

# The Advisor

## Region Legal Service Office Southeast



### CDR Mike Holifield, CNRSE SJA and Director, Command Services

Many years ago on the radio crime drama *Dragnet*, Sgt. Joe Friday would regularly declare, “all we want are the facts, ma’am.” Even as neckties narrowed and the show made its way onto the small screen, Jack Webb’s character continued his unwavering, solitary focus on the facts of the crime. In the decades since, however, both law enforcement and prosecutors’ offices have widened that focus to include the welfare (and now codified rights) of victims and witnesses. The Navy embraces this wider, more enlightened approach through the Victim and Witness Assistance Program, or VWAP. (If this is the first you’ve heard of VWAP, and you’re a legal officer, CMC, XO or CO, I strongly recommend you call your nearest Staff Judge Advocate. Seriously.)

The goal of VWAP is to mitigate the physical, psychological and financial hardships suffered by victims and witnesses of crimes. This mitigation is not simply the right thing to do; such efforts foster cooperation of victims and witnesses in addressing criminal acts. Encouraging this assistance is critical, as—let’s be honest—the military justice system can be a confusing and unpleasant experience. (This may explain why Disney won’t return my calls proposing a “UCMJ Land” in Orlando.) All personnel involved must work to ensure victims and witnesses understand their rights—rights that continue from initial report through trial to the release of the accused from confinement.

Dedicated *Advisor* fans no doubt have noticed VWAP is addressed in every issue. Please know this has everything to do with its critical importance, and nothing to do with a lack of imagination on my part. If you have any questions regarding VWAP, please contact any of the personnel listed on page 12. As for the many other worthwhile topics covered in this issue: The articles you are about to read are true. No names have been changed to protect the innocent. *Dum-de-dum-dum.*

#### Special points of interest:

- Political Activities “no-no” chart
- You can’t wear that !
- War on drug abuse
- “How to” guide on expedited transfers for SA victims
- CMEQ guidance
- Recent activity in courtroom

#### Contents

Political Activities & Social Media	2-3
When Not to Wear Your Uniform	4-5
Administrative Separations	5
Spice of the Month	6
New Prescriptions to be Tested	6-7
Unrestricted Reports and Expedited Transfers	7-9
VWAP Corner	9
CMEQ Program	10-11
Recent CM sentences	11
SJA Directory	12
NEW mind puzzler	13

## BYE BYE “SSN”: DON SSN REDUCTION PLAN

LT Mishonda Mosley, SJA, NAS Meridian

The Department of the Navy (DON) is implementing Phase 3 of the SSN Reduction Plan. If you haven’t received one already, get ready for your new Electronic Data Interface-Personnel Identifier (EDIPI)/DoD ID number. As you can imagine, this is a major undertaking which requires an effort from everyone to be successful. Some key points to keep in mind are:

- Your new DoD ID number is considered PII.
- Do not share your DoD ID number with entities outside DoD unless a memorandum of understanding is established.
- DoD ID numbers should accompany some other form of identification for authentication purposes.

Phase 3 implementation consists of 3 significant actions, all of which require adherence to strict guidelines:

- 1) Commands are now authorized to use the EDIPI.
- 2) Do not collect SSNs on documentation unless the documents meet the

## BYE BYE SSN... *continued*

acceptable use criteria.

3) When a process is updated that eliminates the use of SSNs, DON Directives and Instructions need to be updated as well to reflect those changes.



Remember the change is upon us so don't forget its practical application. For example, after 1 Oct 12, sending information containing the SSN and other PII by DON personnel is prohibited. The use of network-attached multi-function devices and scanners will have significant limitations. Last but not least, don't forget your recall rosters, only names, addresses and telephone numbers!

