



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON NAVY YARD
1322 PATTERSON AVENUE SE SUITE 3000
WASHINGTON DC 20374-5066

IN REPLY REFER TO

JAGINST 5817.1E

Code 05

SEP 9 2011

JAG INSTRUCTION 5817.1E

From: Judge Advocate General

Subj: JUDICIAL SCREENING BOARD

Ref: (a) Uniform Code of Military Justice
(b) JAGINST 1150.2A

Encl: (1) Sample Application Form

1. Purpose. To establish a Judicial Screening Board (Board) for screening prospective Navy and Marine Corps trial and appellate military judges.

2. Cancellation. JAGINST 5817.1D.

3. Discussion. Article 26 of reference (a) requires the Judge Advocate General (JAG) to certify that all officers serving as military judges are qualified for that duty. Selection for assignment to judicial billets is critical to the fair and effective administration of military justice. Officers assigned to judicial billets must possess a suitable background in military justice, sound judgment, an even temperament, and exemplary writing skills. Further, as senior officers with significant responsibility over new counsel, military judges must be both mentors and role models. Military judges should be experts in litigation techniques, know the burdens of litigation from the litigant's perspective, and have strong leadership skills. The procedures outlined in this instruction are intended to ensure only highly qualified officers are recommended for assignment to judicial billets.

4. Screening Board Membership. The following personnel are designated as Board members: Assistant Judge Advocate General (AJAG) (Chief Judge); AJAG (Military Justice); Chief Judge, Navy-Marine Corps Court of Criminal Appeals; Chief Judge, Navy-Marine Corps Trial Judiciary; Deputy AJAG (Criminal Law); Deputy Staff Judge Advocate to the Commandant of the Marine Corps; and, when the Board considers Reserve members, the senior Marine Judge and senior Navy Judge within the Reserve judiciary units, and any additional members appointed on an ad hoc basis. The AJAG

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(Chief Judge) will serve as Chair of the Board, the AJAG (Military Justice) will serve as the Vice Chair of the Board and as Chair in the absence of the AJAG (Chief Judge). The Deputy AJAG (Military Personnel) and Office of the Staff Judge Advocate to the Commandant of the Marine Corps shall coordinate to designate recorders for the Board.

5. Procedure

a. Military Justice Litigation Career Track. All Navy officers designated to the Military Justice Litigation Career Track pursuant to reference (b), and in the pay-grade of O-5 or above, or selected for promotion to the pay-grade of O-5 or above, shall submit an application for judicial appointment. Any other interested applicants may apply.

b. Application. Applications for judicial appointments shall be sent to the Judicial Screening Board, attention to the AJAG (Chief Judge) not later than 31 December of the calendar year. Candidates for judicial appointments should have at least three years of active duty criminal or civil litigation, a leadership tour (e.g., department head) in litigation, and some broader military justice experience (appellate litigation, assignment to Office of the Judge Advocate General (OJAG) Criminal Law Division (Code 20) or Headquarters U.S. Marine Corps (HQMC) Military Law Branch (JAM), or significant military justice experience as a staff judge advocate). Reserve Component (RC) applicants without this requisite active duty experience should have comparable civilian experience. Navy applicants should normally be in the paygrade of O-5 or above. Marine Corps applicants should normally be in the paygrade O-4 or above. Navy applicants shall notify their detailers and Marine Corps applicants shall notify the Office of the Staff Judge Advocate to the Commandant of the Marine Corps that an application has been submitted. Navy RC applicants shall notify the Reserve Law Program Manager and OJAG Reserve and Retired Affairs (Code 62) that an application has been submitted. A format for the application is provided at enclosure (1). Candidates must submit the following:

(1) Two recommendations. The recommendations should be from senior judge advocates who have had a significant opportunity to observe the applicant's military justice and leadership skills. At least one letter must be from a current or former military judge before whom the applicant officer practiced. If a recommendation from a military judge is not possible, the applicant must address the reason. In place of a

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recommendation from a military judge before whom the applicant officer practiced, RC applicants may substitute a recommendation from a current or former civilian judge.

(2) Law school transcripts, to include LL.M. transcripts, if applicable.

(3) Officer and Performance Summary Records/Master Brief Sheet. Navy candidates shall submit a copy of their Officer Summary Record (OSR) and Performance Summary Record (PSR). Marine candidates shall submit a copy of their Master Brief Sheet (MBS).

(4) Listing of litigation experience. The listing must include the total number of cases tried by the applicant as lead trial or defense counsel, and must specify the number of cases that were contested before members and before a judge alone. The listing may include other cases in which the applicant served in a supervisory role or as "second chair." The listing should also include a brief description of significant cases tried, including the location of the trials, the approximate dates, and the judge before whom the significant cases were tried.

(5) Listing of duty stations and billet assignments. This listing should include the number of attorneys supervised, if applicable.

(6) Personal statement. The personal statement should explain why the applicant desires a judicial appointment. In addition:

(a) Each applicant must also state whether the applicant is currently engaged in litigation against the United States or its officers; and

(b) Each applicant must affirmatively state whether the applicant, serving as either a trial or appellate judge, can give fair consideration to the entire range of permissible punishments authorized by law in each case.

(7) A full-length photo taken within one year of the application.

(8) HQMC Judge Advocate Division (JAD) Endorsement. Marine applicants may seek an endorsement from JAD if desired.

