

# The Advisor

## Region Legal Service Office Southeast



### Highlights:

- Alcohol Detection Devices
- Federal Tort Claims Act
- Brig Information

### CDR Nell Evans, CNRSE SJA and Director of Command Services

The summer is upon us once again. That means that in the coming months you will see an uptick in fundraising events in preparation for Navy Balls and command holiday parties. Make sure that you are plugged into the command so that you can help to craft/shape the ideas from a legal perspective at the outset. As Benjamin Franklin said "An ounce of prevention is worth a pound of cure."

I would like to take a moment to say fair winds and following seas to the Commanding Officer, CAPT Sharp. CAPT Sharp has led us over the last two years and he will be greatly missed. Thank you sir and we look forward to seeing you in the fleet!

Have a safe and fun summer!

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### Security Clearances: Command Reporting Responsibilities and the Revocation Process

*LT Kimi Schultheiss, Staff Judge Advocate, Center for Information Dominance*

#### What is a Clearance, and How to Get and Maintain One

A security clearance is a status granted to individuals that allows access to classified information necessary for the job/position which the member holds. The majority of the Navy's clearances are managed by the Department of Defense Central Adjudication Facility (DoD CAF), Navy Division. Due to consolidation, it is no longer referred to as "DoN CAF."

Commands rely heavily upon individual members in conducting required continuous evaluation and assessments. Per paragraph 10-1(2) of SECNAV M-5510.30, it is the individual's responsibility to "report questionable or unfavorable information that may be relevant to their security clearance determination." Co-workers, supervisors and managers also play a critical role in recognizing and addressing problems early on, so that they do not later disrupt the member's national security responsibilities. The command is responsible for various types of security program education, including an annual refresher briefing.

*(Continued on page 9)*



## How Far is Too Far? Permissible Operating Distance of Government Vehicles

LT Mathew Bagioli, Assistant Staff Judge Advocate, Naval Air Station Jacksonville



What are the geographical limits when using a government vehicle? How far can a servicemember drive the government vehicle from the base location, and at what threshold distance should a servicemember use a rental car from a commercial agency?

There are several instructions that work in concert on the issue of the geographical limits, or Permissible Operating Distance (POD), of a government vehicle. First, the decision to use a government vehicle must be vetted through an “official business” analysis, per 31 U.S.C. § 1344. Second, DoD 4500.36-R, Management, Acquisition, and Use of Motor Vehicles, dtd March 2007, provides initial guidance on the POD. Paragraph C2.2.3.3.4 states:

*Since it is usually more economical to use the services of commercial carriers for the transportation of personnel and cargo to destinations outside the immediate areas of the activities, a one-way distance of 100 miles has been selected as a guide upon which to base permissible operating distance for motor vehicles. The POD established for an activity should be sufficient to support normal operations. Based on installation experience, a POD will be established that will adequately support motor vehicle transportation requirements. Consideration must be given to fair wear and tear and competition with commercial carriers. The installation commander or designee shall approve, in writing, any deviation to the POD.*

