JAG/CNLSC INSTRUCTION 1500.5

Subj: LEGALMAN UTILIZATION

Ref: (a) JAGINST 5803.1D
(b) JAGINST 1500.2
(c) NAVPERS 18068-48C
(d) OPNAVINST 1500.81
(e) CO NMAC ltr 1221 Ser 10/194 of 10 Aug 12
(f) JAGINST 1500.4A
(g) ABA Model Guidelines for the Utilization of Paralegal Services

Encl: (1) Legalman Utilization Doctrine
(2) Professional Development Standards (PDS)

1. Purpose. To set out the guidance for improved utilization of Navy Legalmen.

2. Applicability. This instruction applies to all attorneys, Limited Duty Officers (Law), and Legalmen working under the cognizance of the Judge Advocate General (JAG) per reference (a).

3. Background. In July 2010, the JAG validated a requirement for a government-funded education program to meet minimum Occupational Standards set forth in references (b) and (c). Specifically, the JAG Corps demonstrated that the Occupational Standards required completion of a paralegal study program accredited by the American Bar Association. As a result, in August 2010, the Chief of Naval Operations established the Legalman Paralegal Education Program (LPEP) to provide Legalmen with an Associate's and/or Bachelor's Certificate in Paralegal Studies accredited by the American Bar Association per references (d) and (e).

4. Policy. The Navy JAG Corps is committed to providing superb legal solutions wherever and whenever needed. To meet this mission we will increase the role of Legalmen in the delivery of
legal services. Consistent with reference (a) and enclosure (1), the JAG Corps will approach its mission, at every level, as an integrated team of attorneys and non-attorneys.

5. Action

a. Commanding Officer, Naval Justice School, shall maintain and coordinate preparation and periodic review of enclosure (2) in accordance with LPEP policy guidance, per references (d) and (f).

b. Commanding Officers shall develop and implement a Legalman Utilization Plan that facilitates Legalman utilization in the delivery of high-quality legal services. The Legalman Utilization Plan shall:

   (1) Be consistent with command core mission and reference (a), while empowering Legalmen to meet professional development and continue to develop as Sailors.

   (2) Identify ways to integrate Legalmen into the daily practice of the command and utilize Legalmen to their full potential.

   (3) Foster and incentivize sustained working relationships between attorneys and Legalmen.

   (4) Identify and incorporate specific PDS within enclosure (2) that are directly associated with the command core mission as a baseline set of legal services that are expected to be performed by Legalmen.

   (5) Establish the supervisory attorney-Legalman relationships within the command.

   (6) Identify personnel with the authority to verify and certify completion of enclosure (2).

   (7) Establish a formal process for attorneys and Legalmen to periodically exchange feedback about Legalman utilization and performance.

   (8) Require Legalman utilization and performance feedback in Career Development Boards and mid-term counseling for both attorneys and Legalmen.
(9) Integrate existing Legalman training requirements and synchronize with specific PDS where appropriate.

(10) Require a periodic review of the Legalman Utilization Plan to capture lessons learned and best practices.

c. Training Officers/Professional Development Officers/Senior Enlisted Leaders shall:

(1) Ensure Legalmen comply with all training requirements set forth in this instruction, reference (f), and other instructions and guidance that may be provided.

(2) Facilitate access to training and opportunities for Legalmen to complete applicable PDS.

d. All attorneys shall:

(1) Integrate Legalmen into daily provision of legal services consistent with reference (a), enclosure (1), and tasks identified in enclosure (2).

(2) Act as supervisory attorneys for Legalmen for purposes of reference (a) as follows:

(a) Attorneys within Naval Legal Service Command shall act as supervisory attorneys for Legalmen pursuant to the Legalman Utilization Plan established in accordance with paragraph 5(b) of this instruction.

(b) Attorneys outside Naval Legal Service Command shall act as supervisory attorneys for Legalmen under their authority, and shall designate a supervisory attorney for Legalmen serving in independent duty billets at subordinate commands.

(3) Make themselves available for training opportunities and assist Legalmen with completion of PDS.

(4) Ensure client legal services remain at the highest quality while utilizing Legalmen to the greatest extent possible.
e. Legalmen shall:

(1) Provide legal services under the direction and supervision of attorneys, consistent with reference (a) and this instruction.

(2) Not perform duties reserved for attorneys per references (a) and (g).

(3) Utilize available training opportunities to complete PDS in accordance with command policies.

6. This instruction is effective immediately.

J. W. CRAWFORD III  
Commander, Naval Legal Service

NANETTE M. DeRENZI  
Judge Advocate General

Distribution:  
LEGALMAN UTILIZATION DOCTRINE

PREAMBLE /MISSION STATEMENT

The Navy Judge Advocate General's Corps (JAG Corps) will provide high-quality legal solutions as an integrated team consistent with the Rules of Professional Conduct. Attorneys will incorporate Legalmen into their practice in a manner commensurate with each Legalman's education, training, experience and ability. Legalmen will perform their assigned legal duties to the highest standard of professional excellence, in a manner compatible with the supervising attorney's ethical obligations.

DOCTRINE

Attorneys and Legalmen must work together to accomplish the Navy's core legal mission as defined in JAG 2020.1. JAG Corps personnel at every level must forge and maintain strong working relationships grounded in applicable rules of professional responsibility.

RESPONSIBILITIES OF ATTORNEYS

1. Take appropriate measures to ensure that Legalmen performing professional legal work under their direction and supervision conduct themselves in a manner consistent with applicable law, rules of professional conduct and the Uniform Code of Military Justice.

2. Maintain a direct relationship with the client and control all client matters, while delegating appropriate tasks to Legalmen.

3. Assign work commensurate with the Legalman's education, training, knowledge, ability, and experience.

   a) Retain ultimate responsibility for delegated tasks/assignments.

   b) Prevent Legalmen from engaging in matters that create, or have the appearance of creating, a conflict of interest (JAGINST 5803.1 series).

   c) Provide constructive feedback to Legalmen and encourage education, training and work experience to enhance a Legalman's continuing education in paralegal studies.

Enclosure (1)
LEGALMAN RESPONSIBILITIES

1. Ensure conduct is compatible with the responsibilities of the supervising attorney, consistent with applicable law, rules of professional conduct and the Uniform Code of Military Justice.

2. Perform any and all tasks assigned and supervised by the attorney.
   
   a) Refrain from communicating with clients or represented persons without the authorization of the supervising attorney; the attorney shall maintain a direct relationship with the client and control all client matters.

   b) Refrain from giving legal opinions or advice or engaging in, encouraging, or contributing to any act which would constitute the unauthorized practice of law.

3. Maintain integrity and take reasonable measures to prevent any conflict of interest resulting from duties or outside interests.

4. Ensure preservation of all client confidences and strictly adhere to all ethical obligations relating to the representation of a client.

5. Strive to maintain the highest degree of competency through continued education and training.

CONCLUSION

Legalmen serve at all levels in today’s Navy and assist Navy attorneys on a wide variety of legal issues. With the Navy’s continued investment in paralegal training, it is essential that attorneys and Legalmen recognize and utilize the professional expertise of their teammates to enhance the delivery of legal services to our clients.

Enclosure (1)
Professional Development

Standards (PDS)

For

Command Services

Legalmen
Professional Development Standards (PDS) for Command Services Legalmen

Table of Contents

How to use this Document

Professional Development Standards for Command Services Legalmen

1. Ethical Obligations
2. Instructions, Forms, and Points of Contact
3. Non-Punitive Measures (Administrative Remedies)
4. Non-Judicial Punishment (NJP)
5. Enlisted Administrative Separations
6. Officer Misconduct/Boards of Inquiry (BOIs)
7. Search and Seizure
8. Pre- and Post-Trial Processing
9. Mental Health Evaluations (MHEs)
10. Administrative Investigations
11. Complaints/Inquiries
12. Freedom of Information Act (FOIA)/Privacy Act
13. Installation Legal Issues
14. Ethics

CERTIFICATE OF COMPLETION
Professional Development Standards (PDS) for Command Services Legalmen

How to Use this Document

This document contains the Professional Development Standards (PDS) module for Legalmen serving in Command Services. This module consists of fourteen (14) sections corresponding to different aspects of command support services, court-martial practice, administrative separation proceedings, complaints, Freedom of Information Act, Ethics and other legal issues. Each section includes a list of tasks that may be performed by Legalmen consistent with the Rules of Professional Conduct, JAGINST 5803.1D. Note that only attorneys are authorized to render services that call for the professional judgment of a lawyer.

Legalmen assigned to perform command services duties should complete these PDS in accordance with their commanding officer’s LN Utilization Plan, as defined by paragraph 5 of JAG/CNLSCINST 1500.5. Each LN Utilization Plan will identify who may verify completion of PDS tasks and sections, and who may recommend final certification by the Commanding Officer. If the LN Utilization Plan does not specify who may verify completion of a particular task or section, the Legalman’s supervising attorney shall verify completion.

These PDS need not be completed in any particular order, but may be completed as circumstances necessitate or opportunities arise. In general, PDS tasks may be completed as part of an actual or simulated proceeding. Unless otherwise noted, each PDS task should be verified by the attorney who supervised the work associated with the task. If a particular PDS task is not applicable in a specific region, the task may be marked “N/A” consistent with the Utilization Plan and other guidance. Questions about PDS modules should be submitted to the appropriate Training Officer/Professional Development Officer (PDO)/Senior Enlisted Leader.
Professional Development Standards (PDS) for Command Services Legalmen

1. **Ethical Obligations**

Review, sign and date when complete:

| JAGINST 5803.1[series] |

Initial and Date:

1. ___________ IDENTIFY the sources of professional ethical obligations that apply to you in your role as a Legalman providing legal services.

2. ___________ EXPLAIN the relationship between your professional ethical obligations and the professional ethical obligations of your supervising attorneys.

3. ___________ IDENTIFY who the “client” is when handling command services and their legal teams in courts-martial and administrative separation proceedings.

4. ___________ EXPLAIN the following in the context of your role as a Legalman supporting a supervising attorney in providing command services:
   
   a. ______ the duty of confidentiality, including who bears responsibility for fulfilling the duty;
   
   b. ______ the duty of due diligence;
   
   c. ______ the duty of candor and to whom it extends;
   
   d. ______ the duty of fairness in the support providing to commands; and,
   
   e. ______ the rules respecting communication with commands and individuals seeking command services and advice.

5. ___________ IDENTIFY special responsibilities of supervising attorneys in their role of providing legal services to the command.

6. ___________ EXPLAIN the concept of the “unauthorized practice of law.”

7. ___________ EXPLAIN the procedures for reporting possible violations of the Rules of Professional Conduct.
Professional Development Standards (PDS) for Command Services Legalmen

2. **Instructions, Forms and Points of Contact**

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>DATE AND SIGNATURE</th>
<th>INSTRUCTION</th>
<th>SOURCE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SECNAV</td>
<td>U.S. NAVY REGULATIONS (1990)</td>
<td></td>
</tr>
<tr>
<td>3120.32D series</td>
<td>OPNAV</td>
<td>STANDARD ORGANIZATION AND REGULATIONS OF THE U.S. NAVY (SORM)</td>
<td></td>
</tr>
<tr>
<td>F3100.6J CH-2</td>
<td>OPNAV</td>
<td>SPECIAL INCIDENT REPORTING</td>
<td></td>
</tr>
<tr>
<td>M-5216.5</td>
<td>SECNAV</td>
<td>NAVY CORRESPONDENCE MANUAL</td>
<td></td>
</tr>
<tr>
<td>5354.1F CH-1</td>
<td>OPNAV</td>
<td>NAVY EQUAL OPPORTUNITY POLICY</td>
<td></td>
</tr>
<tr>
<td>5510.36A</td>
<td>SECNAV</td>
<td>DON INFORMATION SECURITY PROGRAM INSTRUCTION</td>
<td></td>
</tr>
<tr>
<td>1610.2A</td>
<td>SECNAV</td>
<td>DEPARTMENT OF THE NAVY POLICY ON HAZING</td>
<td></td>
</tr>
<tr>
<td>5300.26D</td>
<td>SECNAV</td>
<td>DEPARTMENT OF THE NAVY POLICY ON SEXUAL HARASSMENT</td>
<td></td>
</tr>
<tr>
<td>5800.11B</td>
<td>SECNAV</td>
<td>VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP)</td>
<td></td>
</tr>
<tr>
<td>5800.7A</td>
<td>OPNAV</td>
<td>VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP)</td>
<td></td>
</tr>
<tr>
<td>5800.3A</td>
<td>BUPERS</td>
<td>VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP)</td>
<td></td>
</tr>
<tr>
<td>5800.4A</td>
<td>JAG / CNLSC</td>
<td>VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP)</td>
<td></td>
</tr>
<tr>
<td>11-063</td>
<td>DTM</td>
<td>EXPEDITED TRANSFER OF MILITARY SERVICE MEMBERS WHO FILE UNRESTRICTED REPORTS OF SEXUAL ASSAULT</td>
<td></td>
</tr>
<tr>
<td>11-062</td>
<td>DTM</td>
<td>DOCUMENT RETENTION IN CASES OF RESTRICTED AND UNRESTRICTED REPORTS OF SEXUAL ASSAULT</td>
<td></td>
</tr>
<tr>
<td>1752.1B</td>
<td>OPNAV</td>
<td>SEXUAL ASSAULT VICTIM INTERVENTION (SAVI) PROGRAM</td>
<td></td>
</tr>
<tr>
<td>1750.3</td>
<td>OPNAV</td>
<td>TRANSITIONAL COMPENSATION FOR ABUSED DEPENDENTS POLICY</td>
<td></td>
</tr>
<tr>
<td>5350.4D</td>
<td>OPNAV</td>
<td>NAVY ALCOHOL AND DRUG ABUSE PREVENTION AND CONTROL</td>
<td></td>
</tr>
</tbody>
</table>
### Professional Development Standards (PDS) for Command Services Legalmen

#### Instructions, Forms and Points of Contacts
(continued)

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>DATE AND SIGNATURE</th>
<th>INSTRUCTION</th>
<th>SOURCE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1700.16A</td>
<td>OPNAV</td>
<td></td>
<td>ALCOHOLIC BEVERAGE CONTROL</td>
</tr>
<tr>
<td>5710.22A</td>
<td>SECNAV</td>
<td></td>
<td>POLITICAL ASYLUM AND TEMPORARY REFUGE</td>
</tr>
<tr>
<td>5820.4G</td>
<td>SECNAV</td>
<td></td>
<td>STATUS OF FORCES POLICIES, PROCEDURES AND INFORMATION</td>
</tr>
<tr>
<td>6025.18-R</td>
<td>DOD</td>
<td></td>
<td>DOD HEALTH INFORMATION PRIVACY REGULATION</td>
</tr>
<tr>
<td>6490.04</td>
<td>DODI</td>
<td></td>
<td>MENTAL HEALTH EVALUATIONS OF MEMBERS OF THE MILITARY SERVICES</td>
</tr>
<tr>
<td>263/09 (Personal For)</td>
<td>NAVADMIN</td>
<td></td>
<td>COMMAND-DIRECTED MENTAL HEALTH EVALUATION /PROCEDURAL SAFEGUARDS AND REQUIREMENTS</td>
</tr>
<tr>
<td>5820.8A</td>
<td>SECNAV</td>
<td></td>
<td>RELEASE OF OFFICIAL INFORMATION FOR LITIGATION PURPOSES AND TESTIMONY BY DEPARTMENT OF THE NAVY PERSONNEL</td>
</tr>
<tr>
<td>5820.9A</td>
<td>SECNAV</td>
<td></td>
<td>COMPLIANCE WITH COURT ORDERS BY DEPARTMENT OF THE NAVY MEMBERS, EMPLOYEES AND FAMILY MEMBERS OUTSIDE THE UNITED STATES</td>
</tr>
<tr>
<td>5450.1G</td>
<td>CNLSC</td>
<td></td>
<td>MISSION, FUNCTIONS AND TASKS OF NAVAL LEGAL SERVICE COMMAND OFFICES</td>
</tr>
<tr>
<td>5800.1G</td>
<td>CNLSC</td>
<td></td>
<td>NAVAL LEGAL SERVICE COMMAND (NLSC) MANUAL</td>
</tr>
<tr>
<td>5803.1D</td>
<td>JAG</td>
<td></td>
<td>PROFESSIONAL CONDUCT OF ATTORNEYS PRACTICING UNDER THE COGNIZANCE AND SUPERVISION OF THE JUDGE ADVOCATE GENERAL</td>
</tr>
<tr>
<td>5800.9C</td>
<td>JAG</td>
<td></td>
<td>CRIMINAL ACTIVITY, DISCIPLINARY INFRACTIONS AND COURT-MARTIAL REPORT (QCAR)</td>
</tr>
</tbody>
</table>
Professional Development Standards (PDS) for Command Services Legalmen

Instructions, Forms and Points of Contacts
(CONTINUED)

