



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
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WASHINGTON NAVY YARD DC 20374-5066

IN REPLY REFER TO:

JAG/CNLSCINST 1500.5
004
MAR 18 2014

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

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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.

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(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.

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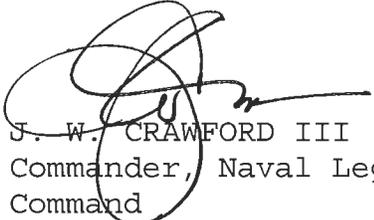
e. Legalmen shall:

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

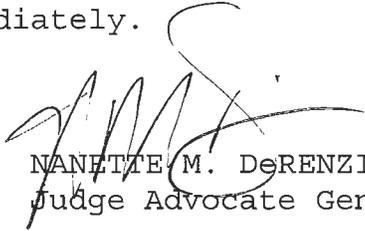
(2) Not perform duties reserved for attorneys per references (a) and (g).

(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
Command



NANETTE M. DeRENZI
Judge Advocate General

Distribution:

Electronic only via the OJAG website: www.jag.navy.mil, and the Navy Directives Web site, <http://doni.daps.dla.mil>.

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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.

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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)

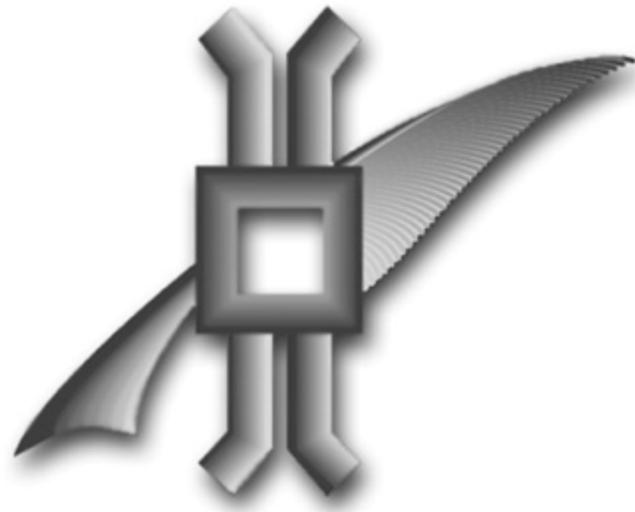
Professional Development

Standards (PDS)

For

Command Services

Legalmen



Professional Development Standards (PDS) for Command Services Legalmen

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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]	
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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:

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

Professional Development Standards (PDS) for Command Services Legalsmen**Instructions, Forms and Points of Contacts**
(CONTINUED)

Review, sign and date when complete:

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

Professional Development Standards (PDS) for Command Services Legalmen**Instructions, Forms and Points of Contacts**
(CONTINUED)

Review, sign and date when complete:

DATE AND SIGNATURE	INSTRUCTION	SOURCE	TITLE
	5814.1A	JAG / CNLSC	POST-TRIAL PROCESSING
	4500.36	DODI	ACQUISITION, MANAGEMENT AND USE OF NON-TACTICAL VEHICLES (NTVs)
	1344.10	DODD	POLITICAL ACTIVITIES BY MEMBERS OF THE ARMED FORCES
	1620.2A	OPNAV	ARMED FORCES DISCIPLINARY CONTROL BOARDS AND OFF-INSTALLATION LIAISON AND OPERATIONS
DATE AND SIGNATURE	FORM	TITLE	
	NAVPERS 1070/605	HISTORY OF ASSIGNMENTS	
	NAVPERS 1070/613	RECORD OF UNAUTHORIZED ABSENCES	
	NAVPERS 1610/2	FITNESS REPORT & COUNSELING RECORD (W2-O6)	
	NAVPERS 1616/27	EVALUATION COUNSELING RECORD (E7 - E9)	
	NAVPERS 1616/26	EVAULATION REPORT AND COUNSELING RECORD (E1 - E6)	
	NAVPERS 1626/7	REPORT AND DISPOSITION OF OFFENSE(S)	
	NAVPERS 1740/6	DEPARTMENT OF THE NAVY FAMILY CARE PLAN CERTIFICATE	
	NAVPERS 1740/7	FAMILY CARE PLAN ARRAGEMENTS	
	NAVPERS 1752/1	SEXUAL ASSAULT INCIDENT DATA COLLECTION REPORT	
	NAVPERS 1910/31	ADMINISTRATIVE SEPARATION PROCESSING NOTICE - ADMINISTRATIVE BOARD PROCEDURE	

