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***New Sexual Assault
Disposition Report***

NEW SEXUAL ASSAULT DISPOSITION REPORT

Pursuant to ALNAV 061/14, a Sexual Assault Disposition Report (“SADR”), NAVPERS 1752/1, is required upon final disposition of all unrestricted reports of sexual assault. For all cases with a disposition between 1 October 2013 and the date the ALNAV was released, the SADR was required to be completed by 29 August 2014. For all cases with a disposition date following the release of the ALNAV, the SADR is required to be completed within two business days of the disposition decision.

The ALNAV defines final disposition as “action taken to resolve the reported incident, documenting the case outcome, and addressing the misconduct by the alleged offender/subject, as appropriate.” The alleged offender’s command is responsible for completing the SADR. However, in cases where the unrestricted report specifies an unknown offender or an offender who is not subject to the UCMJ, the victim’s commanding officer is responsible for the completion of the SADR.

Please note that this new form replaces the previous NAVPERS 1752/1, “Sexual Assault Incident Data Collection Report.”

MENTAL HEALTH CONCERNS IN THE WORKPLACE: THREAT OF VIOLENCE

In the last article, we discussed what immediate steps must be taken in the event of a direct threat of violence by an employee. This is a continuation of that article and addresses what steps must be taken after the immediate threat has been subdued.

For all personnel: Immediately report the incident to NCIS and/or installation police as appropriate and initiate a criminal investigation. If NCIS/installation police decline to investigate, document the threat in either a command investigation for military or pre-action investigation for civilians. Other actions:

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The Counselor

For military: Consider whether a mental health referral or placement in the brig is appropriate. Additionally, consider issuing a military protective order (MPO) against the servicemember. If either party to the MPO resides on base, notify the installation and provide a copy of the MPO to installation security. After the investigation is completed, consult with Legal regarding disciplinary and/or administrative options.

For civilians: After a police report has been filed, contact HR immediately to initiate disciplinary action. Discuss with HR whether administrative leave pending the investigation is appropriate. Additionally, consult with base Legal whether a barment is in order.*

For contractors: Have your Contracting Officer's Representative (CORE) contact the Contracting Officer for the respective contract to have the offending contractor replaced. Depending on the nature of the threat, consider consulting with base Legal on whether a barment is in order.*

The next Article in this series will focus on what to do when an employee's behavior is concerning, but does not rise the level of threatening.

*A directory for base Legal can be found on page 5 of this Newsmailer.

NONPUNITIVE LETTERS OF CAUTION AND LETTERS OF INSTRUCTION

Nonpunitive Letters of Caution and Letters of Instruction

Nonpunitive Letters of Caution (“**NPLOCs**”) are private (between the issuer and the recipient) and their purpose is to serve as a leadership tool for teaching and training, instead of punishment. Letters of Instruction (“**LOIs**”) go in the member's service record to create a permanent record of counseling and guidance because of a service member's substandard performance of duty and may be used as basis for a detachment for cause (“DFC”). As a practice note, make sure the subject line is clear about what kind of letter is being issued.

The Rules for Courts Martial (R.C.M. 306(c)(2)) and the JAGMAN (Chapter 1 § 0102) authorize Commanding Officers and Officers in Charge to use administrative corrective measures to further the efficiency of their command unit. These measures are **not** punishment. **Administrative** measures can include extra military instruction, administrative withholding of privileges, and nonpunitive censure. NPLOCs are the most common form of nonpunitive censure. In contrast, LOIs (per the JAGMAN Chapter 1 § 0105) are not considered a form of censure; instead, LOIs are a tool for counseling and improving performance.

Please note that these *administrative* measures, NPLOCs and LOIs, are often confused with *punitive* measures, such as a Punitive Letter of Reprimand. Letters containing punitive censure are generally issued to an officer after NJP.

The Counselor

NPLOCs are a written form of nonpunitive censure (JAGMAN, Chapter 1, § 0105). NPLOCs can be issued to officers or enlisted members. A NPLOC is not punishment; rather, it is issued to remedy a noted deficiency in a service member's conduct or performance of duty. A NPLOC must be kept as a personal matter between the service member and the superior. The NPLOC cannot be forwarded or included in the service member's official file or mentioned in a fitness report or evaluation. Even though the NPLOC is between the superior and the member, the facts and circumstances that led to the NPLOC may be referenced in a fitness report or evaluation and those facts may be the basis for detachment for cause, relief of command, or negative endorsement. A NPLOC may only be included in the member's record if the member later claims that he or she was inadequately counseled following some adverse action; in that case, the NPLOC is included as evidence of prior counseling.