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>DATE AND SIGNATURE</th>
<th>INSTRUCTION</th>
<th>SOURCE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>5814.1A</td>
<td>JAG / CNLSC</td>
<td>POST-TRIAL PROCESSING</td>
<td></td>
</tr>
<tr>
<td>4500.36</td>
<td>DODI</td>
<td>ACQUISITION, MANAGEMENT AND USE OF NON-TACTICAL VEHICLES (NTVs)</td>
<td></td>
</tr>
<tr>
<td>1344.10</td>
<td>DODD</td>
<td>POLITICAL ACTIVITIES BY MEMBERS OF THE ARMED FORCES</td>
<td></td>
</tr>
<tr>
<td>1620.2A</td>
<td>OPNAV</td>
<td>ARMED FORCES DISCIPLINARY CONTROL BOARDS AND OFF-INSTALLATION LIAISON AND OPERATIONS</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DATE AND SIGNATURE</th>
<th>FORM</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>NAVPERS 1070/605</td>
<td>HISTORY OF ASSIGNMENTS</td>
<td></td>
</tr>
<tr>
<td>NAVPERS 1070/613</td>
<td>RECORD OF UNAUTHORIZED ABSENCES</td>
<td></td>
</tr>
<tr>
<td>NAVPERS 1610/2</td>
<td>FITNESS REPORT &amp; COUNSELING RECORD (W2-O6)</td>
<td></td>
</tr>
<tr>
<td>NAVPERS 1616/27</td>
<td>EVALUATION COUNSELING RECORD (E7 - E9)</td>
<td></td>
</tr>
<tr>
<td>NAVPERS 1616/26</td>
<td>EVALUATION REPORT AND COUNSELING RECORD (E1 - E6)</td>
<td></td>
</tr>
<tr>
<td>NAVPERS 1626/7</td>
<td>REPORT AND DISPOSITION OF OFFENSE(S)</td>
<td></td>
</tr>
<tr>
<td>NAVPERS 1740/6</td>
<td>DEPARTMENT OF THE NAVY FAMILY CARE PLAN CERTIFICATE</td>
<td></td>
</tr>
<tr>
<td>NAVPERS 1740/7</td>
<td>FAMILY CARE PLAN ARRANGEMENTS</td>
<td></td>
</tr>
<tr>
<td>NAVPERS 1752/1</td>
<td>SEXUAL ASSAULT INCIDENT DATA COLLECTION REPORT</td>
<td></td>
</tr>
<tr>
<td>NAVPERS 1910/31</td>
<td>ADMINISTRATIVE SEPARATION PROCESSING NOTICE - ADMINISTRATIVE BOARD PROCEDURE</td>
<td></td>
</tr>
</tbody>
</table>
Professional Development Standards (PDS) for Command Services Legalmen

| NAVPERS 1910/32 | ADMINISTRATIVE SEPARATION PROCESSING NOTICE - NOTIFICATION PROCEDURE |

Page 8 of 33
Professional Development Standards (PDS) for Command Services Legalmen

**Instructions, Forms and Points of Contacts**

*(CONTINUED)*

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>DATE AND SIGNATURE</th>
<th>FORM</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>DD FORM 553</td>
<td>DESERTER/ABSENTEE WANTED BY THE ARMED FORCES</td>
</tr>
<tr>
<td></td>
<td>DD FORM 2873</td>
<td>MILITARY PROTECTIVE ORDER</td>
</tr>
<tr>
<td></td>
<td></td>
<td>NAVY STANDARD INTEGRATED PERSONNEL SYSTEM (NSIPS)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>RECORD OF UNAUTHORIZED ABSENCES</td>
</tr>
<tr>
<td></td>
<td></td>
<td>COURT MEMORANDUM</td>
</tr>
</tbody>
</table>

Initial and Date:

1. ___________ KNOW the primacy and authority of Navy instructions and directives.

2. ___________ Identify points of contact and at least one current staff member for:

   NJS Civil Law Department

   CNIC

   CODE 13

   CODE 15

   Your OGC servicing office
Professional Development Standards (PDS) for Command Services Legalmen

Navy Personnel Command Legal

3. ________ EXPLAIN the circumstances in which you would contact the above points of contact.
3. **Non-Punitive Measures (Administrative Remedies)**

Review, sign and date when complete:

| Manual of the Judge Advocate General (JAGMAN), 0102 |
| JAGMAN 0105 |
| MILPERSMAN 1070-100 |
| MILPERSMAN 1070-170 |
| MILPERSMAN 1450-010 |
| MILPERSMAN 1611-010 |
| MILPERSMAN 1611-020 |
| MILPERSMAN 1616-010 |
| MILPERSMAN 1616-030 |
| MILPERSMAN 1616-040 |
| SJA Update 09-11 (NPLOC vs. LOI) |

Initial and Date:

1. _______ EXPLAIN Extra Military Instruction (EMI).
2. _______ EXPLAIN Liberty Risk, where and how it may be used.
3. _______ EXPLAIN who may assign EMI, limits and differences with extra duties.
4. _______ EXPLAIN the difference between privileges and benefits.
5. _______ EXPLAIN the proper remedies for illegal non-punitive measures.
6. _______ EXPLAIN the effects Page 13s have on Administrative Processing (*see also* Task 27 under section 4 of this enclosure, Non-Judicial Punishment).
7. _______ DRAFT a Page 13.
8. _______ DRAFT an order for Extra Military Instruction (EMI).
9. _______ EXPLAIN the guidance you could provide to a command legal office on withholding of privileges.
10. _______ DRAFT a Non-Punitive Letter of Caution (NPLOC) or Letter of Instruction (LOI).
### Professional Development Standards (PDS) for Command Services Legalmen

#### 4. Non-Judicial Punishment

Review, sign and date when complete:

| Article 15, UCMJ                                                                 |                                                                 |
| Part V, MCM                                                                      |                                                                 |
| JAGMAN, Chapter 1 (Sections 0106-0119)                                          |                                                                 |
| MILPERSMAN 1611-010                                                             |                                                                 |
| MILPERSMAN 1626-020                                                             |                                                                 |
| MILPERSMAN 1626-030                                                             |                                                                 |

**Initial and Date:**

1. _____ EXPLAIN the standard of proof at NJP.
2. _____ EXPLAIN what is a “minor offense.”
3. _____ EXPLAIN the jurisdiction for NJP.
4. _____ EXPLAIN the respondent’s rights at NJP, including *Booker* rights.
5. _____ EXPLAIN preliminary inquiry and evidence custody.
6. _____ EXPLAIN lawful punishments and limitations at NJP.
7. _____ EXPLAIN appeal bases, stays on punishment, and routing of appeals.
8. _____ EXPLAIN Perform-To-Serve (PTS) and the possible impact of NJP on a member under the PTS program.
9. _____ EXPLAIN the differences between suspension, mitigation, remission, and setting aside of NJP punishments.
10. _____ DESCRIBE who is authorized to change NJP punishments and when.
11. _____ EXPLAIN the process to change punishments.
12. _____ EXPLAIN the limitations on taking a member to NJP for offenses which have been adjudged by civilian and foreign courts.
13. _____ PREPARE documentation on civil and foreign court cases.
Professional Development Standards (PDS) for Command Services Legalmen

14. ______ PREPARE a Report and Disposition of Offenses Form (NAVPERS 1626/7).

15. ______ PREPARE NJP Notification and Election of Rights Form (JAGMAN Appendix A-1-b, c, d).

16. ______ DRAFT charges for NJP.

17. ______ DRAFT administrative script to be used for Disciplinary Review Board (DRB).

18. ______ DRAFT administrative guidance script to be used for Executive Officer's Inquiry (XOI).

19. ______ OBSERVE a DRB, XOI, and NJP.

20. ______ PROVIDE guidance to a commanding officer for/during NJP (JAGMAN Appendix A-1-e).

21. ______ PREPARE an NJP package (charges, script, witnesses, etc.).

22. ______ DRAFT a NJP appeal notification letter (JAGMAN Appendix A-1-f).

23. ______ PREPARE a command endorsement on an NJP appeal.

24. ______ DRAFT an NJP Punitive Letter of Reprimand (JAGMAN Appendix A-1-g).

25. ______ PREPARE and REVIEW restriction orders.

26. ______ DRAFT and/or complete post-mast documents including a Page 6, record of unauthorized absences, and a Page 7, court memorandum.

27. ______ DRAFT a post-mast Page 13 and discuss how a Page 13 affects potential Administrative Processing (see also Task 6 under section 3 of this enclosure, Non-Punitive Measures).
5. **Enlisted Administrative Separations (ADSEP)**

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>MILPERSMAN 1910-100</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>MILPERSMAN 1910-106</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-120</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-122</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-138</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-140</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-142</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-144</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-146</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-152</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-170</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-208</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-210</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-212</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-233</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-302</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-400 through 410 and 414</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-500 through 518</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-600</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-700</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-702</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1910-704</td>
<td></td>
</tr>
<tr>
<td>OPNAVINST 5350.4D</td>
<td></td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. _____ EXPLAIN the significance of the basis for separation.

2. _____ EXPLAIN how to determine the Convening Authority.

3. _____ EXPLAIN how to determine the Separation Authority.

4. _____ EXPLAIN the rights of the Respondent.

5. _____ EXPLAIN the composition of an ADSEP board.
Professional Development Standards (PDS) for Command Services Legalmen

6. ______ DISCUSS why a command might elect ADSEP rather than court-martial for a case.

7. ______ EXPLAIN factors for consideration of whether to process.

8. ______ EXPLAIN mandatory versus discretionary processing.

9. ______ EXPLAIN the differences between Notification and Board Procedure.

10. ______ EXPLAIN the Characterizations of Service and standards for each, and the legal effect of each on post-military rights and benefits.

11. ______ EXPLAIN the Separation Authority’s possible post-board actions.

12. ______ EXPLAIN conditional waivers and how they can be used.

13. ______ DRAFT an ADSEP Notification Procedures form.

14. ______ DRAFT an ADSEP Board Procedure form.

15. ______ DRAFT an ADSEP board appointment letter.

16. ______ OBSERVE an ADSEP board.

17. ______ PREPARE an ADSEP board as recorder and/or legal advisor (draft script, prepare binders for members, prepare notes with proposed questions for witnesses, exhibits, etc.).

18. ______ CONDUCT an ADSEP board as recorder and/or legal advisor [NOTE: E6 and above only].

19. ______ DRAFT a response to a letter of deficiency (LOD).

20. ______ DRAFT a letter of transmittal.

21. ______ PREPARE an ADSEP action for review by the Separation Authority.
Professional Development Standards (PDS) for Command Services Legalmen

6. **Officer Misconduct/Boards of Inquiry**

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>SECNAVINST 1920.6C series</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>MILPERSMAN 1611-010</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1611-020</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1920-010</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1920-030</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1920-070</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1920-120</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1920-130</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1920-140</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1920-190</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1920-210</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1920-230</td>
<td></td>
</tr>
<tr>
<td>Article 1137, U.S. Navy Regulations (1990)</td>
<td></td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. _____ EXPLAIN the uses for the Non-Punitive Letter of Caution (NPLOC) and Letter of Instruction (LOI).

2. _____ EXPLAIN detachment for cause (DFC) and its bases.

3. _____ EXPLAIN who can be detached for “loss of confidence.”

4. _____ EXPLAIN which Navy Personnel Command (PERS) section to notify regarding officer misconduct.

5. _____ EXPLAIN what information must be reported to PERS in cases of officer misconduct.

6. _____ EXPLAIN the punishments an officer can receive at NJP.

7. _____ EXPLAIN and DISCUSS what a probationary officer is and who has show cause authority.

8. _____ EXPLAIN the requirements for composition of members on a Board of Inquiry (BOI).
Professional Development Standards (PDS) for Command Services Legalmen

9. ______ EXPLAIN the command’s obligations to report officer misconduct and limitations.

10. ______ EXPLAIN the requirements for final civil actions report to PERS.

11. ______ EXPLAIN the requirements for report of NJP to PERS and the implications (actions PERS is likely to take).

12. ______ EXPLAIN the process for DFC.

13. ______ EXPLAIN the possible bases for separation of officers.

14. ______ EXPLAIN the differences between Board of Inquiry (BOI) and Enlisted Administrative Separation (ADSEP) process.

15. ______ EXPLAIN how retirement grade determinations are made.

16. ______ DRAFT a report of alleged officer misconduct to higher authority.

17. ______ DRAFT a report of NJP.

18. ______ DRAFT a final civil action report.

19. ______ EXPLAIN the process of advising a command on DFC.

20. ______ DRAFT a DFC package.

21. ______ IDENTIFY considerations that a supervising attorney may include in providing advice to a commander on the options/implication for processing an officer misconduct case, including NJP, trial by court-martial, separation in lieu of trial by court-martial, and the Board of Inquiry process.

22. ______ OBSERVE a BOI (if one is available).

23. ______ PREPARE the records of the BOI for forwarding to the Separation Authority (If one is completed and requires forwarding).
Professional Development Standards (PDS) for Command Services Legalmen

7. **Search and Seizure**

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>Source</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amendment IV, U.S. Constitution</td>
<td></td>
</tr>
<tr>
<td>Military Rules of Evidence (MRE), Section III (MRE 301-321)</td>
<td></td>
</tr>
<tr>
<td>SECNAVINST 5430.107 series</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 1620-010</td>
<td></td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. _____ EXPLAIN the requirements for probable cause.

2. _____ EXPLAIN the following types of jurisdiction: federal exclusive jurisdiction, state exclusive or proprietary jurisdiction, concurrent jurisdiction, and foreign jurisdiction. DISCUSS jurisdictional concerns for person on/off base; on/off base property CONUS/OCONUS.

3. _____ EXPLAIN what constitutes a proper health and comfort inspection.

4. _____ EXPLAIN the process to obtain a search authorization.

5. _____ KNOW and MAINTAIN contact with your local NCIS agent and office.

6. _____ KNOW and MAINTAIN contact with your local security department head/director.

7. _____ DRAFT an authorization to search based on consent.

8. _____ DRAFT an authorization to search based on probable cause (command-authorized search).

9. _____ EXPLAIN how a supervising attorney would brief a command or provide support for a search authorization.

10. _____ EXPLAIN and DISCUSS the parameters and limitations for use of evidence obtained during a fitness for duty inspection.

11. _____ EXPLAIN and DISCUSS the parameters and limitations for use of evidence collected during a health and comfort inspection.
Professional Development Standards (PDS) for Command Services Legalmen

12. ______ EXPLAIN and DISCUSS the Navy’s urinalysis program and how it relates to search and seizure.

13. ______ EXPLAIN and DISCUSS the use of portable alcohol detection devices by commands and permissible actions of positive reading results.
Professional Development Standards (PDS) for Command Services Legalmen

8. **Pre- and Post-Trial Processing**

Review, sign, and date when complete:

<table>
<thead>
<tr>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>JAGMAN, Chapter 1 (0120 - 0172)</td>
</tr>
<tr>
<td>MILPERSMAN 1640, series</td>
</tr>
<tr>
<td>DODD 1325.04</td>
</tr>
<tr>
<td>VWAP Forms: DD 2701-2706</td>
</tr>
<tr>
<td>RCM 305</td>
</tr>
<tr>
<td>FY-14 National Defense Authorization Act, § 1706</td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. _____ EXPLAIN a Convening Authority (CA).

2. _____ EXPLAIN unlawful command influence.

3. _____ EXPLAIN the types of pretrial restraint (PTR).

4. _____ EXPLAIN the differences between mitigation and deferment.

5. _____ EXPLAIN the commands responsibilities under the Victim and Witness Assistance Program (VWAP).

6. _____ EXPLAIN who can order PTR, and when.

7. _____ EXPLAIN when pretrial confinement (PTC) is appropriate.

8. _____ EXPLAIN the procedures for PTC and subsequent command responsibilities.

9. _____ OBSERVE an IRO Hearing under RCM 305 (if a confinement facility is available).

10. _____ EXPLAIN punishment limitations for Summary Courts-Martial (SCM); Special Courts-Martial (SPCM); and General Courts-Martial (GCM).

11. _____ EXPLAIN the contents of the Convening Order.

12. _____ EXPLAIN the criteria and method for selection of Members for each court-martial.
Professional Development Standards (PDS) for Command Services Legalmen

13. _____ EXPLAIN automatic punishments.

14. _____ EXPLAIN the process of completing the Convening Authority’s (CA) action.

15. _____ EXPLAIN the rights of victims, both pre-trial and post-trial.

16. _____ EXPLAIN the victims role in the clemency phase.

17. _____ DRAFT a Special or General Court-Martial Convening Order.

18. _____ DRAFT charges for a DD Form 458 Charge Sheet.

19. _____ DRAFT a pre- and post-trial confinement order.

20. _____ PREPARE and REVIEW results of trial.

21. _____ COMPLETE a DD Form 458 Charge Sheet from preferral through referral.

22. _____ DISCUSS the advice a supervising attorney would provide to a command pertaining to Pre-Trial Agreements.

23. _____ DRAFT an Order to Testify/Grant of Immunity.

24. _____ DISCUSS how a case is processed from conviction to the authenticated record of trial.

25. _____ READ and discuss the majority opinion in *U.S. v. Moreno* as it relates to timely post-trial processing.

26. _____ REVIEW RCM 1106 and EXPLAIN the purpose of a Staff Judge Advocate Recommendation (SJAR).

27. _____ REVIEW RCM 1107 and EXPLAIN the purpose of a Convening Authority’s Action/Promulgating Order (CAA/PO).
9. **Mental Health Evaluations (MHEs)**

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>DoDI 6490.04</th>
<th>MILPERSMAN 1910-122</th>
</tr>
</thead>
</table>

1. _____ EXPLAIN what constitutes a mental health evaluation under DODI 6490.04, and what does not.