For more information, here are a few links:

Removal of SSN from ID Cards :

<http://dpclo.defense.gov/privacy/documents/SSN%20from%20ID%20Cards.pdf>

DoD SSN Use Reduction Plan

[http://dpclo.defense.gov/privacy/documents/DTM-07-015\(ch3\).pdf](http://dpclo.defense.gov/privacy/documents/DTM-07-015(ch3).pdf)

DON SSN Use Reduction Plan

<http://www.doncio.navy.mil/contentview.aspx?id=1912>

## Political Activities and Social Media

LT Adam Brandon, SJA, NAS Jacksonville

Marine Sergeant Gary Stein may have thought he was simply exercising his constitutional rights when he criticized President Obama on Facebook. "Screw Obama and I will not follow all orders from him," the young Marine wrote on his "Armed Forces Tea Party" group page. The Marine posted an image of our Commander-in-Chief on a *Jackass* movie poster, and further superimposed the President's image on a poster for *The Incredibles* which he changed to *The Horribles*.

While sophomoric rants are common on Facebook, this episode ended predictably (and poorly) for Sergeant Stein when an administrative separation board voted 3-0 to discharge him from the service with an "Other Than Honorable" discharge. This is the same characterization of service that may be awarded to drug users or convicted felons. While some may consider this outcome to be harsh, the young Marine violated the long-standing American tradition of a professional, non-political military force.

Department of Defense Directive (DoDD) 1344.10 lays out the basic rules for political activities by members of the Armed Forces. All service members may carry out the responsibilities of citizenship. For example, Sailors and Marines may register to vote, vote, encourage others to participate in the political process, sign petitions, attend rallies as a spectator, give money to political organizations, and put normal sized bumper stickers on their cars. However, active-duty military members\* like Sergeant Stein cross the line (and violate DoDD 1344.10) when they participate in partisan politics or campaign for or against a political candidate. Prohibited activities include putting political posters in government housing, marching in a partisan parade, attending a political dinner or fundraiser, speaking on behalf of or against a candidate, fundraising for a political party or cause, distributing partisan literature, or wearing a military uniform to a political event. The prohibition on partisan political activity carries over into the social media context. Active-duty Sail-



ors may list their rank and title on their personal (not official) Facebook profiles and may even fill in the “political views” field or “like” a political party, group, or candidate. However, DoD personnel should not advocate for or against a political party, partisan political group, or candidate for partisan political office through a blog, Facebook, Twitter, or other social media platform. If a Navy ship or command has its own official Facebook page, it should never include political views that would imply that the DoD engages in partisan politics.



The bottom line is that military members are entitled to their personal political opinions. But those opinions should stay personal. Sailors and Marines should never imply that the DoD, the Department of the Navy, or an individual command is anything other than a professional, non-partisan fighting force. A summary of the rules for political activities is below. If you have any concerns, please consult an ethics advisor or judge advocate.

	Members of the Armed Forces on Active Duty	Members of the Armed Forces NOT on Active Duty
Promote and encourage voting	Yes	Yes
Attend partisan political club meetings	Yes, when not in uniform	Yes, when not in uniform
Serve in an official capacity of a partisan political club	No	Yes, when not in uniform and no appearance of DoD endorsement
Speak before a partisan political gathering	No	Yes, when not in uniform and no appearance of DoD endorsement
Perform any duties for a partisan political committee or candidate	No	Yes, when not in uniform and no appearance of DoD endorsement
Write a letter to the editor	Yes, may need disclaimer	Yes, may need disclaimer
Publish partisan political writings soliciting votes	No	Yes, when no appearance of DoD endorsement
Attend partisan fundraisers and events (merely as a spectator)	Yes, when not in uniform and no appearance of DoD endorsement	Yes, when not in uniform and no appearance of DoD endorsement
Participate in partisan fundraisers and events (more than mere spectator)	No	Yes, when not in uniform and no appearance of DoD endorsement
Contribute money to a political party or candidate	Yes	Yes
March in a partisan political parade	No	Yes, when not in uniform and no appearance of DoD endorsement

\*The political restrictions on reservists and civilians are slightly looser than the restrictions on active-duty Service members.

