

# The Advisor



## Highlights:

- The Legal and Health Effects of Spice and Bath Salts
- ADSEP Basics
- The Approval Process for Conferences

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## In This Issue

CDR Michael Holifield,  
CNRSE Staff Judge Advocate and Director, Command Services

As we all prepare to spend much valued quality time with friends, family and football, let's not forget the things that really matter: VWAP, "spice" use, ADSEPs, conference approvals and cheesy cross-word puzzles. It is in that spirit that I welcome you to the 2011 Holiday Edition of The Advisor. This *pubblicazione robusto* runs the full gamut from ethics to military justice and from PII to drug-induced psychoses, yet still at a price even a continuing resolution-watching Scrooge can love.

Much like the jolly elf's shoulder sack, this issue contains something for almost everyone. Unlike St. Nick, however, I have not been maintaining an illegal system of records in violation of the Privacy Act, purporting to sort the naughty from nice. Rather, I offer this holiday bounty to one and all, regardless of personal behavioral trends. (Who knows—perhaps those unfortunates on Santa's ethical dink list will take this opportunity to mend their ways.)

Another stark difference between The Advisor and the five-week shopping fest we know as "the holiday season" is the relationship between wishes and reality. Unlike Santa, who, with faith-crushing regularity, ignored the detailed, annual wish lists I carefully crafted as a child, you have my word to diligently respond to any requests for a specific article (so long as law-related and suitable for printing in this family-oriented missive). You need only submit your topic to any of the friendly folks listed on page 16 to know that, yes, Virginia, there is a Staff Judge Advocate. Ho-ho-ho.

## Photocopying of Military ID Cards and CAC Cards Prohibited

Reprinted from [http://www.navy.mil/search/display.asp?story\\_id=63581](http://www.navy.mil/search/display.asp?story_id=63581)

Commander, Navy Installations Commands, recently issued an announcement reminding all personnel that the photocopying of military identification cards and common access cards (CAC) is strictly prohibited.

There have been recent incidents reported of commercial establishments photocopying U.S. government identification to verify military affiliation or provide government rates for service. These incidents are a violation of Title 18, U.S. Code, Part I, Chapter 33, Section 701 and are punishable by fine and/or imprisonment.

Although commercial establishments may request to see military/government identification, they may not photocopy or duplicate it in any way. Many military personnel and commercial establishments are unaware of the prohibition and the reasons it exists, which results in this being a fairly common practice.

The only exception to this policy, covered in DOD Instruction 1000.13, Section 6.1.7, is that civilian and military medical providers are authorized to photocopy military ID as proof of insurance for the purposes of providing medical care to DoD beneficiaries.

Because of the access the cards grant, criminal elements and terrorist organizations place a premium on obtaining U.S. government identification cards when planning acts against the U.S. military. If a copied military or government identification fell into the wrong hands, it could truly prove disastrous.



*VWAP continues to be a high-viz issue that receives the attention of Congress, senior military leadership, and the IG.*

## The Victim and Witness Assistance Program (VWAP): A Key Command Function and Responsibility.

LT Will Eden, Deputy SJA, Navy Region Southeast

Over the past few years, the Navy has emphasized ensuring victims and witnesses of crimes have been made aware of their rights and have the opportunity to participate in the military justice/administrative separation process. While this is simply a re-assertion of an existing, DoD-wide program—see OPNAVINST 5800.7A—misunderstanding and confusion still exist regarding this program.

It is not my intention with this article to go into every small detail of VWAP. I simply intend to introduce you, as command Legal Officers, to how you fit into the puzzle that is VWAP.

First and foremost, let me introduce myself as the Navy Region Southeast Victim and Witness Liaison Officer (VWLO). As VWLO, it is my responsibility to coordinate the VWAP program for the Region. I also have the duty to provide Victim and Witness Assistance Coordinators (VWAC) with training and resources

Now, some of you may be wondering “what

is a VWAC?” Well, hopefully you are the VWAC. Under OPNAVINST 5800.7A, Commanders are required to appoint a VWAC in writing. The VWAC is then responsible for providing information on rights and resources to victims and witnesses of crimes and for coordinating with other command VWACs and the trial counsel to ensure this is occurring. These responsibilities apply whether the matter is handled via court-martial, NJP or administrative separation proceedings. The primary mechanism a VWAC uses to provide this information is a DD Form 2701, which your VWLO (me) can provide to you.