2. _____ EXPLAIN who has the authority to direct a mental health examination.

3. _____ EXPLAIN a non-emergency mental health evaluation referral and PROVIDE two examples of situations that may warrant an evaluation.

4. _____ EXPLAIN an emergency mental health evaluation and PROVIDE two examples of situations that may warrant an emergency mental health evaluation referral.

5. _____ EXPLAIN what constitutes involuntary inpatient care evaluation and DISCUSS who can order an inpatient mental health evaluation.

6. _____ EXPLAIN when a service member may not be referred for a mental health examination.

7. _____ EXPLAIN who qualifies as a Mental Health Provider (MHP).

8. _____ EXPLAIN the Commanding Officer’s responsibilities for non-emergency mental health evaluations and emergency mental health evaluations.

9. _____ EXPLAIN how the Commanding Officer would notify a service member about a command-ordered mental health evaluation.

10. _____ EXPLAIN the rights of a member in a non-emergency, emergency, and inpatient mental health evaluation (as applicable).

11. _____ EXPLAIN how a supervising attorney would advise a commanding officer on a mental health referral.
10. Administrative Investigations (JAGMANs)

Review, sign and date when complete:

| JAGMAN, Chapter 2 | |
| JAGMAN, Chapter 12 | |
| JAGINST 5830.1A | |
| JAGMAN Investigators Handbook (2012) | |
| A Command Investigation | |
| SECNAVINST 5370.5B | |

Initial and Date:

1. _____ EXPLAIN the purpose of an administrative investigation.

2. _____ EXPLAIN the possible recommendations of a preliminary inquiry.

3. _____ EXPLAIN the possible outcomes of a Line of Duty investigation.

4. _____ EXPLAIN and DISCUSS the specific actions required for an admiralty incident and the governing sections of the JAGMAN.

5. _____ EXPLAIN the format of a JAGMAN report of investigation.

6. _____ EXPLAIN the differences between a safety investigation and a JAGMAN report of investigation.

7. _____ EXPLAIN the possible witness warning requirements and authorities for a preliminary inquiry.

8. _____ EXPLAIN and DISCUSS how a supervising attorney would advise a commanding officer on a preliminary inquiry and the preliminary inquiry report.

9. _____ DRAFT a preliminary inquiry appointment order.

10. _____ DRAFT a command investigation appointment order.

11. _____ DISCUSS with a supervising attorney how they would advise an investigating officer (IO) on a command investigation.
Professional Development Standards (PDS) for Command Services Legalmen

12. _____ DISCUSS with a supervising attorney how they would advise an IO/Commanding Officer on Line of Duty/Misconduct Determination.

13. _____ ASSIST a command in their preparation of a JAGMAN report of investigation.

14. _____ DRAFT a command endorsement to a JAGMAN report of investigation.

15. _____ EXPLAIN timelines on investigations and their importance.
11. Complaints/Inquiries

Review, sign, and date:

<table>
<thead>
<tr>
<th>Article 138, UCMJ</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 0820, U.S. Navy Regulations (1990)</td>
<td></td>
</tr>
<tr>
<td>Article 1150, U.S. Navy Regulations (1990)</td>
<td></td>
</tr>
<tr>
<td>JAGMAN, Chapter 3</td>
<td></td>
</tr>
</tbody>
</table>

Initial and Date:

1. _____ EXPLAIN what complaints are cognizable under Article 138 or 1150.

2. _____ EXPLAIN any reasonable restrictions imposed by the chain of command.

3. _____ EXPLAIN the administrative differences between Article 138 and Article 1150 complaints.

4. _____ EXPLAIN and DISCUSS how a supervising attorney would advise a commander on an Article 138 and Article 1150 compliant.

5. _____ EXPLAIN an Article 138 complaint, including the routing process and time limitations.

6. _____ EXPLAIN an Article 1150 complaint, including the routing process and time limitations.

7. _____ DRAFT and EXPLAIN a command response endorsement.

8. _____ EXPLAIN the procedures for handling a Congressional Inquiry (CI).

9. _____ REVIEW and DISCUSS with a command services attorney a response to a Congressional Inquiry.
12. Freedom of Information Act (FOIA)/Privacy Act

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>Rule/Standard/Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>DoDD 5400.07</td>
</tr>
<tr>
<td>DoD 5400.11-R</td>
</tr>
<tr>
<td>5 U.S.C. § 552</td>
</tr>
<tr>
<td>32 C.F.R. § 701</td>
</tr>
<tr>
<td>SECNAVINST 5211.5E</td>
</tr>
<tr>
<td>SECNAVINST 5720.42F</td>
</tr>
<tr>
<td>JAGMAN, Chapter V</td>
</tr>
<tr>
<td>JAGINST 5720.3A</td>
</tr>
</tbody>
</table>

Initial and Date:

1. ______ EXPLAIN what agency records are.

2. ______ EXPLAIN what qualifies as a system of records.

3. ______ EXPLAIN what a system of records notice (SORN) is and where to find one.

4. ______ EXPLAIN who the Initial Denial Authority (IDA) is.

5. ______ EXPLAIN and DISCUSS the time limits for Freedom of Information Act (FOIA) and Privacy Act (PA) requests.

6. ______ EXPLAIN what a “perfected” Freedom of Information Act (FOIA) request must contain.

7. ______ EXPLAIN what Personally Identifiable Information (PII) is.

8. ______ EXPLAIN and DISCUSS what information is covered by FOIA and PA.

9. ______ EXPLAIN and DISCUSS what the process is for handling a FOIA request.

10. ______ EXPLAIN and DISCUSS what actions should to be taken in the event of a PII breach.

11. ______ EXPLAIN and DISCUSS how to research and respond to a FOIA and PA request.
12. DRAFT a simple FOIA response letter.
Professional Development Standards (PDS) for Command Services Legalmen

13. **Installation Legal Issues**

Review, sign and date when complete:

| 10 U.S.C. § 814 |  |
| 18 U.S.C. § 1382 |  |
| 18 U.S.C. § 1385 |  |
| DoDI 1325.06 |  |
| DoD Dir. 5525.5 |  |
| Article 0822, U.S. Navy Regulations (1990) |  |
| Article 0826, U.S. Navy Regulations (1990) |  |
| SECNAVINST 5511.36A |  |
| SECNAVINST 5820.7, series |  |
| OPNAVINST 1752.2B |  |
| OPNAVINST 1752.3 |  |
| OPNAVINST 5100.12H |  |
| OPNAVINST 5530.14E CH-1 |  |
| OPNAVINST 11200.5D |  |
| BUPERSINST 1710.11C CH-1 |  |
| Article 14, UCMJ |  |
| JAGMAN, Chapter VI |  |
| JAGINST 5890.1A |  |
| DEBARMENT: A GUIDE FOR INSTALLATION COMMANDERS |  |

**Initial and Date:**

1. _____ EXPLAIN what a delivery agreement is.

2. _____ EXPLAIN what a waiver of extradition is.

3. _____ EXPLAIN service of process.

4. _____ EXPLAIN and DISCUSS which OJAG division should be notified in cases of lawsuits/subpoenas.

5. _____ EXPLAIN the differences between exclusive, concurrent and proprietary jurisdiction.

6. _____ EXPLAIN and DISCUSS the courses of action to take when a request for service of process is received.
Professional Development Standards (PDS) for Command Services Legalmen

7. _____ EXPLAIN the differences for subpoenas in official vs. personal capacity.

8. _____ EXPLAIN and PROVIDE examples of permitted support to civilian law enforcement agencies under the Posse Comitatus Act (PCA).

9. _____ OBSERVE a service of process.

10. _____ EXPLAIN and DISCUSS your installation’s Public Private Venture (PPV) housing jurisdictions.

11. _____ EXPLAIN and DISCUSS the rules regarding sex offenders living in PPV housing.

12. _____ EXPLAIN and DISCUSS the rules regarding firearms in PPV housing.

13. _____ EXPLAIN and DISCUSS who may have access to installations.

14. _____ EXPLAIN and DISCUSS the process for barring someone from base.

15. _____ DRAFT a “base barment” letter.

16. _____ OBSERVE your installation’s traffic court (if applicable).

17. _____ EXPLAIN the various federal claims acts administered under the cognizance of the JAG.

18. _____ EXPLAIN and DISCUSS the rules for on-base solicitation.

19. _____ EXPLAIN your installation’s Family Advocacy Program (FAP).

20. _____ OBSERVE a Case Review Committee (CRC) meeting.

21. _____ DISCUSS who has the authority to detain and arrest/apprehend on your installation.

22. _____ EXPLAIN and DISCUSS the reporting requirements for sexual assaults.

23. _____ EXPLAIN and DISCUSS the working relationships between local/base police.

24. _____ EXPLAIN the importance of claim processes, and actions that may be required of all JAG Corps personnel in JAG/NLSC Disaster Response events.
14. Ethics

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>5 U.S.C. § 4109 – 4111</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 U.S.C. § 2601</td>
</tr>
<tr>
<td>10 U.S.C. §§ 2012, 2241a</td>
</tr>
<tr>
<td>18 U.S.C. § 201-209</td>
</tr>
<tr>
<td>31 U.S.C. § 1345, 1346, 1353</td>
</tr>
<tr>
<td>5 C.F.R. § 410.501-503</td>
</tr>
<tr>
<td>5 C.F.R. § 2634</td>
</tr>
<tr>
<td>5 C.F.R. § 2635</td>
</tr>
<tr>
<td>5 C.F.R. § 2640</td>
</tr>
<tr>
<td>5 C.F.R. § 2641</td>
</tr>
<tr>
<td>41 C.F.R. § 304</td>
</tr>
<tr>
<td>DoDI 5120.4</td>
</tr>
<tr>
<td>DoDI 5410.19</td>
</tr>
<tr>
<td>DoD 5500.7-R (Joint Ethics Regulation)</td>
</tr>
<tr>
<td>DoD Directive-Type Memorandum 09-026</td>
</tr>
<tr>
<td>GAO B-316443 of July 21, 2009</td>
</tr>
<tr>
<td>Ch. 11, § 2, U.S. Navy Regulations (1990)</td>
</tr>
<tr>
<td>SECNAVINST 1740.2E</td>
</tr>
<tr>
<td>SECNAVINST 4001.2J</td>
</tr>
<tr>
<td>SECNAVINST 5340.7</td>
</tr>
<tr>
<td>SECNAVINST 5720.44C</td>
</tr>
<tr>
<td>SECNAVINST 5870.7</td>
</tr>
<tr>
<td>OPNAVINST 1754.5B</td>
</tr>
<tr>
<td>OPNAVINST 4001.1F</td>
</tr>
<tr>
<td>OPNAVINST 5760.5C</td>
</tr>
<tr>
<td>OGE and SOCO websites</td>
</tr>
<tr>
<td>Public Affairs Tactics Manual (CHINFO)</td>
</tr>
<tr>
<td>Ethics Counselor’s Deskbook</td>
</tr>
<tr>
<td>JAG/CNLSCINST 5728.1</td>
</tr>
</tbody>
</table>

Initial and Date:

1. ______ DEFINE and EXPLAIN government property.

2. ______ DEFINE and EXPLAIN authorized purposes.

3. ______ DEFINE and EXPLAIN official use.
Professional Development Standards (PDS) for Command Services Legalmen

4. ______ DEFINE and EXPLAIN prohibited source.

5. ______ DEFINE gifts.
   a. DEFINE gifts for special infrequent occasions.
   b. DEFINE gifts on occasional basis.
   c. DEFINE monetary limit on group gifts.

6. ______ DEFINE foreign gifts and the limit on the value that can be accepted in a personal capacity.

7. ______ DEFINE fundraising and exceptions.

8. ______ DEFINE endorsement.

9. ______ DEFINE gambling.

10. ______ DEFINE official and personal capacity.

11. ______ DEFINE Widely Attended Gathering (WAG).

12. ______ DESCRIBE a Family Readiness Group (FRG).

13. ______ DESCRIBE benefits and limitations for a by-our-own-for-our-own fundraiser (“BOOFOO”).

14. ______ EXPLAIN the benefits or limitations of acting in official and personal capacities.

15. ______ EXPLAIN the permissible uses of Official Representation Funds (ORF).

16. ______ EXPLAIN the limitations for use of command coins.

17. ______ EXPLAIN gift exceptions and exclusions that do not constitute gifts.

18. ______ EXPLAIN the proper disposition of prohibited gifts.

19. ______ DESCRIBE proper gift acceptance authorities.

20. ______ DRAFT a gift acceptance letter.
Professional Development Standards (PDS) for Command Services Legalmen

21. ____ EXPLAIN gifts between employees and their limitations and exceptions.

22. ____ EXPLAIN the limitations for use of government vehicles.

23. ____ EXPLAIN the rules governing conflicts of interest.

24. ____ EXPLAIN the rules and exceptions for government travel.

25. ____ EXPLAIN and DISCUSS the limitations on post-government employment.

26. ____ EXPLAIN and DISCUSS funding streams and authorities for Morale, Welfare, and Recreation (MWR).

27. ____ DEFINE a non-federal entity (NFE), and give examples.

28. ____ EXPLAIN and DISCUSS what support may be granted to an NFE in regards to official endorsement or limited logistical support.

29. ____ EXPLAIN and DISCUSS which NFES have specific authorities allowing additional support, and what type of support is allowed.

30. ____ DISCUSS the required contents in a letter designating an official USN Liaison relationship between an NFE and a command.

31. ____ DISCUSS the attorney's role in Public Affairs Guidance (PAGs), Response to Queries (RTQs), Communications Plans and Releases.

32. ____ DISCUSS Navy authority to support community relations events.

33. ____ EXPLAIN how the Joint Ethics Regulations’ (JER) rules on endorsement and gifts interact with public affairs missions (such as relationships with NFES for public affairs or recruiting purposes, gifts of travel for support to air shows, etc).

34. ____ EXPLAIN command/civilian enterprise relationship for on-base newspaper.

35. ____ DISCUSS with a supervising attorney what qualifies as illegal publicity and propaganda.

36. ____ EXPLAIN and DISCUSS proper use of command websites and social media.

37. ____ DISCUSS with a supervising attorney general limits on use of Navy trademarks, both registered and common law, by non-Navy entities.
COMMAND SERVICES LEGALMAN

CERTIFICATE OF COMPLETION

RECOMMENDED ___________________________ DATE ________________

RECOMMENDED ___________________________ DATE ________________

I CERTIFY THAT _______________________________________________ HAS COMPLETED THE PROFESSIONAL DEVELOPMENT STANDARDS REQUIRED OF A COMMAND SERVICES LEGALMAN.

__________________________________________ DATE ________________
Commanding Officer
[Command]

[Once complete, command and PDO retains copy and original goes to Legalman for retention]
Professional Development Standards (PDS) For Defense Legalmen
Professional Development Standards (PDS) for Defense Legalmen

Table of Contents

How to use this Document

Professional Development Standards for Defense Legalmen

1. Preliminaries
2. Ethical Obligations
3. Events to Observe
4. Complaints/Inquiries
5. Non-Judicial Punishment
6. Enlisted Administrative Separations
7. Court Rules and Officer of the Court Duties
8. Discovery and Case Preparation
9. Article 32
10. Motions and Objections
11. Pre-Trial Agreement
12. Stipulations
13. Voir Dire
14. Post-Trial

CERTIFICATE OF COMPLETION
Professional Development Standards (PDS) for Defense Legalmen

How to Use this Document

This document contains the Professional Development Standards (PDS) module for Legalmen serving in the Defense Service Office (DSO). This module consists of fourteen (14) sections corresponding to different aspects of court-martial practice, personnel representation and administrative separation proceedings. Each section includes a list of tasks that may be performed by Legalmen consistent with the Rules of Professional Conduct, JAGINST 5803.1D. Note that only attorneys are authorized to render services that call for the professional judgment of a lawyer.

Legalmen assigned to perform defense duties should complete these PDS in accordance with their commanding officer's LN Utilization Plan, as defined by paragraph 5 of JAG/CNLSCINST 1500.5. Each LN Utilization Plan will identify who may verify completion of PDS tasks and sections, and who may recommend final certification by the commanding officer. If the LN Utilization Plan does not specify who may verify completion of a particular task or section, the Legalman’s supervising attorney shall verify completion.

These PDS need not be completed in any particular order, but may be completed as circumstances necessitate and opportunities arise. In general, PDS tasks may be completed as part of an actual or a simulated proceeding. Unless otherwise noted, each PDS task should be verified by the attorney who supervised the work associated with the task. If a particular PDS task is not applicable in a specific region, the task may be marked “N/A,” consistent with the Utilization Plan and other guidance. Questions about PDS modules should be submitted to the appropriate Training Officer/Professional Development Officer (PDO)/Senior Enlisted Leader.
1. **Preliminaries**

Review, then sign and date when complete:

<table>
<thead>
<tr>
<th>Resource</th>
</tr>
</thead>
<tbody>
<tr>
<td>Naval Legal Service Command (NLSC) Manual, 5800.1G, Chapters 10, 11, 12, 14, 15 &amp; Appendices A-1, B-1, C1; Table of Contents</td>
</tr>
<tr>
<td>Local Standard Organization &amp; Regulations Manual (SORM)</td>
</tr>
<tr>
<td>Navy Correspondence Manual SECNAVINST 5216.5</td>
</tr>
<tr>
<td>Appendix 23 (Analysis of Punitive Articles) of the MCM</td>
</tr>
<tr>
<td>N.M.C.C.A. Website</td>
</tr>
<tr>
<td>C.A.A.F. Website</td>
</tr>
<tr>
<td>Navy DCAP Sharepoint Site, if appropriate</td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. _____ MEET military judge(s) and clerk(s) of court. Review local rules before meeting.