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	NAVPERS 1910/32	ADMINISTRATIVE SEPARATION PROCESSING NOTICE - NOTIFICATION PROCEDURE
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Professional Development Standards (PDS) for Command Services Legalmen

Instructions, Forms and Points of Contacts
(CONTINUED)

Review, sign and date when complete:

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

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.

Professional Development Standards (PDS) for Command Services Legalmen

3. Non-Punitive Measures (Administrative Remedies)

Review, sign and date when complete:

Rules for Courts-Martial (RCM) 306(c)(2), Manual for Courts-Martial (MCM) (2012 ed.)	
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).

Professional Development Standards (PDS) for Command Services Legalmen**5. Enlisted Administrative Separations (ADSEP)****Review, sign and date when complete:**

MILPERSMAN 1910-100	
MILPERSMAN 1910-106	
MILPERSMAN 1910-120	
MILPERSMAN 1910-122	
MILPERSMAN 1910-138	
MILPERSMAN 1910-140	
MILPERSMAN 1910-142	
MILPERSMAN 1910-144	
MILPERSMAN 1910-146	
MILPERSMAN 1910-152	
MILPERSMAN 1910-170	
MILPERSMAN 1910-208	
MILPERSMAN 1910-210	
MILPERSMAN 1910-212	
MILPERSMAN 1910-233	
MILPERSMAN 1910-302	
MILPERSMAN 1910-400 through 410 and 414	
MILPERSMAN 1910-500 through 518	
MILPERSMAN 1910-600	
MILPERSMAN 1910-700	
MILPERSMAN 1910-702	
MILPERSMAN 1910-704	
OPNAVINST 5350.4D	

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.

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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:

SECNAVINST 1920.6C series	
MILPERSMAN 1611-010	
MILPERSMAN 1611-020	
MILPERSMAN 1920-010	
MILPERSMAN 1920-030	
MILPERSMAN 1920-070	
MILPERSMAN 1920-120	
MILPERSMAN 1920-130	
MILPERSMAN 1920-140	
MILPERSMAN 1920-190	
MILPERSMAN 1920-210	
MILPERSMAN 1920-230	
Article 1137, U.S. Navy Regulations (1990)	

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:

Amendment IV, U.S. Constitution	
Military Rules of Evidence (MRE), Section III (MRE 301-321)	
SECNAVINST 5430.107 series	
MILPERSMAN 1620-010	

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:

<i>United States v. Moreno</i> , 63 M.J. 129 (2006).	
JAGMAN, Chapter 1 (0120 - 0172)	
MILPERSMAN 1640, series	
DODD 1325.04	
VWAP Forms: DD 2701-2706	
RCM 305	
FY-14 National Defense Authorization Act, § 1706	

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).

Professional Development Standards (PDS) for Command Services Legalmen

9. Mental Health Evaluations (MHEs)

Review, sign and date when complete:

DoDI 6490.04	
MILPERSMAN 1910-122	

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.

Professional Development Standards (PDS) for Command Services Legalmen

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.

Professional Development Standards (PDS) for Command Services Legalmen

11. Complaints/Inquiries

Review, sign, and date:

Article 138, UCMJ	
Article 0820, U.S. Navy Regulations (1990)	
Article 1150, U.S. Navy Regulations (1990)	
JAGMAN, Chapter 3	

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 complaint.
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.