As you can see, the VWAC is a part of the military legal process. Who better to serve in this role than the Legal Officer? Therefore, if your command does not have a VWAC yet, please sign yourself up for this vital duty.

I plan on writing more about specific parts of this program in subsequent Advisor editions. Until then, I look forward to working with all of you.



*Stay abreast of the latest reporting requirements.*

## Updated Reporting Requirements

4 OCT 11 - OPNAVINST F3100.6J CH-2 - Special Incident Report (OPREP-3 Pinnacle, OPREP-3 Navy Blue, OPREP-3 Navy Unit SITREP) Procedures: Change 2 updates the reporting instruction pertaining to motorcycle incidents, voice reports, and sexual assault incident reporting requirements. Pertaining to sexual assault incident reporting, Change 2 replaced "rape and forcible sodomy," and attempts to commit these offenses with "sexual assault" in the list of significant misconduct that requires an OPREP-3 NAVY BLUE report. The change removed the requirement that the message be prepared based on datafields contained in NAVPERS 1752/1 and added a new 10-day, post-incident reporting requirement. Commands must now submit detailed information contained in the new version of NAVPERS 1752/1, a fillable form submitted electronically to OPNAV N135. There is still a continuing requirement for commands to contact a SJA prior to closing out a sexual assault case and indicate the name of the attorney consulted.

# Legal Consequences and Health Risks Regarding Synthetic THC and Synthetic Stimulants (i.e., “Spice” and “Bath Salts”)

LT Jesse Adams, SJA, NS Mayport

For too long, synthetic THC (the hallucinogenic chemical in marijuana) known as “Spice,” “K2,” and “Blaze”, as well as the synthetic stimulants commonly called “bath salts” or “plant food,” have plagued our military. Over the past several months, the Drug Enforcement Agency (DEA) has used its emergency scheduling authority to designate five synthetic THC chemicals and three synthetic stimulants as “Schedule I” controlled substances making their sale, possession and use illegal in the United States.

As most of the Navy already knows, use or possession of these substances by Navy personnel is forbidden and could possibly subject a Sailor to NJP, administrative separation, or even court-martial under UCMJ Art. 112a or UCMJ Art. 92 (for violation of OPNAVINST 5350.4D, SECNAVINST 5300.28E and/or NAVADMIN 108/10). However, in addition to the possible severe legal consequences, individual Sailors and Navy leadership should understand the harmful and potentially deadly effects of using these drugs.

Many people have heard of a “Schedule I” substance but don’t know what it really means. A “Schedule I” substance is considered by the DEA to be the most restrictive category and is only reserved for unsafe and highly abused substances with no medical usage. Moreover, the DEA generally only uses its emergency scheduling authority to ban substances it believes could cause an “imminent public health crisis.”

The DEA states that they have received an increasing number of reports from poison control centers, hospitals and law enforcement that individuals using synthetic THC have experienced serious side effects such as convulsions, anxiety attacks, dangerously elevated heart rates, increased blood pressure, vomiting, and disorientation. Moreover, when discussing the side effects of synthetic marijuana, the Navy Surgeon General, Vice Adm. Adam M. Robinson, Jr., stated that, “Serious side effects have been reported after its use including tremors, panic attacks, delirium, impaired coordination, seizures, paranoid hallucinations, and psychotic symptoms that can last for days, even months in some cases.” With regard to bath salts the reported side effects include agitation, paranoia, high blood pressure, hallucinations, chest pain, suicidality, and even psychosis!

Sailors should be aware that ingesting these synthetic drugs can lead to strange reactions and deadly results. Police in West Virginia recently arrested a man after they found him dressed in women’s clothing, standing with his pants down over a blood-soaked goat that he allegedly stole and killed—he blamed his bizarre action on bath salts use. Worse, Reuters News Agency reported claims from the European Union that mephedrone, a chemical often found in bath salts, was directly linked to the deaths of two people and is possibly tied to the deaths of 37 more! A quick search on the internet will reveal many similar stories.