2. _____ MEET court reporting staff, all other defense and trial legalmen and attorneys.

3. _____ MEET Training Officer/Professional Development Officer.

4. _____ TOUR the local Consolidated Brig and/or Restricted Barracks; read their policies for visiting/contacting confined clients.

5. _____ MEET local NCIS agents; share contact information.

6. _____ ACCESS DCAP SharePoint portal (if applicable).

7. _____ ACCESS Lexis.com. Obtain user account name and password from your command point of contact.


9. _____ ACCESS JAGCNET, the U.S. Army’s Judge Advocate General’s Corps document repository by establishing an Army Knowledge Online (AKO) account at [https://help.us.army.mil/cgi-bin/akohd.cfg/php/enduser/home.php](https://help.us.army.mil/cgi-bin/akohd.cfg/php/enduser/home.php) and registering your CAC card for JAGCNET access, if applicable and required by your command.
10. _____ ACCESS Military Judge's Benchbook at 

11. ______ ACCESS Appellate Defense resources [Military Justice Wikipedia, Blog, and Motions Brief bank and Fileroom], if applicable and required by your command.

12. _____ REVIEW a case in CMTIS and cases in Defense Database if applicable.

13. _____ EXPLAIN how requests for counsel are forwarded to the Defense Service Office (DSO) and how cases are detailed by your DSO.

14. _____ EXPLAIN the importance of maintaining and updating case files in DSO's tracker/CMTIS.
Professional Development Standards (PDS) for Defense Legalmen

2. Ethical Obligations

Review, then sign and date when complete:

JAGINST 5803.1[series] ____________________________

Initial and Date:

1. ______ IDENTIFY the sources of professional ethical obligations that apply in your role as a Legalman providing defense legal services.

2. ______ EXPLAIN the relationship between your professional ethical obligations and the professional ethical obligations of your supervising attorneys.

3. ______ IDENTIFY the “client” for defense counsel and their legal teams in courts-martial and administrative separation proceedings.

4. ______ EXPLAIN the following in the context of your role as a paralegal supporting a defense attorney or trial team:
   
   a. ______ the duty of confidentiality, including who bears responsibility for fulfilling the duty;
   
   b. ______ the duty of due diligence;
   
   c. ______ the duty of candor and to whom it extends;
   
   d. ______ the duty of fairness to the opposing party;
   
   e. ______ the prohibition on extra-tribunal statements; and,
   
   f. ______ the rules respecting communication with individuals represented by counsel.

5. ______ IDENTIFY special responsibilities of defense counsel and other defense trial team members.

6. ______ EXPLAIN the concept of the “unauthorized practice of law.”

7. ______ EXPLAIN what a conflict of interest is and the Legalman’s responsibility to screen for conflicts of interest in an initial case intake and CMTIS screening. DEMONSTRATE a conflict check using CMTIS to your supervising attorney.
8. ______ EXPLAIN the procedures for reporting possible violations of the Rules of Professional Conduct.
Professional Development Standards (PDS) for Defense Legalmen

3. Events to Observe

Defense Legalmen should OBSERVE each of the following events; however, observation of each of these events is not a prerequisite to participating in a court-martial or other hearing. Defense Legalmen are encouraged to observe as many sessions as possible.

Initial and Date:

1. ______ An arraignment;
2. ______ An opening statement;
3. ______ An expert witness testifying;
4. ______ An accused testifying;
5. ______ A child witness testifying;
6. ______ A witness testifying remotely via video teleconferencing (VTC ) or telephone;
7. ______ The admission of documentary evidence with witness authentication; and,
8. ______ Closing arguments.
Professional Development Standards (PDS) for Defense Legalmen

4. Complain/Inquiries

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>Reference</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>ARTICLE 138, Uniform Code of Military Justice (UCMJ)</td>
<td></td>
</tr>
<tr>
<td>Article 1150, U.S. Navy Regulations (1990)</td>
<td></td>
</tr>
<tr>
<td>Manual of the Judge Advocate General (JAGMAN), Chapter 3</td>
<td></td>
</tr>
<tr>
<td>Article 0820, U.S. Navy Regulations (1990)</td>
<td></td>
</tr>
<tr>
<td>SECNAVINST 5370.7B, Department of the Navy Hotline Program</td>
<td></td>
</tr>
<tr>
<td>SECNAVINST 5370.7C, Military Whistleblower Reprisal Protection</td>
<td></td>
</tr>
<tr>
<td>DoD Directive 7050.6, Military Whistleblower Protection</td>
<td></td>
</tr>
<tr>
<td>SJA Update 10-09 (Complaints of Wrong)</td>
<td></td>
</tr>
</tbody>
</table>

Initial and Date:

1. ________ EXPLAIN the administrative differences between Article 138 and Article 1150 complaints.

2. ________ EXPLAIN how to conduct a client intake and initial interview for personnel representation.

3. ________ EXPLAIN the Navy Inspector General (IG) web page and the procedures and points of contact for an IG complaint.

4. ________ EXPLAIN the concept of reprisal.

5. ________ EXPLAIN the options a member has if he believes he is the subject of reprisal or feels unsafe after making an IG or other official complaint.

6. ________ EXPLAIN a Congressional complaint.
Professional Development Standards (PDS) for Defense Legalmen

5. **Non-Judicial Punishment**

Review, then sign and date when complete:

| ARTICLE 15, UCMJ |  |
| PART V, Manual for Courts-Martial (MCM) |
| JAGMAN, Chapter 1 (Sections 0106-0119) |
| MILPERSMAN 1611-010 |
| MILPERSMAN 1626-020 |
| MILPERSMAN 1626-030 |

**Initial and Date:**

1. ______ EXPLAIN non-judicial punishment (NJP) rights, *Booker* rights, and the standard of proof at NJP.
2. ______ EXPLAIN who has NJP authority and the limitations, if any, on their authority.
3. ______ EXPLAIN how NJP is conducted. OBSERVE an Executive Officer Screening (XOI) and an NJP.
4. ______ EXPLAIN the lawful punishments and limitations at NJP.
5. ______ EXPLAIN the NJP appeals process and grounds for appeal.
6. ______ REVIEW and edit an NJP appeal drafted by a PERSREP client.
7. ______ EXPLAIN the process for having an NJP set aside, who has authority to set aside an NJP, and the process for requesting the set aside of an NJP.
6. **Enlisted Administrative Separations**

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>MILPERSMAN 1910-100</th>
</tr>
</thead>
<tbody>
<tr>
<td>MILPERSMAN 1910-106</td>
</tr>
<tr>
<td>MILPERSMAN 1910-120</td>
</tr>
<tr>
<td>MILPERSMAN 1910-122</td>
</tr>
<tr>
<td>MILPERSMAN 1910-140</td>
</tr>
<tr>
<td>MILPERSMAN 1910-142</td>
</tr>
<tr>
<td>MILPERSMAN 1910-144</td>
</tr>
<tr>
<td>MILPERSMAN 1910-146</td>
</tr>
<tr>
<td>MILPERSMAN 1910-140</td>
</tr>
<tr>
<td>MILPERSMAN 1910-152</td>
</tr>
<tr>
<td>MILPERSMAN 1910-170</td>
</tr>
<tr>
<td>MILPERSMAN 1910-210</td>
</tr>
<tr>
<td>MILPERSMAN 1910-212</td>
</tr>
<tr>
<td>MILPERSMAN 1910-233</td>
</tr>
<tr>
<td>MILPERSMAN 1910-302</td>
</tr>
<tr>
<td>MILPERSMAN 1910-400 through 410 and 414</td>
</tr>
<tr>
<td>MILPERSMAN 1910-500 through 518</td>
</tr>
<tr>
<td>MILPERSMAN 1910-600</td>
</tr>
<tr>
<td>MILPERSMAN 1910-700</td>
</tr>
<tr>
<td>MILPERSMAN 1910-702</td>
</tr>
<tr>
<td>MILPERSMAN 1910-704</td>
</tr>
<tr>
<td>10 USC § 1407 Retirement Pay Determination</td>
</tr>
<tr>
<td>SECNAVINST 5300.28 (series)</td>
</tr>
<tr>
<td>OPNAVINST 5350.4D</td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. _______ EXPLAIN the difference between Convening Authority and Separation Authority.

2. _______ EXPLAIN the procedures for screening an ADSEP case at the DSO.

3. _______ EXPLAIN the Respondent’s rights concerning administrative separation (ADSEP). In an appropriate case, explain the Respondent’s rights to separation pay.

4. _______ EXPLAIN the required ADSEP board composition.

5. _______ EXPLAIN the possible benefits of ADSEP vs. courts-martial in a case where that is a plausible option.
Professional Development Standards (PDS) for Defense Legalmen

6. _______ EXPLAIN mandatory versus discretionary administrative processing.

7. _______ EXPLAIN the difference between Notification versus Board Procedure.

8. _______ EXPLAIN the process for obtaining witnesses and conducting witness interviews.

9. _______ REVIEW a request for defense services for an administrative separation board for compliance with the local DSO SORM.

10. _______ DRAFT a letter to a convening authority requesting discovery for an administrative separation board.

11. _______ OBSERVE and PARTICIPATE in an actual or simulated administrative separation board.

12. _______ OBSERVE a Board of Inquiry (BOI).

13. _______ VERIFY that the member being processed is in the correct uniform.

14. _______ ASSIST a supervising attorney with identifying witnesses, gathering evidence and exhibits for use at an ADSEP or BOI.

15. _______ EXPLAIN the process of coordinating with the command for the availability of witnesses and conducting witnesses interviews.

16. _______ INTERVIEW witnesses and TRANSCRIBE statements for supervising attorney.

17. _______ EXPLAIN the available Characterizations of Service and their implications for VA benefits and civilian employment.

18. _______ DRAFT a letter of deficiency (LOD).

19. _______ EXPLAIN the situation in which PERS may take action contrary to the Board's recommendations.

20. _______ EXPLAIN the functions of the Discharge Review Board and the Board for Corrections of Naval Records.

21. _______ EXPLAIN the process and importance of retirement grade determinations.
Professional Development Standards (PDS) for Defense Legalmen

7. **Court Rules and Officer of the Court Duties**

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>10 U.S.C. § 826</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Rules for Courts-Martial (RCM) 806</td>
<td></td>
</tr>
<tr>
<td>JAG/CNLSCINST 5530.2, Navy Courthouse Security Procedures</td>
<td></td>
</tr>
<tr>
<td>NMCTJINST 5813.4A, Uniform Rules of Practice</td>
<td></td>
</tr>
<tr>
<td>Local Rules of Court</td>
<td></td>
</tr>
<tr>
<td>Local Courtroom Security Policy and Procedures</td>
<td></td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. _______ OBSERVE a docketing session.

2. _______ EXPLAIN the purpose, content, and organization of the Military Judges’ Benchbook, the local rules of court, the docketing rules within your Circuit, and rules governing spectators in the courtroom.

3. _______ OBSERVE a supervising attorney review and respond to a completed motion for docketing as used in your Judicial Circuit.

4. _______ OBSERVE supervising attorney initiate a case management order (CMO) setting forth a response to a proposed schedule.

5. _______ DRAFT a docketing request and review a CMO.

6. _______ OBSERVE a RCM 802 conference.

7. _______ EXPLAIN courtroom security procedures per JAG/CNLSCINST 5530.2 and local instructions.

8. _______ EXPLAIN the requirements for a brig escort.

9. _______ EXPLAIN the duties and responsibilities of the bailiff for your local Circuit.

10. ______ OBSERVE an individual being trained for bailiff duties.
Professional Development Standards (PDS) for Defense Legalmen

11. ______ EXPLAIN steps that should be taken to safeguard evidence during court-martial proceedings.

12. ______ EXPLAIN the procedures to follow if there is a disturbance in the courtroom command spaces.
Professional Development Standards (PDS) for Defense Legalmen

8. Discovery and Case Preparation

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>UCMJ. Article 46</th>
<th>RCM 701, 702, 703</th>
</tr>
</thead>
<tbody>
<tr>
<td>DCAP Deskbook</td>
<td>FY-14 National Defense Authorization</td>
</tr>
<tr>
<td>Act, § 1704</td>
<td></td>
</tr>
</tbody>
</table>

Initial and Date:

1. _______ READ and SCREEN an entire case file including Results of Interview (ROI) and identify any areas for further investigation.

2. _______ CONDUCT initial pre-screening of a case and discuss the case with supervising the attorney assigned.

   a.______ REVIEW and IDENTIFY all charges, maximum punishments, and possible defenses to the charges;

   b._____ PREPARE a proof matrix that lists all information required from each witness to prove each element of all specifications on the charge sheet; and,

   c._____ IDENTIFY potential defense witnesses on the merits and on sentencing.

3. _______ VERIFY the accused’s period of pre-trial restraint, as applicable.

4. _______ EXPLAIN the rules regarding pre-trial restraint, referencing applicable UCMJ provisions and the RCM, and how the accused’s pre-trial restraint could impact pre-trial negotiations and the court-martial process. DISCUSS appropriate motions relating to pre-trial restraint.

5. _______ OBSERVE an Initial Review Officer (IRO) hearing, if reasonably available to view.

6. _______ EXPLAIN and DISCUSS the Defense's discovery request process and the government’s discovery response to such request.
Professional Development Standards (PDS) for Defense Legalmen

7. _______ IDENTIFY and DISCUSS with a supervising attorney the defense's discovery process in:
   a. ___ an Article 32, UCMJ, pretrial investigation;
   b. ___ a court-martial;
   c. ___ a Board of Inquiry (BOI); and,
   d. ___ an enlisted ADSEP;
   e. ___ interviewing a sexual assault victim.

8. _______ DRAFT an initial discovery request for a defense attorney’s signature in a court-martial.

9. _______ DESCRIBE to a supervising attorney the order of events in the exchange of discovery in a court-martial.

10. _______ EXPLAIN the purpose of Bates stamping and how discovery is processed locally.

11. _______ PREPARE a list of witnesses and contact information who should be interviewed by the defense and DISCUSS with the supervising attorney.

12. _______ INTERVIEW witnesses for statements and TRANSCRIBE statements to assist the supervising attorney in developing their case theory.

13. _______ ACCOMPANY a supervising attorney to the brig for client(s) visit.

14. _______ EXPLAIN how you can assist the supervising attorney with their defense investigation (e.g., crime scene photos, scene visits, case law research, shepardizing, etc.).

15. _______ EXPLAIN your role in assisting the supervising attorney with preparation of the client for trial:
   a. _______ conducting sea bag inspection (if required);
   b. _______ completing legal assistance procedures (POAs, pay allotments, other notary services);
   c. _______ preparing accused for brig (if applicable);
   d. _______ preparing accused uniform for trial (awards and decorations), and ensuring they understand the importance of appearance (hair in regulation, uniform pressed, etc); and,
   e. _______ preparing for accused departure on appellate leave (if appropriate).
16. _______ EXPLAIN and DISCUSS the Navy's Suicide Prevention Program, including the importance of suicide awareness, understanding and response among defense counsel and the chain of command.
Professional Development Standards (PDS) for Defense Legalmen

9. Article 32

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>Article 32, UCMJ</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>RCM 405</td>
<td></td>
</tr>
<tr>
<td>DCAP Deskbook Chapter 7</td>
<td></td>
</tr>
</tbody>
</table>

1. ______ KNOW and DESCRIBE who may order an Article 32 investigation.

2. ______ EXPLAIN what evidence is admissible at an Article 32 and when an Article 32 investigating officer (IO) may consider sworn and unsworn statements.

3. ______ EXPLAIN the process for requesting witnesses and evidence at an Article 32 investigation.

4. ______ EXPLAIN what happens after an IO submits the report of investigation, the findings and recommendations that must be made, to whom the recommendations are submitted, and possible outcomes of an Article 32 Investigation.

5. ______ UNDERSTAND and DESCRIBE the meaning of an Article 32 waiver.

6. ______ DRAFT a written waiver of an Article 32 hearing.

7. ______ DRAFT a witness and discovery request for an Article 32 hearing.

8. ______ OBSERVE an Article 32 investigation hearing.
Professional Development Standards (PDS) for Defense Legalmen

10. **Motions and Objections**

   **Review, sign and date when complete:**

   | RCM 905, 906, and 907 | MRE 103 and 104 |

   **Initial and Date:**

   1. ______ EXPLAIN what motions must be raised before pleas.

   2. ______ EXPLAIN the evidentiary requirements for motions generally.

   3. ______ EXPLAIN the significance of a motion *in limine*. PROVIDE two examples of issues that would be appropriate for motions in *limine*.

   4. ______ EXPLAIN and LIST the six issues that *must* be raised before entering a plea, RCM 905(b).

   5. ______ EXPLAIN and LIST four issues that are non-waivable.

   6. ______ EXPLAIN what a motion or objection must contain *at a minimum* to properly preserve an issue.