Professional Development Standards (PDS) for Command Services Legalmen

12. Freedom of Information Act (FOIA)/Privacy Act

Review, sign and date when complete:

DoDD 5400.07	
DoD 5400.11-R	
5 U.S.C. § 552	
32 C.F.R. § 701	
SECNAVINST 5211.5E	
SECNAVINST 5720.42F	
JAGMAN, Chapter V	
JAGINST 5720.3A	

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.

Professional Development Standards (PDS) for Command Services Legalmen

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.

Professional Development Standards (PDS) for Command Services Legalmen**14. Ethics****Review, sign and date when complete:**

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

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.

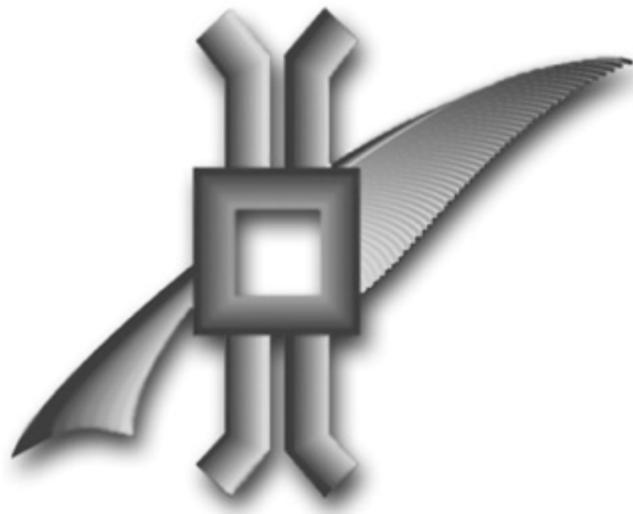
Professional Development

Standards (PDS)

For

Defense

Legalmen



Professional Development Standards (PDS) for Defense Legalmen

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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.

Professional Development Standards (PDS) for Defense Legalmen

1. Preliminaries

Review, then sign and date when complete:

Naval Legal Service Command (NLSC) Manual, 5800.1G, Chapters 10, 11, 12, 14, 15 & Appendices A-1, B-1, C1; Table of Contents	
Local Standard Organization & Regulations Manual (SORM)	
Navy Correspondence Manual SECNAVINST 5216.5	
Appendix 23 (Analysis of Punitive Articles) of the MCM	
N.M.C.C.A. Website	
C.A.A.F. Website	
Navy DCAP Sharepoint Site, if appropriate	
DoD issuances: http://www.dtic.mil/whs/directives/	
U.S. Navy issuances: http://doni.daps.dla.mil/default.aspx	

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.
8. _____ ENROLL in CMTIS/CMS with the help of your local CMTIS/CMS Administrator. Review the applicable Business Rules, available at <https://enterprise2.jag.navy.mil/>.
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> and registering your CAC card for JAGCNET access, if applicable and required by your command.

Enclosure (2)

Professional Development Standards (PDS) for Defense Legalmen

10. _____ ACCESS Military Judge's Benchbook at <https://www.jagcnet.army.mil/Portals/USArmyTJ.nsf/%28JAGCNetDocID%29/Electronic+Benchbook?OpenDocument>.
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]	
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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 court-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.

Enclosure (2)

Professional Development Standards (PDS) for Defense Legalmen

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 conferencing (VTC) or telephone;
7. _____ The admission of documentary evidence with witness authentication; and,
8. _____ Closing arguments.

Professional Development Standards (PDS) for Defense Legalmen

4. Complaints/Inquiries

Review, sign and date when complete:

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

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.

Professional Development Standards (PDS) for Defense Legalmen

6. Enlisted Administrative Separations

Review, sign and date when complete:

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

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.

Enclosure (2)

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:

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

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.

