



# JUSTICE CHRONICLES

## Region Legal Service Office Southwest

### Command Services Telephone Numbers

**NB San Diego:** (619) 556-1704/2892/1670 – DSN 526

**NB Coronado:** (619) 545-8144 – DSN 735

**NB Point Loma:** (619) 553-7190 – DSN 553

**Broadway Complex:** (619) 532-1418 – DSN 522

**NAS Lemoore:** (559) 998-3889/3349 – DSN 949

**NB Ventura:** (805) 989-7309/1706/8891 – DSN 351

**NAS Fallon:** (775) 426-2941 – DSN 890

**NAWS China Lake:** (760) 939-2203 – DSN 437

**NSA Monterey:** (775) 656-2506 – DSN 756

4<sup>th</sup> Publication 2009

Volume VII, Issue 4

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## JUDGE ADVOCATE CONSULTATION REQUIRED FOR SEXUAL ASSAULTS

Special Incident (SITREP) Procedures, OPNAVINST 3100.6J, was updated and released on 22 December 2009 and contains a new requirement for commanders to consult with a judge advocate in any sexual assault case. In addition, commanders must report the name, command, and contact information of the judge advocate that was consulted in the close-out report.

“Commanders shall consult with a JAG in any alleged sexual assault case. The final OPREP-3 report shall include the name, command, and contact information of the JAG consulted. Report the required information in the GENTEXT/INCIDENT IDENTIFICATION AND DETAILS section of the report.”

- Sexual assault incidents require, in addition to an OPREP-3 NAVY UNIT SITREP, a sexual assault incident data collection report.

- For sexual assault incidents, the current NAVPERS 1752/1 Sexual Assault Incident Data Collection Report contains the information required in the report.

- CNRSW message of 061621Z MAR 09 to all shore activities and all ships present in San Diego noted the OPNAVINST 3100.6J requirement to report OPREP-3 incidents within 60 minutes of discovery of the incident and further noted that common errors in such reports were having an adverse impact on their intended purpose; i.e., frustrating the proper analysis and response to incidents of DUI, domestic violence, suicide ideation, sexual assault, etc.

POC Sexual Assault CNIC (N911) 202-433-4637 DSN 288-4637

**Fee Waiver To Obtain  
Certificate of  
Citizenship**

- **Common errors identified:**
  - untimely
  - lack of detail, although insufficient information should NOT preclude sending initial report w/in 60 minutes w/ updates to follow
  - reporting requirements not being met in accordance with guiding instructions; e.g., date and location of member's most recent operational deployment for suicidal ideation and domestic violence and whether post-deployment health reassessment was provided
  - release of PII when not required or authorized
  - "FINAL REPORT THIS INCIDENT" when incident report required an update or correction

**FEE WAIVER TO OBTAIN  
CERTIFICATE OF CITIZENSHIP**

An Application for Certificate of Citizenship, Form N-600, may be filed by any person claiming to have acquired (at birth) or derived (after birth) U.S. citizenship through a U.S citizen parent or by any person who was born a U.S. citizen outside the United States or who fulfilled the requirements for becoming a U.S. citizen prior to their 18<sup>th</sup> birthday. Form N-600 may be filed at any time during the applicant's lifetime.

To obtain a Certificate of Citizenship, Form N-600 and accompanying documentation must be filed with the appropriate U.S. Citizenship and Immigration Services (USCIS) district or field office in the United States with jurisdiction over the applicant's place of residence.

The fee to file Form N-600 is \$460.00, except for U.S. citizen parents requesting a Certificate of Citizenship for an adopted child. The fee must be paid at the time of filing the application and is not refundable – even if the application is mistakenly filed or subsequently withdrawn.

Applicants can request a Fee Waiver. According to USCIS Fee Waiver Guidance, USCIS has discretionary authority to waive the filing fee for an application if the applicant establishes that he/she is unable to pay the fee. USCIS Officers will evaluate all factors, circumstances, and evidence supplied by the individual in support of a fee waiver request before making a determination. The Officer will take note of any evidence or documentation regarding the individual's living arrangement in the United States; the individual's extraordinary expenditures or those of his dependants residing in the United States; monetary contributions for the payment of monthly expenses received from adult children, dependants, and other people who are living in the individual's household, etc., and other expenses for which the individual is responsible. Each case is unique and will be consider upon its own merits.

Applicants are required to demonstrate an "inability to pay" with supporting documentation submitted to USCIS.

To apply for a fee waiver, an applicant must submit an affidavit—or unsworn declaration that is signed and dated and includes the statement: "I declare under penalty of perjury that the foregoing is true and correct"—requesting a fee waiver and stating the reasons why he/she is unable to pay the filing fee. The affidavit and any supporting documentation must be submitted along with the application. Applicants should write in large print "**Fee Waiver Request**" on the outside of the mailing envelope containing their application and fee waiver request, as well as at the top of their affidavit and each page of their supporting information. If a fee waiver request is denied, the entire application package will be returned to the applicant, who must then begin the application process again by re-filing for the benefit with the appropriate fee.

