocates and LNs assigned to a billet in the same command or unit in which that member is employed as a Federal government civilian employee. Such members should avoid seeking or applying for RC assignments with activities in which they are employed as Federal government civilian employees. Both the individual Reserve member, the Reserve unit, and the supported command shall take all necessary precautions to avoid even the appearance of impropriety. Reserve judge advocates performing AT, ADT, IDT, or IDTT are subject to references (e), (bt), and (bu) part 2635.

c. In this regard, the supported command CO and the Reserve unit CO must ensure Reserve personnel providing support are assigned duties that will minimize the possibility that the Reserve member obtains information that could be used to gain an unfair advantage over the government, their competitors, otherwise further a private financial interest, or place the Reserve member in an actual or apparent conflict of interest. For example, assigning a Reserve judge advocate whose civilian firm engages in tort litigation against the United States to the claims division may expose the Reserve judge advocate to tactics and strategies of the government and privileged information.

d. When performing duties subject to the supervision of the JAG, Reserve judge advocates shall not accept any salary, fee, compensation, or other payments or benefits, directly or indirectly, other than government compensation, for services provided in the course of the Reserve judge advocate's government duties or employment. Unless authorized by JAG, a Reserve judge advocate, whether or not serving on extended active duty, who has initially represented or interviewed a client or prospective client shall not accept any salary or other payments as compensation for services rendered to that client in a private capacity concerning the same general matter for which the client was seen in an official capacity.

e. Additionally, Reserve judge advocates on active duty for more than 30 consecutive days must obtain approval from JAG before engaging in the outside practice of law.

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0911 FITNESS REPORTS AND ENLISTED PERFORMANCE EVALUATIONS

NRLP Reserve Unit COs are responsible for the timely submission of performance evaluations (Fitness Reports/Chief Evaluations/Evaluations) on persons assigned to their units. Supported command COs may concurrently report on the fitness of assigned NR DSO/RLSO personnel, and will submit fitness reports for the COs of their supporting Reserve units. Reserve personnel performing AT or other active-duty orders for less than 90 days but at least ten consecutive calendar days will not receive observed performance marks (NOB only), but may receive a Non-observed (NOB) performance evaluation or fitness report, as applicable, with comments on the nature and quality of their performance and accomplishments. Such NOB performance reports are preferred for NRLP members performing at least 10 consecutive calendar days but less than 90 days of active duty. Performance Information Memoranda (PIM) are not required, but may be used to identify accomplishments and training completed during periods of performance less than 90 days. Reference (d) governs the Navy Performance Evaluation System.

0912 NAVY RESERVE LAW PROGRAM AWARDS

Navy Reserve judge advocates and LNs are eligible to receive Navy Awards from their supported commands and Reserve units. Supported command COs may approve awards up to their level of authority for NR DSO/RLSO personnel to acknowledge superior Reserve performance and to motivate excellence. Award nominations should be submitted in accordance with reference (bj). Additional information and templates are located on the JAG SharePoint site and the NRLP site page under the “Awards” link.

CHAPTER 10 – FISCAL MATTERS

1000 GENERAL

a. This chapter provides guidance on budget execution for NLSC activities. Operating budgets are designed to provide a fiscal plan that is used to measure cost against performance, analyze program variances, and provide a means to make adjustments necessary to manage the NLSC activity effectively.

b. COs and others involved in budget planning and decisions should be familiar with references (bv) - (bx). These publications are an excellent introduction to financial management responsibilities, concepts, and procedures.

1001 REFERENCES

The guidance in this chapter is based on references (bw) and (bx).

1002 TERMINOLOGY

a. Budget. The financial expression of approved plans and programs.

b. Budget formulation. The process of developing fund estimates to support plans and programs. It begins with a date approximately one year before the beginning of the budget year and ends with the Congressional enactment of the authorization and appropriation bills.

c. Budget execution. The development and maintenance of operating budgets of all organizations down to and including field activities. Budget execution includes: the preparation and processing of apportionment requests; execution of programs and operating budgets; the allocation and allotment of funds authorizations; the obligation and expenditure of appropriated funds; and the related fiscal and progress reporting.

d. Commitment. A commitment is a reservation of funds, based upon procurement directives, orders, requisitions, authorizations to issue travel orders, or requests which authorize the recipient to create obligations without further recourse to the official responsible for certifying the availability of funds.

e. Obligation. An obligation is incurred when an order is placed, a contract is awarded, a service is received, orders are issued directing travel, or similar transactions are entered into. Unobligated balances of quarterly allotments may be carried forward to succeeding quarters of the fiscal year. When an appropriation expires, authorizations will remain available for disbursement to cover the liquidation of outstanding obligations, but the unobligated balance will revert to the grantor.

f. Unfilled Order. Any document, meeting the criteria of an obligation, issued for an item or service that has not as yet been received.

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- g. Expense. Any document representing material or services received.

1003 CENTRALIZED FINANCIAL MANAGEMENT

a. General. Centralizing certain financial management functions uses resources more efficiently by reducing administrative overhead. The goal of centralized financial management (CFM) is to limit local financial management to only those core functions most efficiently done locally. Tasks to be done centrally by NLSC Fiscal and Resource Services Support Division, Code 64, include budget formulation, payroll accounting, current and prior fiscal year accounting, and official accounting functions. Tasks that are not centrally managed will remain the responsibility of the NLSC command. OJAG Code 64 will provide specific financial guidance annually, and manage civilian personnel costs.

b. Management of Funds. CFM does not reduce COs' responsibility or limit their discretion, but instead lessens the administrative overhead associated with managing those funds. COs will continue to be authorized funds to manage for the use and benefit of their commands.

c. NLSC commands will use the status of funds reports provided by JCAB, and detailed reports provided by Code 64 upon request, to manage their operating budgets.

d. Code 64 receives all foreign national payroll reports. Periodic assistance from NLSC commands with foreign national labor may be required to ensure Code 64 is in receipt of all required labor documentation.

1004 BUDGETING

a. Code 64 will provide each an annual budget (authorization). The budget is the primary tool that NLSC commands use to manage their financial resources. This plan should be the basis for every fiscal action taken during the FY.

b. NLSC commands should establish a budget execution plan based on the provided budget controls for the year. The budget execution plan is an ongoing process. It must be updated regularly based upon any unplanned increased or decreased costs.

c. While the budget execution plan should always be current, the accuracy of the plan is especially critical at the time of the midyear review and at the end of the fiscal year. The midyear review is the process used to obtain additional funds by those activities that have requirements such as un-programmed cost increases or unexpected additional mission requirements. Commands must have a current budget execution plan to determine any midyear requirements. A current budget execution plan is also critical at the end of the fiscal year to prevent an over-obligation or an unacceptably large un-obligated balance.

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1005 BUDGET REQUIREMENTS

a. OJAG Code 64 submits all required budget exhibits, to include the Program Objective Memorandum (POM) and any out-of-cycle funding requests, to the Budget Submitting Office (BSO) on NLSC activities' behalf.

b. NLSC activities may at any time submit an unfunded or under-funded request to OJAG Code 64, however, mid-year review is the preferred timeframe for addressing unfunded requirements. The current annual budget authorization should be used as the baseline for determining unfunded requirements. Funding issues must have a strong, concise, programmatic justification. Unfunded requests will be evaluated relative to each other allowing a more consistent utilization of resources. NLSC activities should not submit unfunded issues for inflation as the budget will include adjustments for annual inflation increases. NLSC will normally defer funding decisions until the internal midyear review, unless a particular requirement cannot be postponed. Finally, if appropriate, NLSC activities should identify any program decreases to their baseline.

1006 BUDGET EXECUTION

a. NLSC must have fiscal controls to prevent over-obligations within the command and to provide a tracking capability that permits re-evaluation of budget estimates during the fiscal year. The responsibility for these requirements rests not only with NLSC, but also with each CO.

b. Each CO should make effective use of the operating budget to plan, control, and evaluate program performance. Operating budgets become increasingly important to managers as they are faced with increased workloads, reduced resources, and constantly increasing costs.

1007 RESPONSIBILITY OF THE DEPENDENT ACTIVITY

COs of NLSC activities are responsible for administering all authorizations of funds allotted to their activities, and for observing all limitations concerning their expenditure. As such, COs are accountable for both their own acts and for those of subordinates within their activity that cause an over-commitment, over-obligation, or over-expenditure of an authorization of funds. Over-expenditure or erroneous expenditure of funds may result in administrative or disciplinary action against the responsible individual. Consequently, extreme care and strict accountability are mandatory.

1008 SUPPORT

a. Support includes provision of material, facilities, and services to NLSC activities.

b. NLSC activities occupy the position of tenant at the activity where located. Appropriate intra-service support agreements (host-tenant agreements) should be executed between NLSC activities and their host activities. The purpose of the host-tenant agreement is twofold: to set forth the support the host will provide to the tenant, and to establish the areas in which the tenant will reimburse the host for support received. Negotiation of host-tenant agreements is the

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responsibility of the CO of each NLSC command. RLSO COs may execute host-tenant agreements on behalf of the RLSO and co-located DSO with DSO CO concurrence.

c. Hosts or other area activities may provide the following support on a non-reimbursable basis, if provided by local agreement. In the event cost is involved, such costs must be funded from each NLSC command operating budget.

- (1) Military personnel record maintenance, reports, housing, and education;
- (2) Communication services (less telephone);
- (3) Recreational facilities;
- (4) Data processing as necessary;
- (5) Medical and dental services and record maintenance;
- (6) Security services and fire protection;
- (7) Office space and maintenance of NLSC activity offices;
- (8) Janitorial service; and
- (9) Utilities.

1009 GENERAL EQUIPMENT – ACCOUNTABILITY AND MANAGEMENT

As good stewards of public funds, COs shall implement a robust general equipment program to account for assigned equipment under their control. Pursuant to reference (x), OJAG/NLSC has established organization specific policies and procedures for the accountability and management of government-owned general equipment, formerly referred to as accountable property or personal property, and hereafter referred to as general equipment (GE). Reference (y) governs the accountability and management of GE ensuring accountability, financial and physical management. Details about program roles and responsibilities, definitions of accountable and local GE, reporting categories and inventory management procedures can be found in enclosures (1) through (4) of reference (y).

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CHAPTER 11 – MILITARY JUSTICE/ADMINISTRATIVE ACTION - GENERAL

1100 TIMELY PROCESSING OF CASES

The paramount duty of all NLSC military justice personnel is to ensure the impartial, ethical, and professional administration of military justice. DSOs/RLSOs COs and Chief VLCP shall establish procedures to promptly process all military justice cases and communicate regularly with clients, convening authorities, victims, and witnesses as appropriate. Fleet operations and mission readiness require expeditious processing of military justice cases, consistent with the rights of the accused.