Enclosure (2)

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:

UCMJ. Article 46	
RCM 701, 702, 703	
DCAP Deskbook	
FY-14 National Defense Authorization Act, § 1704	

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.

Enclosure (2)

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).

Enclosure (2)

Professional Development Standards (PDS) for Defense Legalmen

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:

Article 32, UCMJ	
RCM 405	
DCAP Deskbook Chapter 7	

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").

Enclosure (2)

Professional Development Standards (PDS) for Defense Legalmen

9. _____ OBSERVE a motions hearing.

Professional Development Standards (PDS) for Defense Legalmen

11. Pre-Trial Agreements

Review, sign and date when complete:

Article 58 and 76, UCMJ	
RCM 811	
RCM 1003, 1009	
MCM Appendix 12 Maximum Punishment Chart	
JAGMAN 0152	
Military Evidentiary Foundations § 12-2	
<i>United States v. Bertelson</i> , 3 MJ 314 (C.M.A. 1977)	
Military Judges Benchbook Ch.2 § VII, para 2-7-25	
DCAP Deskbook Chapter 11	
FY-14 National Defense Authorization Act, § 1705	

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;

Enclosure (2)

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).

Professional Development Standards (PDS) for Defense Legalmen

12. Stipulations

Review, sign and date when complete:

RCM 811	
Military Evidentiary Foundations § 12-2	
<i>United States v. Bertelson</i> , 3 MJ 314 (C.M.A. 1977)	
Military Judges' Benchbook Ch. 2, § VII, para 2-7-25	

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.

Enclosure (2)

Professional Development Standards (PDS) for Defense Legalmen

13. Voir Dire

Review, then sign and date:

RCM 912	
DCAP Deskbook, Chapter 13	

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.

Professional Development Standards (PDS) for Defense Legalmen

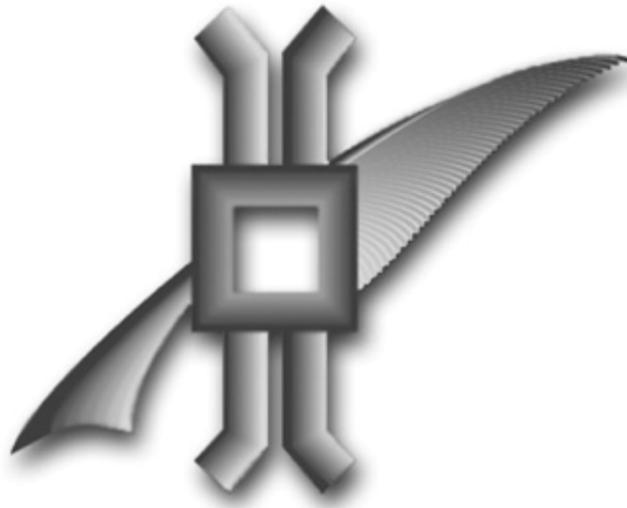
14. Post Trial

Review, sign and date when complete:

RCM 1101, 1105, 1106	
DCAP Deskbook Chapter 14	
FY-14 National Defense Authorization Act, § 1706	

1. _____ EXPLAIN a defense counsel's post trial duties and the process after a sentence is adjudged.
2. _____ 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.
3. _____ REVIEW a record of trial in which the accused was found guilty.
4. _____ PREPARE a statement of legal error for submission to the CA pursuant to RCM 1105.
5. _____ PREPARE a clemency package pursuant to RCM 1105.
6. _____ EXPLAIN the victim's role in the clemency process.
7. _____ DISCUSS a Staff Judge Advocate Review (SJAR).
8. _____ REVIEW a response to an SJAR under RCM 1106.

**Professional Development
Standards (PDS)
For
Legal Assistance
Legalmen**



Professional Development Standards (PDS) Legal Assistance Legalmen

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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:

JAGINST 5803.1[series]	
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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.

Professional Development Standards (PDS) Legal Assistance Legalmen

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. http://www.americanbar.org/portals/public_resources/aba_home_front.html	
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.