If you do not qualify for a fee waiver for a Certificate of Citizenship, you have another option to have your U.S. citizenship recognized. You can apply for a U.S. Passport. A U.S. passport is evidence of U.S. citizenship and it is much less expensive than applying for a Certificate of Citizenship. The cost to apply for a U.S. Passport is \$100. A U.S. Passport also serves as a travel document and it is usually much quicker to apply for a U.S. Passport than Certificate of Citizenship.

For further information regarding Application for Certificate of Citizenship, Form N-600, fee waiver, or U.S. Passport, please contact Ms. Vicki Alba, at (619) 556 -2788 or at [vicki.alba@navy.com](mailto:vicki.alba@navy.com).

## ADVANCE NOTIFICATION FOR SIGNIFICANT FOIA RELEASES

### **Advance Notification For Significant FOIA Releases**

1. **Purpose.** To provide information to commanders and FOIA action officers with regard to new DoD policy pertaining to "significant FOIA releases."
2. **DoD FOIA Policy Update.** The DoD Chief FOIA Officer issued a memorandum on 10 August 2009: (i) Transparency and Open Government; and (ii) Guidance on Notification Procedures for Significant FOIA releases. Key provisions of this memorandum are summarized below:
  - i. **Transparency and Open Government.** In accordance with the guidance issued by the President and the Attorney General, DoD is committed to having all members of the military departments operate under principles of openness and transparency in government.
  - ii. **DoD FOIA Policy Guidance.** In addition to following the existing guidance on notification procedures for significant FOIA releases, effective immediately, all Components must send to the Defense Freedom of Information Policy Office (DFOIPO), a synopsis of each upcoming significant FOIA release (whether an initial, appellate, or litigation release), providing at least a week's notice before release if possible. Please note that the release

should not be delayed if the week's notice cannot be met. These notifications will be in the form of an email sent to dfoipo@whs.mil, and must contain the words "Significant FOIA Release" in the subject line. The body of the message should be a summary containing at a minimum the name/organization of the requestor, a summary of the information being released, and the estimated date of release. Any additional information that the Component thinks the DoD senior leadership should be aware of must be included as well. Please do not send the responsive documents to DFOIPO; however, be aware that DFOIPO may ask for them at a later date.

3. **Significant FOIA Release Defined.** For purposes of the OSD memorandum, a significant FOIA release is one that, in your judgment, the subject matter of the released documents may generate media interest and/or may be of interest or potential interest to DoD senior leadership. Note that identity of the requestor is not relevant in this determination, and that a release does not have to be made to a media requestor in order to be classified as a "significant FOIA release."

4. **Point of Contact (POC).** CNRSW/RLSOSW POC for FOIA is Mr. Ralph L. Bowers at (619) 532-1418 or Ralph.Bowers@navy.mil.

## RESULTS OF TRIAL

RLSO SW publishes the quarterly results of courts-martial for all cases tried in this region. Commands are encouraged to share these results as deemed appropriate (e.g. during quarters, in command newsletters, PODs/POWs, etc.). Below are the results of cases tried in the SW Region during last quarter:

Navy E-3 with 3 years and 4 months of service sentenced to bad conduct discharge, 36 months confinement and reduction in rate to E-1 for larceny of military property of a value \$24,100.00. This court was held on 15 July 2009.

Navy E-4 with 3 years and 6 months of service sentenced to dishonorable discharge, 60 months confinement and reduction in rate to E-1 for receiving, possessing, images, and videos of child pornography. This court was held on 17 July 2009.

Navy O-3 with 20 years and 10 months of service sentenced to Dismissal, 15 years confinement, forfeitures of all pay and allowances for violation of a lawful general order and regulation, rape, adultery and indecent acts with a child under that age of 16. This court was held on 28 July 2009.

Navy E-3 with 2 years and 10 months of service sentenced to bad conduct discharge, confinement for 6 months, and a fine \$2,500.00 for conspiracy, larceny and concealing a crime. This court was held on 21 August 2009.  
Navy E-3 with 3 years of service sentenced to be confined for 3 months, forfeitures of \$500.00 pay per month for 3 months, reduction in rate to E-1, and 60 days restriction for larceny, of non military property of a value more than \$500.00, attempt, conspiracy, and false official statement. This court was held on 14 August 2009.

**Results of Trial for 4<sup>th</sup>  
Qtr 09**

Navy E-5 with 10 years and 8 months of service sentenced to a bad conduct discharge, confinement for 15 months, forfeitures of all pay and allowances and reduction in rate to E-1 for violation of a general order and wrongfully possessing explicit images of a child. The court was held on 25 August 2009.