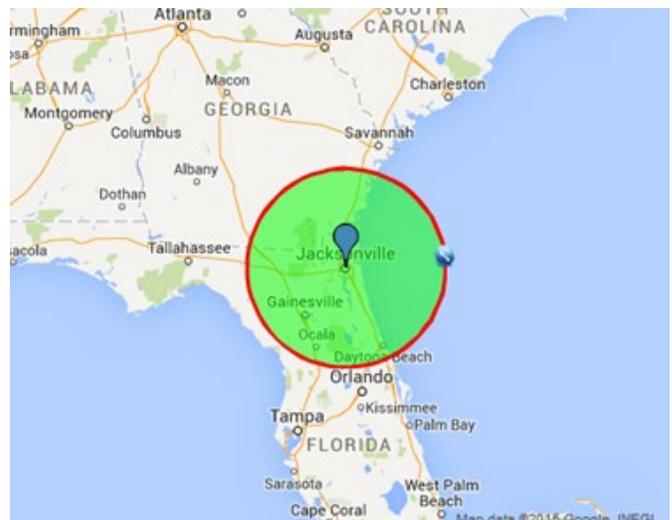
Under OPNAVINST 11240.8H, the management of civil engineering support equipment (including government passenger vehicles) is assigned to a single command, Commander, Naval Facilities Engineering Command (NAVFAC), and NAVFAC is expected to work with Installation Commanding Officers (ICO) as directed by DoD 4500.36-R. Each ICO should have a local instruction as to his or her designated authority and procedure for taking a government vehicle beyond the installation’s standard POD. For example, the installation instructions of Naval Air Station Jacksonville, NASJAXINST 11240.1S, and Naval Air Station Pensacola, NASPNCLAINST 11240.3J, designate their respective Public Works Department (PWD) Transportation Officers as the approval authorities regarding requests from an activity to take a government vehicle beyond the POD.

When making the decision to grant a POD exception request, a transportation officer, or equivalent designee, may consider:

- Is the exception for official business (official business is required for commercial rentals as well)?
- What is the nature or purpose of the vehicle requested (the requested vehicle must be able, mechanically, to make the journey)?
- Is the command aware it assumes any incurred costs beyond the 100-mile POD?

While frequency of exception requests is generally NOT a factor, it should be stressed that if the command member were to be at fault for a collision outside the 100-mile POD, the requesting command would be responsible for the cost.

Commanding officers with far afield official business or large areas of responsibility frequently have need of a rental vehicle. Commands may consider utilizing government vehicles to carry out their long-distance official business after approval by the local PWD Transportation Officer, or equivalent designee. Government vehicles on official business may be a viable alternative to reduce costs associated with renting from a commercial rental agency. However, that option must be weighed against the additional risk assumed by the command in case of collision/vehicle failure when deciding how far is too far in a Govie.



## Command Use of Alcohol Detection Devices

LT Elizabeth Retter, Staff Judge Advocate, Naval Air Station Meridian

REF: (a) OPNAVINST 5350.8  
(b) NAVADMIN 012/13

Since the Navy came out with the hand-held alcohol detection device (ADD) program in 2013, commands have instituted the use of ADDs, often combining ADD testing with their regular urinalysis program. However, it is important to keep in mind the differences between the ADD and urinalysis.

The most important difference between the two programs is their purpose. The purpose of ADDs is to *promote safety and provide education and awareness* to help units encourage responsible use of alcohol and deter alcohol abuse. ADDs are meant to assist with identifying servicemembers who may require support *before* an alcohol-related incident occurs. References (a) and (b), which govern the use of ADDs, expressly state that **ADD results shall not be used as evidence for disciplinary proceedings or as a basis for adverse administrative actions**. Compare this with the Navy Alcohol and Drug Abuse Prevention and Control Instruction (OPNAV 5350.4D), which expressly states that violations of that instruction subject military members to disciplinary action and possible administrative separation.

The decision to inspect, and how to organize the random testing using ADDs, is at the discretion of the Commanding Officer (CO). ADD inspections **must be random**, and are authorized for servicemembers who are *on duty and during normal working hours*. ADD testing can be conducted as unit or sub-unit sweeps, for all service members reporting late to work, prior to special unit evolutions such as weapons handling, during reserve drill periods, and as a random sampling of service members in a duty status similar to the urinalysis program.

When an inspection is approved or directed by the CO, an inspecting officer's order to provide a breath sample is a **lawful order**, just like the order to report to urinalysis. A refusal to submit to an ADD test may subject the member to appropriate disciplinary or administrative action.