1101 ASSIGNMENT OF COUNSEL

a. All counsel assignments (courts-martial, Article 32 hearings, pretrial confinement proceedings, administrative boards, personal representation at JAGMAN investigations, etc.) will be promptly made by competent authority, as determined by the CO (and OICs if permitted). Counsel assignments will be in accordance with Special Victim Investigation and Prosecution Policy (JAG/CNLSCINST 5817.2) in special victim cases and reference (t) in the case of judge advocates in the Professional Development and Training Program. For cases in which charges are eligible for capital referral, detailing of trial counsel may not be delegated by COs, unless required to do so by professional responsibility considerations and only after consultation with RLSO Ops and the Assistant for Prosecution Service (APS). For cases in which charges are eligible for capital referral, detailing of defense counsel will be made by DSO Ops after consulting with the respective DSO CO and Director, DCAP. In these cases, defense counsel shall be detailed in accordance with the criteria found in Chapter 12 of this Manual. Assignments in every case shall be of qualified counsel, taking into consideration such matters as necessity for counsel, competence of nominated counsel, including experience and training, counsel caseload, anticipated dates and locations of courts-martial or other proceedings, security clearance, and availability of the nominated counsel, including consideration of nominated counsel's projected rotation date (PRD). Once assigned, any officer's PRD with the potential to significantly impact pending cases must be reported to the cognizant NLSC Director as soon as known. Counsel assignment will be given high priority upon receipt of a counsel request.

b. The detailing of counsel is one of the most important responsibilities entrusted to NLSC COs (and OICs if permitted). Such assignments are an exercise of command authority and discretion for which COs are ultimately accountable. It follows that a CO's responsibility and authority extends to the training, detailing, and supervision of assigned counsel. In exercising their discretion, COs must recognize that even seasoned counsel can become overwhelmed with administrative tasks, logistical arrangements, or substantive case preparation, and yet be reluctant to request assistance. COs must, within the bounds of ethical propriety, actively monitor and aggressively support assigned counsel. If necessary, RLSO COs and OICs have the authority to replace counsel, in accordance with the R.C.M. and applicable ethical canons.

c. As soon as possible after assignment to a case, assigned counsel must identify any factors that could require the assignment of some other counsel and promptly inform supervisors.

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d. RLSOs shall assist convening authorities in facilitating the appointment of preliminary hearing officers (PHOs) for Article 32 proceedings. The PHO may be a military judge, a magistrate, an SJA, or a Reservist judge advocate and shall be assigned in accordance with R.C.M. 405 and additional guidance promulgated by higher authority. R.C.M. 405 prohibits assignment as a PHO when the individual has been the accuser, or has acted (or will act) in another capacity in the case. DSO defense counsel and RLSO trial counsel shall not, except under extraordinary circumstances, be appointed as PHOs. RLSO and DSO personnel who perform the duties of a PHO are strictly prohibited from further participation in the case, to include providing input or advice to counsel who are later detailed to the case. The Authority convening the Article 32 hearing is solely responsible for determining who to appoint as PHO. Chief, Navy VLCP shall have final decision authority as to whether a VLC can act as a PHO in a particular case.

e. NLSC COs shall ensure counsel assigned to administrative boards, including BOIs, have the necessary knowledge, skills, supervision, and support to execute their duties properly. NLSC COs will also ensure assigned counsel establish and maintain communication with their clients to ensure counsel understand and represent the client's interests.

f. See paragraph 1105 for provisions related to the detailing of counsel in cases involving classified information.

g. After consultation with cognizant COs, DSO Ops may assume additional detailing responsibility for trial defense counsel and RLSO Ops and APS may assume additional detailing responsibility for trial counsel when:

(1) The Rules of Professional Responsibility prohibit a cognizant CO from exercising detailing responsibility; or

(2) When such detail is determined to be in the best interest of the trial or defense practice, as applicable.

h. When support from the Complex Case Counsel (see section 1600) is requested by a RLSO CO, RLSO Ops and APS have detailing authority to assign the Complex Case Counsel (CCC). Additionally, RLSO Ops and APS retain detailing authority to assign CCC in any case, as they deem appropriate, in the best interests of the Navy.

1102 TRIAL DATE

All military justice practitioners in NLSC have an obligation to ensure the fairness and effectiveness of the court-martial system. Military judges are primarily responsible for docketing and trying courts-martial, once charges are referred. RLSOs are primarily responsible for expeditious case processing, but all parties have a responsibility to ensure that the accused is afforded a speedy trial. RLSOs shall coordinate with the convening authority and supporting SJA to ensure timely attendance of the accused, members, bailiff, and witnesses. RLSOs shall pay particularly close attention to cases involving pretrial restraint to ensure compliance with both RCM 707 and UCMJ Article 10.

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1103 PREPARING AND FORWARDING GENERAL AND SPECIAL COURTS-MARTIAL RECORDS OF TRIAL

Court Reporters and/or the Post-trial Processing Unit (PTPU) / Post-trial Processing Division (PTPD) are responsible for preparing certified records of trial. See paragraph 1503 of this Manual and references (by) and (bz). The military judge shall accord high priority to examining and certifying records of trial in order to ensure compliance with the deadlines set forth in U.S. v. Moreno, 63 M.J. 129 (C.A.A.F. 2006) for pre-Military Justice Act 2016 (MJA 16) cases and reference (bz) for MJA 16 cases.

1104 PHYSICAL SECURITY

a. Establishing NLSC spaces as a secure environment, free from threat of physical harm and intimidation, is essential to military justice mission accomplishment. DSO/RLSO COs will comply with reference (z) to maximize safety of NLSC personnel at all times.

b. Under reference (ca), brig personnel are generally accountable for prisoners and detainees during appointments outside the brig. However, there will be occasions during visits to DSOs/RLSOs when prisoners or detainees will be out of the sight and physical custody of brig personnel, such as when they are being counseled in private by defense counsel. On these occasions, DSO/RLSO personnel must ensure brig personnel are at all times in a position to exert positive control over detainees and prisoners. DSO/RLSO COs will prescribe procedures assigning responsibility and accountability for liaison with brigs, shore patrol, and other activities, concerning the transport, custody, and delivery of prisoners and detainees. See reference (z).

1105 CASES INVOLVING CLASSIFIED MATERIAL

a. All cases involving classified information require liaison with DSO Ops and/or RLSO Ops and APS, as applicable, and OJAG Code 30.

b. DSO Southeast, DSO West, RLSO Mid-Atlantic, and RLSO Southwest are designated to provide counsel in the case of charges involving espionage and national security. These designated COs have the responsibility for maintaining counsel with necessary clearance and training in accordance with paragraph 0808. Such counsel shall be considered a pool and must be available for worldwide assignment in national security cases.

c. National security cases, or other cases that may involve classified information, require several immediate actions. In these cases, the NLSC activity will be assisted by OJAG Code 30.

(1) Cognizant COs must ensure counsel have the necessary security clearances and access to information at issue;

(2) Cognizant RLSO COs, through assigned government counsel, trial counsel or the cognizant SJA, must require any military defense counsel, individual military counsel, or civilian

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counsel not holding an adequate current clearance to process clearance and access requests immediately upon being detailed or retained;

(3) Cognizant RLSO COs must, in consultation with the cognizant SJA and Code 30, advise the convening authority to request a classification review of classified evidence; and

(4) Cognizant COs, in consultation with the convening authority, cognizant SJA, and Code 30, must ensure counsel have the requisite technology and equipment needed to litigate classified cases (i.e., SIPR terminals, SIPR multifunction printer, classified safes, etc.); and

(5) Cognizant COs must ensure their counsel have a working knowledge of Military Rule of Evidence (M.R.E.) 505 and 0126 of reference (b).

1106 REQUESTS FOR INDIVIDUAL MILITARY COUNSEL

a. Defense counsel shall ensure Individual Military Counsel (IMC) requests are forwarded per R.C.M. 506(b) and section 0131c of reference (b). All IMC requests will be submitted in writing. IMC requests for courts-martial will be routed via the trial counsel to the convening authority. IMC requests for administrative boards will be routed via the recorder to the officer who convened the board.

b. Unless denied by the convening authority pursuant to section 0131c(2) of reference (b), IMC requests will be referred immediately to the CO of the requested counsel for a determination. The XO and other intermediaries in the chain of command of the requested judge advocate will be informed of the request as soon as possible.

c. If the request for IMC is granted, the authority that detailed the original counsel will decide whether detailed counsel is excused pursuant to R.C.M. 506(b)(3). Such decision shall be in writing and shall clearly state whether detailed counsel is excused or is to act as associate counsel.

1107 FINANCIAL RESPONSIBILITY FOR COSTS INCURRED IN SUPPORT OF COURTS-MARTIAL

Section 0145 of reference (b) describes financial responsibility for costs incurred in support of courts-martial. The RLSO should advise the convening authority, as soon as practicable, of the anticipated costs likely to be incurred in a particular case. This is especially important when circumstances require assignment of counsel or other personnel (e.g., court reporting personnel, paralegals) from NLSC activities other than the one that normally serves or is closest to the command.

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CHAPTER 12 – DEFENSE SERVICE OFFICES

1200 MISSION

The primary mission of the Defense Service Office (DSO) Defense Department is to carry out the functions and tasks assigned to DSOs per this chapter. This includes courts-martial and ADSEP representation, legal advice and assistance to eligible Service Members in personal representation matters including pre-mast Booker rights, pre-summary court-martial advice, and mental health evaluation reports. Defense counsel may also be assigned to assist Service Members in preparing and responding to complaints under Article 138, UCMJ, Article 1150, U.S. Navy Regulations, 1990 and investigations by an Inspector General. DSO COs may also make defense counsel available to assist Service Members in other legal and quasi-legal subject areas, if resources allow. Defense counsel may be assigned other additional duties, as required by the CO or his/her designee. The term “defense counsel” in this chapter applies to all counsel assigned to the DSO, to include judge advocates in the Professional Development and Training Program.

1201 PRIORITIZATION OF SERVICES RENDERED

a. When, in the opinion of the CO, legal service demand exceeds resource availability, DSOs and their detachments and branch offices will provide legal services in the following priority (in descending order):

- (1) Court-martial defense;
- (2) Other military justice assistance and personal representation, including administrative discharge proceedings, where applicable;
- (3) Legal assistance (when provided under reference (cb)); and
- (4) Legal assistance surge legal support.

b. DSO COs shall report anticipated curtailment or denial of any listed services for longer than three consecutive working days to DSO Ops.

1202 COMMANDING OFFICERS AND OFFICERS IN CHARGE

a. DSO COs are personally responsible for the effective and professional execution of the defense services mission at their respective commands and across their assigned areas of responsibility. DSO COs also serve as Supervisory Counsel for defense counsel assigned to their commands and are required to ensure counsel execute their responsibilities in accordance with governing Rules of Professional Conduct (reference (e)). They are also responsible for the insulation of defense counsel from any influences that might be perceived as unlawful or detrimental to counsel’s zealous representation of an assigned client.

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b. Detailing.

(1) Potential Capital Referral. For cases in which charges are eligible for capital referral, DSO Ops is the detailing authority for defense counsel. This authority may not be delegated to DSO COs, unless required by professional responsibility considerations. The seriousness and complexity of investigations and courts-martial involving, or potentially involving, capital offenses requires special consideration on the part of the detailing authority in assigning counsel. DSO Ops shall detail counsel to cases referred capital in accordance with Article 27(d), UCMJ.

(2) Non-capital Referral. The DSO CO has the primary responsibility for detailing defense counsel to non-capital courts-martial and ADSEP cases, as well as for the limited purpose of an investigation or other administrative proceeding. The detailing authority may delegate this responsibility to the XO, Senior Defense Counsel (SDC), or Detachment OICs and Branch Office Heads. Detailing assignments shall be made in writing. Great care must be exercised in detailing decisions to ensure assignments are made with full awareness and consideration of factors including necessity for counsel; competence of potential counsel; experience and training of potential counsel; the potential counsel's caseload; anticipated dates and locations of courts-martial or other proceedings; security clearance requirements; and continued availability of potential counsel, to include the potential counsel's projected rotation date (PRD); professional development of counsel; and potential conflicts of interest. Where necessary to ensure appropriate supervision, professional development, or distribution of workload, more than one counsel may be detailed to a particular case. Similarly, counsel may be detailed from outside the geographic area of proceedings. Detailing authorities are expected to be judicious in their use of this broad authority, guided at all times by the best interest of the client.

(3) R.C.M. 505(d)(2) and R.C.M. 506(b)(3) provide the detailing authority with discretion, under certain circumstances, to excuse detailed counsel. Any excusal of defense counsel shall be in writing. COs shall ensure that detailing authorities within the command are familiar with the provisions and application of these rules. After arraignment, when a defense counsel has entered an appearance on the record, the defense counsel must seek permission from the military judge to withdraw from the case.

