



DEPARTMENT OF THE NAVY
NAVAL LEGAL SERVICE COMMAND
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IN REPLY REFER TO:

COMNAVLEGSVCCOMINST 5800.1G
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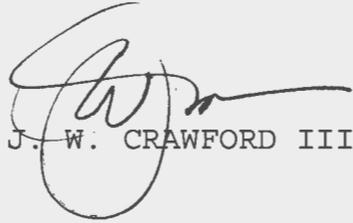
COMNAVLEGSVCCOM INSTRUCTION 5800.1G

From: Commander, Naval Legal Service Command

Subj: NAVAL LEGAL SERVICE COMMAND (NLSC) MANUAL

1. Purpose. To issue policy for the operation of Defense Service Offices (DSOs), Region Legal Service Offices (RLSOs), and their respective detachments and branch offices.
2. Cancellation. COMNAVLEGSVCCOMINST 5800.1F.
3. Background. This publication provides guidance and NLSC policy for the operation and administration of DSOs, RLSOs, and their respective detachments and branch offices. Portions of this instruction also apply to the Naval Justice School. This instruction confers no individual rights for which there is an enforceable remedy.
4. Discussion. There have been a number of significant changes in Navy and NLSC policy since the issuance of COMNAVLEGSVCCOMINST 5800.1F, to include changes in reporting requirements, organizational structure and chain of command, training, and the Naval Reserve Law Program. This instruction is a complete revision of the previous instruction and should be read in its entirety.
5. Action. Commanding Officers (COs) and Officers-in-Charge (OICs) shall comply with this instruction. COs may request approval from Chief of Staff (COS)-RLSO or COS-DSO as appropriate, to deviate from the provisions of this instruction based upon operational demands, organizational needs, or local conditions. COs and OICs may promulgate internal command policies, operating procedures, regulations, and organizational structures consistent with this instruction and as needed to address local circumstances.

6. Points of Contact. Policy questions pertaining to local operations should be directed to the COS-RLSO and COS-DSO, as applicable.



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Naval Legal Service Command Manual



NLSC Manual
COMNAVLEGSVCCOMINST 5800.1G

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CHAPTER 1
NAVAL LEGAL SERVICE COMMAND STRUCTURE AND GOALS

0100 COMMANDER, NAVAL LEGAL SERVICE COMMAND

The Deputy Judge Advocate General of the Navy is assigned additional duty to the Chief of Naval Operations (CNO) as Commander, Naval Legal Service Command (CNLSC), and is responsible for providing and overseeing Navy-wide legal services and related tasks.

0101 NAVAL LEGAL SERVICE COMMAND

a. The Naval Legal Service Command (NLSC), an Echelon 2 command, is responsible for the administration of legal services, providing direction for all NLSC activities and resources assigned, and performing such other tasks and functions as directed by CNO. The NLSC chain of command is detailed in Appendix A. Chief of Staff - Region Legal Service Office (COS-RLSO) is the central point of contact on the CNLSC staff for Region Legal Service Offices (RLSOs). Chief of Staff -Defense Service Office (COS-DSO) is the central point of contact on the CNLSC staff for Defense Service Offices (DSOs). COS-RLSO and COS-DSO shall be responsible for coordinating headquarters oversight support and management of NLSC activities for RLSOs and DSOs respectively. Chief of Staff-RLSO also serves as the Assistant Judge Advocate General - Operations and Management (AJAG 06).

b. If CNLSC should be absent for a prolonged period, the Deputy Commander, Naval Legal Service Command (Deputy Judge Advocate General (Reserve Affairs and Operations)) may perform the duties of CNLSC until CNLSC returns or a permanent relief is identified.

0102 NLSC FIELD ORGANIZATION

a. The NLSC field organization is comprised of RLSOs and DSOs and their subordinate activities. Chapters 1 through 10 of this Manual apply to all NLSC activities. Chapters 11 and 12 apply to DSOs. Chapters 13 through 16 apply to RLSOs. DSOs, RLSOs, and their subordinate activities are referred to in this Manual as "NLSC activities." Each DSO and RLSO is assigned primary responsibility for the provision of certain legal services in a defined geographic area of responsibility (AOR). Pursuant to reference (a), Commanding officers (COs) shall work together and with client commands to resolve any question

regarding which servicing office is responsible for providing services to a unit in transit from one geographic area to another. Unresolved issues will be referred to the respective COS for resolution.

b. The primary mission of NLSC is to provide legal services in support of fleet operational readiness. Accordingly, the highest priority will be given to fleet and operational units, particularly those deployed or preparing to deploy.

c. Personnel assigned to NLSC activities are not in the permanent administrative "chain of command" of local line commanders and do not report to region commanders. However, RLSO COs, and additional personnel designated ADDU to region commanders to provide SJA advice and services, to include billeted Regional Environmental Counsel, may receive concurrent fitness reports from region commanders, and all NLSC activities are subject to the "area coordination authority" of local area and region commanders.

d. Financial responsibility for costs incurred in support of courts-martial services will be allocated in accordance with Section 0145 of reference (b) (Manual of the Judge Advocate General) [hereinafter JAGMAN]. When other legal services are involved, travel and per diem expenses, including those for legal assistance trips out of the local area, will be paid by the requesting command. If a Commander, Naval Installations Command (CNIC) local area or region commander convenes the military justice proceeding, regardless of whether it is on behalf of a tenant command, CNIC will fund the costs resulting from those proceedings on a non-reimbursable basis.