So what can you use ADD results for? ADD results may be used for counseling, referral to the Drug and Alcohol Program Advisor (DAPA), and non-punitive actions. Additionally, if a servicemember's smell, disposition, bloodshot eyes, slurred speech, muscular movement, general appearance or behavior, or other evidence like an admission of alcohol use by the member or statements of other witnesses reasonably suggest incapacity to perform military duties due to alcohol or drug use, COs can use the ADD results, *in combination with other evidence*, to order a separate competence for duty examination or a probable cause search. Whenever possible, **COs should use a probable cause search if they wish the results of the search to be useable in disciplinary proceedings or for characterization of service as well as a basis for administrative separation**. A probable cause search can be, for example, a blood draw, which can then be used to measure the member's blood alcohol content (see BUMED Instruction 6120.20C).

What do you do with a service member whose ADD reading is positive? A service member whose ADD reading is 0.04% BAC or greater is presumed to be not ready to safely perform duties, and must be relieved of duty and retained on board the command in a safe and secure environment until the ADD reading is not detectable. For any reading of 0.04% BAC or greater, a command referral to the DAPA is appropriate. A referral to DAPA is *required* if a member has previously completed alcohol rehabilitation treatment and has an ADD reading of 0.02 or greater, or if an underage servicemember has an ADD reading of 0.02 or greater. Remember, *command referrals are not considered alcohol-related incidents*.

More information regarding the Navy's ADD program is available from Navy Alcohol and Drug Abuse Prevention (NADAP) at [http://www.public.navy.mil/bupers-npc/support/21st\\_Century\\_Sailor/nadap/Education\\_Training/Pages/](http://www.public.navy.mil/bupers-npc/support/21st_Century_Sailor/nadap/Education_Training/Pages/)



# The Federal Tort Claims Act

*LT Becky Cohen, Assistant Staff Judge Advocate, Naval Air Station Jacksonville*

## **Background**

On 28 July 1945, an Army Air Corps B-25 bomber pilot flying too low over Manhattan became disoriented by dense fog and crashed into the Empire State building. While the building remained structurally sound, 14 people, including the three crew members, died. The tragedy prompted the enactment of a law that had been in the works, yet unable to be passed, for twenty years. Enacted into law on 25 June 1946, the Federal Tort Claims Act (FTCA) proved a historic shift in tort law, allowing individuals, including the families of the victims of the Empire State building crash, to directly sue the United States.

The FTCA waives the United States' sovereign immunity in cases of property damage, personal injury, or death "caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment." (28 U.S.C. § 1346(b)) Each claim brought under the FTCA is resolved using the state law of the location where the particular injury occurred.

## **Limitations**

There are some limitations on the FTCA's application. First and foremost, before an individual brings a suit against the United States, he or she must first bring his or her claim to the appropriate Federal agency. It is only after that agency denies his claim in writing (or fails to make a disposition within six months of the claim's filing), that the claimant may bring suit. Unlike other tort cases, a claimant cannot receive interest prior to judgment, nor can he or she be awarded punitive damages. Furthermore, Congress carved out a list of exceptions for when the FTCA would specifically not apply, varying from instances of lost postal letters to "any claim arising out of the combatant activities of the military...during time of war."

## **Feres Doctrine**

Another important distinction about the FTCA which affects us all comes from a 1950 Supreme Court case called *Feres v. United States*. 340 U.S. 135 (1950). The case stemmed from a soldier who died when his barracks caught on fire from a defective heating system. Under what is now referred to as the *Feres Doctrine*, the Supreme Court ruled that active duty military members are prohibited from suing the United States using the FTCA for injuries "that arise out of or are in the course of activity incident to service." *Id.* at 140. The Court reasoned that since military personnel already have established uniform compensation systems, Congress did not intend military service-connected injuries to fall under the FTCA's scope.

## **How to File a Claim**

The Tort Claims Unit (TCU) of Code 15, based in Norfolk, handles all of the tort claims for the Navy, including those brought under the FTCA.

To submit a claim, fill out a SF 95 and include substantiating evidence of the injury, such as physician's reports, itemized bills, or signed receipts. The claims must be submitted within two years of occurrence and all submitted claims must declare a sum certain to be processed.