(4) Detailing Timeline. The detailing authority shall detail a defense counsel in writing to a particular case as soon as practicable. Absent good cause, the detailing authority shall assign a defense counsel within: 10 days of being notified the accused has been placed in pretrial confinement or arrest under R.C.M. 305; 5 days of being served notice of preferred charges; 5 days of being served notice of appointment of an Article 32, UCMJ, Preliminary Hearing Officer; 5 days of being served an administrative separation/board of inquiry package; or as otherwise required by law or regulation.

c. Personal Representation and other Defense Services

(1) DSO COs shall ensure defense counsel understand when they are authorized to provide defense services to military personnel. This applies not only in courts-martial, but also in administrative and non-judicial punishment (NJP) proceedings, in settings involving suspects

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or an accused facing custodial interrogation, and in other matters where it is in the best interest of the Service Member and the defense bar to provide counsel services. These matters may include those identified in paragraph 1200, though this list is not exhaustive or exclusive.

(2) Subject to UCMJ Articles 2 and 27, defense counsel services will not be provided to non-active duty personnel. If resources and professional responsibility rules allow, DSO Ops or DSO COs may authorize continued representation of retirees when defense or personal representation services were initiated prior to release from active duty or if the representation relates to misconduct committed while on active duty and the client remains subject to disciplinary or administrative punishments. Defense services are not generally authorized for Reserve personnel except for matters that arise in connection with their military service, to include matters involving adverse administrative action by the service and related military justice issues. Personal representation for Reservists does not include civilian criminal matters unless they are directly affecting the military service of Reservists then serving on active duty. Reservists may seek legal assistance for non-defense matters from the RLSO's Legal Assistance Department.

(3) COs will make defense counsel available to advise personnel who believe they have been the target of reprisal action in accordance with references (g) and (cc).

(4) Through consultation with cognizant DSO COs, DSO Ops may assume additional detailing responsibility for trial defense counsel when:

(a) The Rules of Professional Responsibility prohibit a DSO CO from exercising detailing responsibility, or

(b) If, on a case-by-case basis, it is determined to be in the best interest of the defense practice.

1203 SENIOR DEFENSE COUNSEL RESPONSIBILITIES

a. Supervise, train, and direct all defense counsel, paralegals, and other military and civilian personnel assigned to the defense department. Ensure all personnel are aware of the policies stated in paragraphs 1202 and 1204 of this Manual.

b. If authority is delegated by the CO, detail defense counsel to represent the accused in non-capital cases, including GCMs, SPCMs, SCMs, Article 32 hearings, and pretrial confinement proceedings as applicable, ensuring an equitable distribution of the command caseload and taking into consideration the experience level of counsel and the complexity of each case.

c. Detail defense counsel to represent respondents before administrative boards unless such authority has been delegated to a different DH.

d. For all courts-martial and administrative board case assignments, ensure detailing of conflict-free supervisory counsel.

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e. Assign Defense Investigators/Defense Litigation Support Specialists (DLSS) to specific cases and supervise DLSS in the execution of their duties and responsibilities. Although not an exhaustive list, the following factors should be considered when assigning DLSS:

(1) Case complexity, merits, procedural posture, investigative need, and likely disposition;

(2) DLSS workload, expertise, and potential conflict(s) of interest;

(3) Detailed defense counsel's experience, workload, and potential conflict(s) of interest; and

(4) The type and amount of travel expected in the case.

f. Maintain a case log or other means of case tracking, case assignments, and any other data collection required by CNLSC or DSO Ops.

g. Train and mentor assigned defense counsel concerning substantive legal issues, case preparation, and advocacy skills. The SDC shall monitor the progress of judge advocates in the Professional Development and Training Program in completing the PDS for Military Justice.

h. Assist newly assigned defense counsel in the preparation and handling of their cases, and facilitate assignments, to the extent practicable, that permit judge advocates in the Professional Development and Training Program to complete the PDS for Military Justice.

i. Keep the CO and XO informed of all issues within the department, including professional competence and progress of counsel.

j. Serve as a liaison between the judiciary and defense counsel in appropriate matters, to include docketing, courtroom demeanor, interpretation of court rules, and other areas relating to courtroom procedures, conduct, and advocacy skills.

k. Act as defense liaison with commands, command SJAs, and RLSOs concerning defense representation services.

l. Consult regularly with DCAP and engage DCAP for command training to ensure best practices throughout the defense enterprise. Encourage counsel to seek DCAP advice and assistance and to consult DCAP on any unusual or complex defense matter.

1204 DEFENSE COUNSEL – GENERAL

a. The formation of an attorney-client relationship between a judge advocate and a client Service Member is one of the most important and consequential relationships that can be created under military law. It requires the total commitment of the judge advocate to represent the best

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interests of the client to the fullest extent of the judge advocate's ability, within the bounds of law and ethical responsibilities.

b. Once assigned, the defense counsel will advise the client that his/her role, and the duration and scope of the attorney-client relationship, can be expected to be no greater than that required to perform the currently assigned duties on behalf of the client including all reasonable and foreseeable direct consequences of the case. This is especially important when the client is a transient, or when NJP, investigations, custodial interrogations, or pretrial confinement proceedings are involved.

c. Counsel must keep in mind that not all Service Members are entitled to or eligible for defense counsel services. Defense counsel must ensure proper screening of prospective clients to verify their eligibility for such services and to prevent conflicts as required by reference (e). Only the defense services authorized in this chapter may be provided unless the DSO CO has authorized assistance for the type of matter raised by the prospective client. If a prospective client seeks assistance on a matter that is not authorized in this chapter or has not been authorized previously by the DSO CO, counsel will refrain from assisting that prospective client unless specifically authorized by the DSO CO or his/her designee.

d. Legal advice to a prospective defense client normally should be provided in person to facilitate free and frank communication, develop of rapport and trust, and safeguard the confidentiality of communications. However, defense counsel may provide legal advice via remote means (e.g., telephone, Microsoft Teams) at the discretion of the cognizant DSO CO. See section paragraph 0702-0704 for further guidance.

e. Limited Attorney-Client Relationships. For some categories of defense services the scope of authorized defense services is limited to the immediate provision of legal advice and counsel by an independent defense counsel. In cases where the defense counsel's role is limited to providing advice and counsel, the defense counsel should ensure that the Service Member understands the limited scope of the attorney-client relationship and that the defense counsel is not under a duty to continue to represent or advocate for the Service Member. No attorney-client relationships formed for any of the below purposes is sufficient to trigger a previous attorney-client relationship analysis for a request for Individual Military Counsel under section 0131 of reference (b).

(1) ADSEP Rights

(a) As discussed in paragraphs 1200 and 1201 of this manual, representation at ADSEP proceedings is a core function of the DSOs' mission, and assignment of counsel to represent Service Members at ADSEP boards and Boards of Inquiry will be accomplished expeditiously.

(b) Normally, respondents will not receive counseling on their election or waiver of rights unless the command has provided all pertinent documents, including service record entries, the notice of ADSEP processing, the election/waiver of rights form, and if necessary, the respondent's medical record.

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(c) Counsel consulting with the respondent shall explain the ADSEP process and inform the respondent of his/her rights in connection therewith. Counsel are authorized, but not required, to witness the respondent's election/waiver of rights. Additionally, counsel are authorized to discuss fully the facts specific to the respondent's case and to make a recommendation to the respondent regarding the respondent's election or waiver of rights.

(d) Unless counsel has been previously detailed, the respondent shall be informed that the consultation does not entitle the respondent to consulting counsel's representation at an administrative board, and that if the respondent elects an administrative board, it is possible another counsel may be appointed to represent the respondent before the board.

(2) Non-judicial Punishment and Summary Courts-Martial

(a) Defense counsel who provide legal advice and counsel to Service Members pending NJP or SCM must advise Service Members of their limited role, to include the fact that defense counsel will not represent the Service Member at NJP or likely at the SCM. Defense counsel should also advise the Service Member that it is likely that another defense counsel will be detailed to represent the accused should the Service Member elect to refuse NJP or Summary Court-Martial or if the Service Member is administratively processed for separation.

(b) All communications with DSO clients are confidential and privileged; defense counsel are authorized to discuss facts and circumstances of the Service Member's case in order to provide meaningful legal advice and so the Service Member can make an informed decision regarding NJP or SCM. The defense counsel's advice should extend to explaining all direct consequences of the NJP (or other action at issue). If it appears that the defense counsel should take action beyond providing legal advice and counsel, the attorney involved may request the appropriate authority make him or her available for extended personal representation services. If exigent circumstances require the defense counsel to do more than provide legal advice and counsel before obtaining authorization from the detailing authority, the defense counsel's immediate supervisory attorney should be informed as soon as possible.

(c) Defense counsel may act as an observer or spokesperson at NJP; however, the limited role must be explained to the Service Member and NJP authority.

(d) Defense counsel will not normally be provided to represent Service Members at NJP or SCM. The CO or delegated detailing authority will review and act on any such requests. See section 0109 of reference (b) and R.C.M. 1301.

(3) Initial Review of Pretrial Confinement

(a) Counsel shall be provided, if requested, to a Service Member before the initial review of confinement under R.C.M. 305. Unless directed otherwise by the CO, SDC, or OIC, such assignment is for the limited purpose of representation during the pretrial confinement proceedings before the charges are referred. Assigned counsel is authorized to fully and

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completely represent the Service Member for this limited purpose. Assigned counsel will advise the Service Member of the limited nature of the representation at the earliest opportunity.

(b) Unless the confinee's command has already requested defense counsel services, on the tenth day of continuous pretrial confinement at a brig within the servicing DSO's AOR, it shall be assumed by the associated DSO CO that the charges upon which the accused was placed in pretrial confinement will be referred to trial by special or general court-martial, and defense counsel shall be detailed to represent the accused for such purposes. Such detailing of defense counsel shall occur regardless of whether counsel was provided to represent the Service Member during pretrial confinement proceedings. The detailed counsel shall meet with the Service Member as soon as practicable after being detailed.

(4) Custodial Interrogations

(a) All suspects, including transients, who are the subject of custodial interrogation, and who request assistance of a lawyer, are entitled to the assistance of defense counsel and the defense counsel's representation. In the case of transients, the DSO CO (or XO in the CO's absence) shall be informed before defense counsel services are provided.

(b) Particular care should be given to initial interviews with transient accused. All suspects who request assistance of a lawyer including transients entitled to *Miranda/Tempia* advice because of a custodial interrogation, are entitled to the expert assistance of counsel and the counsel's full representation. Full representation includes discussion of the facts of the case with the client and being present during the interrogation process if requested by the accused.

(c) Counsel should inform the suspect that counsel may not be available to represent the suspect in further proceedings and that another counsel may be detailed to represent the suspect, particularly if further proceedings are conducted at a distant installation, but that as the current counsel, he or she will continue to actively assist the suspect until another counsel undertakes representation.

(5) JAGMAN Investigations. Any member entitled to counseling or representation regarding rights at a JAGMAN investigation shall be referred to a defense counsel in accordance with local DSO policies. Notice of assigned counsel shall be provided within one (1) working day of receipt of a command request for assistance to persons who are designated as parties pursuant to reference (cd).

(6) Family Advocacy Program. Defense counsel may be called upon to assist alleged offenders in seeking review of adverse determinations in child and spouse abuse cases, as outlined in paragraph 0210.

(7) Foreign Criminal Proceedings. Service Members who become the focus of a foreign criminal proceeding or investigation may be referred to a defense counsel. Defense counsel shall advise such members of their rights and obligations under applicable Status of Forces or bilateral agreements with the host nation, as well as the requirements of the UCMJ and the JAGMAN. Service Members or civilian component members overseas subject to proceedings under the

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Military Extraterritorial Jurisdiction Act of 2000, 18 U.S.C. § 3261 et seq., may be assigned defense counsel to provide limited representation as detailed in reference (ce).