   7. ______ DRAFT a motion for review by the supervising attorney including findings of fact and conclusions of law on one of the following topics:

      a. _____ A motion to dismiss for failure to state an offense;

      b. _____ A motion to dismiss for violation of an accused’s right to speedy trial;

      c. _____ A motion to suppress statements of the accused;

      d. _____ A motion to compel discovery;

      e. _____ A motion to dismiss for unlawful command influence; and,

      f. _____ A motion *in limine* to exclude certain evidence.

   8. ________ OBSERVE rehearsal of an argument on a motion, opening statement and closing argument (sometimes called "murder boards").
Professional Development Standards (PDS) for Defense Legalmen

9. _______ OBSERVE a motions hearing.
11. Pre-Trial Agreements

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>Article 58 and 76, UCMJ</th>
</tr>
</thead>
<tbody>
<tr>
<td>RCM 811</td>
</tr>
<tr>
<td>RCM 1003, 1009</td>
</tr>
<tr>
<td>MCM Appendix 12</td>
</tr>
<tr>
<td>JAGMAN 0152</td>
</tr>
<tr>
<td>Military Evidentiary Foundations § 12-2</td>
</tr>
<tr>
<td>Military Judges Benchbook Ch.2 § VII, para 2-7-25</td>
</tr>
<tr>
<td>DCAP Deskbook Chapter 11</td>
</tr>
<tr>
<td>FY-14 National Defense Authorization Act, § 1705</td>
</tr>
</tbody>
</table>

Initial and Date:

1. ______ EXPLAIN:
   a. _____ Process of negotiating a Pre-Trial Agreement (PTA);
   b. _____ Terms and provisions which must be included in a written PTA;
   c. _____ Terms and conditions which are prohibited in a PTA;
   d. _____ Under what circumstances either party may withdraw from a PTA; and,
   e. _____ Definitions and pitfalls of a “sub rosa” agreement.

2. ______ PREPARE a PTA with the following provisions using the PTA template:
   a. _____ Waiver of administrative separation board;
   b. _____ Request trial by military judge alone;
   c. _____ Waiver of Article 32 pre-trial investigation;
   d. _____ Complete restitution;
   e. _____ Cooperate in investigation;
   f. _____ Identify other criminals and/or criminal activities;
Professional Development Standards (PDS) for Defense Legalmen

g. ______ Testify as a witness in other case(s);
h. ______ Waiver of a specific motion;
i. ______ Waiver of Article 13, UCMJ motion;
j. ______ Enter into a stipulation of fact with the government;
k. ______ Not to request witnesses at government expense;
l. ______ Not object to specific pre-sentencing evidence on specific grounds;
m. ______ Withdraw or dismiss charges based on pleas to lesser included offenses (LIO);
n. ______ Waiver of forfeiture and reduction; and,
o. ______ No-cap SPCM PTA.

3. ______ EXPLAIN the procedures for a vacation hearing by the Convening Authority (see Article 72, UCMJ and RCM 1109).

4. ______ KNOW and EXPLAIN the issues surrounding sex offender registration in PTAs as addressed in U.S. v. Miller.

5. ______ EXPLAIN what collateral consequences could reasonably be expected for a client convicted at court-martial

6. ______ EXPLAIN mandatory minimum sentences for certain Article 120 offenses.

7. ______ OBSERVE a guilty plea with a Pre-trial Agreement (PTA).
12. **Stipulations**

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>RCM 811</th>
<th>Military Evidentiary Foundations § 12-2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Military Judges’ Benchbook Ch. 2, § VII, para 2-7-25</td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. _____ EXPLAIN, using the Military Judges Benchbook and the MCM, how a stipulation must address all elements of the Articles of the UCMJ.

2. _____ OBSERVE the use of a Stipulation of Fact at trial.

3. _____ EXPLAIN:

   a. _____ the concept of substitutes for evidence;
   
   b. _____ the difference between stipulations of fact and stipulations of expected testimony;
   
   c. _____ what should/should not be in a stipulation of fact;
   
   d. _____ proper and authorized uses at trial of a stipulation of fact or a stipulation of expected testimony;
   
   e. _____ judicial notice;
   
   f. _____ the defense’s and government’s goals/objectives for the stipulation;
   
   g. _____ whether stipulations are required in a guilty plea case and the pros and cons of having a stipulation when not required as part of a Pre-Trial Agreement (PTA); and,
   
   h. _____ if there are any ways the accused’s stipulation may be used against them if either party withdraws from the Pre-Trial Agreement (PTA).

4. _____ DRAFT a stipulation of fact for a case in which you are assisting a supervising attorney.
13. **Voir Dire**

Review, then sign and date:

<table>
<thead>
<tr>
<th>RCM 912</th>
</tr>
</thead>
<tbody>
<tr>
<td>DCAP Deskbook, Chapter 13</td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. ______ EXPLAIN how a Convening Authority (CA) selects members and possible bases for challenging the initial selection of members by the CA.

2. ______ EXPLAIN the difference between challenges for cause and peremptory challenges, and the appropriate bases for challenges for cause.

3. ______ EXPLAIN how to properly preserve a challenge for cause on appeal and how to properly preserve a Batson challenge.

4. ______ EXPLAIN the liberal grant mandate and how it applies to member selection.

5. ______ DRAFT proposed voir dire questions for both en banc and individual voir dire.

6. ______ PREPARE a matrix for taking notes during voir dire for each member and DISCUSS with a supervising attorney how a defense Legalman can best assist. DESCRIBE the importance of noting body language and other signs for the attorney during voir dire.

7. ______ OBSERVE en banc and individual voir dire in a court martial, and DISCUSS with a supervising attorney matters that might form the basis for a challenge for cause.
14. Post Trial

**Review, sign and date when complete:**

<table>
<thead>
<tr>
<th>Resource</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>RCM 1101, 1105, 1106</td>
<td>EXPLAIN a defense counsel’s post trial duties and the process after a sentence is adjudged.</td>
</tr>
<tr>
<td>DCAP Deskbook Chapter 14</td>
<td>EXPLAIN what a Convening Authority (CA) can do with findings or sentence of a court martial and what the CA must consider in acting on the findings and sentence.</td>
</tr>
<tr>
<td>FY-14 National Defense Authorization Act, § 1706</td>
<td>REVIEW a record of trial in which the accused was found guilty.</td>
</tr>
<tr>
<td></td>
<td>PREPARE a statement of legal error for submission to the CA pursuant to RCM 1105.</td>
</tr>
<tr>
<td></td>
<td>PREPARE a clemency package pursuant to RCM 1105.</td>
</tr>
<tr>
<td></td>
<td>EXPLAIN the victim’s role in the clemency process.</td>
</tr>
<tr>
<td></td>
<td>DISCUSS a Staff Judge Advocate Review (SJAR).</td>
</tr>
<tr>
<td></td>
<td>REVIEW a response to an SJAR under RCM 1106.</td>
</tr>
</tbody>
</table>
Professional Development Standards (PDS) for Defense Legalmen

DEFENSE LEGALMAN

CERTIFICATE OF COMPLETION

RECOMMENDED ___________________________ DATE ____________

RECOMMENDED ___________________________ DATE ____________

I CERTIFY THAT ___________________________________ HAS COMPLETED THE PROFESSIONAL DEVELOPMENT STANDARDS REQUIRED OF A DEFENSE LEGALMAN.

_________________________________________ DATE ____________
Commanding Officer
[Command]

[Once complete, command and PDO retains a copy and original goes to Legalman for retention]
Professional Development

Standards (PDS)

For

Legal Assistance

Legalmen
Professional Development Standards (PDS) Legal Assistance Legalmen

Table of Contents

How to use this Document

Professional Development Standards for Legal Assistance Legalmen

1. Ethical Obligations
2. Navy JAG Corps Legal Assistance Program
3. SCRA, USERRA, and other Military Benefits
4. Legal Assistance for Crime Victims and Witnesses
5. Family Law
6. Pre-Deployment/Pre-Mobilization Readiness
7. Wills and Supporting Documents
8. Consumer Law & Tenant Support
9. Naturalization and Immigration

CERTIFICATE OF COMPLETION
Professional Development Standards (PDS) Legal Assistance Legalmen

How to Use this Document

This document contains the Professional Development Standards (PDS) module for Legalmen serving in the Legal Assistance Department/Section. This module consists of nine (9) sections corresponding to different aspects of legal assistance practice, rights and responsibilities. Each section includes a list of tasks that supervising attorneys may discuss and/or delegate to Legalmen consistent with the Rules of Professional Conduct, JAGINST 5803.1D. Note that only attorneys are authorized to render services that call for the professional judgment of a lawyer.

Legalmen assigned to perform legal assistance duties should complete these PDS in accordance with their commanding officer’s respective LN Utilization Plan, as defined by paragraph 5 of JAG/CNLSCINST 1500.5. Each LN Utilization Plan will identify who may verify completion of PDS tasks and sections, and who may recommend final certification by the Commanding Officer. If the LN Utilization Plan does not specify who may verify completion of a particular task or section, the Legalman’s supervising attorney shall verify completion.

These PDS need not be completed in any particular order, but may be completed as circumstances necessitate or opportunities arise. In general, PDS tasks may be completed as part of an actual or simulated proceeding/event. Unless otherwise noted, each PDS task should be verified by the attorney who supervised the work associated with the task. If a particular PDS task is not applicable in a specific region, the task may be marked “N/A,” consistent with the Utilization Plan and other guidance. Questions about PDS modules should be submitted to the appropriate Training Officer/Professional Development Officer (PDO)/Senior Enlisted Leader.
Professional Development Standards (PDS) Legal Assistance Legalmen

1. **Ethical Obligations**

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>JAGINST 5803.1[series]</th>
</tr>
</thead>
</table>

**Initial and Date:**

1. __________ IDENTIFY the sources of professional ethical obligations that apply to you in your role as a Legalman providing legal assistance services.

2. __________ EXPLAIN the relationship between your professional ethical obligations and the professional ethical obligations of your supervising attorneys.

3. __________ IDENTIFY the "client" for legal assistance and your role in providing the client legal assistance services.

4. __________ EXPLAIN the following in the context of your role as a Legalman supporting a legal assistance attorney:
   
   a. __________ the duty of confidentiality; including who bears responsibility for fulfilling the duty;

   b. __________ the duty of due diligence;

   c. __________ the duty of candor and to whom it extends; and,

   d. __________ the rules respecting communication with individuals seeking legal assistance.

5. __________ IDENTIFY special responsibilities of a legal assistance attorney.

6. __________ EXPLAIN the concept of the "unauthorized practice of law."

7. __________ EXPLAIN the procedures for reporting possible violations of the Rules of Professional Conduct.
2. **Navy JAG Corps Legal Assistance Program**

Review, sign, and date when completed:

| 10 U.S.C. §§ 1044–1044D       |                  |
| 32 C.F.R. PART 727            |                  |
| DODD 1350.4                   |                  |
| SECNAVINST 5211.5E            |                  |
| SECNAVINST 5216.5             |                  |
| JAGINST 5801.3                |                  |
| JAGINST 5800.7F CHAPTER VII   |                  |
| JAGINST 5801.2A,              |                  |
| CNLSCINST 5800.1F, NLSC MANUAL, CHAPTER 13 |                |
| NLSC/Code 16 standard Legal Assistance Client Intake Questionnaire | |

Joint military legal assistance locator site:
http://legalassistance.law.af.mil/content/locator.php

ABA Home Front locator site.

Military Pro Bono Project locator site.
http://www.militaryprobono.org/

ABA Operation Standby and ABA Standing Committee locator site.
http://www.americanbar.org/groups/legal_assistance_military_personnel.html

OPNAVINST 1720.4A
JAG/CNLSCINST 1720

Review, sign and date when complete:

1. __________ EXPLAIN the American Bar Association (ABA) Military Pro Bono Project, ABA Home Front, ABA Operation Standby, and the ABA Standing Committee on Legal Assistance for Military Personnel.

2. __________ EXPLAIN the local State Bar referral services and procedures for referrals as well as the availability of Legal Aid or other pro bono services and their standards for acceptance of cases.

3. __________ READ local guidance on legal assistance in your command’s Standard Organization and Regulations Manual (SORM) and Legal Assistance Standard Operating Procedures (SOP).
Professional Development Standards (PDS) Legal Assistance Legalmen

4. _________ EXPLAIN how legal assistance correspondence is recorded, tracked and maintained in your office.

5. _________ EXPLAIN how procedures in your office are designed to assure compliance with the Privacy Act.

6. _________ ACCESS the Joint Enterprise System (JES). LEARN how to input a legal assistance client, add attorney services, add notary services, add administrative time, perform a conflict check, and run a report using JES.

7. _________ DRAFT a General Power of Attorney and a Special Power of Attorney, using the HotDocs module on the Joint Enterprise System (JES).

8. _________ EXPLAIN and OBSERVE your office’s legal assistance outreach efforts including legal assistance site visits, briefs, and publications (one occurrence of each).
   a. _______ OBSERVE a site visit/power of attorney workshop;
   b. _______ OBSERVE a legal assistance brief; and,
   c. _______ DRAFT a legal assistance publication.

9. _________ EXPLAIN your command’s Disaster Response Plan.

10. _________ EXPLAIN the command’s policy on where to refer individuals who are unable to meet with a legal assistance attorney due to a conflict of interest.

11. _________ EXPLAIN the Navy Suicide Prevention Program with your Department Head, discussing the particular importance of suicide awareness, understanding, and response among legal assistance providers with your chain of command.
Professional Development Standards (PDS) Legal Assistance Legalmen

12. _________ LOCATE the Legal Assistance Community of Interest (CoI) pages on Navy Knowledge Online (NKO) (https://wwwa.nko.navy.mil/portal/home) and read the most recent calendar year’s Legal Assistance Practice Advisories.

13. _________ EXPLAIN legal assistance eligibility including JAGMAN Chapter 7 (e.g., DoD civilian and contractor eligibility overseas) and client category prioritization issues for your local area.

14. _________ DRAFT a sample legal assistance letter with the appropriate letterhead and mandatory legal assistance footer. Know your command’s procedures for filing the letter.

15. _________ EXPLAIN and USE the joint military legal assistance locator site to identify the closest alternate legal assistance provider. Contact those offices in order to obtain full contact information, business hours, and appointment scheduling procedures.

16. _________ VISIT your local Navy-Marine Corps Relief Society, Fleet and Family Support Center, Chaplains, Personnel Support Detachment, and Housing Office. Discuss with a representative of each activity the services they provide. Also, familiarize yourself with the support services offered by Military One Source at www.militaryonesource.com/.

17. _________ OBSERVE and CONDUCT the duties of the legal assistance receptionist. Learn how to:
   a. _________ determine a client’s eligibility for services;
   b. _________ assist a client in scheduling an appointment;
   c. _________ check for possible conflicts and your command’s procedures if a conflict is identified;
   d. _________ assist clients with filling out legal assistance intake forms;
   e. _________ deal with difficult clients and clients with young children; and,
   f. _________ handle a disturbance in the waiting area.

18. _________ OBSERVE a supervising attorney or Legalman notarize a military power of attorney.
Professional Development Standards (PDS) Legal Assistance Legalmen

19. _________ OBSERVE a supervising attorney and/or Legalman notarize and administer the oath for a sworn statement.

20. _________ OBSERVE a supervising attorney and/or Legalman administer the oath for a voluntary statement.

21. _________ IDENTIFY the most current guidance on notarizing and fingerprinting in your local area.
### 3. SCRA, USERRA, and Other Miscellaneous Military Benefits

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>Act/Program</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Servicemembers Civil Relief Act (SCRA), 50 U.S.C. app. §§ 501–597b</td>
<td></td>
</tr>
<tr>
<td>Federal Family Education Loan Program, 20 U.S.C. §§ 1078, 1078-10 to-1078-12</td>
<td></td>
</tr>
<tr>
<td>Federal Direct Loan Program, 20 U.S.C. § 1087e</td>
<td></td>
</tr>
<tr>
<td>(Federal Perkins Loan Program, 20 U.S.C. § 1087dd &amp; 1087ee)</td>
<td></td>
</tr>
<tr>
<td>Internal Revenue Service Publication 3, Armed Forces’ Tax Guide, paying particular attention to the extensions available to overseas and deployed members and the combat zone exclusion</td>
<td></td>
</tr>
<tr>
<td>Review the SCRA letter forms available on JES.</td>
<td></td>
</tr>
<tr>
<td>Review SCRA letters on a variety of subjects (e.g., stay request and reduction of interest rate to 6%) produced by your office</td>
<td></td>
</tr>
<tr>
<td>Review the Employer Support of Guard and Reserve (ESGR) website at <a href="http://www.esgr.mil">http://www.esgr.mil</a> and become familiar with the USERRA support services provided by ESGR</td>
<td></td>
</tr>
<tr>
<td>Department of Veterans Affairs GI Bill Program locator site: <a href="http://gibill.va.gov/">http://gibill.va.gov/</a></td>
<td></td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. ________ EXPLAIN some of the relevant local rules, regulations, and statutes offering special protections and benefits to servicemembers and their dependents (e.g., “State SCRAs” and special in-state tuition rules).

2. ________ EXPLAIN some of the tax issues particular to your location, such as state domicile/legal residency requirements, state income taxation, real and personal property taxes, and vehicle registration and use taxes.