For the FTCA application package and further instructions, see Code 15's website: [http://www.jag.navy.mil/organization/code\\_15\\_addresses.htm](http://www.jag.navy.mil/organization/code_15_addresses.htm)

## **How Do We Help?**

In addition to just directing individuals on how to file FTCA claims, Staff Judge Advocates and Legal Officers play an important role in helping to ensure that matters are resolved efficiently and correctly. If you become aware of an incident that may potentially result in claim against the Navy, be sure to consult your SJA to determine whether a litigation report should be conducted. Code 15 often goes back to the "JAGs in the field" to gather additional information about the particular incidents; the evidence, reports, and investigations retained by the installation or command often become the basis for Code 15's findings of fact. The better records we maintain, the easier it becomes for everyone involved in FTCA process.

## Can My Spouse Claim Another State for Income Tax Purposes?

*LT Charles Roman, Legal Assistance Attorney, Naval Construction Battalion Center Gulfport*

With tax season upon us, it's time to think about how you and your spouse can make decisions that will best allow your family to avoid the taxman. One thing to always remember- tax residency (described here) is a separate concept from your home-of-record (an exclusively military designation).

Under the Servicemembers' Civil Relief Act (SCRA), a servicemember does not pay state income tax in the state where the servicemember is stationed if that state is not his domicile (legal state of residence for tax purposes). Instead, the servicemember is taxed on his military income in his state of legal residence. For example, Seaman Paul, whose state of residence is Florida, does not pay income tax to the state of Virginia from his military income earnings while stationed in Norfolk, Virginia. Rather, Seaman Paul will be taxed based on Florida state tax law – which has no state income tax. Furthermore, no matter where Seaman Paul is stationed, Florida will always remain his state of legal residence, unless he changes it.

Until a few years ago, this benefit under the SCRA did not extend to servicemembers' spouses. Every time a servicemember moved, the spouse's state of legal residence would change and the spouse would be taxed by the state on all income earned in that state. So before, when Seaman Paul moved to Norfolk, Virginia with his wife Kristen, she became a Virginia resident and the state of Virginia would tax her on income earned while she lived there.

The Military Spouses' Residency Relief Act (MSRRA) changed some of the basic rules of taxation in regards to military spouses. Today, the spouse of the military member is entitled to SCRA tax protection for the same domicile (state of legal residence) as the service member - IF the dependent spouse had also previously acquired the same legal domicile. Translation: if Kristen resided with Seaman Paul in Florida long enough to establish it as her residence when they were ordered to move to Norfolk, Kristen's state of legal residence can be Florida. Moreover, if Kristen works while in Norfolk, she will not be taxed by Virginia – she will be subject to Florida state income tax rate (zero). Also, Kristen will not be taxed by Virginia on automobiles when they are titled solely in Kristen's name or jointly with Seaman Paul.

Keep in mind two things: 1) The spouse must be present with the servicemember in the non-domicile state pursuant to military orders, and 2) spouses can keep prior residences as their domicile IF AND ONLY IF the state of domicile is the same as the service member's. Eligible spouses need to designate their appropriate domicile state by filing new withholding forms with their employer. Think about changing withholding forms for next year now!

There are some common misunderstandings that need to be addressed:

1. The MSRRA does not allow a spouse to pick or choose a state of legal residence.
2. The MSRRA does not allow a spouse to "inherit" or assume a servicemember's domicile upon marriage. There is not a standard form to be filled out that allows a spouse to change their residency. Actually, the spouse must have lived in the state, intend to return to there, and have a tangible connection to the state. Connections that help establish residency are: voter registration, driver's license, professional licenses, homestead declaration, purchase of residential property, registration or titling of vehicles, and even executing a will under the laws of that state. Basically, you need to show a bona fide intent to return to the state from which the military has ordered you to move away. While it is not necessary to establish all of these contacts, the more the better in order to ensure residency is sufficiently established.
3. The MSRRA does not allow a spouse to recapture a former domicile unless the spouse physically returns to the state with the requisite connections and intent to remain there permanently.
4. The tax exemption for working spouses only applies to wage income and income from services performed in the non-domiciliary states. Thus, if Kristen sells their Norfolk house or rents out their extra home in Virginia, she will be taxed by Virginia on this income. Also, Kristen will pay Virginia state income tax on businesses she has opened while in Norfolk.