Given these potential consequences, it’s also important for Sailors to know that ingesting these synthetic compounds is like playing Russian Roulette. Even the manufacturers themselves label most, if not all, of these substances as “not fit for human consumption!” Very few

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*While all Sailors know synthetic stimulants are illegal in the Navy, not everyone knows the health consequences of “spice” and “bath salts.” Ingesting these substances can lead to strange reactions and deadly results.*



## Legal and Health Effects of Spice and Bath Salts (continued)



(Continued from page 3)

*It is important that all levels of leadership educate their Sailors about the health (and legal) consequences of synthetic stimulants.*

studies have been done on these synthetic drugs so the immediate and long term affects on the body and human brain are mostly unknown. Studies have shown that JWH-018, the compound generally found in Spice, is more potent and efficacious than THC. This means that lower concentrations of JWH-018 can have a greater and higher maximal psychological effect on the brain than that of THC. A recent article written by the Navy Surgeon General states that “Spice-type products are more potent to the brain and other organs because they bind themselves more permanently to receptors. Spice could have multiple unknown chemicals including harmful metal residues, with unknown potency potentially 5-200 times more potent than the THC in marijuana.”

What makes the problem worse is that most of the products sold are simply plant matter soaked in the synthetic compounds so it’s impossible for the Sailor to know how much of the synthetic drug he or she is actually ingesting. A scary thought when you consider that researchers admit that we know essentially nothing about the absorption and distribution kinetics of JWH-018!

The point is that Sailors need to understand that they are not “getting away” with abusing these drugs simply because they may not get caught by the Navy’s urinalysis program. It’s obviously important for Sailors and command leadership to understand the legal ramifications of drug abuse; but it’s equally, if not more important for Sailors to know the risks they take when putting these chemicals in their bodies, and for leadership to educate them on the potentially disastrous affects it may have on their career and their lives.

### **Resources**

<http://www.justice.gov/dea/pubs/pressrel/pr030111.html>

<http://www.justice.gov/dea/pubs/pressrel/pr112410.html>

<http://blogs.plos.org/takeasdirected/2010/11/27/us-dea-action-on-synthetic-marijuana-compounds-in-k2-spice-and-others/>

<http://www.webmd.com/mental-health/features/bath-salts-drug-dangers>

<http://www.reuters.com/article/2011/01/31/us-drugs-bathsalts-odds-idUSTRE70U4YE20110131>

<http://www.wvgazette.com/News/201105020871>

<http://scientopia.org/blogs/neurodynamics/2010/08/19/cannabinoid-agonist-jwh-018-part-1/>

<http://scientopia.org/blogs/neurodynamics/2010/08/19/cannabinoid-agonist-jwh-018-part-2/>

[http://www.navy.mil/search/display.asp?story\\_id=61929](http://www.navy.mil/search/display.asp?story_id=61929)

<http://www.dodlive.mil/index.php/2011/08/medical-monday-dangers-of-synthetic-drugs-not-in-my-navy/>

# Basics of Administrative Separations (ADSEPS)

LT Adam Brandon, SJA, NAS Jacksonville

Section 1910 of the Navy Military Personnel Manual (MPM) governs the process for administrative separations (ADSEPS). An electronic copy of the MPM is available at <http://www.public.navy.mil/bupers-npc/reference/MPM/1000/1900Separation/Pages/default.aspx>. While Section 1910 of the MPM may appear daunting at first, the ADSEP process is actually simple if you take it step by step.

## Step One: Determine the Basis for Separation.

The first step in an ADSEP is to determine the basis for separation. MPM 1910-100 provides a list of all of the possible reasons to separate an enlisted Sailor. These reasons include several voluntary bases for separation (e.g., hardship, pregnancy, or expiration of active obligated service). Keep in mind that while a Sailor may request a voluntary separation, the decision to actually separate is at the convenience of the government as determined by the Commanding Officer.

The MPM also provides for involuntary separations. For example, if a Sailor pops positive on a urinalysis, then you can separate under MPM 1910-146. If a Sailor goes to NJP a second time, then you can ADSEP for pattern of misconduct under MPM 1910-140 (just be sure **you do not** give the Sailor a page 13 after the second NJP). Examples of other involuntary separations include personality disorders, defective enlistment, and civilian convictions.

MPM 1910-142 (Commission of a Serious Offense) covers a variety of cases. MPM 1910-142 can be used as the basis of an ADSEP whenever the circumstances of the offense warrant separation and if the UCMJ authorizes a punitive separation for a similar offense. Since the UCMJ authorizes a punitive discharge for most offenses, MPM 1910-142 permits an ADSEP for most offenses that are not expressly covered by another basis within the 1910 section of the MPM.

If there are multiple bases for separation, then you should process the Sailor under all known reasons. MPM 1910-210 requires commands to process members for all reason for which minimum criteria are met. This enables the separation authority to approve separation for the most appropriate reason and prevents the wasted effort of repeatedly processing a member for one offense at a time.

