



DEPARTMENT OF THE NAVY
DEFENSE SERVICE OFFICE WEST
3395 STURTEVANT STREET, SUITE 2
SAN DIEGO, CA 92136-5072

DEFSEVROFFWESTINST 5800.1Q
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27 Jan 22

DEFENSE SERVICE OFFICE WEST INSTRUCTION 5800.1Q

From: Commanding Officer, Defense Service Office West

Subj: LEGAL SERVICES AVAILABLE AT DEFENSE SERVICE OFFICE WEST

Ref: (a) JAGINST 5800.7 (Series)
(b) COMNAVLEGSVCCOMINST 5800.1 (Series)
(c) JAGINST 5803.1E
(d) BUMEDINST 6010.31

Encl: (1) Sample Request for Defense Counsel (UCMJ)
(2) Sample Request for Counsel for Respondent (Administrative Separation)
(3) Administrative Separation Supporting Documentation

1. Purpose. To describe services available at Defense Service Office (DSO) West under references (a) and (b) and to publish procedures for requesting those services.

2. Cancellation. DEFSEVROFFWESTINST 5800.1P.

3. Mission. In addition to timely consultations with Navy, Marine Corps, and Coast Guard personnel whose interests are adverse to the United States, DSO West provides effective representation before general and special courts-martial, preliminary hearings convened under Article 32, Uniform Code of Military Justice (UCMJ), pretrial confinement review hearings, administrative separation proceedings, and other adversarial proceedings as appropriate.

4. Assigned Geographic Area of Responsibility

a. Within the United States: Alaska; Arizona; California; Colorado; Idaho; Kansas; Montana; Nebraska; Nevada; New Mexico; North Dakota; Oklahoma; Oregon; South Dakota; Texas; Utah; Washington; and Wyoming.

b. Outside the United States: That portion of Mexico including and west of the states of Chihuahua, Durango, Nayarit, Jalisco, and Colima; Pacific Ocean areas and islands south of latitude 45N and east of longitude 135W; Ecuador; Peru; and Chile.

5. Available Services and Procedures for Requesting Services

a. **Assigned Counsel.** In response to a command request for assignment of counsel, DSO West will detail counsel to represent a service member. Under paragraph 1103b of reference (b), detailed counsel are expected to perform duties on behalf of the client in the case to which counsel is assigned, and in all reasonable and foreseeable direct consequences of that case. When requesting assignment of DSO West counsel, a command must assign a liaison officer (LNO) responsible for coordination of administrative matters including funding for counsel and witnesses, preservation of evidence, and production of relevant witnesses. The LNO will normally be the command legal officer, the command legalman, or the staff judge advocate.

(1) **Courts-Martial.** Requests for assignment of DSO West defense counsel for courts-martial and Article 32 preliminary hearings shall be submitted by letter, using the sample provided in enclosure (1). Supporting documentation as indicated in the sample letter shall be enclosed with the request, including the charge sheet, those disclosures required under Rules for Courts-Martial (R.C.M.) 404A(a) and 701(a), and available witness information.

(2) **Administrative Separations.** Commands seeking assignment of DSO West counsel to represent a service member in administrative separation proceedings shall submit a request by letter, using the sample provided in enclosure (2). To ensure timely and accurate processing of the request for counsel and any board proceedings, commands shall enclose the documents supporting the basis for the board and characterization of discharge. Failure to include these matters risks delaying the assignment of counsel or the hearing, or both, a full list of which is provided in enclosure (3). At a minimum, all requests for counsel must include:

(a) Copies of the signed administrative separation processing notice (NAVPERS 1910/31) for enlisted personnel or show-cause hearing notice for officers;

(b) The respondent's service record; and

(c) The documents or investigative reports establishing grounds for separation and characterization, e.g., Navy Drug Screening Laboratory test packages, records of a prior convictions, non-judicial punishment records, or erroneous or fraudulent enlistment documents.

(3) **Initial Review of Pre-Trial Confinement.** Upon request of a confining command, a service member's command, or a confinement facility, DSO West will assign counsel to represent a service member for the initial review of their confinement under R.C.M. 305(i)(2). Unlike with counsel assigned for court-martial or administrative separation representation, the scope of the attorney-client relationship between a service member and counsel assigned for R.C.M. 305 purposes is limited to representation before the client's confinement-review hearing.

(4) **Other Adversarial Hearings and Proceedings.** DSO West will make counsel available for assignment to other service members who face adverse action in hearings or proceedings in which the governing regulation entitles them to representation by counsel, e.g., inquiries or investigations into judge advocates under reference (c) or adverse clinical actions under reference (d). In cases where commands seek DSO West counsel for assignment, the requesting command shall enclose any documents supporting the basis for the action. Failure to include

those risks delaying the assignment of counsel or the hearing, or both. At a minimum, all requests for counsel for these proceedings should include the same documents as a request for administrative separation, discussed above.

b. Personal Representation (PERSREP) Services. Service members without assigned counsel are entitled to consult with DSO West counsel during designated PERSREP hours about the rights and procedures concerning matters in which their interests are adverse to the United States. These matters include non-judicial punishment, summary courts-martial, elections upon notice of pending administrative separation, command-directed mental health evaluation, proceedings in which service members have been designated a party pursuant to an investigation under reference (a), Article 138 and 1150 complaints (or other formal complaint procedures), and other military matters, as appropriate. Although all communications during PERSREP consultations are confidential and privileged, the scope of the attorney-client relationship shall be limited to the matter underlying the PERSEP consultation, which does not by itself create an enduring attorney-client relationship.