Professional Development Standards (PDS) Legal Assistance Legalsmen

3. SCRA, USERRA, and Other Miscellaneous Military Benefits

Review, sign and date when complete:

Servicemembers Civil Relief Act (SCRA), 50 U.S.C. app. §§ 501–597b	
Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. § 4301–4335	
Federal Family Education Loan Program, 20 U.S.C. §§ 1078, 1078-10 to-1078-12	
Federal Direct Loan Program, 20 U.S.C. § 1087e	
(Federal Perkins Loan Program, 20 U.S.C. § 1087dd & 1087ee	
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	
Review the SCRA letter forms available on JES. Review SCRA letters on a variety of subjects (e.g., stay request and reduction of interest rate to 6%) produced by your office	
Review the Employer Support of Guard and Reserve (ESGR) website at http://www.esgr.mil and become familiar with the USERRA support services provided by ESGR	
Department of Veterans Affairs GI Bill Program locator site: http://gibill.va.gov/	

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 SCRA’s” 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:**

OPNAVINST 1752.1B	
JAGINST 5800.4A and DD Forms 2701-2706	
Commander, Naval Legal Service Command (NLSC) ltr 5801 Ser 001/0103 (no date) (Subj: Legal Assistance Services for Crime Victims) w/ enclosures	
OPNAVINST 1750.3, Transitional Compensation	
Victims' Legal Counsel (VLC) Program	

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.
3. _____ REVIEW the Continued Health Care Benefit Program website at **www.humana-military.com/south/bene/TRICAREPrograms/chcbp.asp**.
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.

Professional Development Standards (PDS) Legal Assistance Legalmen**5. Family Law****Review, sign, and date when complete:**

Uniformed Services Former Spouses Protection Act (USFSPA), 10 U.S.C. § 1408	
MILPERSMAN 1754-030 & 5800-010	
Marine Corps Manual for Legal Administration (LEGADMINMAN), MCO P5800.16A Chapter 15	
OPNAVINST 1740.4D	
Navy Personnel Command Forms (NAVPERS) 1740/6	
OPNAVINST 1752.2B, Enclosure (8)	
Department of Defense Form (DD) 2873, Military Protective Order (MPO).	
Army Regulation (AR) 608-99	
Air Force Instruction 36-2906	
Commandant Instruction (COMDTINST) M1600.2, Chapter 2E	
Navy Bureau of Personnel Instruction 1750.10C	
The Lautenberg Amendment, 18 U.S.C. §§ 921-22 and Department of Defense Form (DD) 2760	
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	

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.

Professional Development Standards (PDS) Legal Assistance Legalmen

8. _____ ACCESS the state child support enforcement websites to find and practice child support calculations relevant to your command's jurisdiction.
9. _____ ACCESS the Defense Finance and Accounting Service's Garnishment Operations website at www.dfas.mil/garnishment.html, paying particular attention to matters relating to child and spousal support and Uniformed Services Former Spouses Protection Act (USFSPA).
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.
12. _____ REVIEW the DFAS Secondary Dependency Guide, <http://www.dfas.mil/militarymembers/payentitlements/secondarydependency.html>
13. _____ ACCESS the DFAS adoption reimbursement website, <http://www.dfas.mil/militarymembers/payentitlements/adoptionreimbursement.html>, focusing on the source materials available there.
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.

Professional Development Standards (PDS) Legal Assistance Legalmen

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:

Code 16 standard Pre-deployment Legal Brief PowerPoint	
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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.