## Step Two: Prepare Separation Paperwork.

After you determine the basis for separation, you must prepare the appropriate processing paperwork. An ADSEP is initiated when a command notifies a Sailor of ADSEP processing with either a NAVPERS 1910/32 (Notification Procedure) or a NAVPERS 1910/31 (Board Procedure). The specific MPM article that you use for separation will tell you whether to use notification or board procedure. However, a Sailor will always have the option to elect a board if either (1) the least favorable characterization of service possible is "Other Than Honorable", or (2) the member has more than 6 years of total service. You also cannot use notification procedure if the case involves drug abuse, violent misconduct that could have resulted in death or serious bodily injury.

Fill out the processing paperwork (NAVPERS 1910/31 or NAVPERS 1910/32) by listing all bases with short descriptions. While they may be brief, these descriptions of the offenses must be accurate. For example, if you are separating a Sailor for Commission of a Serious Offense for



*Section 1910 of the Navy Military Personnel Manual governs the process for administrative separations.*

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## ADSEP Basics

*(Continued from page 5)*

an orders violation, then you must cite the version of the order that was in effect at the time of the offense. One common mistake is to cite an outdated version of the SECNAV Instruction on Military Substance Abuse Prevent and Control. The current version is SECNAVINST 5300.28E which was updated in June 2011. When you complete the second page of the processing paperwork, ensure that “command certification” has been signed and dated by the CO or by someone with “by direction” authority.

Go over the processing paperwork with the member. Regardless of whether you are using the notification or board procedure, a Sailor has the right to discuss the case with counsel. If a member does desire to speak with a defense attorney, then the Sailor should make an appointment with an attorney at the Naval Legal Service Office (NLSO) and bring a copy of the processing paperwork, service record, and a copy of the evidence. When the Sailor returns from the NLSO, verify that the processing paperwork is complete and signed by NLSO counsel.

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*One common mistake is to cite an outdated version of the SECNAV Instruction on Military Substance Abuse Prevent and Control. The current version is SECNAVINST 5300.28E which was updated in June 2011.*

### **Step Three: Hold Administrative Separation Board.**

If board procedure is used and the member elects a board, then send a request for defense counsel to the NLSO. In most cases, you as the legal officer can serve as the recorder. But in difficult or unique cases, the RLSO may be able to provide a legalman or judge advocate to serve as recorder. (Note—in some cases, a judge advocate is *required*.) Both sides need to set a time and date for the board. Once you have a date, determine board members and draft an appointing order for the CO’s signature. Be sure that you provide all evidence and names of government witnesses to the member’s counsel. The member’s counsel will normally return the favor and provide a list of the member’s witnesses.

Reserve a room for the board in a place that also has a phone for telephonic witnesses. Verify that the witnesses will be available for the board or are reachable by phone. Also, make sure that an audio recorder is on hand for recording the board.

If you are the recorder, prepare board members questions, opening statement, witness questions, and a closing argument. Prepare the ADSEP board script, the findings worksheet, and five exhibit binders (three for the members, one for the defense, and one for the government). When you prepare your exhibits, the appointing order and processing paperwork (NAVPERS 1910/31 or NAVPERS 1910/32) become Government Exhibits 1 and 2. Finally, prepare a Privacy Act statement for the member to sign. This allows the board to review documents with the member’s personal information (e.g., service record documents).

After the board, prepare a letter for the Senior Member to sign. Enclosures to the letter should include the appointing order, processing paperwork, command and member exhibits, findings worksheet, and the Privacy Act statement.

### **Step Four: Separation Authority Action.**

The Separation Authority (SA) is the officer who may approve a separation. Use MPM 1910-704, 1910-708, and 1910-710 to determine the proper Separation Authority. You will note that if notification procedures (NAVPERS 1910/32) are used, the member may elect GCMCA

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## ADSEP Basics

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(usually the first flag officer in the chain of command) review. In that case, the flag officer becomes the Separation Authority. This ensures that commanders do not separate Sailors without giving those Sailors the chance to have a flag officer consider the case.

If your CO is the separation authority, prepare a separation order from the CO to your Admin Officer or servicing PSD. The order should include direction for completing the DD-214 (discharge paperwork). Have the member complete pre-separation counseling (DD 2648) and a separation physical (SF600). Also, ensure that the requirements of MPM 1910-702 are met. These requirements include screening for PTSD and TBI. Next, have the member's chain of command complete a close-out evaluation. Finally, have admin or PSD complete the DD-214, at which point the member will be officially separated from the service.