## **“WHEN NOT TO WEAR”: Policy on wearing the military uniform at unofficial events**

---

LT Carina Podgorski, Assist. Deputy SJA, CNRSE

Military personnel dressed in their service dress blues or in their cracker-jacks are highly sought after for photos, and even imitated for mainstream fashion. We are constantly being photographed in uniform for flyers, posters, commercials, ads, and movies. The welcome popularity of our military uniforms and the purpose they serve and symbolize makes it extremely important to know when and when NOT to wear your uniform, specifically at events off base and not military in nature.

The general rule to remember is that service members must not act “in a manner that could reasonably give rise to the inference or appearance of official DoD sponsorship, approval, or endorsement” and, more importantly, “when wearing the uniform may bring discredit upon the Armed Forces.” An easy to read DoD instruction that lists the circumstances when you CANNOT wear your uniform is DoDI 1334.01, “Wearing of the Uniform,” dated 26 October 2005.

Political activities: Military personnel may not wear their uniforms to assemblies or activities that imply DoD support of commercial or political interests. Military personnel can never in an official capacity and in uniform attend or participate in political activities such as campaign-style meetings, fundraising events, press conferences, luncheons, marching or riding in a partisan political parade, and any other activity that could be construed as political in nature. We are prohibited from wearing military uniforms at these events because we may not associate the DoD with any partisan political campaign, cause or issue. See DoD Directive 1344.10, para 4.1.2.10. It is DoD policy that installation Commanding Officers decline requests for their sailors to appear in or support political campaigns or election events. We must ensure that we are not implying or appearing to imply sponsorship, approval or endorsement to any candidate or his or her political view. One exception to this rule is that military members may attend as official representatives at political events if attending as member of a joint armed forces color guard at the opening ceremonies of the national conventions.

Fashion shows, beauty contests, entertainment: The use of uniformed military personnel as ushers, baggage handlers, guards, escorts (to include escorts or other forms of support for beauty pageants, modeling, or similar events), messengers, parking lot attendants, runners, crowd control, or in other menial capacities in support of public entertainment programs conducted off military installations is prohibited. See DoD Directive 5410.18, dated November 20, 2001. Navy Region Southeast has received requests for Sailors to work in uniform as valets, volunteers at TPC Sawgrass, and even as escorts for the Rockettes. As inviting as some of these opportunities may be, they would constitute improper use of the uniform.

In pursuit of good community relations, support from uniformed military personnel is allowed for some authorized public events. SECNAVINST 5720.44B, dated 1 November 2005, Ch.7, governs community relations and the military. It permits joint armed forces color guards to participate in parades and other public events when these events are on a national or international scale and are determined to be in the best interest of the DoD. The instruction specifically prohibits military personnel participating in events conducted for the benefit of commercial enterprises.

Military Balls: Because of the overwhelmingly military nature of a military ball and the attendance by current and former military personnel, the DoD Standards of Conduct Office has consistently opined that the wearing of military uniforms at a military ball is permissible. Though service uniform regulations generally prohibit military personnel from wearing their uniforms to assemblies that may imply support for a commercial or official sponsorship of an outside activity or interest, personnel are permitted to wear uniforms to social functions and informal gatherings of a military nature. See OJAG (Code 13) Ethics-Gram 05-12, “Guidance on DoD Participation in Military Balls.”

Speeches: If you have been asked to give a speech at a public event, you can wear your uniform if 1) your speech topic remains within your purview; 2) you are in compliance with the Hatch Act; 3) it is a non-partisan topic; and 4) your speech does not imply DoD sponsorship or endorsement.

---

Retirees, Reservists, Non-active duty: Retired military may use military rank in private, commercial or political activities as long as their retired status is clearly indicated, and there is no appearance of DoD endorsement. Any military information must be accompanied by a prominent and clearly displayed disclaimer that neither the military information nor the photograph in uniform implies DoD endorsement. Retired military may only wear their uniform for funerals, weddings, military events and national holidays. When a service member is not on active duty and is running for political office, he may use photos of himself while in uniform if: 1) it is part of his biographical data; 2) it is accompanied by a disclaimer; and 3) it is NOT the most prominent graphic or picture of his campaign presentation.