Legal residency and how it applies to your taxes is a confusing topic and is detail specific. Hopefully, this article makes the MSRRA a little easier to understand, but if you have more questions contact your local legal assistance JAG.

*This article is not intended to substitute for the personal advice of a licensed attorney.*



## Naval Consolidated Brig Charleston: Useful Information for Commands with Sailors Facing Confinement



*Ms. Sharell Welch, Legal Advisor, and LNC Andrea Navarro, Parole & Release LCPO, Naval Consolidated Brig Charleston*

Naval Consolidated Brig Charleston, SC was commissioned on 30 November 1989 and accepted its first prisoners in January 1990. Located on board Joint Base Charleston, Naval Weapons Station, Goose Creek, SC, the brig is a Level II, medium-security military prison, currently commanded by CDR J. Michael Cole, USN.

The mission of Naval Consolidated Brig Charleston is to ensure the security, good order, discipline and safety of pre-trial and post-trial prisoners, retrain and restore the maximum number of personnel to honorable service, and prepare prisoners for return to civilian life as productive citizens. When directed by appropriate authority, the brig also provides facilities for non-Uniform Code of Military Justice detainees.

The brig currently holds over 100 prisoners and is staffed by 225 military corrections professionals from all branches of the military and civilians.

The brig houses prisoners from all branches of the military and the Coast Guard sentenced with up to 10 years confinement, as well as some longer sentences on a case-by-case basis. The brig has its own legal staff and Parole and Release department which is responsible for placing prisoners on parole once they reach their minimum confinement time, as well as getting them initially registered as sex offenders.

The Brig provides extensive programs in the following areas: rehabilitative treatment, substance abuse treatment, general violent offender treatment, counseling, education and training (academic, vocational, military, physical), productive work, and religion (as desired).

Work programs support military and federal agencies by providing productive, cost effective work, which also serves as vocational skills training. Work programs include carpentry, metal fabrication and welding, graphic design, upholstery, service dog training, culinary arts, and barbering.

Prisoners who are adjudged a punitive discharge at trial by court-martial and awarded confinement in excess of 30 days are transferred from their parent command and operationally assigned to Naval Consolidated Brig Charleston through PCS orders until they are discharged from the Armed Forces or placed on appellate leave. If a prisoner receives less than 30 days of confinement and no punitive discharge, they will be sent TAD to the brig and the parent command will be responsible for providing for the prisoner's transportation back to the command upon release. Additionally, in courts-martial cases in which confinement in excess of 30 days is adjudged but a punitive discharge is not awarded, the prisoner will be issued PCS orders prior to his release and could subsequently be returned back to the initial command for further post-trial processing (i.e., administrative separation). The Brig has a legal staff that can assist all branches of service with administrative separation notification paperwork (the delivery) and separation physicals. The Brig cannot issue DD214's for prisoners discharged by way of administrative separation procedures.

Prisoners serving a sentence of confinement other than for life are entitled to a reduction in the time to be served in confinement for good conduct. For sentences that occurred after January 1, 2005, the rate of earning is 5 days per month of good conduct. For offenses that occurred prior to January 1, 2005, the rate of earning will be in accordance with the DoD directive in effect at the time of the offense. *It should be noted that good conduct time may be earned while a member is confined in pre-trial status, but it is not awarded to the prisoner until after they are convicted at trial.*

The Navy corrections program has evolved into a model system with a stated mission of turning military offenders into productive citizens. In doing so, Navy corrections has provided a standard and working model for other federal, state, and military corrections program to emulate.