(8) Filing complaints of wrong under Article 138, UCMJ, or Article 1150, US Navy Regulations. Service Members who contemplate making a complaint of wrong under Article 138 or Article 1150 may properly be referred to defense counsel for personal representation services. Counsel may advise Service Members on whether or not to make a complaint, how the complaint process works, and how to draft such a complaint effectively. This advice includes assistance with wording and formatting of the complaint. Under normal circumstances defense counsel may not themselves file complaints on behalf of the Service Member.

(9) Answering complaints of wrong under Article 138, UCMJ, or Article 1150, US Navy Regulations, or as a subject of an Inspector General investigation. Defense counsel may advise Service Members accused of wrongs under Article 138 or Article 1150 or those subject to an Inspector General investigation. Counsel should advise accused Service Members on the rules and regulations governing complaints of wrong, and assist accused Service Members in deciding if and how to respond to such complaints. This advice may include reviewing and assisting with the drafting of formal responses; however, under normal circumstances, defense counsel offering such advice shall not themselves respond to complaints on behalf of the Service Member. Defense counsel may and should discuss collateral liabilities caused by complaints of wrong—to include administrative, disciplinary and criminal consequences. At all times, DSOs and individual defense counsel should ensure there is no conflict of interest in providing advice to a Service Member making a complaint of wrong and/or a Service Member responding to a complaint of wrong against them. Conflicts of interest are governed by reference (e). In extraordinary circumstances defense counsel shall seek authorization from their CO if they believe additional assistance to a Service Member relating to drafting or responding to a complaint of wrong is necessary.

f. Judge advocates in the Professional Development and Training Program who are assigned to the DSO as part of their first 24-month rotation are limited in the extent of representation and services that they can provide to clients and role they can play in criminal and administrative proceedings. See reference (t). Judge advocates in the Professional Development and Training Program should consult their PDS and work with their immediate supervisory defense counsel, and DH, to ensure they are acting within the approved scope of responsibilities.

g. DLSS. When detailed to a case with DLSS assigned, defense counsel shall supervise DLSS and provide direction to ensure DLSS is meeting case objectives, acting within the assigned parameters and abiding by the relevant regulations and professional responsibility rules. As members of the defense team, defense counsel are responsible for the conduct and activities of DLSS in connection to the specific case.

1205 DUTIES AND RESPONSIBILITIES OF A DEFENSE PARALEGAL

A defense paralegal serves a vital role in a DSO defense department as a member of the defense team assisting both the defense counsel and the client. As part of the defense team, the paralegal will be made aware of information that is both privileged and confidential. A primary

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responsibility of the paralegal is to maintain the confidentiality of such information. Other important duties and responsibilities of the defense paralegal include but are not limited to:

- a. Tracking the location and caseloads of all assigned defense counsel;
- b. Organizing and updating command defense library and resource materials;
- c. Aiding in defense-related legal research and writing and document review;
- d. Screening defense clients to ensure eligibility for services and identifying potential conflict cases;
- e. Maintaining counsel appointment schedules;
- f. Coordinating duty counseling;
- g. Scheduling pretrial detainee counseling and IRO representation;
- h. Collecting defense department reports;
- i. Maintaining the defense department case tracking log;
- j. Maintaining and updating a selection of pre-printed commonly used forms (e.g., appellate rights and BCNR petitions) as well as “shell” documents generated upon request (e.g., pre-trial agreements, request for separation in lieu of trial by court-martial, etc.);
- k. Advising the RLSO and other commands of defense counsel assignments;
- l. Serving as “seconds” on witness interviews, and, when directed, conducting case related investigation assistance;
- m. Conducting witness interviews when appropriate;
- n. Coordinating and managing discovery for cases, to include maintaining discovery logs and files and issuing discovery requests;
- o. Coordinating meetings, interviews, appearances at hearings, and travel assistance for defense witnesses;
- p. Assisting counsel at trial, at counsel table when appropriate;
- q. Preparing and maintaining defense and appellate exhibits and corresponding enclosures for use at trial; and
- r. Performing other duties (e.g., inputting management information data, law office management) in furtherance of the defense mission as directed by the CO, XO, OIC, and SDC.

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1206 DEFENSE INVESTIGATOR/DEFENSE LITIGATION SUPPORT SPECIALIST (DLSS) RESPONSIBILITIES

a. The DLSS is an integral member of the defense team and works under the supervision of detailed military defense counsel in accordance with Rule 5.3 of reference (e), assisting both the defense counsel and client. Consistent with Fiscal Year 2022 National Defense Authorization Act (FY22 NDAA), Section 549D, the term DLSS is synonymous with the title “Defense Investigator” and may be used interchangeably. DLSS must be assigned to both a case and a defense counsel in order to assist with trial preparation. Once assigned, DLSS work falls under attorney-client and attorney work-product privileges, which may be waived by subsequent action from the defense team. As part of the defense team, the DLSS will be made aware of information that is both privileged and confidential. A primary responsibility of the DLSS is to maintain the confidentiality of such information. Other important duties and responsibilities of the DLSS include, but are not limited to:

- (1) Interviewing witnesses and generating statements or investigative reports;
- (2) Visiting areas of interest to the case;
- (3) Conducting background checks;
- (4) Researching experts for potential consultation;
- (5) Providing in-court testimony as needed;
- (6) Maintaining a personal conflict log and consulting that log prior to providing investigative assistance on a case;
- (7) Coordinating with detailed defense counsel to develop an investigative plan;
- (8) Reviewing case-related discovery and advising detailed defense counsel;
- (9) Generating reports of investigative action undertaken;
- (10) Handling and storing real evidence as required by reference (cf); and
- (11) When conducting interviews, clearly identifying themselves as a member of the criminal defense team to avoid confusion about the role of DLSS.

b. DSO Ops retains primary responsibility for the training and practice of DLSS in consultation with DSO COs and with the direct oversight of DCAP. This responsibility includes but is not limited to: ensuring the DLSS is provided with the resources necessary to execute assigned duties; processing and approving DLSS-specific equipment and training requests for funding; and seeking regular input from DSO COs on the performance of DLSS assigned to each DSO. Where assigned, DSO COs will have day-to-day responsibility over DLSS performance.

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DSO COs will keep DSO Ops informed and will: ensure that the DLSS is provided with the resources necessary to execute their responsibilities; process and forward funding requests for DLSS-specific equipment and training to Director, DCAP; and, supervise and train personnel on employment and supervision of DLSS, with an emphasis on professional responsibility issues.

1207 REPRESENTATION OF CLIENTS WITH POTENTIAL CONFLICTS

a. Defense counsel will not undertake or be detailed to represent more than one client in cases where two or more persons are potential accused Service Members arising from closely related factual situations or allegations. Any request for combined representation shall be directed, in writing, to the DSO CO via the SDC and shall detail the justification for the request.

b. If it appears the DSO and its detachments cannot provide sufficient counsel to represent each accused, the DSO should attempt to obtain counsel from other DSOs and keep DSO Ops/CNLSC informed. Telephonic contact shall be made between counsel and the accused as soon as the identity of counsel is known.

c. Detailing a CO, XO, OIC or the SDC to a client that has a real or potential conflict of interest with the client of a subordinate attorney should be avoided. If it appears for any reason that detailing the CO, XO, OIC or the SDC to a client that has a real or potential conflict of interest with the client of a subordinate is necessary, DSO Ops shall first be informed. In such cases, alternate supervisory attorney or attorneys must be designated for the subordinate counsel for that matter. Conflict-free supervisory counsel can include other senior attorneys at the DSO or other DSOs, DCAP personnel, or Reserve defense counsel.

d. In situations of multiple intra-DSO representation, great care must be exercised to ensure the full independence and autonomy of each attorney. For example, paralegal administrative support must be organized to accommodate and respect client confidences, strategy, negotiations, and other aspects of case preparation.

1208 RESERVE ATTORNEYS

Reserve attorneys assigned to support the DSO are a tremendous resource contributing to the DSO's ability to accomplish the defense mission. Reserve attorneys assigned to support the DSO are considered to be part of that DSO for the purpose of applying reference (e) rules concerning confidentiality. Detailed defense counsel may consult with a reserve attorney concerning confidential and privileged matters in a case with the client's consent. For courts-martial, the preferred utilization of Reserve attorneys is typically in a mentoring relationship, with guidance and assistance in trial preparation (i.e. murder boards, trial strategy and evidentiary advice). Care should be taken to ensure that a client does not perceive that the Reserve attorney has been detailed to represent the client, and the client should be clearly advised of the Reserve attorney's purely advisory role. Given the typically unknown scope and duration of court-martial representation, Reserve attorneys should not normally be detailed to represent clients at courts-martial. Reserve attorneys may be detailed to enlisted ADSEP boards, officer boards of inquiry and other administrative proceedings subject to their availability, and may be utilized to provide defense services in other cases where charges have not been preferred.

CHAPTER 13 – DEFENSE COUNSEL ASSISTANCE PROGRAM

1300 MISSION

The primary mission of the DCAP is to support DSOs by providing training, advice, and assistance to trial defense counsel and paralegals assigned to DSOs throughout every phase of court-martial litigation, ADSEP processing and personal representation services related to all matters within the DSO area of practice. Serving as the military justice subject matter expert on defense related matters for CNLSC, DCAP counsel may be consulted to provide support to trial defense counsel and paralegals in all aspects of DSO practice, to include related professional responsibility matters.

1301 COMMAND RELATIONSHIP

a. The Director of DCAP works under the direct supervision of DSO Ops and serves a supporting role for DSOs. The DCAP Director supervises only those personnel detailed to DCAP but will assist DSO Ops in the exercise of his or her oversight and reporting responsibilities. DCAP personnel may be assigned to serve as conflict-free supervisory attorneys and to other defense tasks as requested by DSO COs and coordinated with DSO Ops. DSO COs maintain their supervisory role of, and fitness report writing responsibility for, trial defense attorneys and paralegals assigned to their command.

b. DCAP will provide defense related subject matter expertise and support to DSO trial defense counsel personnel when requested by trial defense counsel or paralegals, the DSO CO, or as directed by DSO Ops. DCAP is available to defense counsel DSO personnel as a resource to assist in defending cases in all aspects of their practice.

c. DCAP may request case specific or other administrative information from trial defense counsel or DSO COs as necessary to assist in fulfilling its roles and responsibilities.

d. DCAP may coordinate as necessary with OJAG Code 45.

1302 ROLES AND RESPONSIBILITIES

a. In coordination with DSO COs, DCAP may provide training on any topic within the DSO area of practice. DCAP will monitor the relative experience levels of trial defense counsel through on-site, periodic observations of DSO personnel in the performance of their defense functions. The DCAP Director may be consulted by DSO COs on a case-by-case basis to make recommendations concerning detailing decisions of defense counsel, primarily in cases involving complex or novel issues.

b. DCAP shall coordinate with DSO COs to continually assess the quality of defense counsel functions as well as the professional training and continuing legal education opportunities provided for defense counsel and paralegals. DCAP shall develop programs and policies to promote the effective and efficient use of defense counsel resources that enhance the professional qualifications of all personnel involved in providing defense services.

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- c. DCAP Director may provide ethics advice to DSO personnel pursuant to reference (e).
- d. DCAP Director shall provide reports to DSO Ops as required.

1303 ATTORNEY-CLIENT RELATIONSHIP

A defense counsel may disclose information concerning a client to DSO Ops or a covered attorney assigned to the DCAP when requested by DSO Ops or DCAP, or for the purpose of seeking advice and assistance from DCAP in the representation of the client. Such disclosures are authorized in accordance with Rule 1.6.a. of reference (e) and are considered privileged communications. The DCAP office shall maintain a system for identifying conflicts and shall be careful to avoid conflicts of interest in providing advice to trial defense counsel.