(9) Navy applicants must submit applications through

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their current commanding officer, division director, or other current reporting senior for endorsement. Marine Corps applicants must submit applications thorough their current reporting senior for endorsement. Endorsements must include an assessment of the applicant's suitability for the bench.

c. Meetings. The Board shall meet formally the second week of January of each year. A majority of the Board members shall constitute a quorum. The Chair may authorize Board members to participate via telephone or other electronic means warranted for good cause.

d. Selection Precept. The Board will operate according to the annual selection precept forwarded by the JAG to the Chair.

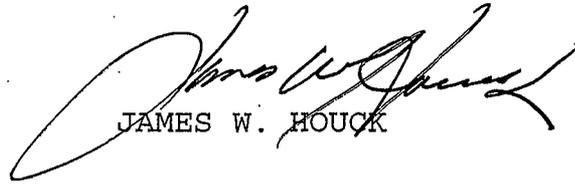
e. Voting. The Board will consider each applicant and will vote whether to recommend that officer to the JAG for appointment to a judicial billet. Voting shall be by voice vote, show of hands, or secret ballot at the Chair's discretion. A favorable majority vote of the participating Board members shall constitute a recommendation that the officer is qualified for judicial assignment. An unrestricted recommendation by the Board shall be a recommendation for appointment to either the trial or appellate bench. The Board, in its discretion, may limit its recommendation of an applicant as suitable for service on the trial bench or the appellate bench.

f. Report. The Chair shall submit a report to the JAG, via the Deputy JAG, the Staff Judge Advocate to the Commandant of the Marine Corps, and the Deputy JAG for Reserve Affairs and Operations (for all reports which include Navy Reserve applicants), that summarizes the Board's proceedings and recommendations. The Recorder will provide administrative support in preparing the report. The office of the AJAG (Chief Judge) will maintain the Board reports by convening date.

g. Detailing and Billet Assignment. Candidates shall be screened by the Board prior to being slated for military judge billets, assigned to a reserve military judge billet, or enrolled in the annual Military Judges Course, The Army Judge Advocate General's School, Charlottesville, VA. Officers who have served as trial or appellate judges within the past five years need not be rescreened to continue to be slated or detailed to judicial billets. A candidate's positive recommendation for judicial appointment shall last for three detailing cycles from the date the Board's recommendation is accepted by the JAG. The Board report is advisory in nature and

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does not restrict in any manner the JAG's statutory authority to make judicial appointments, nor does it confer any rights or entitlements to an officer recommended for judicial assignment.



JAMES W. HOUCK

Distribution:

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

SAMPLE FORMAT

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Date

From: CAPT Candidate, JAGC, USN
To: Chair, Judicial Screening Board

Subj: REQUEST FOR JUDICIAL ASSIGNMENT

Ref: (a) JAGINST 5817.1D

Encl: (1) CAPT Judge, JAGC, USN, ltr of 4 Feb 06
(2) CDR Judge, JAGC, USN ltr of 4 Feb 06
(3) Law School transcript
(4) LL.M. transcript (if applicable)
(5) Copy of Officer Summary Record
(6) Copy of Performance Summary Record

1. Pursuant to reference (a), I hereby request screening for a judicial billet.

2. In addition to enclosures (1) through (-), the following information is provided:

a. Duty Stations and Billet assignments:

- (1) VA-176 - Intelligence Officer
- (2) DIA - Intelligence Officer
- (3) Law School
- (4) NJS
- (5) NLSO Mayport - Trial counsel, senior defense counsel (supervised three attorneys), senior trial counsel (supervised four attorneys)
- (6) TSO SE - Senior trial counsel (supervised 18 attorneys)
- (7) Appellate Government
- (8) LL.M., Temple University

Enclosure (1)

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(9) NLSO MIDLANT - Senior Defense Counsel (supervised 12 attorneys)

(10) Trial Judiciary, Southwest Circuit

(11) Trial Judiciary, Central Circuit

(12) Division Director, Code 20 (supervised four attorneys)

b. Litigation experience: My litigation experience includes 200 total courts-martial, of which 59 were contested before members. Other details are listed below.

(1) As lead trial counsel, tried 45 members trials to completion over the course of two tours as a prosecutor. Additionally, I prosecuted 75 cases that resulted in guilty pleas. As lead defense counsel, defended 14 members trials, including 6 acquittals. While serving as a defense counsel, disposed of an additional 66 guilty plea cases and defended 9 Article 32 investigations that resulted in no referral. Additionally, served as supervisory trial counsel in 10 members trials, sitting as "second chair" during 8 of these cases. Filed over 200 appellate briefs, argued 12 cases before the Navy-Marine Corps Court of Criminal Appeals and the Court of Appeals for the Armed Forces, and argued 1 case before the U.S. Court of Appeals for the Third Circuit. Felony prosecutor at the U.S. Attorney's Office for the Eastern District of Pennsylvania while earning my LL.M. in Trial Advocacy from Temple University.

c. Brief description of significant cases tried:

(1) U.S. v. P - Cold case homicide referred as capital, resolved by guilty plea. Case presented significant immunity, privilege and factual sufficiency issues and required nearly three year investigation and coordination with NCIS. Judge alone. Trial Counsel.

(2) U.S. v. L - National security case involving classified information privilege invocation, closed court sessions, Grunden applications, with members. Trial Counsel.

d. Personal statement:

(1) I am/am not currently engaged in litigation as a party opponent against the United States, the Department of the Navy or any of its officers, including as a member of a class action.

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(2) If called upon to adjudge a sentence, or as an appellate judge to assess a sentence, I am/am not constrained by personal, religious or other affiliation, or by conscience, from fairly considering the full range of authorized punishments, from no punishment, to and including confinement, a punitive discharge or dismissal, and death, when so authorized.

(3) Other personal statement.

SIGNATURE