Points of contact within the Parole & Release Department are Ms. Sharell A. Welch, Legal Advisor at (843) 794-0306, extension 3996 or email: [sharell.welch@navy.mil](mailto:sharell.welch@navy.mil) or LNC(SW) Andrea Navarro, Parole & Release LCPO at (843) 794-0306, extension 3090 or email: [andrea.navarro@navy.mil](mailto:andrea.navarro@navy.mil).

## Access and Support for Veterans Service Organizations (VSO) and Military Service Organizations (MSO)

*LT Joel White, Staff Judge Advocate, Naval Air Station Pensacola*

The 23 Dec 14 Secretary of Defense (SECDEF) Memorandum concerning installation access and support services for VSO's and MSO's provides statute-backed authorities for installation commanders. As long as certain certification and accreditation requirements are met, the installation commander shall allow available space for the purposes of *transition services*.

If requesting organization is...	The installation commander ...
A Non-Federal Entity (NFE)	<b>Encouraged</b> to permit NFE onboard to provide services to Service members and families
VA certified Veterans Service Organization (VSO) or Military Service Organization (MSO)	<b>Shall</b> allow use of <i>available space</i> to conduct accredited transition services

### What the Installation Commander Can Provide VSOs/MSOs

Installation Access: Representatives of approved and recognized VSO's/MSO's will be granted access to the installation. As a matter of policy, voluntary or part-time representatives are to be treated the same as paid, full-time representatives.

Available Space: The installation will determine what space it has available based on mission requirements. Transition Assistance Program and other official command communication channels may be used to inform transitioning service members about where the VSO's/MSO's are operating onboard without implying endorsement.

Associated Services: Existing office furniture, machines, and equipment, as well as existing lighting, heating, cooling, electricity, internet service, and local telephone service are all included in the support elements permissible to a VSO/MSO.

*The SECDEF Memo points out that the available space and associated services provided to the VSOs/MSOs **shall** be provided without charge.*

### What the Installation Commander Must Provide

Resources: Installations need to provide the available space and associated services equitably. They may be rotated using a business center or other appropriate model. Installations shall not create or develop new space, renovate spaces solely for VSO's/MSO's, nor allocate space in decommissioned facilities.

Mission requirements: Nothing in this section is meant to inhibit or constrain the mission delivery of the installation.

Security: Much like mission requirements, security needs of the installation must not be degraded in fulfilling these requests.



Examples of VSO's/MSO's currently recognized by the VA to provide accredited representation services include: American Red Cross; Military Officers Association of America; Navy Mutual Aid Association; Veterans of Foreign Wars, Wounded Warrior Project, and American Veterans. An updated list is maintained at: <http://www.va.gov/vso/>

### Access and Support Services for Nonprofit Non-Federal Entities

On 6 March 2015, SECDEF signed an installation memo dealing with nonprofit Non-Federal Entities (NFE's). The main distinction between this memo and the VSO/MSO memo discussed above deals with the requirement to provide services. While the VSOs/MSOs must be accredited and certified by the VA to perform servicemember and family transition services, the nonprofit NFE's discussed in this section will not necessarily have been certified and accredited by the VA. Nonetheless, the nonprofit NFE seeking installation support must also seek to *provide support for military members and their families*.

Installation Access: Installation commanders may provide access as appropriate to the nonprofit NFE.

Available Space and Associated Services: The same requirements for installation commanders providing support to VSO's/MSO's are applicable here too. Transition Assistance Program and other official command communication channels may be used to inform transitioning service members about where the NFE's are operating onboard without implying endorsement.

### Measures to Facilitate Consistent Delivery of Support

Determination in Writing: The nonprofit NFE should request in writing the installation support for access, use of available space, and logistical support. In turn, the installation should respond to the nonprofit NFE in writing. Upon receiving the nonprofit NFE's first request, the installation commander will examine its most recent IRS determination letter, Form 990, and documentation requirements from DoDI 1000.15, Enclosure 2, paragraph 3.