When the separation is complete, prepare a letter of transmittal from the CO to NAVPERS. If no board was held, enclosures to the LOT should include:

- Processing paperwork (NAVPERS 1910/31 or NAVPERS 1910/32);
- Evidence showing basis was met, matters submitted by member;
- Pre-separation counseling (DD 2648);
- Separation physical (SF600); and
- DD-214.

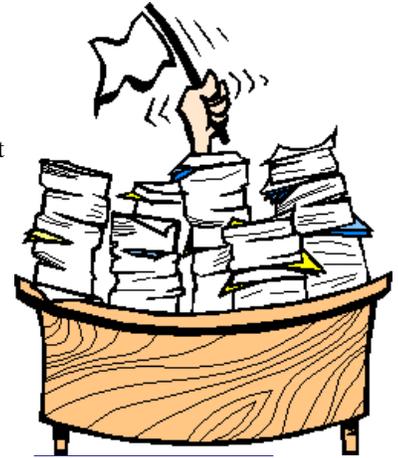
If a board was held, enclosures to the LOT should include:

- Senior Member Letter with enclosures (appointing order, NAVPERS 1910-31 or NAVPERS 1910-32, command and member exhibits, finding worksheet, and Privacy Act statement);
- Letter of Deficiency (if applicable);
- Matters submitted by the member;
- Pre-separation counseling (DD 2648);
- Separation physical (SF600), and
- DD-214.

If the command is not the separation authority, prepare a LOT for signature to send to the Separation Authority (MPM 1910-600). The LOT should include the same enclosures listed above. Once the Separation Authority approves the discharge, you may separate the member and send the package to PERS for filing. The package to PERS should include the LOT (with enclosures), the discharge order from the separation authority, the discharge physical (SF 600), the record of counseling (DD 2648), and the DD-214.

### **You Always Have Support**

If you run into any trouble with your next ADSEP, do not hesitate to call your local Staff Judge Advocate or a Region Legal Service Office. We are standing by to assist you with every step of the ADSEP process.



*If you run into any trouble with your ADSEP paperwork, reach out to your local SJA or RLSO.*

## Guidelines for Political Events on Military Installations

LT Kevin Mejeur and LN1 Claudia Loza  
NAS Jacksonville

DoD personnel acting in their official capacity may not engage in activities that associate DoD with any partisan political campaign, cause, or issue. Installation commanding officers must ensure that DoD interactions with political officials and/or candidates for elected office do not imply or appear to imply sponsorship, approval, or endorsement of any such candidate or political view. This policy guidance applies to all federal, state, and local political campaigns and elections. This article summarizes the key rules that apply to visits from politicians to military installation.



*As the political season heats up, political candidates will visit military installations. Nonetheless, commanders must be careful not to imply or appear to imply endorsement of any candidate or political view.*



### Political Campaigns and Elections

Most of the rules that apply to political figures are triggered by the start of a political campaign or election. A political campaign or election begins when a candidate, including an incumbent office-holder, makes a formal announcement that he or she seeks to be elected to a federal, state, or local political office. Alternatively, it begins when an individual files a candidacy with the Federal Election Commission or equivalent state or local regulatory office. Once initiated, the political campaign ends one week after the conclusion of the relevant election.

### Access to Military Installations

Political officials, whether or not candidates for re-election, may visit military installations to conduct official business and receive briefings, tours, and other official DoD information. However, to avoid the appearance of preferential treatment, installation commanding officers should give candidates for elected office, who are not current political officials, the same access to installations as any other unofficial visitor.

When political officials visit military installations on official business, host installations must ensure that such visits are not used for political purposes. Prior to such visits, installation personnel should inform the relevant officials that, while on military property, all partisan political activity and media events are prohibited. Prohibited activities include campaign-style meetings, fund-raising events, press conferences, and any other activity that could be construed as political in nature. (The preceding prohibition does not apply to the President, Vice President, or Speaker of the House of Representatives.) However, this prohibition applies equally to non-candidates who seek to campaign or conduct election-related activity on behalf of a candidate or issue.

Nothing in this guidance is intended to inhibit the appropriate representation by elected officials of constituents who happen to live or work on a military installation. Such officials are permitted to access the installation to conduct official business. Furthermore, political officials are permitted to take advantage of any services or resources on the installation to which they may be entitled as a matter of law or policy.