3. ________ EXPLAIN how to locate federal and state veteran's benefits.
Professional Development Standards (PDS) Legal Assistance Legalmen

4. EXPLAIN your office's Tax Assistance Center procedures.

5. EXPLAIN when proceedings can be stayed pursuant to the SCRA and REVIEW a sample SCRA request.

6. EXPLAIN when a default judgment can be set aside pursuant to the SCRA and local procedures for setting aside judgments.

7. EXPLAIN when the 6% cap on interest rates applies.

8. DRAFT a letter for review by a supervising attorney requesting the 6% cap.

9. EXPLAIN when and how the SCRA applies to dependents.

10. DRAFT an SCRA lease termination letter for review by a supervising attorney.

11. EXPLAIN the affect the SCRA has on Reservists deploying on active duty.
Professional Development Standards (PDS) Legal Assistance Legalmen

4. **Legal Assistance for Crime Victims and Witnesses**

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>Document Reference</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>OPNAVINST 1752.1B</td>
<td></td>
</tr>
<tr>
<td>JAGINST 5800.4A and DD Forms 2701-2706</td>
<td></td>
</tr>
<tr>
<td>Commander, Naval Legal Service Command (NLSC) ltr 5801 Ser 001/0103 (no date) (Subj: Legal Assistance Services for Crime Victims) w/ enclosures</td>
<td></td>
</tr>
<tr>
<td>OPNAVINST 1750.3, Transitional Compensation</td>
<td></td>
</tr>
<tr>
<td>Victims’ Legal Counsel (VLC) Program</td>
<td></td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. _________ EXPLAIN JAG Corps, NLSC and your command's policies for providing legal assistance support to crime victims.

2. _________ EXPLAIN procedures when a conflict of interest requires referral of a crime victim or witness to an alternate legal assistance provider and how to effect that referral.


4. _________ EXPLAIN the association and dealings with local domestic violence shelters and RECORD information and points of contact for the local domestic violence shelters in your local area.

5. EXPLAIN local military and non-military resources for crime victims including state and local transition and compensation programs.

6. EXPLAIN the Victims’ Legal Counsel (VLC) Program.
5. **Family Law**

**Review, sign, and date when complete:**

<table>
<thead>
<tr>
<th>Source</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Uniformed Services Former Spouses Protection Act (USFSPA), 10 U.S.C. § 1408</td>
<td>MILPERSMAN 1754-030 &amp; 5800-010</td>
</tr>
<tr>
<td>Marine Corps Manual for Legal Administration (LEGADMINMAN), MCO P5800.16A Chapter 15</td>
<td>OPNAVINST 1740.4D</td>
</tr>
<tr>
<td>Navy Personnel Command Forms (NAVPERS) 1740/6</td>
<td>OPNAVINST 1752.2B, Enclosure (8)</td>
</tr>
<tr>
<td>Department of Defense Form (DD) 2873, Military Protective Order (MPO).</td>
<td></td>
</tr>
<tr>
<td>Army Regulation (AR) 608-99</td>
<td></td>
</tr>
<tr>
<td>Air Force Instruction 36-2906</td>
<td></td>
</tr>
<tr>
<td>Commandant Instruction (COMDTINST) M1600.2, Chapter 2E</td>
<td></td>
</tr>
<tr>
<td>Navy Bureau of Personnel Instruction 1750.10C</td>
<td></td>
</tr>
<tr>
<td>The Lautenberg Amendment, 18 U.S.C. §§ 921-22 and Department of Defense Form (DD) 2760</td>
<td>MILPERSMAN 5325-030 and Area Commanders Instructions for Marriage to Foreign Nationals: COMNAVCENTINST 1752.1D COMNAVFORJAPANINST 1752.1R COMNAVMARIANASINST 1752.1F COMNAVREGNWINST 1752.2 COMNAVREGEURAFSWAINST 1752.1A COMNAVREGSWINST 1752.1 COMUSNAVSOINST 1752.1 DGREGCOORDINST 1752.1D NAVSUPPACTNAPLESINST 1750.1F USFK REG 600-240</td>
</tr>
</tbody>
</table>

Enclosure (2)
Professional Development Standards (PDS) Legal Assistance Legalmen

Initial and Date:

1. ________ EXPLAIN the basic filing procedures, for your command's jurisdictional provisions (including detachments and branch offices) for the following:

   a. ________ substantive bases for seeking marriage dissolution;

   b. ________ marital property division;

   c. ________ spousal support;

   d. ________ name changes;

   e. ________ adoption;

   f. ________ establishment of guardianship;

   g. ________ determination of paternity;

   h. ________ child custody; and,

   i. ________ child support.

2. ________ EXPLAIN basic probate and guardianship procedures in your command’s jurisdiction.

3. ________ ACCESS the Clerk of the Court websites for the civil jurisdictions within your command’s area of responsibility and familiarize yourself with their online resources, if applicable.

4. ________ EXPLAIN the effect and purpose of a separation agreement and your command’s policy on drafting them.

5. ________ DISCUSS the DFAS Uniformed Services Former Spouses’ Protection Act - Attorney Instruction Guide in Dividing Military Retired Pay.

6. ________ DISCUSS your command’s jurisdiction’s version of the Uniform Child Custody Jurisdiction and Enforcement Act, paying particular attention to the definitions and jurisdiction provisions.

7. ________ EXPLAIN AND KNOW where to find your command’s jurisdiction’s child support online resources and calculators. Familiarize yourself with the state child support enforcement agency and know how to use their services to obtain a child support order.
8. ACCESS the state child support enforcement websites to find and practice child support calculations relevant to your command’s jurisdiction.


10. EXPLAIN the version of the Uniform Interstate Family Support Act adopted in your command’s jurisdiction, paying particular attention to the definitions and jurisdiction provisions.

11. EXPLAIN a voluntary declaration of paternity from your command’s jurisdiction. DISCUSS with supervisory attorney the requirements for properly recording or filing this form in your jurisdiction as well as the legal effect of a voluntary declaration of paternity. Also, familiarize yourself with how this process is utilized to establish dependent status in the military.


14. ACCESS the U.S. Department of Health and Human Service’s Office of Child Support Enforcement website, www.acf.hhs.gov/programs/cse, paying particular attention to the sources geared toward military members and the links to the various state support agencies.

15. REVIEW the non-support letter forms available on the Joint Enterprise System (JES) (HotDocs) and an actual non-support letter sent from your command.

16. ACCESS and make use of the Navy World Wide Locator service, if available.

17. EXPLAIN local state and military procedures regarding domestic violence cases, including the handling of civilian domestic violence protection orders and the interaction between such protection orders and the Lautenberg Act and the Department of Defense Form (DD) 2760.

18. EXPLAIN how to contact your command’s jurisdiction’s Child Protective Services and Adult Protective Services.

19. EXPLAIN the procedures regarding the Fleet and Family Support Center’s Family Advocacy Program (FAP) and Case Review Committee (CRC) with your Command FAP representative.
20._________ EXPLAIN the local PSD requirements for a child to be enrolled in DEERS, obtain a DoD Identification Card, gain access to medical care, and enroll in DODEA/DODDS schools.

21._________ OBSERVE a supervising attorney discuss name change issues during a client interview.

22._________ OBSERVE a supervising attorney discuss adoption issues during a client interview.

23._________ OBSERVE a supervising attorney discuss guardianship issues during a client interview.

24._________ OBSERVE a supervising attorney discuss paternity issues during a client interview.

25._________ OBSERVE a supervising attorney discuss child support issues during a client interview.

26._________ OBSERVE a supervising attorney discuss child custody issues during a client interview.

27._________ OBSERVE a supervising attorney discuss military non-support during a client interview.

28._________ DRAFT a military non-support letter to a Navy command.

29._________ EXPLAIN the application process for members contemplating marriage to a foreign national using the area commander’s instruction most commonly applied in your local area.
Professional Development Standards (PDS) Legal Assistance Legalmen

6. Pre-Deployment/Pre-Mobilization Readiness

Review, sign and date when completed:

<table>
<thead>
<tr>
<th>Code 16 standard Pre-deployment Legal Brief</th>
<th>PowerPoint</th>
</tr>
</thead>
</table>

Initial and Date:

1. __________ OBSERVE a supervising attorney conduct a pre-deployment/pre-mobilization brief.

2. __________ ASSIST a supervising attorney with all necessary documentation and hand-outs to conduct a pre-deployment/pre-mobilization brief.

3. __________ CONDUCT a pre-deployment/pre-mobilization brief.
7. **Wills and Supporting Documents**

Review, sign and date when completed:

<table>
<thead>
<tr>
<th>Document</th>
</tr>
</thead>
<tbody>
<tr>
<td>NLSC/Code 16 Standard Will Intake Form</td>
</tr>
<tr>
<td>NLSC/Code 16 Dual Waiver of Conflict Letter</td>
</tr>
<tr>
<td>NLSC/Code 16 Standard Will Execution Script</td>
</tr>
<tr>
<td>Servicemembers’ Group Life Insurance (SGLI)</td>
</tr>
<tr>
<td>Election Certificate, SGLV 8286</td>
</tr>
<tr>
<td>DD Form 93, Record of Emergency Data</td>
</tr>
<tr>
<td>NAVPERS 1070/602 (commonly known as a “Page 2” in the service record)</td>
</tr>
<tr>
<td>Survivor’s Guide to Benefits and the U.S. Department of Veterans Affairs’ website for survivors at <a href="http://www.vba.va.gov/survivors">www.vba.va.gov/survivors</a></td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. _________ EXPLAIN your role as non-attorney and how you would support the legal assistance attorney with will preparation and other supporting documents.

2. _________ EXPLAIN your command's jurisdictional requirements for execution of a valid power of attorney.

3. _________ EXPLAIN the various types of durable powers of attorney available and how to explain them to clients.

4. _________ EXPLAIN your jurisdiction's version of the Uniform Transfer to Minors Act.

5. _________ OBSERVE a supervising attorney discuss estate planning with a client during a client interview. The interview should include going through the information on the standard will questionnaire and an explanation of the options for leaving property to a minor child.

6. _________ OBSERVE a supervising attorney advise a member on how to correctly fill out the Dependency Application/Record of Emergency Data, NAVPERS 1070/602 (commonly known as a “Page 2” in the service record).
Professional Development Standards (PDS) Legal Assistance Legalmen

7. OBSERVE a supervising attorney explaining and obtaining mutual consent to the standardized dual representation letter in the context of a husband and wife will. Observe the attorney conducting the will interview of husband and wife.

8. OBSERVE and ACCOMPANY a legal assistance attorney in conducting a command will visit.

9. ACT as a witness for a will execution.

10. ASSIST a legal assistance attorney with a will execution by setting up the space, obtaining witnesses, and providing any other necessary support.

11. DRAFT a military testamentary instrument (MTI) using the DL Drafting Libraries (DL) Wills program and DISCUSS with the attorney how he/she altered the DL Wills draft to create a final document.

12. DRAFT a military testamentary instrument (MTI), advance medical directive ("living will" and medical power of attorney), and military durable power of attorney using DL Wills. The MTI must contain a pre-residuary trust for the benefit of a minor child. Tailor the documents per command guidance for supervising attorney review.

13. OBSERVE and PREPARE with a supervising attorney a Servicemember’s Group Life Insurance (SGLI) trust.
8. **Consumer Law & Tenant Support**

Review, sign and date when completed:

<table>
<thead>
<tr>
<th>Resource</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Military Lending Act, 10 U.S.C. § 987</td>
<td></td>
</tr>
<tr>
<td>AR 190-24 (Joint Service Agreement), Armed Forces Disciplinary Control Boards</td>
<td></td>
</tr>
<tr>
<td>Fair Credit Reporting Act, 15 U.S.C. §§ 1681–1681x</td>
<td></td>
</tr>
<tr>
<td>Used Motor Vehicle Trade Regulation Rule, 16 C.F.R. Part 455</td>
<td></td>
</tr>
<tr>
<td>Protecting Tenants at Foreclosure Act, Title VII of the Helping Families Save Their Homes Act of 2009, Public Law 111-22</td>
<td></td>
</tr>
<tr>
<td>Federal Odometer Act, 49 U.S.C. §§ 32701-32711</td>
<td></td>
</tr>
<tr>
<td>MILPERSMAN 7000-020, Indebtedness and Financial Responsibility of Members</td>
<td></td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. ACCESS and EXPLAIN the resources available on the Consumer Financial Protection Bureau’s website, www.consumerfinance.gov, paying particular attention to the process for filing a consumer complaint and the materials aimed at military members and veterans (www.consumerfinance.gov/servicemembers).

2. EXPLAIN your state consumer protection agency websites to familiarize yourself with how state agencies regulate collection agencies, automobile dealerships, health clubs, contractors, retail installment sales and real estate.

3. EXPLAIN how to file a complaint against a regulated business.

4. ACCESS the resources available on the Federal Trade Commission’s identity theft website (http://ftc.gov/bcp/menus/consumer/data/idt.shtm), paying particular attention to “Military Personnel & Families Fighting Back Against Identity Theft” and “Active Duty Alerts Help Protect Military Personnel from Identity Theft.”
Professional Development Standards (PDS) Legal Assistance Legalmen


6. ACCESS [www.annualcreditreport.com](http://www.annualcreditreport.com) and become familiar with the procedures for obtaining a free copy of your credit report.

7. EXPLAIN your state’s landlord-tenant, foreclosure, and eviction laws.

8. EXPLAIN your state’s consumer protection laws, such as laws protecting consumers from deceptive trade practices, unfair debt collection practices, and “lemon” automobiles.

9. EXPLAIN a typical residential lease relevant to your jurisdiction.

10. EXPLAIN what action a tenant must take to assert their rights under the Protecting Tenants at Foreclosure Act.

11. READ and DISCUSS a typical consumer promissory note and security agreement.

12. EXPLAIN local small claims court procedures.

13. KNOW and EXPLAIN basic information about civil procedure in your state including but not limited to local service of process requirements, common defenses, response times and limitations periods.

14. OBSERVE a supervising attorney advise a member on options for dealing with a possible home foreclosure.

15. EXPLAIN the landlord-tenant, foreclosure, and eviction issues most commonly seen in your office.

16. EXPLAIN the consumer issues most commonly seen in your office.

17. OBSERVE a supervising attorney advising a client regarding his/her rights under a residential lease.

18. OBSERVE a supervising attorney advising a client regarding their rights under a typical consumer promissory note and security agreement.


20. ATTEND a Command Financial Specialist legal brief.
9. **Naturalization and Immigration**

Review, sign, and date when complete:

<table>
<thead>
<tr>
<th>Review, sign, and date when complete:</th>
</tr>
</thead>
<tbody>
<tr>
<td>8 U.S.C. §§ 1101–1504, focusing on §§ 1427, 1430, 1431, 1433 &amp; 1439 to 1440-1</td>
</tr>
<tr>
<td>USCIS forms I-129F, I-130, I-485, N-400, and N-426</td>
</tr>
<tr>
<td>“U.S. Navy Guide to Naturalization Applications Based upon Qualifying Military Service,” located on the Code 16 page on Navy Knowledge Online (NKO)</td>
</tr>
<tr>
<td>Most recent Immigration Advisories (IAs) located on the Code 16 page on NKO</td>
</tr>
<tr>
<td>American Immigration Lawyers Association's Military Assistance Program</td>
</tr>
</tbody>
</table>

**Initial and Date:**


2. **KNOW** your local USCIS or Consulate points of contact for immigration and naturalization issues.


4. **EXPLAIN** how to refer a client to the American Immigration Lawyers Association and its referral service at [www.aila.org](http://www.aila.org).

5. **OBSERVE** a supervising attorney and/or Legalman discuss a military naturalization matter with a client during a client interview.

6. **EXPLAIN** how to prepare and assemble a facilitated naturalization packet utilizing the “U.S. Navy Guide to Naturalization Applications Based upon Qualifying Military Service.”

7. **EXPLAIN** the requirements to obtain a Certificate of Birth Abroad and passport for newborn U.S. citizens.
Professional Development Standards (PDS) Legal Assistance Legalmen

8. ________ EXPLAIN potential bars to immigration for prospective spouses.

9. ________ OBSERVE a supervising attorney discuss the immigrant visa process for foreign national dependents.
Professional Development Standards (PDS) Legal Assistance Legalmen

LEGAL ASSISTANCE LEGALMAN

CERTIFICATE OF COMPLETION

RECOMMENDED__________________________________ DATE__________________

RECOMMENDED__________________________________ DATE__________________

I CERTIFY THAT ____________________________________ HAS COMPLETED
THE PROFESSIONAL DEVELOPMENT STANDARDS REQUIRED OF A LEGAL
ASSISTANCE LEGALMAN.