Training and Education: The SECDEF memo seeks to ensure installation commanders maintain strong collaborative relationships with nonprofit NFE's. Installations should designate a representative to serve as a liaison and maintain a list of the nonprofit NFE's that have been authorized access.

### Adjudicating Requests for Space

Ultimately, installation commanders retain discretion to permit access and provide space for the nonprofit NFE's. Unlike the VSO's/MSO's above, NFE's may be denied access without reliance on security, mission requirements, or resources. To assist in consistent and fair assessment and adjudication of requests, an Example Checklist and standardized approval and disapproval letters are provided as enclosures to the memo.

To recap, these SECDEF memoranda provide direction, clarification, and encouragement for installation commanders to provide logistical support to VSO's/MSO's and nonprofit NFE's. The authority to provide support to these organizations comes from bridging the civilian-military divide by providing transition services.



(Security Clearances, *continued*)

### Reporting “Questionable” or “Unfavorable” Information

Exhibit 10A of SECNAV M-5510.30 lists types of behaviors and incidents that require special reporting to DoD CAF. These include: involvement or sympathy with groups advocating unconstitutional means of overthrowing the U.S.; foreign influence concerns; foreign citizenship or monetary interests; criminal sexual behavior; “questionable judgment” or “unwillingness to comply with rules and regulations”; unexplainable affluence; excessive indebtedness; illegal drug use; mental disorders; criminal conduct, and several others. The command’s security manager is responsible for reporting via the DoD CAF Portal or Joint Personnel Adjudication System (JPAS) with detailed specifics to include notes on whether the individual has cooperated in command efforts (including medical and legal efforts) to resolve the underlying issues.

If the incident is severe enough, a commander may suspend access locally. DoD CAF will then have to re-establish that member’s clearance as appropriate. If the incident was minor and has since been resolved and mitigated, a commander must still notify DoD CAF, but may request temporary clearance eligibility. Special rules and procedures apply for the suspension of Sensitive Compartmentalized Information (SCI), which is a higher category of classification.

### The Clearance Revocation Process

The formal security clearance revocation process is incredibly thorough and does not happen overnight. If unfavorable information is developed and DoD CAF deems additional information is required, a Letter of Intent (LOI) will be issued. The member can choose to submit a rebuttal via the Commanding Officer. The Personnel Security Appeals Board (PSAB) reviews the written package. If the response does not meet the criteria for a successful adjudication, the member then receives a Letter of Denial/Revocation. The member can either repeat the PSAB process and appeal via letter, or appear face-to-face with the Defense Office of Hearings and Appeals Administrative Judge. This entire process may take six months to over a year. During this time, the member will typically not have access to classified information, which can be a huge disadvantage to that member’s career progression.

If a member permanently loses the security clearance required for their job, they must go through the force conversion process (see MILPERSMAN 1440-010) to see if another rate that does not require a clearance will accept them. For enlisted sailors, the member’s Enlisted Community Manager (ECM) works with all other ECMs to see if force conversion is a viable option. E-5 and below can often be successfully converted, but is far more challenging for E-6 and above. If they are not force converted, the member may be processed for administrative separation under MILPERMAN 1910-156: Unsatisfactory Performance based upon “denial or revocation of security clearance.”