Professional Development Standards (PDS) Legal Assistance Legalmen

7. Wills and Supporting Documents

Review, sign and date when completed:

NLSC/Code 16 Standard Will Intake Form	
NLSC/Code 16 Dual Waiver of Conflict Letter	
NLSC/Code 16 Standard Will Execution Script	
Servicemembers' Group Life Insurance (SGLI) Election Certificate, SGLV 8286	
DD Form 93, Record of Emergency Data	
NAVPERS 1070/602 (commonly known as a "Page 2" in the service record)	
Servicemember's and Veteran's Group Life Insurance Handbook, VA Handbook 29-98-1, www.insurance.va.gov/SGLISITE/handbook/handbook.pdf .	
Survivor's Guide to Benefits and the U.S. Department of Veterans Affairs' website for survivors at www.vba.va.gov/survivors	

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.

Professional Development Standards (PDS) Legal Assistance Legalmen**8. Consumer Law & Tenant Support****Review, sign and date when completed:**

Military Lending Act, 10 U.S.C. § 987	
Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692–1692p	
AR 190-24 (Joint Service Agreement), Armed Forces Disciplinary Control Boards	
Truth in Lending Act, 15 U.S.C. §§ 1601–1667f and Truth in Lending (Regulation Z), 12 C.F.R. Part 226	
Fair Credit Reporting Act, 15 U.S.C. §§ 1681–1681x	
Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301–2312	
Used Motor Vehicle Trade Regulation Rule, 16 C.F.R. Part 455	
Protecting Tenants at Foreclosure Act, Title VII of the Helping Families Save Their Homes Act of 2009, Public Law 111-22	
Federal Odometer Act, 49 U.S.C. §§ 32701-32711	
MILPERSMAN 7000-020, Indebtedness and Financial Responsibility of Members	

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

5. _____ ACCESS and REVIEW the programs discussed on the U.S. Department of Housing and Urban Development foreclosure avoidance website, [http://portal.hud.gov/hudportal/HUD?src=/topics/avoiding foreclosure](http://portal.hud.gov/hudportal/HUD?src=/topics/avoiding_foreclosure).
6. _____ ACCESS 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.
19. _____ DRAFT a debt validation letter under the Fair Debt Collection Practices Act.
20. _____ ATTEND a Command Financial Specialist legal brief.

Professional Development Standards (PDS) Legal Assistance Legalmen**9. Naturalization and Immigration****Review, sign, and date when complete:**

8 U.S.C. §§ 1101–1504, focusing on §§ 1427, 1430, 1431, 1433 & 1439 to 1440-1	
USCIS “How Do I?” guides and forms found at www.uscis.gov/USCIS/Resources/A1en.pdf and www.uscis.gov/USCIS/Resources/A2en.pdf	
USCIS forms I-129F, I-130, I-485, N-400, and N-426	
“U.S. Navy Guide to Naturalization Applications Based upon Qualifying Military Service,” located on the Code 16 page on Navy Knowledge Online (NKO)	
Most recent Immigration Advisories (IAs) located on the Code 16 page on NKO	
American Immigration Lawyers Association's Military Assistance Program	

Initial and Date:

1. _____ ACCESS the U.S. Citizenship and Immigration Services (USCIS) website at **www.uscis.gov** and the USCIS website for military families at **http://www.uscis.gov/military**. Take note of the USCIS dedicated Military Hotline number, 1-877-CIS-4MIL (1-877-247-4645), for help with immigration services and benefits.
2. _____ KNOW your local USCIS or Consulate points of contact for immigration and naturalization issues.
3. _____ KNOW the most current Visa Bulletin available at **http://travel.state.gov/visa/bulletin/bulletin_1360.html**.
4. _____ EXPLAIN how to refer a client to the American Immigration Lawyers Association and its referral service at **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.