If your Commanding Officer is receiving invites from political figures or commercial enterprises that request attendance in uniform, avoid making a military fashion *faux pas*—remember the general rule and, as always, consult with a judge advocate.

\*\* Bonus fun: See if you can spot the uniform-wearing mistakes in the pictures printed on the last page of the Advisor\*\*

## ADMINISTRATIVE SEPARATIONS: A QUICK NOTE ON INITIATING PROCESSING

LCDR Bill Lucier, SJA, NCBC Gulfport

You made it through NJP, completed the post-Mast paperwork and put your MCM and JAGMAN back on the shelf. Great Job! But the Commanding Officer has one final question: “What are the options for separation?” Uhh... back to the books – time to dust off the MILPERSMAN. You’ll need to research the factors to consider when deciding to process a Sailor for separation and which procedures to use.



The first consideration is the basis. Some bases require mandatory processing. The most common mandatory processing bases are PFA Failure, Alcohol Rehabilitation Failure/Multiple DUIs (ARF/MDUI), Drug Abuse and certain Serious Offenses/Civilian Convictions (SO/CC). For those bases, commands have no choice; they must process. (Note – Commands may request a waiver to avoid processing for ARF/MDUI). For a SO/CC that qualifies for mandatory processing and for most Drug misconduct, Board Procedures must be used. If the basis is PFA Failure or ARF/MDUI without other accompanying bases, Notification Procedures may be used. MILPERSMAN 1910-233 discusses mandatory processing.

If the basis does mandate processing, the Commanding Officer has discretion whether to initiate processing. Factors that the Commanding Officer should consider are the seriousness of the offense or issue, the likelihood of recurrence, the member’s potential for further service and the member’s service record. If after considering those factors the Commanding Officer decides to process, the next step is to determine which procedures to use: Notification or Board. The type of procedure depends on the basis. In general, for non-mandatory bases involving misconduct, either Board or Notification Procedures can be used. For cases not involving misconduct, Notification Procedures are used. To verify, check the MILPERSMAN article regarding the basis. Each article has a section discussing which procedures can be used. If you’re processing a Sailor for multiple reasons and at least one of the bases allows for Board Procedures, then Board Procedures can be used.

If Notification Procedures are used, the characterization options are limited to Honorable or General. Furthermore, there is no board entitlement, unless the Sailor has greater than six years of service. Using Notification Procedures for junior Sailors will result in a quicker discharge, but the least favorable characterization will be a General. If Board Procedures are used, the characterization options are Honorable, General, or Other Than Honorable (OTH). The Sailor will be entitled to a board regardless of time in service. Using Board Procedures puts the option of an OTH on the table, but gives the service member the right to elect a board. The election of a board often delays the separation process, meaning the Sailor will remain in the Navy and at your command longer.

## SPICE OF THE MONTH: URINALYSIS TESTING FOR SYNTHETIC COMPOUNDS

LT Jeffrey Marden, Deputy SJA, NAS JRB New Orleans

ZERO TOLERANCE, the Navy's bedrock principle concerning drug abuse, states that service members "unlawfully using, possessing, promoting, manufacturing, or distributing drugs and/or drug abuse paraphernalia shall be disciplined as appropriate and processed for administrative separation as required."



Over the past few years, service members have increasingly used and possessed synthetic chemical compounds (synthetics), such as Spice. While still considered drug abuse when used "with the intent to induce intoxication, excitement, or stupefaction of the central nervous system," Navy Drug Screening Laboratories (NDSL) did not have the capabilities to test for synthetics. Commands had to either rely on confessions or witness statements to administratively separate a service member or would submit the urine sample to the Armed Forces Medical Examiner System (AFMES) to test for synthetics. Testing at AFMES was limited to thirty samples per month and only as part of ongoing investigations.