### Requests to Access an Installation

All requests by political officials and/or candidates for elected office to access a military installation should be directed to the base Public Affairs Officer (PAO), and vetted by the Staff Judge Advocate. Installation commanding officers must analyze all such requests, on a case-by-case basis, to determine whether the request is for official, personal, or partisan political purposes. The following types of requests are presumed to be political in nature and, therefore, generally denied:

*(Continued on page 9)*

## Political Guidelines

(Continued from page 8)

- (1) Requests from campaign organizations;
- (2) Requests by spouses and family members of candidates, who are not otherwise entitled to access by law or policy;
- (3) Requests that include accompaniment by campaign staff and/or press.

### Media coverage

Installations may grant media personnel access for the purpose of covering official business conducted by political officials/candidates for elected office. The relevant official may appear on camera and in photographs as an official participant, and may make a statement or answer questions about the official business being conducted. However, the following restrictions apply:

- (1) The political official in question may not receive approval to make a campaign or election-related statement, or to respond to a campaign or election-related media query. Nevertheless, installation personnel will not review the political official's remarks to ensure compliance with this policy.
- (2) No footage, photographs, or statements taken or recorded during such official business may be used by the political official for any campaign or election-related purpose.
- (3) Installations will not permit candidates or their agents to film, photograph, or tape military equipment on Navy installations for use in political campaign-related advertisement, commercials, or literature.
- (4) DoD newspapers, magazines, and publications will not publicize information provided by a candidate's campaign organization, partisan advertisements and discussions, or cartoons, editorials, and commentaries dealing with political campaigns, causes, or issues.

### Support of Political Events by Military Personnel

In accordance with long-standing DoD policy, installation commanding officers will decline requests for military personnel to appear in or support political campaign or election events. Furthermore, military personnel, including National Guard and Reserve forces, are prohibited from wearing military uniforms at political campaign or election events.

Installation commanding officers should immediately notify the PAO and Staff Judge Advocate of any concerns, disputes, unresolved issues, or potential problems involving political candidates.

**References:** DoD 5500.7-R ("Joint Ethics Regulation"); SECDEF msg dtd 2741449Z APR 10 ("DoD Public Affairs Policy Guidance concerning Political Campaigns and Elections"); Deputy SECDEF memo dtd 22 Jul 08 ("Contacts with Presidential Campaigns"); White House Counsel memo dtd 22 Apr 08 ("Federal Agency Employee Contacts with Presidential Campaigns")



*Politicians love to use the military as a backdrop for their political speeches and photo ops. Be careful that you understand the ethical rules for political events on military installations.*



## No More \$16 Muffins: Guidelines for Getting Your Conference Approved

As defined by the Joint Federal Travel Regulations/Joint Travel Regulations (JFTR/JTR), a "conference" is :

- A meeting, retreat, seminar, symposium or event that involves attendee travel.
- Events included in this definition normally require registration, an agenda, and scheduled speakers or discussion.

This definition does not include:

- Events necessary to carry out the statutory command and staff oversight functions of the Department of the Navy, including investigations, inspections, audits or site visits;
- Service-endorsed training;
- Regularly scheduled courses of instruction conducted at a government or commercial training facility; however, this exclusion does not apply to courses held in a non-training commercial facility, such as a hotel or conference center.



*Do you know who your approval authority is?*

### Approval Authorities

Total conference costs are greater than or equal to \$500k (to include personnel/manpower costs (labor) for those planning, executing, or overseeing the conference or conference related activities); or the conference is held in conjunction with a non-federal entity (NFE).

- DON/AA

Total conference costs between \$100k and \$500k and not held in conjunction with an NFE, the approval authorities are:

- The assistant secretaries of the Navy and the General Counsel for their subordinate offices;
- The DON/AA for the Deputy Under Secretaries of the Navy, Navy Chief of Information, Chief Information Officer, Judge Advocate General, Inspector General, Auditor General, Sexual Assault Prevention and Response Office, Office of Small Business Programs, Director, Naval Criminal Investigative Service, and Operations Integration Group;
- For the Navy and the OPNAV staff: the Director, Navy Staff (DNS);
- For the Marine Corps and Headquarters Marine Corps Staff: The Director, Marine Corps Staff (DMCS).