1304 AVAILABILITY OF COUNSEL

The Director of DCAP may make counsel assigned to the DCAP office available to be detailed to represent a client, in consultation with DSO Ops and the DSO CO responsible for detailing defense counsel in a particular case.

CHAPTER 14 – LEGAL ASSISTANCE DEPARTMENT

1400 MISSION

The mission of the legal assistance department is to provide prompt, courteous, and high quality legal assistance to active-duty members, thereby enhancing combat readiness and, where possible, morale and welfare. As resources permit legal assistance also will be provided to active duty family members, retirees and their family members, and to other eligible persons listed in section 0705 of reference (b) or authorized by the JAG. Legal assistance departments shall develop, promote, and execute preventive law programs to educate eligible persons regarding their legal rights, responsibilities, and duties. In addition, legal assistance departments are encouraged to assist local SJAs in maintaining command legal assistance programs within fleet and shore units.

1401 POLICY

The provision of legal assistance is governed by Chapter VII of reference (b) and reference (cb), which is to be liberally construed to accomplish the mission of the Navy Legal Assistance Program. RLSO COs are responsible for ensuring legal assistance services comply with these two references. Any legal assistance attorney may request permission to deviate from the provisions of the Legal Assistance Manual by sending a request to the NLSC Assistant for Legal Assistance Services (dual-hatted as OJAG Code 16) via the chain of command. Personnel should address all questions regarding this section or the Navy Legal Assistance Program generally to the NLSC Assistant for Legal Assistance Services.

CHAPTER 15 – TRIAL DEPARTMENT

1500 MISSION

The mission of the trial department is to deliver prompt, efficient, and professional advice on the prosecutorial merit of criminal allegations to Commanders and convening authorities, and to provide qualified trial counsel for the prosecution of SPCMs and GCMs, and qualified government counsel for Article 32s. When requested to support the command services mission, the trial department will provide qualified counsel for initial review officer (IRO) hearings and recorders for ADSEP boards and boards of inquiry.

1501 TRIAL DEPARTMENT HEAD (TDH) RESPONSIBILITIES

- a. Supervise, train, and direct all trial counsel, paralegals, and other military and civilian personnel assigned to the department.
- b. Assign government and trial counsel for all SPCMs, GCMs, and Article 32 hearings, as well as IRO hearings and administrative proceedings when requested, ensuring an equitable distribution of the caseload and taking into consideration the experience level of counsel and the complexity of each case.
- c. Assign counsel for administrative boards and investigative bodies when requested, and as resources permit.
- d. Direct military justice case tracking by use of approved case management system(s).
- e. When requested, assist local SJAs with advice and training on military justice and court-martial.
- f. Provide legal advice on criminal investigations to Naval Criminal Investigative Service agents or other Government investigators.
- g. Direct prompt case screening and, when appropriate, timely preparation of internal analysis memoranda and recommendations for or against court-martial prosecution to SJAs and convening authorities.
- h. Maintain a current list of pre-trial confinees and review periodically to ensure compliance with applicable speedy trial rules.
- i. As the office's senior litigator, assist newly assigned trial counsel in the preparation of their cases as needed.
- j. Oversee the training of assigned counsel in trial preparation and courtroom advocacy.
- k. Ensure assigned counsel and/or trial paralegals promptly and accurately enter case data into the approved case management system.

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l. Serve as liaison between the judiciary and junior trial counsel in appropriate matters such as courtroom demeanor, interpretation of court rules, and other areas relating to courtroom procedures, conduct, and advocacy skills.

m. Ensure the RLSO CO and XO are kept informed of all relevant issues within the department, including the professional competence and progress of counsel and other personnel.

n. Coordinate with Assistant U.S. Attorneys and Special Assistant U.S. Attorneys on cases involving both military and federal jurisdiction. Coordinate with state and local prosecuting attorneys on cases with shared jurisdiction or interest.

o. Coordinate with the Office of Special Trial Counsel (OSTC), once operational, consistent with FY22 NDAA and implementing policies and regulations.

p. Inform TCAP promptly of all death and national security investigations and cases.

q. Encourage counsel to openly and freely consult with TCAP as needed.

1502 LIAISON WITH CONVENING AUTHORITY

a. It is essential to maintain open lines of communication and contact between detailed trial counsel, the convening authority, and/or supporting SJA. Throughout the course of case review and litigation, the trial counsel shall keep the SJA and convening authority informed as to logistic and administrative matters such as: witness requests; funding issues; defense requests for enlisted members; the need for bailiffs, brig chasers, etc.; as well as to significant substantive matters as determined by trial counsel or when specifically requested by the SJA or convening authority. At the conclusion of trial, trial counsel shall communicate the results to the convening authority or a representative. In cases of particular importance, interest, or controversy, trial counsel should meet personally with the convening authority to discuss the results of trial. However, the trial counsel for a particular case shall not also act as the convening authority's SJA.

b. Similarly, personal contact with the convening authority or designated representative by government counsel assigned to administrative hearings (such as a BOI) during the entire course of case disposition is important. Assigned counsel should make timely initial contact with the convening authority (or designated representative) and should maintain contact as necessary to keep the convening authority apprised of any significant developments.

c. Brig reports should be monitored to ensure confinees are promptly assigned counsel, if required or if requested by a confinee's command. Trial Counsel should liaison with pre-trial confinees' command's SJA or the Command Services department to ensure all pre-trial confinement requirements are met and complied with.

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1503 PHYSICAL EVIDENCE, TRIAL RECORDINGS, AND RECORDS OF TRIAL

a. The custody, safeguarding, and chain of custody of evidence is primarily the responsibility of the cognizant law enforcement agency. RLSO COs shall establish procedures to provide for the custody, safeguarding, and chain of custody of physical evidence that is maintained at a RLSO for the purposes of a court-martial. Specific accountability and record keeping procedures will be prescribed. Evidence should be returned to the cognizant law enforcement agency as soon as practicable after the conclusion of the court-martial. If evidence is maintained by the RLSO, disposal of evidence after trial is governed by reference (cg). The timing of such disposal prior to completion of appellate review is an issue involving considerable judgment and is dependent upon the strength of the case before the appellate review authorities. Trial counsel should consult with the TCAP, as necessary, for guidance.

b. At the conclusion of each general court-martial and special court-martial, the trial counsel is responsible for preparing the draft Statement of Trial Results (STR) in accordance with R.C.M. 1101 and references (by) and (bz) unless otherwise directed by the military judge. The STR must be ready for review and signature by the military judge as soon as possible after the sentence is announced. The trial counsel is responsible for ensuring the STR is distributed in accordance with R.C.M. 1101(d) and reference (b).

c. Upon receipt of a valid, written request by the accused and/or crime victim, the court reporter shall provide a copy of the court-martial recording and copies of, or access to, exhibits as soon as practicable in order to facilitate the submission of post-trial matters in accordance with R.C.M. 1106 and 1106A.

d. Court reporters are responsible for ensuring the timely completion of all certified records of trial. The RLSO CO will be advised of delays. Court reporters' primary duties are to provide the services set forth in R.C.M. 502(e) and 1112. Requests for additional court reporting services, such as recording and transcribing Article 32 proceedings, depositions, or administrative proceedings, should be directed to the RLSO CO. COs may approve these services at their discretion.

e. The RLSO CO is responsible for ensuring the completion of the post-trial process in accordance with references (by) and (bz). This includes ensuring the court reporter and the Post Trial Processing Unit are trained and capable of preparing a complete and accurate certified record of trial for every GCM and SPCM. The court reporter and Post Trial Processing Unit are responsible for ensuring the completeness and accuracy of the record of trial, including the verbatim transcript and summarized report. The court reporter and Post Trial Processing Unit will compile the record of trial in accordance with R.C.M. 1112.

f. Prior to forwarding a record of trial for appellate review, the military judge will verify the contents of the record of trial, including the verbatim transcript. Prior to providing the record of trial to the military judge for verification, the court reporter and the Post Trial Processing Unit shall ensure compliance with the post-trial procedures and checklists prescribed in references (by) and (bz).

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g. The Post Trial Processing Unit is responsible for preparing the Entry of Judgment for the military judge's signature. The Entry of Judgment shall be provided to the military judge with the record of trial prior to the verification process.

h. The Post Trial Processing Unit will monitor the completion of required post-trial actions by the CA and ensure the certified record of trial is forwarded for review in accordance with the post-trial timelines established in references (by) and (bz). The Post Trial Processing Unit will monitor the status of records until their arrival at the Navy-Marine Corps Appellate Review Activity (NAMARA, OJAG Code 40) and utilize CNLSC approved case tracking systems. If a certified record of trial is not forwarded for appellate review within 120 days, the Post Trial Processing Unit will prepare a letter stating the reasons for the delay in the post-trial process. This letter must be signed by the CO and attached to the certified record of trial.

i. RLSO COs shall monitor the status of records of trial using NLSC-approved case management system to ensure timely completion of the post-trial process. COs will advise RLSO Ops and OJAG Code 40 of any delays in processing records of trial.

j. In accordance with 0157f of reference (b), notes and recordings from trial shall be retained by the RLSO until review of the case is final. Computer disk copies of records of trial shall be retained for the same period of time. A hard copy of the record of trial shall be retained until confirmation that the original has been received by the appellate review activity. However, a copy of attachments (e.g., appellate exhibits) to the record of trial shall be retained until review of the case is final.

1504 RECORDERS FOR CERTAIN CHILD-RELATED, SEXUAL ASSAULT, AND DOMESTIC VIOLENCE CASES

RLSO COs will, in consultation with the cognizant SJA or type commander as appropriate, ensure a judge advocate is made available to serve as a recorder for all ADSEP boards and boards of inquiry involving Art 120 and 120b child sexual abuse bases, absent compelling reasons why one cannot be assigned. COs will, in consultation with the cognizant SJA or type commander as appropriate, assign a judge advocate as a recorder in other types of child and spouse abuse ADSEP hearings when personnel assets are available. Coordinate with OSTC as appropriate consistent with FY22 NDAA and implementing policies and regulations.

1505 VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP)

Reference (j), as implemented by references (m) through (o) prescribes procedures to implement the VWAP in DoD and DON. Each RLSO will have a program in place to ensure victims and witnesses are provided the required information and assistance in accordance with these instructions, taking special care to fulfill the unique responsibilities set forth in reference (o). See also paragraph 0211 of this Manual.

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1506 DUTIES AND RESPONSIBILITIES OF TRIAL PARALEGALS AND LEGAL ADMINISTRATIVE SUPPORT PERSONNEL

RLSO paralegals and legal administrative support serve a vital role in a RLSO trial department. As part of the prosecution team, these personnel may be made aware of information that is both privileged and confidential, and shall maintain the confidentiality of such information. The following includes, but is not limited to the primary paralegal duties and responsibilities:

- a. Tracking the location and caseloads of all assigned trial counsel;
- b. Organizing and updating command trial library and resource materials;
- c. Aiding in trial-related legal research and drafting legal documents;
- d. Maintaining counsel appointment schedules;
- e. Collecting trial department reports;
- f. Maintaining trial department case tracking;
- g. Participating in witness interviews;
- h. Assisting in the development and execution of trial strategy;
- i. Arranging for production and travel of witnesses;
- j. Assisting the assigned trial counsel with inputting data as required in the management information data base;
- k. Maintaining an evidence locker when required; and
- l. Performing other duties in furtherance of the trial department mission as directed by the CO, XO, and Trial Department Head.

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CHAPTER 16 – PROSECUTION SUPPORT SERVICES

1600 MISSION

APS, TCAP, and the CCC (currently a pilot program) provide prosecution support to all RLSOs. APS's role is to enhance prosecution mission focus, consistency, oversight, and rapid dissemination of lessons learned, facilitating a more uniform prosecution practice across NLSC. TCAP's mission is to support RLSO trial departments by providing advice and assistance directly to trial counsel throughout every phase of court-martial litigation and case preparation, including, but not limited to: investigation coordination; preferral of charges and specifications; preparing motions; preparing expert witnesses; devising trial strategy; and assisting with post-trial matters. The CCC may be detailed as trial counsel (or government counsel for Article 32s) in support of the prosecution of complex and high-visibility cases across NLSC.