Commanding Officer
[Command] DATE _____

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

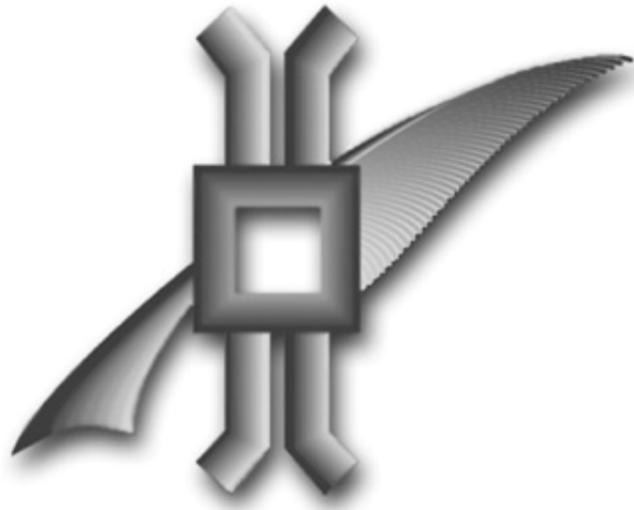
Professional Development

Standards (PDS)

For

Trial

Legalmen



Professional Development Standards (PDS) for Trial Legalmen

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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:

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

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.
11. _____ ENROLL in CMTIS/CMS with the help of your local CMTIS/CMS Administrator. Review the applicable Business Rules, available at <https://enterprise2.jag.navy.mil/>.
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.
13. _____ ACCESS Military Judge's Benchbook at <https://www.jagcnet.army.mil/Portals/USArmyTJ.nsf/%28JAGCNetDocID%29/Electronic+Benchbook?OpenDocument>).
14. _____ ACCESS Appellate Government resources [Military Justice Wikipedia, Blog, and Motions Brief bank and File room], 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]	
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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:

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

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).

Professional Development Standards (PDS) for Trial Legalmen

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.
8. _____ DRAFT the complete charge sheet, filling in all personal data and appropriate charges and specifications using the sample specifications and elements in the Manual for Courts-Martial (MCM), instructions in the Military Judges Benchbook, and the Standard Trial Notebook.
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.

Professional Development Standards (PDS) for Trial Legalmen**4. Discovery****Review, sign and date when complete:**

10 U.S.C. § 846	
RCM 701, 703 and 914	
Military Rules of Evidence (MRE) 304(d), 312, 321, 403, 404(b), 413, 414, 507, 609(b), 612, 703, and 807	
<i>Brady v. Maryland</i> , 373 U.S. 83 (1963)	
<i>United States v. Agurs</i> , 427 U.S. 97 (1976)	
<i>Weatherford v. Bursey</i> ; 429 U.S. 545 (1977)	
<i>United States v. Lucas</i> , 5 M.J. 167 (C.M.A. 1978)	
<i>United States v. Garries</i> , 22 M.J. 288 (C.M.A. 1986), cert. denied, 479 U.S. 985 (1986)	
<i>United States v. Simmons</i> , 38 M.J. 376 (C.M.A. 1993)	
<i>United States v. Briggs</i> , 48 M.J. 143 (C.A.A.F. 1998)	
Jencks Act, 18 U.S.C. § 3500	
<i>Goldberg v. United States</i> , 425 U.S. 94 (1976)	
<i>United States v. Henthorn</i> , 931 F.2d 29 (9 th Cir. 1991)	
DoD Health Information Privacy Regulation (DoD 6025.18-R)	
JAGINST 5813.1B, Standardization of GCM and SPCM Verbatim and Summarized Records of Trial	
OJAG Code 20's guidance on handling evidence in child pornography cases https://www.nko.navy.mil/portal/jag/militaryjustice/criminallawcode20/home/witnessesandevidence	

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:

10 U.S.C. § 826	
RCM 806	
JAG/COMNAVLEGSVCCOM INST 5530.2, Navy Courthouse Security Procedures	
NMCTJINST 5813.4A, Uniform Rules of Practice	
Local Rules of Court	
Local Courtroom Security Policy and Procedures	

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:

U.S. Constitution Amendment VI	
10 U.S.C. § 810	
RCM 707 and Analysis of RCM 707	
<i>Barker v. Wingo</i> , 407 U.S. 514 (1972)	
<i>United States v. Kossman</i> , 28 M.J. 258 (C.M.A. 1993);	
C.A.A.F. Opinion Digest – Right to Speedy Trial, at http://www.armfor.uscourts.gov/newcaaf/digest/IB12.htm	

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.