6. DSO West Office Locations. Questions concerning DSO West services and requests for appointments may be made in person, by phone, or by e-mail at the following offices:

a. Naval Base San Diego (Building 56, Suite 2). Telephone: (619) 556-7539; e-mail: NavyLegalDefenseSW@navy.mil or CounselRequestSouthwest@navy.mil.

b. Naval Air Station Lemoore (Building 730, Wing 3, Rooms 03-009/010). Telephone: (559) 998-3885; e-mail: NavyLegalDefenseLemoore@navy.mil or CounselRequestSouthwest@navy.mil.

c. Naval Base Kitsap-Bremerton (Building 433, First Deck). Telephone: (360) 476-2156/7 (DSN: 735); e-mail: NavyLegalDefenseNW@navy.mil or CounselRequestNorthwest@navy.mil.

d. Naval Station Everett (Building 2000, Rooms 03-110/113). Telephone: (425) 304-4549 (DSN: 727); e-mail: NavyLegalDefenseNW@navy.mil or CounselRequestNorthwest@navy.mil.

7. Costs. Financial responsibility for costs incurred while rendering courts-martial services will be allocated under Section 0145 of reference (a).

a. Courts-Martial. Reimbursable costs for courts-martial include, but are not limited to, travel and per diem expenses of defense counsel, witnesses, expert witness fees, investigative assistance, and transcription services.

b. Administrative Separation Boards. Responsibility for funding administration separation boards rests entirely with the requesting command. Lines of accounting, if necessary for travel or other expenses, must be set up at least five (5) working days prior to travel for boards requiring detailed attorneys to travel outside of their duty station area.

c. Other Legal Services. 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.

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8. General Information. General information regarding the availability of services may be obtained by contacting DSO West at (619) 556-7539 (DSN: 526).


S. C. REYES

**REQUEST FOR DEFENSE COUNSEL
AT ARTICLE 32 PRELIMINARY HEARING OR SPECIAL COURT-MARTIAL**

From: Commander/Commanding Officer (Command)

To: Commanding Officer, Defense Service Office West
(or appropriate Detachment/Branch Office)

Subj: REQUEST FOR COUNSEL IN THE CASE OF UNITED STATES V. (RATE/RANK
NAME, BRANCH OF SERVICE)

Ref: (a) DEFSEVVOFFWESTINST 5800.1Q

Encl: (1) Charge Sheet

(2) Copy of evidence required under R.C.M. 404A(a) or 701(a)

(3) List of names, rates, duty stations, and telephone numbers for all potential witnesses

1. Per reference (a), enclosures (1) through (3) are forwarded. Request assignment of qualified defense counsel in the subject case. (If aware accused already has counsel, state name of counsel and circumstances, e.g., counsel assigned while accused in pretrial confinement.)

2. The following information is submitted concerning this case:

a. The accused and all witnesses are available. The following military witnesses (name(s) and contact information/e-mail) have been placed in a legal hold status (if applicable). The accused may be contacted at (accused contact information/e-mail).

b. Documentary and/or real evidence pertinent to this matter not included as part of enclosure (2) is described and located as follows: list as applicable).

c. Any additional documentary evidence received by the command will be forwarded to defense counsel as soon as possible.

d. Potential issues: (e.g., ship's upcoming departure from area, unit's operating schedule (unclassified), expected discharge of potential witnesses, etc).

e. The following types of restraint for the following periods were imposed on this accused: (include restraints on liberty, restriction, civilian custody, and/or any confinement).

3. () has been assigned as liaison officer for this case, and may be reached at (telephone number/E-mail address). The liaison officer understands he/she is responsible for maintaining positive communications with the defense counsel and ensuring that the accused and all witnesses identified by defense counsel are available and on time for interviews and the proceedings.

/s/

CO (or Designee)

Enclosure (1)

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**REQUEST COUNSEL FOR THE RESPONDENT
AT ADMINISTRATIVE SEPARATION BOARD**

From: Commander/Commanding Officer, (Command)

To: Commanding Officer, Defense Service Office West (Or appropriate Branch Office)

Subj: REQUEST COUNSEL FOR THE RESPONDENT IN THE SEPARATION
PROCEEDING OF (RATE/RANK NAME, BRANCH OF SERVICE)

Ref: (a) DEFSEVROFFWESTINST 5800.1Q

Encl: (1) Copy of Acknowledged, Completed and Signed Administrative Separation
Processing Notice (NAVPERS 1910/31)

(2) Service Record of Respondent (NSIPS/Fitness Report/Member Data Summary)

(3) Copy of all documents and investigative reports establishing and supporting grounds
for processing and characterization of service

1. Per reference (a), enclosures (1) through (3) are forwarded. Request assignment of qualified
counsel to act as counsel for respondent in the subject proceeding.