Since March 2012, the Navy has begun testing urine samples for synthetics per NAVADMIN 082/12. This testing is separate and distinct from the urinalysis program codified in OPNAVINST 5350.4D (Navy Alcohol and Drug Abuse Prevention and Control), uses the model employed for steroid testing, and will eventually allow for 2,500 samples to be tested per month. Synthetics will be sent to NDSL Great Lakes and then forwarded to a civilian contract lab for analysis. To this end, Commanders, Commanding Officers, Officers-in-Charge, or their representatives must obtain quotas from OPNAV N135 before collecting urine samples to test for synthetics and must purchase sample materials (bottles, labels, boxes, etc.) with OPTAR funds. Importantly, the civilian lab to which the samples will be forwarded will not be a DoD-approved lab, meaning that commanders may not take disciplinary or adverse administrative actions against a service member based solely upon a positive urinalysis result. Instead, commands may initiate an investigation based upon a positive result, and the results of that investigation may be used as evidence in disciplinary or adverse administrative actions. Per the NAVADMIN, guidance for Commanders and program coordinators will be disseminated via separate correspondence.

## NEW PRESCRIPTIONS TO BE TESTED; IMPLICATIONS OF SELF-REFERRAL

LT Jesse Adams, SJA, NS Mayport

Per NAVADMIN 130/12, effective 1 May 2012, Navy Drug Screening Labs will expand their standard urinalysis testing panel to include benzodiazepines and hydrocodones (e.g. Xanax, Vicodin). Over the past three years, positive results for amphetamine and oxycodone have increased 34 percent and 23 percent, respectively. Adding the benzodiazepine and hydrocodone drug families to the standard test panel will provide a more meaningful understanding of overall prescription drug misuse/abuse in the Navy.



Military members must ensure prescriptions are properly documented in their health records. Given the Navy's "Zero Tolerance" drug abuse policy, this means that Sailors found to be abusing prescription drugs may be disciplined and/or processed for administrative separation. NAVADMIN 130/12 highlights another interesting point that Commanders and Sailors must consider: "self-referral." According to the NAVADMIN, military members who are using drugs that have not been prescribed or are using prescription drugs inappropriately have the opportunity to voluntarily seek medical treatment and rehabilitation on a self-referral basis from Navy medical facilities. The NAVADMIN states Sailors are encouraged to self-refer *prior to* initiation of the new testing protocol. However, whether a Sailor self-refers prior to or after 1 May, the issues remain the same and thus Commands and Sailors should be aware of the implications.

*continued*

Practically, what does this mean for the Command and what implications does “self-referral” really have on a Sailor’s career? SECNAVINST 5300.28E states that, “All...active duty personnel who self-refer for drug abuse to qualified representatives shall be screened for drug dependency at a medical facility. Those who are officially confirmed as valid self-referrals shall be exempt from any disciplinary action, but will be processed for administrative separation and offered treatment.” See OPNAVINST 5350.4D (Encl 1 & 2) for more information on what may be considered a “valid self-referral” and a list of “qualified self-referral agents.”

Moving to the MILPERSMAN for clarification on the administrative separation piece. . . MILPERSMAN 1910-146 defines drug abuse as: “the illegal or wrongful use or possession of a controlled substance or prescription medication. . . .” It states that that notification procedures are used when a “member self refers to a qualified self referral representative with the intent of acquiring treatment and is found to be drug dependent by proper medical authority.” 1910-146 goes on to say that aside from certain exceptions like the one just mentioned, all other drug abuse will be processed using administrative board procedures with Under Other Than Honorable (OTH) being the least favorable characterization of service considered.

In summary, NAVADMIN 130/12 adds two popular prescription drug families to the standard urinalysis testing panel. In accordance with Navy instructions and regulations, those who are officially confirmed as valid self-referrals and who are found to be drug dependent shall be exempt from any disciplinary action and should be administratively separated under the notification procedure. However, those personnel who are subsequently screened and found not to be drug dependent will be open to disciplinary action and can be processed under the administrative board procedures.