A NPLOC should contain the following information: (i) identification of conduct or performance of duty deficiencies, (ii) direction of improvement, (iii) language of admonishment, (iv) identification of sources of assistance, (v) outline of corrective action, and (vi) consequences of failing to correct the deficiencies. A sample NPLOC is located at appendix A-1-a of JAGMAN Chapter 1.

LOIs are only addressed in three places. JAGMAN, Chapter 1, § 0105 states that a LOI is not a form of nonpunitive censure. MILPERSMAN 1611-020 and MILPERSMAN 1616-010 provide guidance for the use of LOIs in detachment for cause requests. (MILPERSMAN 1910-202 lists LOIs as one of the counseling tools available for use with enlisted personnel, but does not elaborate.) There are no other references to LOIs in Navy regulations or instructions. MILPERSMAN 1611-020 specifically states that an LOI may be one piece of evidence to show that the command gave adequate counseling prior to detachment for cause.

An LOI must contain the following information: (i) description of specific weaknesses, (ii) recommendations for suitable and reasonable measures for improvement, (iii) a clear description of the desired performance standard, and (iv) a reasonable period of time for correction of the performance deficiency, if appropriate. The LOI must be delivered to the officer at the time of the counseling and the officer should acknowledge receipt in writing. There is no requirement to include an LOI an official record. But, because the LOI may be included in an adverse package later on, the best practice is to give the service member an opportunity to submit a statement in response at the time the LOI is issued.

No specific guidance exists for the use of LOIs for enlisted personnel. As mentioned before, MILPERSMAN 1910-202 lists a Letter of Instruction as one tool available to Commanding Officers when counseling enlisted members, but gives no additional detail. The best practice is to follow the guidelines established for officer LOIs when issuing an enlisted LOI.

The Counselor

RESULTS OF TRIAL, 4TH QUARTER 2014

Navy E-5 with 3 years of service was sentenced to be confined for 90 days and to receive a bad conduct discharge after being convicted of assault consummated by a battery and drunk and disorderly conduct. This court was held on 5 September 2014.

Navy Midshipman was found not guilty of attempt to commit abusive sexual contact, abusive sexual contact, and assault. This court was held on 29 August 2014.

Navy E-3 with 3 years of service was sentenced to be confined for 6 months, to be reduced to the pay grade of E-1, and to receive a bad conduct discharge after being convicted of wrongfully possessing a controlled substance, wrongfully using a controlled substance, larceny of military property, and wrongful solicitation. This court was held on 14 August 2014.

Navy E-3 with 2 years of service was sentenced to be confined for 90 days, to be reduced to the pay grade of E-1, and to receive a bad conduct discharge after being convicted of conspiracy and wrongful distribution of a controlled substance. This court was held on 29 July 2014.

Navy E-5 with 6 years of service was sentenced to be confined for 1 year and to receive a dishonorable discharge after being convicted of making a false official statement, destruction of property, assault consummated by a battery, adultery, and sexual assault. This court was held on 25 July 2014.

Navy O-4 with 22 years of service was found not guilty of abusive sexual contact. This court was held on 7 July 2014.

OFFICER BOARD OF INQUIRY RESULTS, 4TH QUARTER 2014

Navy Reserve O-4 was ordered to show cause for retention due to misconduct and substandard performance of duty: unauthorized absence and failure to conform to prescribed standards of military department. The Board recommended separation. This Board of Inquiry was held on 3 September 2014.

Navy Reserve O-4 was ordered to show cause for retention due to substandard performance of duty: failure to satisfactorily complete a course of training, instruction or indoctrination. The Board recommended retention. This Board of Inquiry was held on 7 August 2014.

The Counselor

COMMAND SERVICES STAFF JUDGE ADVOCATE DIRECTORY

The mission of command services department is to provide prompt and effective legal services to commands throughout the Naval District Washington area of responsibility. The following is a list of contacts for each installation:

*Command Services
Staff Judge Advocate
Directory*

NSA WASHINGTON/WASHINGTON NAVY YARD
(202)685-7046

JOINT BASE ANACOSTIA-BOLLING
(202)767-1767

NSA BETHESDA
(202)685-5894

NSA ANNAPOLIS
(410)293-9203

NAS PATUXENT RIVER
(301)342-1934

NSA SOUTH POTOMAC
(301)342-1934

COMMAND DUTY OFFICER: (202)329-0249
E-MAIL: RLSO.NDW@NAVY.MIL

*For NDW related issues, please
contact:*

*NAVAL DISTRICT WASHINGTON
Staff Judge Advocate
(202) 433-2424*

*Deputy Staff Judge Advocate
(202) 433-2423*

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