1601 COMMAND RELATIONSHIP

a. APS directly reports to RLSO Ops, has prosecution program management and oversight authority, and assists in the execution of the military justice/prosecution mission. APS directly supervises TCAP and the CCC.

b. TCAP works under the direct supervision of APS and provides support to RLSO trial departments in the execution of the military justice mission. The TCAP Director supervises personnel detailed to TCAP and assists APS in the exercise of their oversight and reporting responsibilities.

c. CCC works under the direct supervision of APS. APS and RLSO Ops have detailing authority over the CCC. CCC may be detailed to a case upon request from a RLSO CO, or directly by APS or RLSO Ops if warranted by the circumstances.

d. TCAP may request case specific or other administrative information from trial counsel or RLSO COs as necessary to assist in fulfilling its roles and responsibilities, or that of APS or RLSO Ops.

1602 ROLES AND RESPONSIBILITIES

a. APS's role is to focus on military justice and prosecution to create a more uniform practice across the NLSC enterprise. While RLSO COs are responsible for the regional execution of the prosecution mission and the oversight of counsel and personnel under their commands, APS is responsible for and authorized to create, oversee, and monitor compliance with uniform prosecution policy, practice, and standards across the NLSC enterprise. APS will coordinate with NLSC leadership on any significant policy changes to ensure alignment and awareness. In executing his/her duties, APS is considered a peer to RLSO COs and may be consulted concerning detailing decisions of trial counsel, primarily in cases involving complex or novel issues. APS shall be consulted in all death and national security cases. APS has the authority to promulgate notification requirements and RFIs. APS will also coordinate with counterparts at OJAG, NLSC HQ, NJS, NCIS HQ, NAVIG HQ, USN/USMC/USA/USAF,

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CHINFO, OLA, and others necessary to coordinate and address HQ-level or enterprise-wide issues pertaining to the prosecution function. APS, in conjunction with TCAP, shall coordinate as necessary and on major policy issues with OJAG Code 20.

b. TCAP shall provide subject matter expertise and support to RLSO trial counsel when requested by trial counsel, the RLSO CO, or as directed by APS or RLSO Ops. TCAP personnel are available as a resource to assist in the prosecution of cases in exceptional circumstances and when approved by APS. TCAP provides scheduled and ad hoc training in military justice, trial practice, and professional responsibility to trial counsel and trial LNs/paralegals across NLSC. TCAP will monitor the relative experience levels of trial counsel through on-site, periodic observations of Navy judge advocates, LNs, and civilian paralegals in the performance of their prosecutorial functions.

c. TCAP shall coordinate with RLSOs to continually assess the quality of trial counsel and trial LN/paralegal functioning, as well as the professional training and continuing legal education opportunities provided for trial counsel and trial LNs/paralegals. TCAP shall develop programs and policies to promote the effective and efficient use of trial counsel resources that enhance the qualifications of all personnel involved in providing trial services. The Director of TCAP shall report to APS as requested on the state of trial counsel services within the Navy.

d. TCAP shall maintain open communication and coordination with OJAG Code 46 (Appellate Government) for purposes of facilitating and coordinating advice and assistance to trial counsel.

1603 ADVICE TO TRIAL COUNSEL

A trial counsel may disclose case information, including that which concerns a victim or witness to RLSO Ops, APS, or members assigned to TCAP when requested or for the purpose of seeking advice and/or assistance from RLSO Ops, APS or TCAP.

1604 PROSECUTION MANUAL

APS, with assistance from TCAP, shall create and maintain a uniform prosecution manual to serve as the NLSC-wide standard, leading reference, and guide for trial departments on how to screen and prosecute cases within the Navy. The prosecution manual shall be published in a manner that ensures availability for all RLSO and trial department personnel.

1605 AVAILABILITY OF COUNSEL

APS may make TCAP personnel or the CCC available to serve as trial counsel or M.R.E. 615 government representatives when assistance is requested by the cognizant RLSO CO, or when APS determines circumstances warrant such assistance.

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CHAPTER 17 – COMMAND SERVICES DEPARTMENT AND STAFF JUDGE ADVOCATE SUPPORT

1700 POLICY

a. The purpose of the RLSO command services department is to provide prompt and effective legal services to commands throughout the Navy sea and shore establishment. Every RLSO (and detachment with sufficient assets) will have a command services program and designate a command services DH. Every command and activity within a RLSO's (or detachment's) AOR will be informed of points of contact for specific legal matters. Local instructions or other means should be used to inform commands of the availability of services and the procedures to obtain them.

b. Commands without an SJA assigned will be given legal advice and support as necessary. If resources are available, RLSOs may provide assistance to area command SJAs who request services.

1701 IMPLEMENTATION OF COMMAND SERVICES

a. Command services officers serve as the initial points of contact and advisors to the RLSO and assigned commands. The command services officer must serve as an effective liaison to enable RLSO personnel to learn of potential legal issues and to provide appropriate legal support even before a request for services is made. Established processes, especially with regard to a potential court-martial case, must vigorously stress bringing the client command's legal issues to the department for action as soon as possible.

b. The designated SJA to an installation CO and other courts-martial Convening Authorities will provide independent advice to the commanders on military justice matters as required.

c. Command services officers shall familiarize themselves with the mission, organization, and operations of client commands and shall become personally acquainted with local COs and other command personnel. Periodic visits and personal contact are highly encouraged.

d. Area commands often ask for training lectures on legal topics as part of their general military training programs. The command services or training officer should coordinate all requests and strive to respond favorably to them.

e. Command services officers shall advise client commands of the full range of services available from NLSC commands and programs, including defense services available from DSOs, and victim services available from the VLCP. Where practicable, command services officers will facilitate supported command access to all DSO and RLSO services.

f. Command services officers will monitor pending administrative discharge boards, ensure customer convening authorities are familiar with processing time guidelines contained in the MILPERSMAN, and advise on appropriate actions to ensure expeditious processing of such

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proceedings. Command services officers shall advise prospective administrative discharge board recorders as to their duties and responsibilities.

g. Command services officers will assist commands with foreign criminal jurisdiction advice, when required. Foreign criminal jurisdiction practice involves, among other matters, jurisdiction waiver requests, contracting of foreign counsel to represent the accused, trial observation, and prisoner visitation. Although these functions are often within the purview of the cognizant SJA, the RLSO may be called on to assist.

h. Command services officers are not authorized to provide legal advice to Service Members pertaining to issues which implicate the Service Members' personal liabilities or interests – criminal, disciplinary, administrative, civil or otherwise. Examples of such matters include criminal investigations, Inspector General Investigations, Non-Judicial Punishment, UCMJ Article 138 or U.S. Navy Regulations Article 1150 complaints, and civil disputes. Command services officers should direct Service Members to DSOs or RLSO Legal Assistance Departments for assistance with these matters as appropriate.

i. Command services DHs will support the Staff Judge Advocate Counsel Assistance Program (SJACAP), proactively share lessons learned and best practices with SJACAP, and promote SJACAP as a resource.

1702 POST-TRIAL RESPONSIBILITIES

See references (by) and (bz) for specific responsibilities and duties regarding post-trial matters.

1703 SPECIAL ASSISTANT UNITED STATES ATTORNEY

The Special Assistant United States Attorney (SAUSA) represents the Government in federal criminal misdemeanor court proceedings. When practicable, RLSO COs shall supervise and facilitate the provision of SAUSA responsibilities within their respective areas of operation. RLSO COs may designate a department, often the Command Services Department, to serve as the program manager for SAUSA personnel within the local area. RLSOs may recommend the local United States Attorney's Office (USAO) appoint one or more attorneys as SAUSAs. If a local USAO requires a Memorandum of Understanding (MOU), the RLSOs shall coordinate with RLSO Ops to ensure compliance with all applicable rules and regulations for MOUs with non-DoD federal activities.

1704 ETHICS ADVICE

In accordance with reference (ch), RLSO COs, as well as designated SJAs and OICs, are Ethics Counselors as defined by reference (bt) and shall provide ethics advice to commands and DoD personnel, as required. Communications received by an attorney acting in an Ethics Counselor capacity are not protected by the attorney-client privilege. Ethics Counselors must advise individuals as to the inapplicability of the privilege prior to any communication from the individual being counseled.

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1705 ENVIRONMENTAL LAW

a. Regional Environmental Coordinator (REC) counsel provide environmental counsel at the Region level concerning environmental law and policy. The function of providing environmental legal support is coordinated among the REC counsel and Office of General Counsel attorneys at various commands within a region. The REC counsel is primarily responsible for assisting and advising commands on operational environmental law/compliance matters.

b. Command services officers and installation SJAs should not provide legal advice on environmental matters, including advice pertaining to responding to FOIA requests, without first consulting with the REC counsel. Any advice given shall be in conjunction with and coordinated through the REC counsel or his/her Deputy. The REC counsel shall be the sole conduit to the Region Commander in his or her role as the REC. If RLSO personnel are asked to provide environmental law advice or support, they shall promptly coordinate with the REC counsel and must not independently provide such advice or support. In regions without REC counsel, the Region SJA will coordinate with higher headquarters environmental counsel to provide advice on environmental law matters.

1706 FAMILY ADVOCACY PROGRAM

a. RLSO COs will, in consultation with the cognizant SJA, ensure a judge advocate is assigned to participate in the installation Family Advocacy Committee (FAC) and Incident Determination Committee (IDC). When the installation has no SJA, and after consultation with the type commander, COs will ensure a judge advocate is appointed as an active, permanent member of the installation FAC or IDC.

b. General responsibilities for support of the FAP are discussed in paragraph 0210 of this Manual.

CHAPTER 18 – VICTIMS’ LEGAL COUNSEL PROGRAM

1800 MISSION

The mission of the VLCP is to provide support and advocacy on behalf of eligible victims. VLC provide this support regardless of whether the victim makes a Restricted, Unrestricted, or no official report of an offense. VLC provide information and assistance regarding reporting options, the military justice process, victim rights, victim privacy, victim privileges, information on additional support providers, basic legal assistance, and when applicable, collateral misconduct. Support and advocacy on behalf of the victim is the VLCP’s highest priority. See reference (ci).

1801 SUPERVISION OF VLCP SERVICES

a. VLCP services are mandated by Congress in section 1716 of the Fiscal Year (FY) 2014 National Defense Authorization Act (NDAA), Public Law 113-66 and section 548 of the FY20 NDAA, Public Law 116-92. VLCP personnel report to CNLSC via Chief, Navy VLCP. Chief, Navy VLCP is responsible for the oversight, formal evaluation, training, support, and mentoring of VLCP personnel. Chief, Navy VLCP promulgates policy requirements, supervises and manages VLCP personnel, establishes practices and instructions to support and enhance the VLCP mission, ensures proper support of VLCP personnel throughout the Fleet, coordinates with other victim support programs both internal and external to the DON and DoD, and inspects VLCP operations as needed to ensure policy compliance and effective mission execution. The Deputy Chief, VLCP assist Chief, Navy VLCP in execution of these duties. An active duty Operations Officer is assigned the duties and responsibilities of an Executive Officer in support of VLCP personnel and the Chief and Deputy Chief, Navy VLCP.

b. VLC serve outside the chain of command of the victim and the accused and are independent of both trial counsel and defense counsel. VLCP services are designed to complement the assistance provided by Sexual Assault Response Coordinators (SARCs), Victim Advocates (VAs), and other military support personnel.

