



# The Advisor

## Region Legal Service Office Southeast

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### BRIEFING

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## Introduction from the RLSO SE Command Services Department Head

BY LCDR PHILIP ROHLFING  
JACKSONVILLE, FL

Hello, my name is LCDR Philip Rohlfing and I would like to take this opportunity to introduce myself as the new Command Services Department Head for Region Legal Service Office Southeast (RLSO SE). As we finish the year and look forward to 2019, I look forward to working with leadership from installations, tenant commands, operational commands, and others in the Southeast region. RLSO SE is tasked with establishing and maintaining an active and continuing dialogue with commands and activities located within our assigned geographical area of responsibility to ensure all naval commands are provided with complete, timely, and responsive legal services. I encourage all of you to reach out to your local Staff Judge Advocate, Legal Assistance attorney, or Trial Counsel if you have questions or need assistance. RLSO SE is here to support. I look forward to working with all of you. ■

## Military Justice Act 2016

### What The Changes To The UCMJ Mean For You

BY LT MARK ALTMAN  
FORT WORTH, TX

The National Defense Authorization Act (NDAA) for Fiscal Year 2018 was signed into law by President Trump on December 12, 2017. Several months later on March 1, 2018 President Donald Trump signed Executive Order 13825 enacting the amendments to the Uniform Code of Military Justice (UCMJ) outlined in the Military Justice Act 2016 (MJA16). These two recent changes follow an extensive review process aimed to modernize our military justice system and to ensure that our justice system meets the requirements of a modern military. Among its most significant changes, the new UCMJ provides for enhanced investigative tools prior to court-martial referral, changes the structure of courts-martial, creates a new type of court-martial, and improves the efficiency of the post-trial process. The UCMJ

changes will take effect on January 1, 2019.

The UCMJ changes also provide requirements for training service members on its provisions. Article 137 of the UCMJ previously required the military services to ensure enlisted members were trained on provisions of the UCMJ both upon entrance into the military, six months after entering the military, and upon reenlistment. The new Article 137 expands training requirements to include certain classes of officers. Specifically, it requires officers with the authority to impose non-judicial punishment or to convene courts-martial to receive periodic training on the UCMJ.

While the changes to the UCMJ found in MJA16 are too extensive to be discussed in detail here, there are a few changes that warrant a brief

introduction. The new pre-referral investigatory tools include investigatory subpoenas and pre-referral warrants for electronic communications as well as certain types of court orders. These new tools will expand the capabilities of the service investigatory bodies to conduct more complete and effective investigations. The duties and powers of military magistrates have also been expanded to include presiding over certain special courts-martial with the consent of the parties. Pre-trial agreements are now called plea agreements and will be more flexible, allowing both minimum and maximum limits on punishments, which will provide convening authorities greater ability to tailor plea agreements to the specific circumstances of each case.

## MJA16, CONT'D

MJA16 also has made significant changes to courts-martials. Specifically, it changed how courts-martial are impaneled. The quorum for member panels in a courts-martial is now fixed, and convening authorities may now authorize military judges to impanel alternate members to fill in if a member is lost during the course of a court-martial. A new type of special court-martial has also been created with six-month caps on both confinement and forfeitures and that does not allow for a bad-conduct discharge. This new special court-martial is designed to address crimes that are serious enough to warrant a special court-martial, but are still relatively minor. These include offenses including, but not limited to, most unauthorized absence offenses, some malingering offense, most disrespect offenses, drunk on duty, larceny, some drug offenses, some assault offenses, and others. This new type of special court-martial is designed for less-complex cases and has the potential for much faster processing time in exchange for a lower limit to punishment for the accused.

The overarching goal of many of the new aspects to the UCMJ is to provide new tools and to update existing tools within the military justice system to make it more effective at maintaining good order and discipline within the military. As with any new framework it will take time to realize the full impact of the changes to the UCMJ.

In order to start the process of training court-martial convening authorities on the changes to the UCMJ, and to comply with the new requirements of Article 137, Judge Advocates from Region Legal Service Office Southeast (RLSO SE) will provide training at installations throughout the Southeast Region. Funding-permitting, JAGs will travel to installations throughout the region to provide trainings to special court-martial convening authorities. Where funding will not permit travel for in-person training, the teams will leverage technology to provide training sessions over the Internet. These training sessions will serve as a great opportunity to meet the JAGs assigned to assist your commands and satisfy the requirements of the new Article 137. If you would like to be added to the list for these trainings, or would like more information, please contact your installation SJA. RLSO SE aims to complete these trainings by the end of Calendar Year 2018 so please reach out as soon as possible if you wish to take advantage of this opportunity. ■

## PERSONAL FIREARMS AND PCS - PLAN AHEAD!

BY LT SARAH PADWAY GUANTANAMO BAY, CUBA

Are you preparing to PCS? Do you own personal firearms? Be sure to look up the rules regarding personal firearms at your new duty station! Personal firearms CONUS are governed by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and state and local laws. If you are moving overseas, each country has different laws pertaining to firearms. You must follow the laws of that country and your Status of Forces Agreement (SOFA).