________________________________________________ DATE__________________
Commanding Officer
[Command]

[Once complete, command and PDO retains copy and original goes to Legalman for retention]
Professional Development

Standards (PDS)

For

Trial

Legalmen
Professional Development Standards (PDS) for Trial Legalmen

Table of Contents

How to use this Document

Professional Development Standards for Trial Legalmen

1. Preliminaries
2. Ethical Obligations
3. Pre-Trial/Case Screening
4. Discovery
5. Court Rules and Officer of the Court Duties
6. Speedy Trial
7. Trial Preparation: Evidence and Witnesses
8. Article 32 Pretrial Investigations
9. Arraignments, Notices and Motions
10. Pre-Trial Agreements
11. Trial by Members
12. Sentencing
13. Post-Trial Duties and Administrative Actions
14. Sexual Assault and VWAP Training

CERTIFICATE OF COMPLETION
Professional Development Standards (PDS) for Trial Legalmen

How to Use this Document

This document contains the Professional Development Standards (PDS) module for Legalmen serving in the Trial Department of the Region Legal Service Office (RLSO). This module consists of fourteen (14) sections corresponding to different aspects of court-martial practice. Each section includes a list of tasks that may be performed by Legalmen consistent with the Rules of Professional Conduct, JAGINST 5803.1D. Note that only attorneys are authorized to render services that call for the professional judgment of a lawyer.

Legalmen assigned to perform trial duties should complete these PDS in accordance with their commanding officer’s respective LN Utilization Plan, as defined by paragraph 5 of JAG/CNLSCINST 1500.5. Each LN Utilization Plan will identify who may verify completion of PDS tasks and sections, and who may recommend final certification by the Commanding Officer. If the LN Utilization Plan does not specify who may verify completion of a particular task or section, the Legalman’s supervising attorney shall verify completion.

These PDS need not be completed in any particular order, but may be completed as circumstances necessitate or opportunities arise. In general, PDS tasks may be completed as part of an actual or simulated proceeding. Unless otherwise noted, each PDS task should be verified by the attorney who supervised the work associated with the task. If a particular PDS task is not applicable in a specific region, the task may be marked “N/A,” consistent with the utilization plan and other guidance. Questions about PDS modules should be submitted to the appropriate Training Officer/Professional Development Officer (PDO)/Senior Enlisted Leader.
Professional Development Standards (PDS) for Trial Legalmen

1. Preliminaries

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>Uniform Code of Military Justice (UCMJ) 10 U.S.C. §§ 801-806a</th>
</tr>
</thead>
<tbody>
<tr>
<td>Navy Correspondence Manual SECNAV M-5216.5</td>
</tr>
<tr>
<td>JAGINST 5800.7 (series)</td>
</tr>
<tr>
<td>JAGINST 5810.2A, Military Justice Regulations</td>
</tr>
<tr>
<td>Local Command Standard Organization and Regulations Manual (SORM)</td>
</tr>
<tr>
<td>Trial Manual (if applicable)</td>
</tr>
<tr>
<td>Navy and Marine Corps Trial Judge and Circuit Rules of Court</td>
</tr>
<tr>
<td>Bailiff’s Handbook (if applicable)</td>
</tr>
<tr>
<td>Local Court Rules and command instructions</td>
</tr>
<tr>
<td>United States Court of Appeals for the Armed Forces Website (Digest in particular)</td>
</tr>
<tr>
<td>Navy and Marine Corps Court of Criminal Appeals Website</td>
</tr>
<tr>
<td>Military regulations review</td>
</tr>
<tr>
<td>DoD issuances: <a href="http://www.dtic.mil/whs/directives/">http://www.dtic.mil/whs/directives/</a></td>
</tr>
<tr>
<td>Military regulations review</td>
</tr>
</tbody>
</table>

Initial and Date:

1. MEET military judge(s) and clerk(s) of court. Review local rules before meeting.

2. MEET court reporting staff, all other trial and defense legalmen, and attorneys.

3 MEET Training Officer/Professional Development Officer.

4. MEET Region Staff Judge Advocate and Legalmen. Become familiar with and discuss the region commander’s expectations for trial support.

5. TOUR the Joint/Consolidated Brig Facility and the local restricted barracks; read their policies prior to the tour if applicable.

6. MEET local assigned NCIS agents; share contact information.
Professional Development Standards (PDS) for Trial Legalmen

7. ________ KNOW who your installations' Sexual Assault Response Coordinators (SARC) are and how to reach them.

8. ________ REVIEW Trial Counsel Assistance Program (TCAP) section on Navy Knowledge Online. Learn its mission/role in assisting trial counsel. DISCUSS with trial counsel their expectations of Legalmen.

9. ________ ACCESS TCAP SharePoint portal (if applicable).

10. ________ ACCESS Lexis.com. Obtain user account name and password from your command point of contact.


12. ________ ACCESS JAGCNET, the U.S. Army’s Judge Advocate General’s Corps document repository, by establishing an Army Knowledge Online (AKO) account at https://help.us.army.mil/cgi-bin/akohd.cfg/php/enduser/home.php and registering your CAC card for JAGCNET access, if applicable and required by your command.


15. ________ REVIEW a case in CMTIS/CMS.

16. ________ DEMONSTRATE how to enter and close a case in CMTIS/CMS. EXPLAIN the importance of updating case files in CMTIS/CMS and any local databases or spreadsheets that may be used at your command.
Professional Development Standards (PDS) for Trial Legalmen

2. **Ethical Obligations**

Review, sign and date when complete:

| JAGINST 5803.1[series] |

**Initial and Date:**

1. _________ IDENTIFY the sources of professional ethical obligations that apply to you in your role as a Legalman providing legal services.

2. _________ EXPLAIN the relationship between your professional ethical obligations and the professional ethical obligations of your supervising attorneys.

3. _________ IDENTIFY the “client” for trial counsel and their legal teams in courts-martial.

4. _________ EXPLAIN the following in the context of your role as a Legalman supporting a government trial team:
   
   a.______ the duty of confidentiality, including who bears responsibility for fulfilling the duty;

   b.______ the duty of due diligence;

   c.______ the duty of candor and to whom it extends;

   d.______ the duty of fairness to the opposing party;

   e.______ the prohibition on extra-tribunal statements; and,

   f.______ the rules respecting communication with individuals represented by counsel.

5. _________ IDENTIFY the special responsibilities of trial counsel and other government counsel.

6. _________ EXPLAIN the concept of the “unauthorized practice of law.”

7. _________ EXPLAIN the procedures for reporting possible violations of the Rules of Professional Conduct.
Professional Development Standards (PDS) for Trial Legalmen

8. __________ EXPLAIN the relationship between civilian and military legal offices and their ability to share information.

9. __________ ATTEND annual Ethical Obligations training in your respective region, if available.
Professional Development Standards (PDS) for Trial Legalmen

3. **Pre-Trial/Case Screening**

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>Review Pre-trial case screening from NJS CD pertaining to Criminal Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>UCMJ, 10 U.S.C. §§ 801-835</td>
</tr>
<tr>
<td>Rules for Courts-Martial (RCM) Chapters II through VI</td>
</tr>
<tr>
<td>MILPERSMAN 1910-208</td>
</tr>
<tr>
<td>JAGMAN Articles 0122-0126</td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. _________ READ an entire case file including Results of Interview (ROI) and identify any areas for further investigation.

2. _________ CONDUCT initial pre-screening of a case and discuss with attorney assigned, using TCAP Case Screening Guidelines.
   
   a. _________ IDENTIFY and DRAFT all possible charges;
   
   b. _________ PREPARE a proof matrix that lists all information required from each victim and witness to prove each element of each draft charge beyond a reasonable doubt in accordance with local command guidance; and,
   
   c. _________ DISCUSS with the attorney a forum recommendation, convening authority (CA) goals, potential costs, and proposed disposition of the case.

3. _________ IDENTIFY the accused’s period of pre-trial restraint, as applicable.

4. _________ DISCUSS AND EXPLAIN the rules regarding pre-trial restraint, referencing applicable UCMJ provisions and RCM, and how the accused’s pre-trial restraint could impact pre-trial negotiations and the court-martial process.

5. _________ EXPLAIN how to obtain an official copy of a service member’s service record for use in connection with a court-martial and the circumstances that warrant such a request, and DRAFT such a request.

6. _________ EXPLAIN the documents that you would request from the local servicing Personnel Support Detachment to assist in the determination and documentation of an accused’s Pay Entitlements, High Year Tenure (HYT), or End of Active Obligated Service (EAOS).
7. EXPLAIN when it is permissible to place an accused on "legal hold" and how to place an accused on “legal hold” to involuntarily extend an accused past his/her EAOS; DRAFT required paperwork to place an individual on “legal hold”; EXPLAIN how placing an accused on “legal hold” may impact the administration separation process and pre-trial negotiations.


9. REVIEW a convening order and EXPLAIN its requirements.

10. PREFER charge sheet as the accuser after trial attorney administers oath; EXPLAIN the procedures for serving a copy of the preferred charge sheet on the accused; COMPLETE office distribution for copies; EXPLAIN the procedures for the Original Charge Sheet.

11. IDENTIFY the steps required in the referral process, including obtaining the signature of the CA, serving the referred charges on the accused, notifying the court of referred charges, and submitting the docket request.

12. EXPLAIN the process of obtaining, requesting, and issuing subpoenas, including obtaining documents by subpoena; PREPARE a subpoena duces tecum to obtain documentary evidence.

13. EXPLAIN the procedure for issuing subpoenas to civilian witnesses; PREPARE a subpoena to obtain the attendance of a civilian witness.

14. MAINTAIN a Trial Notebook in accordance with command guidance. Review all content with trial attorney or designee.
4. Discovery

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>10 U.S.C. § 846</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>RCM 701, 703 and 914</td>
<td></td>
</tr>
<tr>
<td>Military Rules of Evidence (MRE) 304(d), 312, 321, 403, 404(b), 413, 414, 507, 609(b), 612, 703, and 807</td>
<td></td>
</tr>
<tr>
<td><em>Brady v. Maryland</em>, 373 U.S. 83 (1963)</td>
<td></td>
</tr>
<tr>
<td>Jencks Act, 18 U.S.C. § 3500</td>
<td></td>
</tr>
<tr>
<td><em>United States v. Henthorn</em>, 931 F.2d 29 (9th Cir. 1991)</td>
<td></td>
</tr>
<tr>
<td>DoD Health Information Privacy Regulation (DoD 6025.18-R)</td>
<td></td>
</tr>
<tr>
<td>JAGINST 5813.1B, Standardization of GCM and SPCM Verbatim and Summarized Records of Trial</td>
<td></td>
</tr>
</tbody>
</table>

Initial and Date:

1. __________ IDENTIFY and DISCUSS with an attorney the government’s discovery obligations in:
   
   a. __________ An Article 32, UCMJ, Pretrial Investigation; and,
   
   b. __________ A court-martial.

2. __________ EXPLAIN what a *Henthorn* request is and how that information may be obtained.

3. __________ DRAFT a *Henthorn* review request to an agency.
Professional Development Standards (PDS) for Trial Legalmen

4. __________ DESCRIBE to an attorney the common order of events in the exchange of discovery in a court-martial.

5. __________ REVIEW and EXPLAIN a defense discovery request and the corresponding government discovery response.

6. __________ DRAFT a response to a defense discovery request indicating what material has been provided to the defense and what actions the government has taken regarding any other requests; DISCUSS your response with the trial attorney.

7. __________ REVIEW and DISCUSS the rules regarding inclusion of Personally Identifying Information (PII) in discovery and the procedures for redacting such information.

8. __________ EXPLAIN the concept of “Bates numbering.”

9. __________ PERMANENTLY REDACT material in discovery items with Bates numbering.

10. __________ EXPLAIN how to handle evidence and the redaction rules for a child pornography case.

11. __________ EXPLAIN how to handle sexual assault cases with adult victims and cases with victims under the age of 18.

12. __________ EXPLAIN how to handle evidence and the redaction rules for larceny and basic allowance for housing (BAH) cases.

13. __________ DRAFT a Memorandum for Release of Health Care Information and interview relevant medical personnel as part of case preparation.

14. __________ EXPLAIN and DISCUSS how to organize and the importance of keeping Bates-numbered discovery items in a discovery binder.

15. __________ DRAFT a privilege log for documents protected by attorney-client privilege or the attorney work-product doctrine.
Professional Development Standards (PDS) for Trial Legalmen

5. Court Rules and Officer of the Court Duties

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>10 U.S.C. § 826</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>RCM 806</td>
<td></td>
</tr>
<tr>
<td>JAG/COMNAVLEGSVCCOM INST 5530.2, Navy Courthouse Security Procedures</td>
<td></td>
</tr>
<tr>
<td>NMCTJINST 5813.4A, Uniform Rules of Practice</td>
<td></td>
</tr>
<tr>
<td>Local Rules of Court</td>
<td></td>
</tr>
<tr>
<td>Local Courtroom Security Policy and Procedures</td>
<td></td>
</tr>
</tbody>
</table>

Initial and Date:

1. _________ OBSERVE a docketing session.

2. _________ EXPLAIN the purpose, contents, and organization of the Military Judges’ Benchbook, the local rules of court, the docketing rules within your Circuit, and the rules governing spectators in the courtroom.

3. _________ OBSERVE a trial attorney initiate a docketing request.

4. _________ OBSERVE trial attorney initiate a CMO.

5. _________ DRAFT a docketing request and a CMO.

6. _________ OBSERVE an RCM 802 conference.

7. _________ DISCUSS courtroom security procedures per JAG/CNLSCINST 5530.2 and local instructions.

8. _________ IDENTIFY the requirements for a brig escort.

9. _________ IDENTIFY the duties and responsibilities of the bailiff for your local Circuit.

10. ________ OBSERVE an individual being trained for bailiff duties.

11. ________ DISCUSS steps that should be taken to safeguard evidence during court-martial proceedings.

12. ________ DISCUSS and DRAFT a evidence security form, if applicable.
Professional Development Standards (PDS) for Trial Legalmen

13. ____________ EXPLAIN the procedures to follow if there is a disturbance in the courtroom command spaces.
Professional Development Standards (PDS) for Trial Legalmen

6. Speedy Trial

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>U.S. Constitution Amendment VI</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>10 U.S.C. § 810</td>
<td></td>
</tr>
<tr>
<td>RCM 707 and Analysis of RCM 707</td>
<td></td>
</tr>
<tr>
<td><em>United States v. Kossman</em>, 28 M.J. 258 (C.M.A. 1993);</td>
<td></td>
</tr>
</tbody>
</table>

Initial and Date:

1. __________ DISCUSS with attorney:
   
a. __________ Two types of speedy trial requirements;
   
b. __________ The legal standards for speedy trial under RCM 707 and Article 10, UCMJ;
   
c. __________ Speedy trial/re-sentencing requirements on a [mandated] case;
   
d. __________ Documentation needed in order to exclude delay;
   
e. __________ Triggering events for each type of speedy trial requirement;
   
f. __________ What stops, and what does not stop, the speedy trial clock;
   
g. __________ Milestone events with regard to speedy trial;
   
h. __________ “Excludable delay” and in what form it should be;
   
i. __________ Calculation of new RCM 707 date for case with delay;
   
j. __________ Need for accurate accounting of speedy trial triggering events and excludable delays;
   
k. __________ Whether a speedy trial motion under RCM 707 or Article 10 can be waived; and,
   
l. __________ Arraignment and the government's obligation to be ready for trial.
Professional Development Standards (PDS) for Trial Legalmen

2. COMPLETE and DISCUSS the importance of a daily activity log on a case.

3. REVIEW an excludable delay request.

4. DRAFT and DISCUSS an excludable delay endorsement explicitly attributing delay to defense.
7. Trial Preparation: Evidence and Witnesses

Review, sign and date when complete:

| 10 U.S.C. § 846                  |                             |
| MRE                             |                             |
| RCM 701, 703, 914A & 914B       |                             |
| NJS Military Evidentiary Foundations Guide |                   |
| FY-14 National Defense Authorization | Act, § 1704              |

Initial and Date:

1. _________ EXPLAIN the phases of a court-martial (e.g., voir dire, opening statements, direct and cross examinations, etc.).

2. _________ EXPLAIN the concept of legal relevance and identify the associated MRE.

3. _________ DISCUSS with an attorney the documents and/or preparation necessary to lay an appropriate foundation to admit a document.

4. _________ OBSERVE a witness interview or view a recording of an interview conducted by NCIS.

5. _________ OBSERVE a trial attorney interview a witness.

6. _________ INTERVIEW a witness.

7. _________ OBSERVE an attorney prepare a witness to testify; DISCUSS with the attorney your role in witness preparation.

8. _________ DISCUSS with an attorney the use of prior convictions of a crime for purposes of attacking the creditability of a witness.

9. _________ EXPLAIN to an attorney the two types of witness immunity grants available to the government.

10. _________ DISCUSS with an NCIS Special Agent a crime scene examination.

11. _________ OBSERVE an attorney work with an expert witness.

12. _________ OBSERVE an attorney utilize an expert consultant to prepare examination of other witnesses.
Professional Development Standards (PDS) for Trial Legalmen

13. IDENTIFY all situations in which a witness is ‘unavailable’ for Article 32, UCMJ hearings and court-martial purposes.

14. REVIEW a government response to a defense request for an expert witness.

15. OBSERVE an attorney use various courtroom aids and technologies in the courtroom; DISCUSS with an attorney the procedures and your role in assisting the attorney with courtroom equipment (e.g., exhibit use by witnesses on the witness stand, deleting marks made by witnesses using courtroom equipment and capturing images made available in sessions.)

16. DISCUSS procedures for securing witness travel and completing witness travel reimbursements requests.

17. DISCUSS procedures for witnesses to complete base access requests (for one day and/or multiple days), and building security passes.

18. DISCUSS lodging information for your region, travel entitlements (per diem, mileage, taxi, parking fees), lines of accounting and the best way to provide information to witnesses.