1802 VICTIMS’ LEGAL COUNSEL

a. Judge advocates are selected for assignment within the VLCP based on military justice experience, strong interpersonal skills, and proven professional judgment and maturity. VLC are certified under UCMJ Article 27(b) and sworn under Article 42(a) and, following completion of a specialized course of study focused on victims’ rights, support, and advocacy as prescribed by Chief, Navy VLCP, are individually certified to perform the duties as VLC by the JAG.

b. VLC may form an attorney-client relationship with eligible victims to advise and represent the victim/client’s interests in all matters authorized within the VLCP mission. Communications between the VLC and their clients are confidential in accordance with reference (ci). VLC are subject to reference (e).

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c. VLC provide the following advice, assistance, and where applicable, advocacy for eligible victims:

- (1) Potential criminal liability of the victim and right to seek defense services;
- (2) Legal consultation regarding the VWAP;
- (3) The role of VAs, SARCs, and other support providers and any privileges that may exist between the victim and those providers;
- (4) Legal consultation regarding the potential for civil litigation against other parties (other than the DoD);
- (5) The military justice system, its proceedings, options, each participant's relative role, and the proceedings in which the victim may observe or participate in;
- (6) If participating in a hearing, the victim's duties to the court and responsibilities when testifying;
- (7) The Government's authority to compel testimony and cooperation;
- (8) Accompanying victims to legal hearings and proceedings, legal representation, and advice during the reporting, investigative and court-martial processes, including filing and arguing motions/appellate writs in which the victim has standing and interest;
- (9) Services available for medical support, including emotional/mental health counseling;
- (10) Eligibility for military/veteran benefits and availability of Legal Assistance counsel to assist with personal civil legal matters or assist with obtaining military/veteran benefits;
- (11) Advocacy on the victim's behalf with investigative, prosecutorial, and command authorities;
- (12) The availability and utility of requesting either a civilian or military protective order;
- (13) The potential of securing an expedited transfer;
- (14) The nature and effect of sexual assault reporting;
- (15) Other legal advice and services connected with a report of an offense or as authorized by the Secretary of Defense. Any request to expand VLCP services must be authorized in advance by CNLSC in consultation with Chief, Navy VLCP.

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1803 NON-LAWYER VLCP SUPPORT STAFF

a. Non-lawyer support staff assist VLC and oversee administration of VLCP offices. Support staff may not provide legal advice or services which call for the professional judgment of an attorney.

b. Support staff must safeguard client confidences and privileged information at all times. Support staff may disclose such information to others only at the discretion of the supervising VLC.

1804 ELIGIBLE VICTIMS

For general eligibility criteria for the provision of VLCP services, see reference (ci) . Victims seeking VLCP services who are not specifically identified in reference (ci) may contact the nearest VLCP Office for an eligibility determination. Chief, Navy VLCP is authorized to grant exceptions to general eligibility standards.

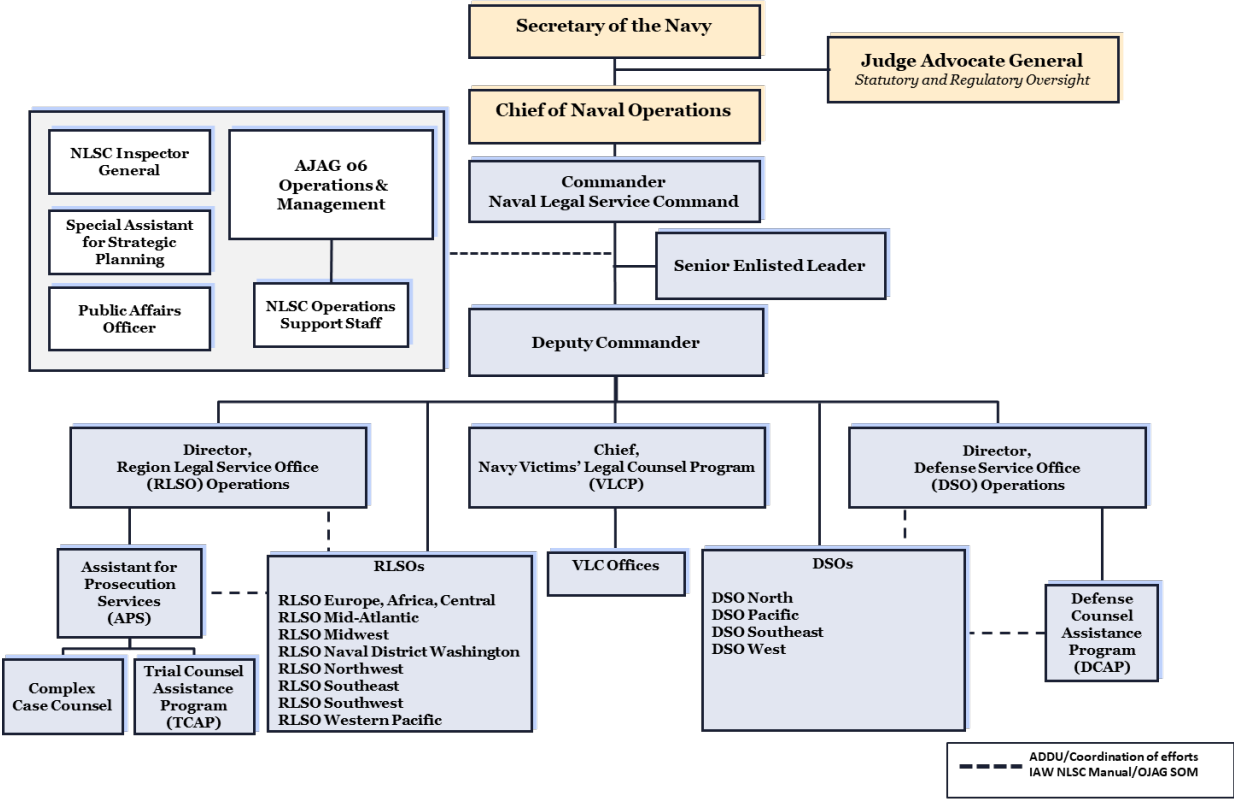
1805 VICTIMS' COLLATERAL MISCONDUCT

a. When a victim may have committed collateral misconduct, as in misconduct directly connected to a reported offense, the VLC may provide limited personal representation advice to explain the potential consequences of the alleged misconduct, whether to participate in interviews with military or civilian law enforcement officials, and what, if any, disciplinary action may be taken against the victim. With the victim's permission, the VLC may advocate to military authorities on the victim's behalf regarding the alleged collateral misconduct.

b. If the misconduct rises to the level of an ADSEP board, court-martial, or civilian criminal charges, the victim will be referred to a defense counsel for representation in the matter. The VLC may work with the victim's defense counsel to continue protecting the victim's rights and interests related to the reported offense.

c. If through communications, the VLC or victim believes the victim may have committed misconduct unrelated to the reported offense, the VLC shall coordinate referral of the client to a defense counsel. The VLC shall not participate in defense services for an offense unrelated to a reported offense, but any conversations between the VLC and the victim regarding the misconduct shall remain confidential.

APPENDIX A - NLSC CHAIN OF COMMAND



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APPENDIX B - MEDIA RELATIONS

1. Preface. Judge advocates (and other members of the JAGC may be confronted with press inquiries and media interest regarding the military justice system, in general, and their cases, in particular. The references below are intended to provide initial guidance to NLSC COs to assist them when dealing with the media. For additional guidance, NLSC commanders should contact the OJAG PAO.

2. References

a. U.S. Navy Regulations (1990), Article 1121, reference (aq). This section, entitled “Disclosure, Publication and Security of Official Information,” prohibits naval personnel and civilian employees from acting as a news service correspondent, commentator or analyst, unless specifically assigned to public affairs duties or authorized by SECNAV.

b. Manual for Courts-Martial

(1) R.C.M. 806, “Public Trial.” This section applies to spectators at courts-martial. It presumes courts-martial will be open to the public and it acknowledges the military judge’s dual role of protecting the accused’s right and public’s interest in a public trial, while also maintaining the dignity of the proceeding. It also empowers the military judge to “reasonably limit the number of spectators in, and the means of access to, the courtroom and exclude specific persons from the courtroom.” The defense has a right to object to the actions of the military judge.

(2) R.C.M. 806, “Public Trial” ((c) Photography and broadcasting prohibited). This section strictly prohibits the use of audio-visual recording equipment and photography, unless the military judge determines closed-circuit transmissions are necessary to accommodate an overflow of spectators or when an accused has been excluded from the courtroom pursuant to R.C.M. 804. Compare R.C.M. 1112(a), which permits recording court-martial proceedings by videotape, audiotape, or other technology from which sound images may be reproduced to accurately depict the court-martial for purposes of preparing the record of trial or as permitted by R.C.M. 806(c).

c. JAGMAN, reference (b).

(1) JAGMAN 0142. This section, entitled “Release of Information Pertaining to the Administration of Military Justice and Accused Persons,” provides extensive policy guidance with regard to releasing information on pending investigations or military justice matters. It does not apply to judge advocates assigned to represent individual clients other than the Government when making statements concerning the subject matter of that representation; they must comply with reference (e). The bottom line is simple: No statements or other information shall be furnished to news media for the purpose of influencing the outcome of an accused’s trial, or which could reasonably be expected to have such an effect. Release limitations apply to preliminary investigations, the imposition of NJP, and the court-martial process (i.e., the apprehension of the accused, preferral of charges, or initiation of an investigation).

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(2) JAGMAN 0143. This section, entitled “Spectators at Proceedings,” applies to spectators at courts-martial and Article 32 hearings. Only if R.C.M. 806(b)(5) is satisfied, should the convening authority or investigating officer direct that any part of an Article 32, UCMJ, investigation be held in closed session and that persons be excluded. In cases dealing with classified information, the preliminary hearing officer will ensure that any part of a pretrial investigation that does not involve classified information will remain open to spectators.

d. COMNAVLEGSVCCOMINST 5800.1H, Naval Legal Service Command Manual. Section 0218 of this instruction recognizes the importance of the media’s role in a democratic society, but advises COs to protect the rights of Service Members and to maintain courtroom dignity. It requires guidance from local PAO experts when information about DSO or RLSO services is to be disseminated. It also mandates notice to CNLSC of high visibility/media interest matters. Finally, it provides guidance related to online dockets.

e. JAGINST 5803.1E, Professional Conduct of Attorneys Practicing under the Supervision of the JAG, reference 0(e). Rule 3.6 of this instruction, concerning extra-tribunal statements, sets out specific rules for practicing judge advocates.

f. SECNAVINST 5720.42G, Department of the Navy Freedom of Information Act, reference (bq). This instruction governs requests for government held-information. It imposes no duty to create files or generate information.

g. SECNAVINST 5211.5F, Department of the Navy Privacy Act Program, reference 0(v). This instruction provides individuals with access rights to information held by the government regarding themselves and limits disclosure of sensitive/personal information to third parties.

h. SECNAVINST 5720.44C, Department of the Navy Public Affairs Policy and Regulation, reference (cj).

(1) Section 0201 (FOIA). This section includes guidance related to the release of information without a FOIA request. DoD and DON policy encourage the release of information and records deemed to be of interest to the public in the most expeditious manner practicable. Information and records deemed especially useful to inform the public of governmental activity may be released in the absence of specific requests, FOIA or otherwise.