The chart below provides helpful tips whether you are moving stateside or overseas, and remember if you have questions, contact your local SJA!

<b>CONUS</b>	
<i>Household Goods Shipment</i>	
1. Include personal firearm information in your pre-move survey on <a href="http://www.move.mil">www.move.mil</a> .	
2. Include each firearm on your HHG inventory.	
3. When your shipment arrives, verify all personal firearms arrived. If they did not, notify authorities of any lost personal firearm.	
<i>Personal Shipment</i> – The ATF also permits personal shipment to another state, but it must be shipped “in care of” another person.	
<i>Self-Transport</i> – In your personal vehicle, ensure you do not carry your weapon on your person and check the laws of every state you intend to drive through.	

<b>OCONUS</b>	
1. Contact your sponsor and request information about personal firearms laws and the SOFA in your duty location.	
**IF FIREARMS ARE NOT PERMITTED AT YOUR OCONUS DUTY STATION, THEY CANNOT BE IN YOUR HHG SHIPMENT**	
2.a. If firearms are permitted, review instructions and procedures for personal firearm possession at your prospective duty location.	2.b. If firearms are not permitted, they may be stored in accordance with ATF and state regulations.
3. Verify which firearms can be moved.	
4. Include each firearm on your HHG inventory and verify receipt of personal firearms upon arrival.	
5. When you return CONUS, fill out an ATF Form 6 for your shipment and allow extra time for processing.	

Whether you are moving stateside or overseas, if you ship personal firearms, you MUST make sure all firearms are inoperable, all ammunition is removed, and that the firearm is written on the inventory with specifics including make, model, serial number, unique characteristics, and caliber or gauge. Additional information regarding your specific move can be found on [www.move.mil](http://www.move.mil) and [www.atf.gov](http://www.atf.gov). Remember to plan ahead! ■

# Administrative Investigations - Civilian Personnel Warnings

BY LT SARA BLACK  
MERIDIAN, MS

Many of us are familiar with 31b rights for military members but we are not as familiar with the rights that civilian staff have within our command. There are three different rights you should be aware of whenever interviewing civilians during an investigation.

- (1) Weingarten rights apply to all employees who are members of a union if the employee reasonably believes that the examination may result in disciplinary action by the employer and the employee requests such representation.
- (2) If the statements might be used to support criminal charges against the employee, then the Garrity warning should be given to the employee before any questioning.
- (3) If the statements would only be used to determine whether administrative discipline is appropriate, and there's no foreseeable criminal culpability on the part of the employee, then a Kalkines warning would be appropriate.

## (1) Weingarten Rights

Pursuant to 5 U.S.C 7114(a)(2)(B), an Employee is entitled to Union representation in an examination of an Employee in the unit by a representative of the agency in connection with an investigation if (1) the Employee reasonably believes that the examination may result in disciplinary action by the Employer and (2) the Employee requests such representation.

### Acknowledgement

I, \_\_\_\_\_, have read or have had read to me and fully understand the above statement. I understand that I am entitled to have union representation present for this interview. Knowing and fully understanding the statement above, I (do) (do not) wish to have Union Representation present for this interview.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



## (2) Garrity Warnings

You are being asked to provide information as part of an internal and/or administrative investigation. This is a voluntary interview and you do not have to answer questions if your answers would tend to implicate you in a crime. No disciplinary action will be taken against you solely for refusing to answer questions. However, the evidentiary value of your silence may be considered in administrative proceedings as part of the facts surrounding your case. Any statement you do choose to provide may be used as evidence in criminal and/or administrative proceedings.

### Acknowledgement

I, \_\_\_\_\_, have read or have had read to me and fully understand the above statement. I understand that any statement I make can be used as evidence in criminal and/or administrative proceedings. Knowing and fully understanding the statement above, I (do) (do not) wish to make a statement or answer any questions regarding this investigation.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Investigator Signature: \_\_\_\_\_

Investigator Name (Print): \_\_\_\_\_

## (3) Kalkines Warning

You are being questioned as part of an internal and/or administrative investigation. You will be asked a number of specific questions concerning your official duties, and you must answer these questions to the best of your ability. Failure to answer completely and truthfully may result in disciplinary action, including dismissal. Your answers and any information derived from them may be used against you in administrative proceedings. However, neither your answers nor any information derived from them may be used against you in criminal proceedings, except if you knowingly and willfully make false statements.