19. EXPLAIN the marking scheme for evidence (before and after admission), demonstrative aids, and appellate exhibits.

20. EXPLAIN who must be present if the defense requests to interview a victim of sexual assault.
8. Article 32 Pretrial Investigations

Review, sign and date when complete:

| 10 U.S.C. §§ 832-35 | RCM 405 and Analysis of RCM 405 |

Initial and Date:

1. __________ EXPLAIN the purpose and legal significance of an Article 32, UCMJ, pretrial investigation and how to obtain an Article 32 Investigating Officer.

2. __________ OBSERVE an Article 32 UCMJ, pretrial investigation hearing.

3. __________ DEMONSTRATE the operation of the court reporting equipment to record, save and export the Article 32 proceedings.

4. __________ EXPLAIN the following with respect to pretrial investigations:
   a. __________ rules regarding alternatives;
   b. __________ witness availability and the government’s lack of authority to subpoena civilian witnesses;
   c. __________ Applicable MREs;
   d. __________ procedures for inviting a civilian witness;
   e. __________ procedures for inviting a military witness;
   f. __________ the precautions involved when the accused is in pre-trial confinement; and,
   g. __________ the difference between a conditional and an unconditional waiver of an Article 32 pretrial investigation.

5. __________ DRAFT invitational orders for civilian witness(es).

6. __________ DRAFT an Article 32 script.

7. __________ ASSEMBLE and PREPARE Article 32 binders.

8. __________ ASSEMBLE an Article 32 record with exhibits properly marked.
9. ________ ASSIST the accused’s command in drafting an endorsement to the General Court-Martial Convening Authority (GCMCA).
9. **Arraignment, Notices, and Motions**

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>10 U.S.C. § 837</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>RCM 904</td>
<td></td>
</tr>
<tr>
<td>MRE 304, 311, and 321</td>
<td></td>
</tr>
<tr>
<td>RCM 804</td>
<td></td>
</tr>
<tr>
<td>RCM 905, 906, and 907</td>
<td></td>
</tr>
<tr>
<td>MRE 103 and 104</td>
<td></td>
</tr>
<tr>
<td>RCM 108, 308, 405, 602(discussion), 701(a), 702(e), 703(d), 706(a), 910(f)(2), and 914</td>
<td></td>
</tr>
<tr>
<td>MRE 201A, 301(c)(2), 302, 304(d), 311, 321, 404(b), 412, 413, 414, 505, 506, 507, 514, 609(b), 612, 613, and 902</td>
<td></td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. _________ DISCUSS and EXPLAIN to a trial attorney what an arraignment is and its legal significance.

2. _________ OBSERVE an arraignment hearing.

3. _________ DEFINE and DISCUSS Article 39(a) sessions and why they are used.

4. _________ DISCUSS the screening of the charge sheet and convening order for arraignment issues.

5. _________ DISCUSS the requirements in the Uniform Rules and local rules for motions, including form and filing deadlines.

6. _________ REVIEW a motion, to include proposed findings of fact and conclusions of law.

7. _________ DRAFT a legal brief for a trial attorney.

8. _________ OBSERVE a rehearsal of argument on a motion (sometimes called a "murder board").

9. _________ OBSERVE a motions hearing.

10. _________ OBSERVE a trial attorney prepare a witness for testimony during motion hearing.
Professional Development Standards (PDS) for Trial Legalmen

11. Define and discuss motions in limine.

12. Discuss with trial attorney a Daubert hearing.

13. Discuss the purpose of notice requirements.

14. Discuss the notice obligations of the defense under RCM 701(b) and 903(c)(1).

15. Discuss the notice obligations of the defense under MRE 201A(b), 304(f), 311(f), 321(e), 412(c)(1) and (2), 505(h), 506(h), 514(e)(1)(A), 609(b), 612(2), and 613(a).

16. Discuss government notice obligations under RCM 701(a)(4), RCM 703(d), MRE 201A, 301(c), 304(d), 311(d), 321(c), 404(b), 413(b), 414(b), 609(b), and 902(11).

17. Discuss and identify the rule governing confessions and admissions of an accused.

18. Discuss actions that may constitute unlawful command influence (UCI) and how UCI can impact a court-martial.

19. Discuss local court rules for additional notice requirements (e.g., notice of intent to use electronic media or demonstrative aids).

20. Discuss procedures for arranging a bailiff and brig support escort. Contact the accused's command and arrange for bailiff and brig escort.

21. Discuss procedures for ensuring the accused's command provides meals for the accused during the court-martial process.

22. Discuss procedures for ensuring the accused is in the proper uniform with all awards and decorations.

23. Discuss RCM 804, trial in absentia warning to the accused.
10. Pre-Trial Agreements (PTA)

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>Article 58, 72, 76, UCMJ</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>RCM 811</td>
<td></td>
</tr>
<tr>
<td>RCM 1003,1109</td>
<td></td>
</tr>
<tr>
<td>Manual of the Judge Advocate General (JAGMAN) 0152</td>
<td></td>
</tr>
<tr>
<td>Appendix 12, MCM Maximum Punishment Chart</td>
<td></td>
</tr>
<tr>
<td>Military Evidentiary Foundations §12-2</td>
<td></td>
</tr>
<tr>
<td>Military Judges’ Benchbook Ch. 2, § VII, para 2-7-25</td>
<td></td>
</tr>
<tr>
<td>FY-14 National Defense Authorization Act, § 1705</td>
<td></td>
</tr>
</tbody>
</table>

Initial and Date:

1. _________ OBSERVE a guilty plea court-martial with a pre-trial agreement (PTA).

2. _________ DISCUSS with an attorney:
   
   a. _________ Process of negotiating a PTA, including obtaining victim input prior to negotiations;
   
   b. _________ Jurisdictional sentencing limits of SCM, SPCM, and GCM;
   
   c. _________ Terms and provisions which must be included in a written PTA;
   
   d. _________ Terms and conditions which are prohibited in a PTA;
   
   e. _________ Under what circumstances either party may withdraw from a PTA;
   
   f. _________ The definition and pitfalls of a “sub rosa” agreement;
   
   g. _________ A conditional plea and its ramifications;
   
   h. _________ PTA terms that can be used to benefit the victim and/or the accused’s dependents;
Professional Development Standards (PDS) for Trial Legalmen

i. __________ Why an accused’s EAOS should be considered during PTA negotiations;

j. __________ Procedure for documenting victim input and communicating victim input to CA upon consideration of the PTA; and,

k. __________ Mixed pleas.

l. __________ Mandatory minimum sentences for certain Article 120 offenses.

3. __________ DRAFT a PTA including some of the following provisions using the OJAG Code 20 outline model PTA template as a guide:

a. __________ Waiver of administrative separation board;

b. __________ Request trial by military judge alone;

c. __________ Waiver of Article 32 investigation;

d. __________ Complete restitution;

e. __________ Cooperate in an investigation;

f. __________ Identify other criminals and/or criminal activities;

g. __________ Agreement to testify as a witness in other case(s);

h. __________ Waiver of a specific motion;

i. __________ Enter into a stipulation of fact with the government;

j. __________ Not request witnesses at government expense;

k. __________ Not object to specific pre-sentencing evidence on specific grounds;

l. __________ A plea to a lesser included offense (LIO);

m. __________ A plea by exceptions and substitutions;

n. __________ Withdraw or dismiss charges based on pleas to LIO;
Professional Development Standards (PDS) for Trial Legalmen

o. Waiver of forfeiture and reduction;
p. No-cap Special Court-Martial PTA;
q. Waiver of statute of limitations; and,
r. Request for deferral and waiver of forfeitures in favor of dependent.

4. EXPLAIN to an attorney the types of concessions a Convening Authority can make in a PTA in exchange for an accused’s offer to plead guilty.

5. EXPLAIN to an attorney the effect of each of the provisions in the PTA drafted under task #3 above, including which party benefits by the provision.

6. OBSERVE an attorney conduct PTA negotiations with the Convening Authority and with Defense Counsel.

7. DRAFT a stipulation of fact, using the Military Judges’ Benchbook and the MCM, that addresses all elements of the offenses to which the accused will plead guilty; do the same for a stipulation of expected testimony.

8. EXPLAIN the stipulation of fact and stipulation of expected testimony drafted above, including the anticipated use.

9. OBSERVE the use of a stipulation of fact and a stipulation of expected testimony at trial.

10. EXPLAIN the procedures for a vacation hearing by the Convening Authority (see Article 72, UCMJ and RCM 1109).
11. **Trial by Members**

Review, sign and date when complete:

<table>
<thead>
<tr>
<th>RCM 913</th>
<th>RCM 919</th>
</tr>
</thead>
<tbody>
<tr>
<td>Military Judges Benchbook focusing on members instructions</td>
<td></td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. __________ REVIEW the requirements for a proper convening order and amendments to a convening order, focusing on member selection.

2. __________ REVIEW the members’ questionnaires.

3. __________ ASSIST an attorney in preparing group and individual voir dire questions.

4. __________ OBSERVE trial and defense counsel conduct voir dire of members during a contested court-martial.

5. __________ EXPLAIN to an attorney the order of seating for the members and the required numbers of members for general and special courts-martial.

6. __________ EXPLAIN to an attorney the challenge process, including the difference between challenges based upon implied bias and actual bias.

7. __________ EXPLAIN to an attorney the minimum quorum requirements necessary for SPCM or GCM, capital and non-capital cases.

8. __________ PREPARE the trial script for empanelling members.

9. __________ OBSERVE an expert witness testifying.

10. __________ OBSERVE an accused testifying.

11. __________ OBSERVE a child witness testifying.
Professional Development Standards (PDS) for Trial Legalmen

12. ________ OBSERVE a witness testifying remotely via video teleconferencing (VTC) or telephone.

13. ________ OBSERVE the admission of documentary evidence with witness authentication.

14. ________ PREPARE member’s findings instructions.

15. ________ REVIEW procedures to request a government interlocutory appeal under RCM 908, including points of contact at Navy Trial Counsel Assistance Program (TCAP) and OJAG Code 46, Appellate Government.

16. ________ READ a record of trial where rebuttal evidence was properly submitted.

17. ________ OBSERVE the presentation of rebuttal evidence.
12. **Sentencing**

**Review, sign and date when complete:**

<table>
<thead>
<tr>
<th>Resource</th>
<th>Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>RCM 1001</td>
<td></td>
</tr>
<tr>
<td>Chapter X of the MCM</td>
<td></td>
</tr>
<tr>
<td>JAGMAN 0141</td>
<td></td>
</tr>
<tr>
<td>RCM 1001(g)</td>
<td></td>
</tr>
<tr>
<td>Military Judges’ Benchbook Ch. 2, § V, para. 2-5-21</td>
<td></td>
</tr>
<tr>
<td>Military Judges’ Benchbook Ch. 2, § VI, para. 2-6-10</td>
<td></td>
</tr>
<tr>
<td>Military Judges’ Benchbook Ch. 2, § VI, para. 2-6-11</td>
<td></td>
</tr>
<tr>
<td>FY-14 National Defense Authorization Act, § 1706</td>
<td></td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. __________ EXPLAIN the factors to consider in assessing the adequacy of a sentence, including the maximum penalty for the offense(s) and the forum, as well as aggravating, extenuating and mitigating circumstances.

2. __________ DESCRIBE the sequence of events in a pre-sentencing hearing.

3. __________ DRAFT a sentencing argument for training and discussion with a trial attorney.

4. __________ EXPLAIN the voting procedure that members use to determine a sentence and how many members must vote for a particular sentence in order to adjudge that sentence. EXPLAIN how voting procedures are different based on the number of years proposed in the sentence.

5. __________ PREPARE the members pre-sentencing worksheet.

6. __________ EXPLAIN the victim’s role in the clemency process.
Professional Development Standards (PDS) for Trial Legalmen

13. **Post-Trial Duties and Administrative Actions**

**Review, sign and date when complete:**

<table>
<thead>
<tr>
<th>UCMJ, Articles 54, 57, 64, 66, 69</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>United States v. Foster</em>, unpublished decision (N.M.C.C.A. 2009)</td>
</tr>
<tr>
<td>JAG/CNLSCINST 5814.1A – Post-Trial Processing</td>
</tr>
<tr>
<td>JAG/CNLSCINST 5800.4, paragraph 7 h(11)</td>
</tr>
<tr>
<td>RCM 401(d) and 407(b)</td>
</tr>
<tr>
<td>MRE 505 and 506</td>
</tr>
<tr>
<td>JAGMAN 0126</td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. __________ REVIEW a sample Report of Results of Trial.

2. __________ DISCUSS the Detailed Trial Counsel’s post-trial duties.

3. __________ OBSERVE a trial attorney prepare post-trial paperwork and conduct post-trial notifications including Victim-Witness Assistance Program (VWAP) notifications.

4. __________ EXPLAIN the process of assembling a Record of Trial and the trial attorney's responsibilities for the Record of Trial following proceedings.

5. __________ DRAFT a Report of Results of Trial for trial attorney review.

6. __________ DRAFT a Confinement Order.

7. __________ ASSEMBLE all required paperwork that must accompany an accused to the brig.

8. __________ DISCUSS and REVIEW sentences that contain deferment of confinement and/or responsibilities.

9. __________ REVIEW and DISCUSS an authenticated Record of Trial.

10. __________ EXPLAIN how a Record of Trial is routed through Convening Authority’s action, receipt by the Office of the Judge Advocate General (OJAG) and docketing with Navy-Marine Corps Court of Criminal Appeals (N.M.C.C.A.). EXPLAIN timeframes required in post-
Professional Development Standards (PDS) for Trial Legalmen

trial procedures.

11. REVIEW and DISCUSS local procedures for closing out a case file.

12. EXPLAIN the records disposition date for courts-martial cases including sexual assault cases and the importance of safeguarding such cases.
14. **Sexual Assault and VWAP Training**

**Review, sign and date when complete:**

<table>
<thead>
<tr>
<th>Article 120 and Article 125, UCMJ (all versions)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>MRE 412, 413, 414, 513, 514, 611, and 615</td>
<td></td>
</tr>
<tr>
<td>DoDD 6495.01 and DODI 6495.02</td>
<td></td>
</tr>
<tr>
<td>OPNAVINST 1752.1[series] and</td>
<td></td>
</tr>
<tr>
<td>SECNAVINST 1752.4[series]</td>
<td></td>
</tr>
<tr>
<td>42 USCS § 10607; 18 USCS § 1501 et seq.;</td>
<td></td>
</tr>
<tr>
<td>DoDD 1030.01; and DoDI 1030.2</td>
<td></td>
</tr>
<tr>
<td>Jacob Wetterling Act, 42 USCS § 14071 et seq.</td>
<td></td>
</tr>
<tr>
<td>OPNAVINST 5800.7A and</td>
<td></td>
</tr>
<tr>
<td>JAG/COMNAVLEGSVCCOMINST 5800.4A.</td>
<td></td>
</tr>
<tr>
<td>Adam Walsh Act, 42 USCS § 16901 et seq.,</td>
<td></td>
</tr>
<tr>
<td>including 42 USCS § 16913 and 42 USCS § 16918</td>
<td></td>
</tr>
</tbody>
</table>

**Initial and Date:**

1. ________ EXPLAIN and DISCUSS:

   a. ________ Primary focus under Article 120;

   b. ________ Difference between “sexual act” and “sexual contact”;

   c. ________ How allegations of offenses committed before 1 October 2007 are handled;

   d. ________ How allegations of offenses between 1 October 2007 and 27 June 2012 are handled;

   e. ________ How allegations of offenses after 28 June 2012 are handled; and,

   f. ________ How consent and mistake of fact as to consent apply to allegations under Article 120.

2. ________ DISCUSS exceptions to MRE 412 and steps to be taken when the defense claims an exception to MRE 412.
Professional Development Standards (PDS) for Trial Legalmen

3. EXPLAIN:
   a. Differences between restricted reporting and unrestricted reporting;
   b. To whom a restricted report may be made;
   c. Limitations on confidentiality of a restricted report;
   d. What use a command, investigative agency, or counsel may make of a restricted report; and,
   e. Difference between a Sexual Assault Response Coordinator and Victim Advocate.
   f. The role of Victims’ Legal Counsel.

4. REVIEW and DISCUSS the government’s duties under the Victim Witness Assistance Program (VWAP), including the role of trial counsel, Victim Witness Liaison Office, and the Victim Witness Assistance Coordinator.

5. OBSERVE a trial attorney contact a witness and a victim to give a status update and conduct an interview.

6. IDENTIFY the state office for crime victim compensation in jurisdictions covered by your command.

7. OBSERVE a trial attorney provide a victim a completed DD Form 2702 and explain the contents.

8. OBSERVE a victim complete DD Form 2703 with a trial attorney and EXPLAIN the contents.

9. DISCUSS and EXPLAIN DD Form 2704 to a victim or witness and determine his or her election to be notified.

10. REVIEW and DISCUSS the OJAG Victim Declination Letter and explain its use to a victim.
Professional Development Standards (PDS) for Trial Legalmen

TRIAL LEGALMAN

CERTIFICATE OF COMPLETION

RECOMMENDED____________________________ DATE__________________

RECOMMENDED____________________________ DATE__________________

_______________________________________ DATE__________________

Commanding Officer
[Command]

[Once complete, command and PDP retains copy and original goes to Legalman for retention]