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## The conference approval process—continued

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Total conference costs less than or equal to \$100k, the approval authorities are:

- The Assistant Secretaries of the Navy and the General Counsel for their subordinate offices.
- The DON/AA for the Deputy Under Secretaries of the Navy, Navy Chief of Information, Chief Information Officer, Judge Advocate General, Inspector General, Auditor General, Sexual Assault Prevention and Response Office, Office of Small Business Programs, Director, Naval Criminal Investigative Service, and Operations Integration Group.
- For the Navy, Echelon II commanders who are Flag Officers or Senior Executive Service (SES) members; for all others, DNS.
- For the Marine Corps, CG, I, II, and III MEFs, COMMARFORPAC, COMMARFORCOM, CG MCCDC, CG TECOM, COMMARFORRES, COMMARCORLOGCOM, CG MCRC, CG MCICOM, CG MAGTFTC/MCAGCC.

Conferences associated with COCOM component responsibilities will be covered under the Joint Staff approval authority.

All conference requests will be signed by a Flag or General Officer, or member of the Senior Executive Service and staffed through the chain of command to the appropriate conference approval authority. By signing the conference request, these senior officials are attesting to the accuracy of the statements in the request, including the necessity for the conference, the cost-benefit analysis and the cost estimates.

### **Approval process**

The sponsoring DON command, organization or activity will submit a complete and fully coordinated conference request through the appropriate command structure to the approval authority *no later than 60 days before the start date* of the conference. If the sponsor expects to acquire contractor support and/or facilities contracts, the conference request *must be approved before contract award*.

All conference requests will include:

- A justification for the number of attendees and length of the conference (both should be strictly determined by mission requirements).



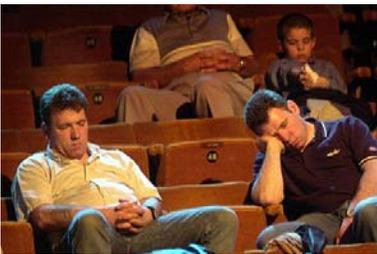
*There may be alternatives to a conference that requires attendee travel.*

## The conference approval process—continued



(Continued from page 11)

*Is your conference really necessary?*



- Include estimated travel, transportation and lodging costs of attendees; do not include salaries of attendees;
- An estimate of the total cost of the conference, in accordance with Refs C, D, E, and F of the ALNAV including personnel/manpower costs (labor) (per Ref D, include personnel/manpower costs (labor) for those planning, executing, or overseeing the conference or conference related activities);
- A detailed and accurate cost benefit analysis, which includes an explanation of other options considered (video teleconference, train-the-trainer and so on); consideration of the frequency for recurring events; as well as information on alternative site selection; and
- An agenda listing all planned speakers, programs, ceremonies and other activities. Specify any after-hour events or activities. The agenda should provide planned or proposed locations for each event. If "break-out sessions" are planned, the agenda should explain the purpose and objectives of each breakout session. Additional events will not be considered if they will result in the extension of conference attendees in temporary duty (TDY) status or delay the attendees' return to their duty stations.

### Choice of Location

Military installations or other government facilities as the first choice for conference locations. If no military or government-provided facility can meet conference requirements, the JFTR/JTR requires that a minimum of three geographic sites be evaluated and considered for conferences with more than 30 attendees in a temporary duty status before the selection of any one site for the conference, unless an overriding operational reason can be shown for holding the conference in a specific city.

Factors to be considered when determining a conference site:

- Availability of rooms at the established per diem rates;
- Travel distance for the majority of attendees;
- Travel costs, including local travel and ground transportation. Use of rental cars should be minimized and only authorized when carpooling, shuttles, taxis, or government vehicles are impractical or more costly; and
- Consideration of lower, off-season hotel rates and their willingness to exempt taxes for lodging.

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## The conference approval process—continued

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### Lodging and Meals

Lodging and meals will not be authorized or provided at government expense to local attendees. If meals are provided for personnel in a TDY status, the command or organization sponsoring the conference must identify the cost of each meal, whether it is included in a registration fee or contracted for separately; ensure that the appropriate proportional meal rate is used; and issue a notice to all attendees to ensure that they correctly annotate travel vouchers. The cost of meals the government provides must not exceed the per diem rate for that location.



*In the current fiscal environment, cost is always a concern. No muffin is worth \$16.00 of appropriated funds.*

### Security

A security assessment, including threat and vulnerability assessments for the conference facility site and any specific security requirements for the conference facility. Conferences held on government or military installations may have different requirements than those in commercial facilities, so check applicable security regulations.