### **References:**

- NAVADMIN 130/12
- SECNAVINST 5300.28E
- MILPERSMAN 1910-146
- OPNAVINST 5350.4D
- Talking Points: Notification of Expansion of Department of Defense Urinalysis Program, 14 February 2012, MS. D. Favorite




---

## **UNRESTRICTED REPORTS AND EXPEDITED TRANSFERS: A Commander’s Guide to Getting it Right**

---

LT Jessica Burrell, SJA, NSB Kings Bay

As Commanding Officer, you are notified that one of your Sailors has made a report of sexual assault and wants to be transferred out of your command – fast. The Navy issued guidance on Expedited Transfers. What factors must you consider in making your decision, and what does “expedited” mean in this context? What are your responsibilities as Commanding Officer?

WHAT is an “Expedited Transfer”?

Per Directive-Type Memorandum (DTM) 11-063, an Expedited Transfer is the Department of Defense policy that service member victims of sexual assault incidents be afforded the opportunity to request a transfer or reassignment from their current command. A transfer or reassignment includes, but is not limited to, temporary or permanent movement to a unit within the same command, to a unit on the same installation, or to a unit in a different geographic location. The transfer request is initiated by the service member in writing, includes the reason(s) for the request, and is submitted to the Commanding Officer, who shall document the date and the time the request was received and expeditiously process the request.

*Continued*

---

DOES this situation qualify for Expedited Transfer procedures?

First look to what kind of report the Service member has filed. Per DTM 11-063, Service members who file Unrestricted Reports of sexual assault can request Expedited Transfers. If a Service member has filed a Restricted Report of sexual assault, they must affirmatively change his or her reporting option to Unrestricted Reporting on DD Form 2910 (“Victim Reporting Preference Statement”) in order to request an Expedited Transfer under this policy.

WHAT factors should be considered in making a determination on a transfer request?

Per NAVADMIN 132/12, a Commanding Officer must first determine if the service member’s Unrestricted Report is credible. This means the Commanding Officer must find reasonable grounds to believe that an offense constituting sexual assault did occur based on all available evidence and the advice of the supporting Judge Advocate or other legal advisor or counsel concerned. If the Commanding Officer finds the report to be a credible one, a presumption shall be established in favor of approving the request for transfer (though requests for PCS transfers out of the area are to be granted on an exceptional basis). The Commanding Officer shall consider the following in making his or her determination:

- 1) The credible report of sexual assault;
- 2) The service member’s written request for transfer or reassignment;
- 3) Operational Necessity, including situationally unique requirements in deployed areas;
- 4) The nature and circumstances of the offense;
- 5) The location of the alleged offender;
- 6) Potential transfer or reassignment of the alleged offender instead of the reporting service member;
- 7) Alleged offender’s status (military or civilian);
- 8) After consultation with the investigating Military Criminal Investigative Organization and the supporting Judge Advocate or other legal advisor concerned, the status of the investigation and the potential impact of the service member’s transfer or reassignment on the investigation and future disposition of the allegation;
- 9) Training status of the service member requesting the transfer or reassignment; and,
- 10) Other pertinent circumstances or facts.



WHAT is meant by the term “expeditiously process”?

In part, the term refers to the requirement that the Commanding Officer must, **within 72 hours of receipt of the service member’s request**, approve or disapprove the transfer. Further, the decision to approve a transfer request, along with a recommendation as to where the service member should be transferred, shall then immediately be forwarded to the designated activity that processes PCS, PCA, or unit transfers. Any recommendation for disapproval of the transfer request must be in writing and forwarded, along with the reason(s) for the recommendation, to the first flag officer in the chain of command, or Senior Executive Service (SES) equivalent if applicable.