### Acknowledgement

I, \_\_\_\_\_, have read or have had read to me and fully understand the above statement. I agree to fully cooperate with the current investigation and intend to answer all questions completely and truthfully.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Investigator Signature: \_\_\_\_\_

Investigator Name (Print): \_\_\_\_\_ ■

# All You Need to Know About a Power Of Attorney

BY LT AUTY MOAYERI  
MAYPORT, FL

A power of attorney (POA) is a written instrument that allows you to name an agent (known as the attorney-in-fact) to conduct transactions on your behalf. There are two types of POAs: general and special. Any act made pursuant to the POA and within the authority of the POA is legally binding upon you, so choose your agent carefully.

## GENERAL POWER OF ATTORNEY (GPOA)

A GPOA is an extremely powerful document that gives broad powers to your named agent. Most servicemembers find it useful to provide a parent or spouse with a GPOA during a deployment or a PCS move so that the agent can perform any task that may require action such as the following:

- Facilitate a household goods move
- Clear government quarters
- Ship the family car
- File taxes
- Contact insurance companies
- Sign contracts
- Pay bills
- Deposit and withdraw money from bank accounts

Keep in mind that the agent can do almost anything you could do. Therefore, you should completely trust your named agent, since he or she could also perform the following in your name:

- Open new credit card accounts
- Max out credit cards
- Take out a loan
- Purchase a vehicle
- Deplete financial accounts

If your GPOA is abused, check with your local Legal Assistance Office on how to revoke it.



## SPECIAL POWER OF ATTORNEY (SPOA)

A SPOA authorizes your agent to perform limited act(s) on your behalf. Those specific acts will be explicitly enumerated in the document.

- **Real Estate POA:** Most third parties will not accept a GPOA for real estate transactions. If you plan to designate someone with the power to buy or sell real property, you should obtain a SPOA.
- **In Loco Parentis:** Another type of SPOA, called an *In Loco Parentis*, provides your agent with the power to act in the place of a parent. It names your agent as guardian during your absence. The guardian can perform the following tasks:
  - Enroll, register, and take care of all matters pertaining to school matriculation and attendance
  - Pick up your children from school
  - Authorize medical, dental, and hospital care and treatment, including surgery
  - Travel with the children
  - Other parental functions
- **Health Care POA:** If you are incapacitated or unable to make medical decisions for yourself, a Health Care POA names an agent to make those decisions for you. These types of POAs are typically "springing" and "durable", which means that the POA does not take effect until the incapacitation occurs and will last throughout the incapacitation period.