2. The following information is submitted concerning this case:

a. The respondent and all witnesses are available. The respondent and witnesses may be
contacted at (name(s) and contact information/e-mail/phone number). If the respondent and
witnesses are unavailable, explain (i.e., confinement, restriction, etc.).

b. Documentary and/or all real evidence pertinent to this matter not included as part of
enclosure (3) is described and located as follows: (list as applicable).

c. Any additional documentary evidence received by the command will be forwarded to
defense counsel for respondent as soon as possible.

d. Potential issues: (e.g., ship's upcoming departure from area, unit's operating schedule
(unclassified), expected discharge of potential witnesses, EAOS, etc.).

3. () has been assigned as recorder for this case and may be reached at (telephone
number/e-mail address). The recorder will contact defense counsel for respondent after
assignment in order to arrange administrative matters and set a hearing date. The recorder will
ensure the availability of the respondent and all military and civilian witnesses attached to this
command for interviews and the hearing.

/s/

CO (or Designee)

Enclosure (2)

ADMINISTRATIVE SEPARATION SUPPORTING DOCUMENTATION

1. Detail Defense Counsel. To detail Defense Counsel to Administrative Separation Boards (ADSEP Boards) and Boards of Inquiry (BOI) the command must provide the following supporting documentation for all Boards.

(a) Copy of Acknowledged, Completed and Signed Administrative Separation Processing Notice – (NAVPERS 1910/31) or Notification of Administrative Show Cause Proceedings

(b) Service Record of Respondent (All Evaluations or Fitness Reports)

(c) Respondent's Awards/Awards Record (NAVPERS 1070/880)

(d) NSIPS/Member Data Summary Sheet

(e) Copy of all Documents and investigative reports, which establish and support the grounds for processing and characterization of separation. Command shall provide documents that are applicable in paragraph two below.

2. Documents. The command shall provide the following documents if applicable to properly review case, detail appropriate counsel and effectively represent the client.

(a) Report and Disposition of Offense (NAVPERS 1626/7)

(b) Non-Judicial Punishment (NJP) - Accused's Notification and Election of Rights (JAGMAN 0109)

(c) Administrative Remarks (NAVPERS 1070/613)

(d) Suspect's Rights Acknowledgement/Statement (JAGMAN 0170)

(e) DRB/XOI/NJP Notes

(f) CAPTAINS/OIC Mast Notes

(g) All Evidence Relied Upon by the Commanding Officer/Commander to Impose NJP (MCM, Part V) Including the Pertinent and Local Instruction/Regulation

(h) Pertinent Navy Instruction/Regulation

(i) NJP Appeals and All Endorsements

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- (j) Report of NJP and/or Detachment for Cause and All Endorsements (E-6 and above)(1616-010, 1616, 040 and 1611-020)
 - (k) Statements by the Accused (Including Audio/Video)
 - (l) Complete Inquiry/Investigation (All Enclosures/Exhibits)
 - (m) Complete NCIS Report (All ROIS, Enclosures and Exhibits)
 - (n) Record of Any Other Adverse Counseling
 - (o) List of Names, Rates, Duty Stations and Telephone Numbers, E-Mails of All Potential Witnesses
 - (p) Respondent's E-Mail and Telephone Number (Preferably Personal) and/or Official
 - (q) For Alcohol Related Incidents, all Documents in Possession of Command DAPA
 - (1) Screening Forms
 - (2) SARP Referral/Treatment Records
 - (3) Discharge Record
 - (4) Aftercare Plan
 - (5) Compliance Reports
 - (r) Boards Related to Drugs
 - (1) Urinalysis Program Records
 - (2) Navy Drug Lab (NAVDRUGLAB) Urinalysis Testing Results (Only Permissible Redactions: DOD and LAN Numbers of Non-Subject Specimens)
 - (3) Drug Testing Program Testing Register
 - (4) Specimen Custody Document- Drug Testing (DD Form 2624)
 - (5) All Drug Lab Correspondence
 - (6) Urinalysis Program Coordinator (UPC) Designation Letter (Primary/Assistant)
 - (7) Names of UPC and UPC Observers on Specimen Collection Date
 - (8) Urinalysis Observer Briefing Sheet (OPNAVINST 5350.4 Series)
 - (s) For Erroneous Fraudulent Enlistment

(1) Member's C-Way Application and Quota

(2) Original Enlistment Contract

(3) All Subsequent Reenlistment Contracts

(t) For Conditions not a disability

(1) Diagnosis by authorized mental health provider, rationale for ADSEP recommendation, and determination that no conditions potentially warrant a Disability Evaluation System (DES) referral and international statistical classification of diseases

(2) Endorsement by Bureau of Medicine and Surgery

(3) Administrative Remarks (NAVPERS 1070/613) related to the medical condition