(2) Section 0211 (Military Justice Matters). This section outlines Navy public affairs policy concerning military justice matters, including disclosure of information and trial proceedings.

i. JAGINST 5400.1C, Standard Organization Manual, reference (ck). The OJAG SOM provides guidance for judge advocates on release of official information, FOIA materials, PA requests and information about individual representation.

j. JAG/COMNAVLEGSVCCOM INSTRUCTION 5728.1, Guidance for Official and Unofficial Social Media Presence within OJAG and NLSC, reference (cl). This instruction

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includes guidance on the use of Internet-based capabilities, including official and unofficial use by OJAG and NLSC activities.

k. Navy Social Media Handbook. This guide, developed by the Chief of Naval Information (CHINFO), outlines the appropriate use of social media for Navy leaders, communicators, Sailors, families, ombudsmen and civilians. It is updated annually; the latest version, along with other helpful resources, can be found online at <https://www.navy.mil/SocialMediaDocs.asp>.

l. UCMJ Article 140a and JAGINST 5813.2. Article 140a and JAGINST 5813.2, reference (w), provide that the public shall have access to military justice docket information, filings, and records to the greatest extent practicable beginning in December 2020. Docket information will be provided and updated on an ongoing basis, taking into account security and other considerations. Court filings and records will be redacted to comply with the PA and other restrictions on disclosure. OJAG Code 41 shall have primary responsibility for redacting and posting the required records.

3. Media Experts — Points of Contact

- a. OJAG (OOPA): (202) 685-5493, DSN 325-5493.
- b. Local contacts as appropriate (see complete PAO directory at [http://portal.secnnav.navy.mil/orgs/CHINFO/Lists/PA Directory](http://portal.secnnav.navy.mil/orgs/CHINFO/Lists/PA%20Directory)).
- c. CHINFO (Arlington, Virginia): (703) 697-5342, DSN 227-5342.

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APPENDIX C - REFERENCES

- (a) OPNAVINST 5450.189D of 14 Mar 2019, Mission, Functions and Tasks of Naval Legal Service Command
- (b) JAGINST 5800.7G of 15 Jan 2021, Manual of the Judge Advocate General
- (c) OPNAVINST 5400.45 of 16 May 2014, Standard Naval Distribution List
- (d) BUPERSINST 1610.10F of 1 Dec 2021, Navy Performance Evaluation System
- (e) JAGINST 5803.1E of 20 Jan 2015, Professional Conduct of Attorneys Practicing
- (f) 10 U.S.C.
- (g) DoD Directive 7050.06 of 17 April 2015, Military Whistleblower Protection
- (h) OPNAVINST 6110.1J of 11 Jul 2011, Physical Readiness Program
- (i) OPNAVINST 5354.1H of 3 Nov 2021, Navy Harassment Prevention and Military Equal Opportunity Program
- (j) DoD Instruction 1030.02 of 2 September 2020, Victim and Witness Assistance Procedures
- (k) OPNAVINST 1752.1C of 13 Aug 2015, Sexual Assault Prevention and Response Program
- (l) OPNAVINST 1752.2C of 20 May 2020, Family Advocacy Program
- (m) SECNAVINST 5800.11B of 5 Jan 2006, Victim and Witness Assistance Program (VWAP)
- (n) OPNAVINST 5800.7A of 4 Mar 2008, Victim and Witness Assistance Program (VWAP)
- (o) JAG/CNLSCINST 5800.4A of 18 Apr 2011, extended 23 Aug 18, Victim and Witness Assistance Program (VWAP)
- (p) OPNAVINST 1740.4E of 5 Oct 2017, U.S. Navy Family Care Policy
- (q) OPNAVINST 1720.4B of 18 Sep 2018, Suicide Prevention Program
- (r) JAG/CNLSCINST 1720.1 of 25 Oct 2016, Suicide Prevention Program
- (s) JAGINST 1500.4B of 14 Jul 2021, JAG Community Training Program
- (t) CNLSCINST 1300.1C of 7 Jun 2022, Professional Development and Training Policy for Judge Advocates in the Their Initial Tour
- (u) 5 U.S.C.
- (v) SECNAVINST 5211.5F of 20 May 2019, DON Privacy Act (PA) Program
- (w) JAG/CNLSCINST 5813.2 of 16 Dec 2020, Public Access to Court-Martial Dockets, Filings, and Records Pursuant to Article 140a, UCMJ
- (x) SECNAVINST 5200.45 of 13 Feb 2019, General Equipment – Accountability and Management
- (y) JAG/CNLSCINST 5200.45 of 4 Mar 20, General Equipment – Accountability and Management
- (z) JAG/CNLSCINST 5530.2D of 8 Jun 2017, Office of the Judge Advocate General and Naval Legal Service Command Physical Security Program
- (aa) SECNAVINST 5510.36B of 12 Jul 2019, DON Information Security Program Instruction
- (ab) JAG/CNLSCINST 5239.3 of 18 Nov 2016, Information Assurance Program
- (ac) SECNAVINST 5510.30C of 24 Jan 2020, DON Personnel Security Program
- (ad) SECNAVINST 3300.2C of 13 Aug 18, Department of the Navy Antiterrorism Program
- (ae) DoD Instruction 2000.12 of 1 March 2012, DoD Antiterrorism (AT) Program
- (af) SECNAVINST 5400.40A of 16 Dec 2005, Mission, Organization, Functions, and Support of Navy-Marine Corps Trial Judiciary
- (ag) JAGINST 5813.4K of 29 Mar 2021, Navy-Marine Corps Trial Judiciary
- (ah) CNLSCNOTE 5040.2 of 15 Dec 21 (Canc: Sep 22), Naval Legal Service Command Integrated Risk Management Program

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- (ai) JAGINST 5800.9E of 19 Oct 2020, Quarterly Criminal Activity, Disciplinary Infractions and Courts-Martial Report (QCAR)
- (aj) OPNAVINST 5350.4D of 4 Jun 2009, Navy Alcohol and Drug Abuse Prevention and Control
- (ak) JAG/CNLSCINST 1150.1E of 15 Oct 2018, Recruiting, Internships, and Selection for the JAG Corps Student and Direct Appointment Programs
- (al) Joint Travel Regulations
- (am) OPNAVINST 3500.39D of 29 Mar 2018, Operational Risk Management
- (an) OPNAVINST 5100.23H of 26 Jun 2012, Navy Traffic Safety Program
- (ao) SECNAVINST 5050.6 of 17 Dec 2019, Navy Conference Management Program
- (ap) CNLSC SUPLAN 3440-TFNF (SUPLAN 3440)
- (aq) U.S. Navy Regulations, 1990
- (ar) JAG/CNLSCINST 1500.1B of 26 Sep 2018, Judge Advocate General's Corps Mentoring Program
- (as) OPNAVINST 3120.32D CH 1 of 15 May 2017, Standard Organization and Regulations of the U.S. Navy
- (at) NAVJUSTSCOLNOTE 1503 of 29 Jul 21 (Canc FRP: Sep 22), annual, Fiscal Year Professional Development Standards
- (au) NAVJUSTSCOLNOTE 1520 of 29 Jul 21 (Canc FRP: Sep 22), annual, Fiscal Year Professional Military Education
- (av) JAGINST 1500.2 of 12 Jul 2010, extended 26 Apr 2017, Legalman Paralegal Education Program
- (aw) SECNAVINST 12410.25B of 21 May 2019, Civilian Employee Training and Career Development
- (ax) JAG/CNLSCINST 12410.1 of 10 Aug 2009, extended 26 Apr 2017, Civilian Education, Training, and Career Development
- (ay) NAVEDTRA 43243-A, Personnel Qualification Standards for Legalman
- (az) OPNAVINST 1306.2K of 16 Jul 2021, Command Senior Enlisted Leader Program
- (ba) JAG/CNLSCINST 1500.5A of 26 Jan 2021, Legalman Collaboration, Tasks, Duties, and Responsibilities
- (bb) JAG/CNLSCINST 12620.1A of 25 Apr 2018, OJAG/NLSC Telework Program
- (bc) MCO 1610.7A of 1 May 2018, Performance Evaluation System
- (bd) PSCINST M1611.1D of 9 Jan 2018, Coast Guard Officer Evaluation System Procedures Manual, January 2018
- (be) COMDTINST M1000.3A, Officer Accessions, Evaluations, and Promotions, July 2020
- (bf) DoD Instruction 1400.25 of 1 Dec 96, Volume 431 CH-2 of 1 Jul 2020, DoD Civilian Personnel Management System: Performance Management and Appraisal Program
- (bg) SECNAVINST 3590.5A of 2 Feb 2018, Award of Medals, Trophies, Badges, and Similar Honors in Recognition of Accomplishments
- (bh) JAG/CNLSCINST 1650.1C of 3 Jul 2018, JAGC Military Personnel Awards Program
- (bi) JAG/CNLSCINST 12450.1A of 9 Jan 2020, Civilian Award and Recognition Program
- (bj) JAGINST 1650.2 of 4 Oct 2016, Award Submission Standards and Requirements
- (bk) OPNAVINST 1740.3E of 2 Oct 2017, Command Sponsor and Indoctrination Program
- (bl) OPNAVINST F3100.6K of 22 Dec 2009, Special Incident Reporting (OPREP-3 Pinnacle, OPREP-3 Navy Blue, and OPREP-3 Navy Unit SITREP) Procedures
- (bm) OPNAVINST 5102.1E

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- (bn) DoD Instruction 5200.48 of 6 March 2020, Controlled Unclassified Information
- (bo) JAG/CNLSCINST 5211.11 of 14 Jun 2013, Standards and Policy for Safeguarding Personally Identifiable Information
- (bp) SECNAV M-5216.5 of May 2018, DON Correspondence Manual
- (bq) SECNAVINST 5720.42G of 15 Jan 2019, DON Freedom of Information Act (FOIA) Program
- (br) JAGINST 1001 of 17 Jun 2009, extended 26 Apr 2017, Reserve Component Judge Advocate Total Force Structure
- (bs) RESPERs M-1001.5 CH-12 of 19 Jul 2018, Navy Reserve Personnel Manual
- (bt) DoD 5500.07-R, Joint Ethics Regulation (JER), August 1993
- (bu) 5 C.F.R.
- (bv) DON Financial Management Policy Manual (FMPM) of July 2020
- (bw) DoD 7000.14-R, Department of Defense Financial Management Regulation (DoD FMR)
- (bx) OMB Circular No. A-11, Preparation, Submission, and Execution of the Budget
- (by) JAG/CNLSCINST 5814.1B of 6 Sep 19, Post-Trial Processing
- (bz) JAG/CNLSCINST 5814.1D of 6 Sep 2019, Post-Trial Processing
- (ca) SECNAVINST 1640.9D of 15 May 2019, DON Corrections Manual
- (cb) JAGINST 5801.2B of 15 Feb 2013, Navy-Marine Corps Legal Assistance Program
- (cc) SECNAVINST 5370.7E of 28 Feb 20, Military Whistleblower Protection
- (cd) JAGINST 5830.1A of 31 Oct 2005, extended 26 Apr 2017, Procedures Applicable to Courts of Inquiry
- (ce) DoD Instruction 5525.11 of 3 March 2005, Criminal Jurisdiction Over Civilians Employed By or Accompanying the Armed Forces Outside the United States, Certain Service Members, and Former Service Members
- (cf) COS DSO ltr 12271 Ser COS DSO/005 of 12 Oct 2017, Defense Service Office (DSO) Policy on the Handling and Storage of Real Evidence
- (cg) OPNAVINST 5530.14E of 26 Nov 2017, Navy Physical Security and Law Enforcement Program
- (ch) DJAG memo 5370 Ser 13/2SC12785.08 of 13 Jun 08 (Designation of Ethics Counselors)
- (ci) JAGINST 5810.3A of 23 Apr 2018, Navy Victims' Legal Counsel Program Manual
- (cj) SECNAVINST 5720.44C of 10 Apr 2019, DON Public Affairs Policy and Regulations
- (ck) JAG/CNLSCINST 5400.1C of 14 Jun 2012, Standard Organization Manual
- (cl) JAG/CNLSCINST 5728.1, Guidance For Official and Unofficial Social Media Presence Within the Office of the Judge Advocate General (OJAG) and Naval Legal Service Command (NLSC)
- (cm) JAG/CNLSCINST 5295.1 of 7 Jun 2022, Professional Development and Training Officer Policy