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## Recent Results of Navy Region Southeast Courts-Martial

### GENERAL COURTS-MARTIAL

- An E-3 was tried for sexual assault. On 4 December 2014, the panel of members returned a verdict of not guilty.
  - An E-3 was tried for sexual assault and communicating a threat. On 5 November 2014, the panel of members returned a verdict of not guilty.
  - An E-5 pleaded guilty to sexual abuses of a child. On 7 November 2014, the military judge sentenced him to be discharged with a Dishonorable Discharge, forfeit all pay and allowances, reduction in rank to paygrade E-1, and confinement for 10 years.
  - An E-4 pleaded guilty to attempted murder, disrespect toward a superior commissioned officer, disrespect toward a superior petty officer, assault by intentionally inflicting grievous bodily harm, assault with a deadly weapon, and disorderly conduct. On 13 November 2014, the military judge sentenced him to be discharged with a Dishonorable Discharge, forfeit all pay and allowances, reduction in rank to paygrade E-1, and confinement for 5 years.
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*(Courts-martial results, continued)*

- An O-2 was tried for attempted abusive sexual contact and abusive sexual contact. On 7 October 2014, a panel of members returned a verdict of not guilty.
- An E-3 was tried for murder and obstruction of justice. On 9 October 2014, the panel of members returned a verdict of guilty and sentenced him to be discharged with a Dishonorable Discharge, forfeit all pay and allowances, and confinement for life with eligibility for parole.
- An E-5 pleaded guilty to attempting to violate a lawful general order and was tried for violation of a lawful general order, abusive sexual contact, assault consummated by a battery, and obstruction of justice. On 21 October 2014, the military judge returned a verdict of guilty to violation of a lawful general order and assault consummated by a battery, and sentenced him to be discharged with a Bad Conduct Discharge, reduction in rank to paygrade E-1, and confinement for 60 days.
- An E-5 pleaded guilty to an attempted indecent act with a child, attempted abusive sexual contact, indecent liberties with a child, abusive sexual contact with a child, abusive sexual contact, and assaults consummated by battery upon a child. On 27 October 2014, the military judge sentenced him to be discharged with a Dishonorable Discharge, forfeit all pay and allowances, reduction in rank to paygrade E-1, and confinement for 30 months.

## SPECIAL COURTS-MARTIAL

- An E-3 pleaded guilty to abusive sexual contact. On 10 December 2014, the military judge sentenced him to be discharged with a Bad Conduct Discharge, reduction in rank to paygrade E-2, and confinement for 60 days.
  - An E-5 pleaded guilty to larceny and disposing of military property. On 16 December 2014, the military judge sentenced him to a reduction in rank to paygrade E-3, restriction for 60 days, and hard labor without confinement for 60 days.
  - An E-7 pleaded guilty to making a false official statement and uttering checks while dishonorably failing to maintain sufficient funds. On 12 November 2014, the military judge sentenced him to a reprimand, reduction in rank to paygrade E-6, and hard labor without confinement for 46 days.
  - An E-4 pleaded guilty to attempting to commit lewd acts upon a minor, committing lewd acts upon minors, and communicating indecent language. On 17 November 2014, the military judge sentenced him to be discharged with a Bad Conduct Discharge, reduction in rank to paygrade E-1, and confinement for 10 months.
  - An E-6 pleaded guilty to larceny, attempted larceny, and false official statements. On 14 October 2014, the military judge sentenced him to reduction in rank to paygrade E-5, a fine of \$21,000, 45 days hard labor, and confinement for 7 days.
  - An E-5 pleaded guilty to larceny. On 15 October 2014, the military judge sentenced him to forfeit \$1,000 per month for one month, reduction in rank to paygrade E-3, 30 days hard labor, and restriction for 30 days.
  - An E-5 pleaded guilty to conspiracy to commit larceny, destruction of non-military property, larceny, and housebreaking with intent to commit larceny. On 28 October 2014, the military judge sentenced him to reduction in rank to paygrade E-3 and confinement for 35 days.
  - An E-4 pleaded guilty to conspiracy to commit larceny, destruction of non-military property, larceny, housebreaking with intent to commit larceny, and unlawful entry. On 31 October 2014, the military judge sentenced him to forfeit \$500 per month for two months, reduction in rank to paygrade E-2, and confinement for 45 days.
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**Navy Region Southeast Staff Judge Advocate Offices:**

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