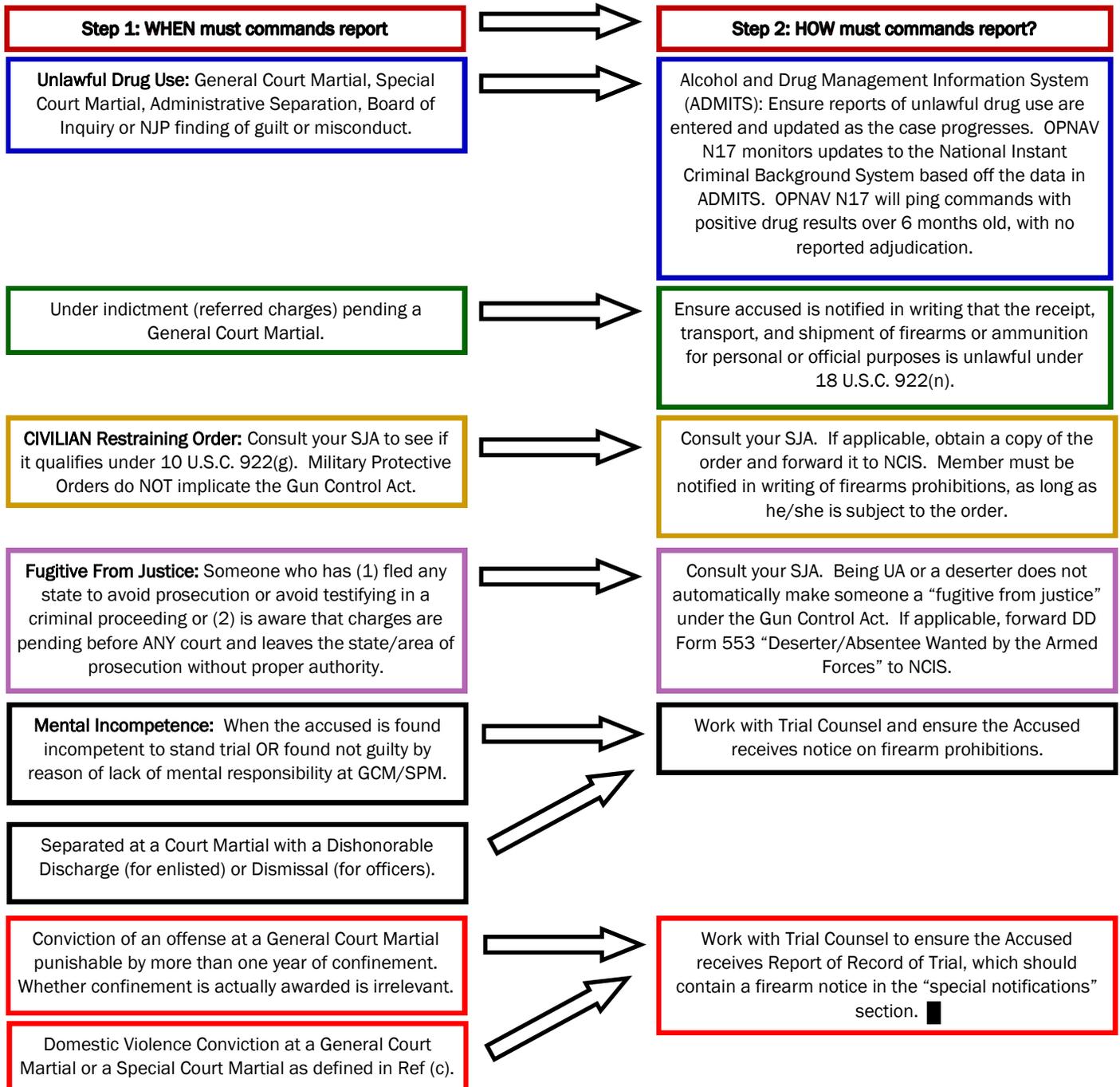
If you have any questions about obtaining a power of attorney, contact your RLSO SE Legal Assistance Office. ■

## Reporting Criminal Justice Information: Responsibilities for SJAs and Commands

BY LT ALYSSA DEGNER-LOPEZ  
NEW ORLEANS, LA

- Refs: (a) NAVADMIN 076/18;  
 (b) Gun Control Act of 1968;  
 (c) DODI 6400 Domestic Abuse Involving DOD Military and Certain Affiliated Personnel

**WHY THIS MATTERS:** In order to ensure Navy compliance with the Gun Control Act of 1968 through accurate and timely reporting of criminal justice information and other conditions which would preclude the receipt, possession, or transfer of firearms and ammunition under that act



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*Senior Enlisted Leader*  
**LNCS Lourdie Powell**

Region Legal Service Office Southeast supports the operational readiness of Department of Navy assets in the Southeastern United States by providing responsive, timely, and accurate legal guidance, support services and training in the areas of military justice and administrative law. RLSO SE headquarters is located onboard Naval Air Station Jacksonville, Florida and has detachments throughout the Region and Guantanamo Bay, Cuba. The RLSO SE geographic area of responsibility includes the states of Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, Tennessee, Missouri, Oklahoma, Kansas, Arkansas, and Texas as well as Cuba, Puerto Rico, South America and portions of Mexico.

**Staff Judge Advocate Offices**

Commander, Navy Region Southeast.....	(904) 542-2133
Command Services Director.....	(904) 542-3330
Naval Air Station Jacksonville.....	(904) 542-2942
Naval Station Mayport .....	(904) 270-5445 x3009
Naval Submarine Base Kings Bay .....	(912) 573-4732
Naval Air Station Key West.....	(305) 293-2833
Naval Station Guantanamo Bay.....	(757) 458-4834
Naval Air Station Pensacola.....	(850) 452-4402
Naval Air Station Meridian.....	(601) 679-2340
Naval Construction Battalion Center Gulfport.....	(228) 871-2627
Naval Air Station Joint Reserve Base New Orleans.....	(504) 678-9589
Naval Air Station Corpus Christi.....	(361) 961-3568
Naval Air Station Fort Worth Joint Reserve Base.....	(817) 782-7990
Naval Air Station Whiting Field.....	(850) 623-7231
Naval Air Training Command (NATRACOM).....	(361) 961-3578
Naval Air Technical Training Center (NATTC).....	(850) 452-8573
Center for Information Dominance (CID) Corry Station.....	(850) 452-6290
Naval Support Activity Mid-South.....	(901) 874-5794