Only the first flag officer or SES equivalent in the service member’s chain of command may disapprove a request to transfer under this policy. The flag officer or SES equivalent shall consider the ten factors outlined above, the written recommendation from the commander to disapprove the request, and any other pertinent circumstances from the flag officer command perspective. It is the Commanding Officer’s responsibility to protect a service member who files a report of sexual assault, be it Restricted or Unrestricted, from reprisal or threat of reprisal for filing the report. Additionally, every reasonable effort to minimize disruption to the normal career progression of a service member who reports a sexual assault incident shall be made. The service member shall be counseled by his or her Commanding Officer or their designee in an effort to fully inform them regarding reasonably foreseeable career impacts, the potential impact of a transfer or reassignment on the investiga-

tion, case disposition, or the initiation of other adverse action against the alleged offender, and any other possible consequences of granting the request. Service members requesting a transfer must also be informed that they may have to return for prosecution of the case if the command determines that prosecution is appropriate.

By keeping the above requirements in mind and consulting with their supporting Judge Advocate and Sexual Assault Prevention and Response team, commanding officers can assist Sailors in navigating the unfamiliar and unwelcome territory inherent to incidents of sexual assault.

---

## **VWAP Corner: It Does Not End With The 2701**

---

LT Will G. Eden, Deputy SJA, CNRSE

The Victim and Witness Assistance Program (VWAP) does not end with simply informing a victim or witness of crime of their rights with a DD 2701 Form. In fact, it is just getting started, and if you are your command's Victim Witness Assistance Coordinator (VWAC), you have more work to do.

As the VWAC, you are responsible for monitoring every case through the military justice and/or administrative pipeline. Once a crime occurs, many different things can happen before a case is considered to be finished. There can be additional investigations and potential courts-martial, NJP, or administrative actions. Further, if a matter goes to court-martial, confinement may be imposed, adding to the VWAP timeline.

A VWAC need not be waiting at the brig gate to be sure of the exact moment a criminal is released, but it is imperative that a VWAC ensure any command member who is a victim or witness of crime is given the opportunity to participate in the system. This is especially important for victims of crime.

Victims of crime have the right to have their views regarding disposition of a case forwarded to the convening authority for consideration. This is normally done through trial counsel, but it is the VWAC's job to ensure the trial counsel does this. This is an important check in the system which gives victims within a command a designated command representative who will reach out to trial counsel and ensure a victim's views are heard.

As a VWAC, do not be afraid to raise a victim's concerns about being left out of the process to a trial counsel. It is one of, and potentially the most important, duties of a VWAC.

### **Duties of a VWAC**

- Educates command personnel on VWAP
  - Primary POC on VWAP matters
  - Obtains and distributes VWAP materials to members of the command
  - Must coordinate with other VWACs when different victims, witnesses and/or accused are from different commands
  - Confirms TC complies with notification requirements and has obtained victim's views about disposition and plea negotiations and forwarded to convening authority
-

## C-M-E-O: Command Managed Equal Opportunity Program

LNC Tracey Mitchell, NCBC Gulfport

**What is the objective?** The objective of the CMEO program is to promote positive command morale and quality of life by providing an environment in which all personnel can perform to the MAXIMUM ability, unimpeded by institutional or individual bases on race, color, ethnicity, national origin, gender, or religious stereotypes. The command leaders must create, shape, and maintain a positive equal opportunity (EO) environment through policy, communication, training, education, enforcement and assessment.

**How does it work?** The CMEO program is a tool for preventing unprofessional behavior and for ensuring EO goals are obtained. All personnel must attend a Navy Rights and Responsibilities (NR &R) workshop within 90 days of reporting to a new permanent duty station. In addition, annual all-hands workshops are required to include sexual harassment prevention training, grievance procedures, EO policies and climate held in conjunction with the command assessment.



**What constitutes equal opportunity discrimination?** Issues involving race, ethnicity, national origin, sex, and religion. All other issues are addressed by other means on the lowest level possible within the chain of command.

**How can I resolve conflicts?** There are two avenues in resolution-informal and formal. Informally resolving conflicts enables one to find a resolve at the lowest possible level. Evaluate what happened, take action to include direct approach or in writing, informal third party and training or resources then follow-up. Direct all parties to where advice may be obtained such as Chaplain, EOA, DON EO/SH advice line.