Professional Development Standards (PDS) for Trial Legalmen

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.

Professional Development Standards (PDS) for Trial Legalmen

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.

Professional Development Standards (PDS) for Trial Legalmen

9. _____ ASSIST the accused's command in drafting an endorsement to the General Court-Martial Convening Authority (GCMCA).

Professional Development Standards (PDS) for Trial Legalmen

9. Arraignment, Notices, and Motions

Review, sign and date when complete:

10 U.S.C. § 837	
RCM 904	
MRE 304, 311, and 321	
RCM 804	
RCM 905, 906, and 907	
MRE 103 and 104	
RCM 108, 308, 405, 602(discussion), 701(a), 702(e), 703(d), 706(a), 910(f)(2), and 914	
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	

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.

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10. Pre-Trial Agreements (PTA)

Review, sign and date when complete:

Article 58, 72, 76, UCMJ	
RCM 811	
RCM 1003,1109	
Manual of the Judge Advocate General (JAGMAN) 0152	
Appendix 12, MCM Maximum Punishment Chart	
Military Evidentiary Foundations §12-2	
<i>United States v. Bertelson</i> , 3 MJ 314 (C.M.A. 1977)	
Military Judges' Benchbook Ch. 2, § VII, para 2-7-25	
OJAG Code 20 PTA outline https://wwwa.nko.navy.mil/portal/jag/militaryjustice/criminallawcode20/home/pre-trial	
FY-14 National Defense Authorization Act, § 1705	

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;

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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;

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- 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).

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11. Trial by Members

Review, sign and date when complete:

RCM 913	
RCM 919	
Military Judges Benchbook focusing on members instructions https://www.jagenet.army.mil/Portals/USArmyTJ.nsf/%28JAGCNetDocID%29/Electronic+Benchbook?OpenDocument	

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.

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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.

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12. Sentencing

Review, sign and date when complete:

RCM 1001	
Chapter X of the MCM	
JAGMAN 0141	
<i>United States v. Holt</i> , 27 M.J. 57 (C.M.A. 1988)	
RCM 1001(g)	
<i>US v. Marsh</i> , 70 M.J. 101 (C.A.A.F. 2011); <i>US v. Schroder</i> , 65 M.J. 49 (C.A.A.F. 2007); etc.	
Military Judges' Benchbook Ch. 2, § V, para. 2-5-21	
Military Judges' Benchbook Ch. 2, § VI, para. 2-6-10	
Military Judges' Benchbook Ch. 2, § VI, para. 2-6-11	
FY-14 National Defense Authorization Act, § 1706	

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.

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13. Post-Trial Duties and Administrative Actions

Review, sign and date when complete:

UCMJ, Articles 54, 57, 64, 66, 69	
<i>United States v. Moreno</i> , 63 M.J. 135 (C.A.A.F. 2006)	
<i>United States v. Foster</i> , unpublished decision (N.M.C.C.A. 2009)	
JAG/CNLSCINST 5814.1A – Post-Trial Processing	
JAG/CNLSCINST 5800.4, paragraph 7 h(11)	
RCM 401(d) and 407(b)	
MRE 505 and 506	
JAGMAN 0126	

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-

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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.

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14. Sexual Assault and VWAP Training

Review, sign and date when complete:

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

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.

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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.

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TRIAL LEGALMAN

CERTIFICATE OF COMPLETION

RECOMMENDED _____ DATE _____

RECOMMENDED _____ DATE _____

I CERTIFY THAT _____ HAS COMPLETED THE
PROFESSIONAL DEVELOPMENT STANDARDS REQUIRED OF A TRIAL LEGALMAN.

_____ DATE _____
Commanding Officer
[Command]

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