### Other

- Each organization that sponsors a conference must appoint a conference manager who will be the approval authority's primary point of contact for conferences.
- All conference-related contracts must be signed by a warranted contracting officer or, when authorized, a government purchase cardholder. Every attempt must be made to reduce audio visual equipment rental costs and support costs.
- A government employee *will not commit the government* to the use of any facility, sign any agreement or otherwise obligate the government for conference facilities or support *before approval of the conference by the conference approval authority*.
- Semi-annual reports are required. DON/AA will publish instructions and a template for this reporting requirement.
- Requests for exceptions to DON conference policy will be forwarded through the chain of command to the DON/AA for consideration.
- The Auditor General of the Navy will conduct an audit of conferences in January 2012 to verify that internal controls over the attendance and costs of don conferences are in place and operating effectively.
- All conferences that were approved consistent with the references, other laws, regulations, directives, and policies prior to 21 September 2011 may be executed as approved.

# Reporting of Offenses, Arrests, and Convictions

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There have been some developments over the last couple years regarding the age-old requirement under Article 1137 of Navy Regulations to "Report Offenses."

Previously, the Navy's Drug and Alcohol Abuse instruction (OPNAVINST 5350.4 series) had also required individuals to report arrests and convictions by civilian authorities for drug and alcohol offenses. However, an appellate ruling in a military case overturned a conviction for a sailor who failed to report his own arrest and conviction by civilian authorities for DUI. The appellate court left open the question whether self-reporting could still be required under other instructions or provisions of law.

In August 2008, ALNAV 067/08 reinforced that all officers, warrant officers, and senior enlisted were required to report, in writing, any conviction or other disposition of a criminal charge from any outside authority (conviction, deferred prosecution, withheld adjudication, pretrial diversion program, etc.).

In July 2010, ALNAV 049/10 expanded the definitions in Article 1137, Navy Regulations. Subparagraph 1 mandates "Persons in the Naval service shall report as soon as possible to superior authority all offenses under the Uniform Code of Military Justice which come under their observation, except when such persons are themselves already criminally involved in such offenses at the time such offenses first come under their observation."

Subparagraph 2 further mandates "Persons in the Naval service shall report as soon as possible to superior authority any conviction of such service member for a violation of a criminal law . . . . A conviction includes a plea or finding of guilty, a plea of nolo contendere, and all other actions tantamount to a finding of guilty, including adjudication withheld, deferred prosecution, entry into adult or juvenile pretrial intervention programs, and any similar disposition of charges. A criminal law includes any military or other federal criminal law, and any criminal law or ordinance of any country, state, commonwealth, territory, county, district, parish, municipality, or local subdivision of any such authority, other than motor vehicle violations that do not require a court appearance."

Recently, CNO issued NAVADMIN 373/11, which modifies the requirements in OPNAVINST 3120.32C (Standard Organization and Regulations of the Navy) to self-report any arrest or detention by civilian authorities. It mandates "ANY PERSON ARRESTED OR CRIMINALLY CHARGED BY CIVIL AUTHORITIES SHALL IMMEDIATELY ADVISE THEIR IMMEDIATE COMMANDER OF THE FACT THAT THEY WERE ARRESTED OR CHARGED. THE TERM ARREST INCLUDES AN ARREST OR DETENTION, AND THE TERM CHARGED INCLUDES THE FILING OF CRIMINAL CHARGES. PERSONS ARE ONLY REQUIRED TO DISCLOSE THE DATE OF ARREST/CRIMINAL CHARGES, THE ARRESTING/CHARGING AUTHORITY, AND THE OFFENSE FOR WHICH THEY WERE ARRESTED/CHARGED."

So, the "bottom lines" are:

1. If you get arrested or detained or criminally charged by civilian authorities, you must immediately report that fact to your chain of command;
2. If your arrest case results in anything other than no charges filed at all, or a complete acquittal on all charges, you must immediately report the results to your chain of command (in writing, for officers and senior enlisted folks); and
3. If you observe any UCMJ offense being committed by anyone else, you must report your observations to superior authority (unless you are personally participating in the criminal acts yourself).



*No matter you are, if you are arrested by civilian authorities, you must immediately notify your chain of command..*

*Remember: In the event a Sailor self-reports an arrest, commands must take care that any administrative or disciplinary action is based only on evidence derived independently of the self-report. Commands should never take adverse action based solely on the arrest itself. Commanders should consult a judge advocate before imposing disciplinary action based on a self report.*