As a supervisor, don't wait until the issue is brought to the command level to address. Leaders should take immediate corrective action, support the offended service member, refer all parties to support services, inform the chain of command, provide training, and follow-up to ensure resolution.

Formal complaints are appropriate when actions at the lowest command level have failed and the behavior is clearly criminal or the informal resolution system is not an option. Formal complaints are to be reported under OPNAV-INST F3100.6J guidelines. The complaint must be filed within 60 calendar days from the date of the alleged incident. Upon completion, the complaint will be forwarded to the Echelon 2 EOA with supporting investigations and command endorsement. Other formal complaint options include NAVPERS 5354/2, UCMJ Article 138, NAVREGS, and Article 1150 or contact the Navy Inspector General hotline.

The formal complaint process for the six protected categories is as follows:

- 1) Formal complaint (NAVPERS 5354/2) is submitted to the command CMEO;
- 2) an investigation starts within 3 days;
- 3) a decision should be made within 20 days; and,
- 4) if no decision has been made, then updates shall be provided every 14 days after day 20.

*continued*

In conclusion, it is recommended to use the informal resolution system whenever possible and appropriate. Seek out your command's CMEO or legal counsel for advice on determining which complaint procedure to follow.

### References and Resources:

- OPNAVINST 5354.1F
- OPNAVINST F1300.6J
- NAVADMIN 386/11
- NAVPERS 15620, Informal Resolution System booklet
- SECNAVINST 5300.26D, Dept of Navy(DON) Policy on Sexual Harassment
- Navy Equal Opportunity Office: <http://www.npc.navy.mil/commandsupport/diversity/equalopportunity>



## Recent court-martial sentences in Navy Region Southeast

### General Courts-Martial

- Contested court-martial, an E-4 was found guilty of violating Art. 92—lawful general order. Members awarded no punishment at sentencing.
- A case out of Europe, an O-4 pled guilty to 5 specs of conduct unbecoming an officer and gentleman, 1 spec of adultery. The O-4, who was married, got into a relationship with the victim, who did not know he was married. Once the relationship ended, he harassed her and tried to humiliate her to her friends and family. Members sentenced him to six months confinement.
- A previously convicted Sailor who was currently serving confinement at the Navy Brig in Charleston was found guilty of attempting to communicate to a child using indecent language and mailing obscene matter in letters to the child. MJ sentenced him to 7 years confinement, to be served in addition to the sentence previously adjudged at an earlier court-martial.
- E-2 convicted of two specs of wrongful sexual contact (Art. 120) after a contested trial. Members sentenced accused to 1 year confinement.



### Special Courts-Martial

- E-4 pled guilty to 3 specs of Art. 128--assaulting his wife. MJ sentenced accused to 10 months confinement, RIR E-1, and BCD.
- E-6 pled guilty to conspiracy to commit larceny and conspiracy to steal a classified exam, then take the secret document home and take the exam. MJ sentenced accused to 100 days conf., RIR E-1, and BCD.
- Contested court-martial involving an E-3 accused of attempting to access child pornography over the internet. Members found accused guilty, but in apparent consideration of the fact that it was an attempt, the members did not vote for confinement, but sentenced the accused to Reduction in Rate to E-1 and a Bad Conduct Discharge.
- E-4 pled guilty to Art. 108 and 121--thefts from the hospital and NEX. MJ sentenced to 7 months, RIR E-1 and BCD.
- At a contested court-martial, an E-5 was found guilty of assault by threat with an unloaded firearm. Members sentenced the accused to 30 days hard labor w/o confinement and RIR to E-4.
- E-3 pled guilty to desertion, UA, 4 specs of failure to obey lawful general orders, and drunk/disorderly conduct. The MJ sentenced the accused to 100 days confinement, RIR to E-1, and BCD.
- E-5 pled guilty to damaging personal property and communicating a threat. MJ sentenced the accused to 120 days confinement and RIR to E-1.