Navy E-2 with 1 year and 7 months of service sentenced to bad conduct discharge and 180 days of confinement for absence without leave, false official statements, and wrongful use of cocaine. The court was held on 2 September 2009.

Navy E-4 with 4 years of service sentenced to a dishonorable discharge, 7 years of confinement, forfeitures of all pay and allowances and reduction in rate to E-1 for possession, receipt and distribution of child pornography. The court was held on 3 September 2009.

Navy E-6 with 16 years and 3 months of service was acquitted of false official statements, larceny and wrongful interference with an adverse administrative proceeding. The court was held on 10 September 2009.

Navy E-3 with 3 years and 7 months of service sentenced to a dishonorable discharge and 33 years of confinement for attempted sodomy, sodomy, and indecent acts and liberties with a child. The court was held on 24 September 2009.

Navy E-5 with 9 years and 9 months of service sentenced to a bad conduct discharge and 6 months of confinement for wrongful disposition of military property, larceny of military property of a value of \$14,633.00 and obstructing justice. The court was held on 29 September 2009.

Navy Midshipman with 3 years and 5 months of service sentenced to dismissal, 118 months of confinement and forfeitures of all pay and allowances for attempt, wrongful use, possession, distribution of controlled substances and robbery. The court was held on 29 September 2009.

Navy E-3 with 3 years and 7 months of service sentenced to a bad conduct discharge, 8 months of confinement, a fine of \$7,100.00, and reduction in rate to E-1 for failure to obey order regulation, larceny of non military property of a value of \$7,100.00 and forgery. The court was held on 9 October 2009.

Navy E-4 with 8 years and 8 months of service sentenced to a bad conduct discharge, 65 days of confinement, forfeitures of \$933.00 pay per month for 4 months and reduction in rate to E-1 for unauthorized absence for over 3 years. The court was held on 20 October 2009.

Navy E-3 with 2 years and 4 months of service sentenced to 6 months of confinement, forfeitures of \$850.00 pay per month for 6 months and reduction in rate to E-1 for conspiracy, larceny of military property of a value of \$9,748.00 and wrongful appropriation and forgery. The court was held on 16 October 2009.

Navy E-3 with 1 year and 10 months of service sentenced to 4 months of confinement, forfeitures of \$863.00 pay per month for 4 months and reduction to E-1 for insubordinate conduct toward a petty officer, drunken operation of vehicle, assault and threat, communicating. The court was held on 20 October 2009.

Navy E-5 with 3 years and 7 months of service sentenced to 175 days of confinement, forfeitures of \$1,230.00 pay per month for 6 months, a fine of \$2,438.00 and reduction in rate to E-3 for conspiracy, sale military property, larceny of military property of a value of \$9,766.00 and forgery. The court was held on 21 October 2009.

### OFFICER BOARD OF INQUIRY RESULTS

#### **Officer Board of Inquiry Results**

Navy O-3 was ordered to show cause for retention due to wrongful use of prescription drugs. Board members found that the officer had committed misconduct; and further recommended that the officer be separated with a General discharge. The Board was held on 19 August 2009.

Navy O-3 was ordered to show cause for retention due to wrongful use of prescription drugs. Board members found that the officer had committed misconduct; and further recommended that the officer be retained in the naval service. The Board was held on 3 September 2009.

Navy O-6 was ordered to show cause for retention due to failure to obey a lawful order to not endorse LDO packages, and false official statement. Board members found that the officer had committed misconduct; and further recommended that the officer be retained in the Naval Service. The Board was held on 17 September 2009.

Navy O-3 was ordered to show cause for retention due to alcohol related civilian conviction. Board members found that the officer had committed misconduct; and further recommended that the officer be retained in the Naval service. The Board was held on 18 September 2009.

Navy O-3 was ordered to show cause for retention due to larceny. Board members found that the officer had committed misconduct; and further recommended that the officer be retained in the Naval service. The Board was held on 25 September 2009.

Navy O-3 was ordered to show cause for retention due to wrongful use of marijuana. Board members found that the officer had committed misconduct; and further recommended that the officer be separated with an Honorable discharge. The Board was held on 25 September 2009.

Navy O-2 was ordered to show cause for retention due to perjury and conduct

unbecoming an officer. Board members found that the officer had committed misconduct; and further recommended that the officer be retained in the Naval service. The Board was held on 29 September 2009.

Navy 0-2 was ordered to show cause for retention due to false official statement and fraud against the Government (travel claim). Board members found that the officer had not committed misconduct. The Board was held on 3 October 2009.

#### **TOPICS FOR FUTURE ISSUES**

If you have a topic you'd like to see discussed in the next newsletter, please forward your request to: Ms. T. Warner at [Thelma.Warner@navy.mil](mailto:Thelma.Warner@navy.mil) or LN1 Robbin Swilley at [robbin.swilley@navy.mil](mailto:robbin.swilley@navy.mil).