0103 SERVICE GOALS

a. It shall be the goal of each individual attached to NLSC activities to provide the highest quality legal services to commands and all other eligible personnel. In meeting the needs of the client, all personnel shall strive to deliver prompt, courteous, and professional legal services.

b. All NLSC personnel are governed by the Rules of Professional Responsibility, reference (c), and shall strive to uphold the highest standards of their profession and the Judge Advocate General's Corps (JAGC), giving special emphasis to courtesy and respect for each other.

0104 PRIORITIZATION OF SERVICES RENDERED

a. DSOs. When, in the opinion of the CO, legal service demand exceeds resource availability, DSOs and their detachments and branch offices will provide legal services in the following priority (in descending order):

(1) Court-martial defense;

(2) Other military justice assistance and personal representation, including administrative discharge proceedings, where applicable; and

(3) Legal assistance (when provided under paragraph 1317 of this Manual).

b. RLSOs. When, in the opinion of the CO, legal service demand exceeds resource availability, RLSOs and their detachments and branch offices will provide legal services in the following priority (in descending order):

(1) Military justice;

(2) Command services;

(3) Standards of conduct advice; and

(4) Legal assistance.

c. DSO/RLSO COs shall report anticipated curtailment or denial of any listed services for longer than three consecutive working days to their respective COSs.

CHAPTER 2
NAVAL LEGAL SERVICE COMMAND POLICIES AND PROCEDURES

0200 CHAIN OF COMMAND

a. The two-way chain of command is the preferred channel for official communication. Occasionally, it may be necessary to deviate from the normal chain, but the subordinate or senior who bypasses an intermediate should apprise that person as soon as practicable. However, this policy does not restrict a person's right to communicate with a member of congress, inspector general, or other official in accordance with the protections afforded under reference (d), as implemented by reference (e), or other applicable whistleblower protection statutes. COs should be freely accessible to all personnel, but intermediates in the chain of command should ordinarily be consulted first as to any matters of official interest to them.

b. Under normal circumstances, NLSC COs will be the point of contact with CNLSC/COSs for official matters affecting his/her command. Delegation of authority to the CO's staff to initiate informal communications with CNLSC/COSs is a matter within the discretion of the CO.

0201 KEEPING THE COMMANDING OFFICER INFORMED

Personnel are expected to inform the commanding officer promptly of events warranting attention. Cases which could attract the attention of higher headquarters or the media; significant incidents involving officers, senior enlisted, or local officials; and any other high visibility cases should be brought immediately to the attention of the CO. The CO will determine whether to apprise CNLSC, via the respective COS, and other NLSC or Office of the Judge Advocate General (OJAG) Codes, as appropriate.

0202 FAIRNESS AND IMPARTIALITY

A fundamental element of NLSC's mission is to assist line and staff commands in maintaining good order and discipline. In matters involving military justice, NLSC is committed to ensuring every accused receives due process of law. This involves the right to a prompt, fair hearing, before an impartial decision-maker, with the effective assistance of loyal and zealous counsel. NLSC is dedicated to the goal that all clients are treated with dignity and fairness.

0203 UNIFORMS

The Navy region commander prescribes the authorized uniform of the day. When the Navy Working Uniform (NWU) is authorized and worn as a working uniform, NLSC personnel shall wear khakis or the appropriate Navy service uniform one day per week as designated by the commanding officer, unless a region commander has a specific policy that mandates daily wear of the NWU. The detailed military judge prescribes the authorized uniform for courts-martial.

0204 PROFESSIONAL PERFORMANCE OF DUTY AND MILITARY APPEARANCE

NLSC personnel represent both the legal and military professions and must set the best possible examples of ethical, moral, and responsible conduct on and off duty. They should project an exemplary military bearing in their daily demeanor, appearance, and observance of Naval customs and traditions.

0205 PHYSICAL READINESS

NLSC personnel are required to meet the physical readiness standards in reference (f). Personnel of other services will comply with the physical readiness standards of their own services. COs shall actively support the goal of attaining and maintaining physical fitness by allowing assigned personnel to participate in a minimum of 2 hours and 30 minutes per week when mission and operational requirements permit. An officer or enlisted member (E-6 or above), who is certified in cardiopulmonary resuscitation, a non-tobacco user, and has an overall PRT score of "excellent" or better shall be assigned collateral duty as Command Fitness Leader (CFL). The CFL will assist individuals in complying with physical readiness requirements and advise the CO on the state of command physical readiness.

0206 EQUAL OPPORTUNITY AND COMMAND MANAGED EQUAL OPPORTUNITY PROGRAM

a. All Department of the Navy (DON) personnel shall be free from illegal discrimination, including unlawful distinctions based on race, sex, color, age, religion, or national origin. Differences based on rank, grade, seniority, official position, authority, superior abilities or performance, or other lawful factors are not inconsistent with this policy.

b. COs shall ensure a Command Managed Equal Opportunity (CMEO) program is established at their commands in accordance with the requirements of reference (g) and that the Navy Equal Opportunity policy is an integral part of their day-to-day personnel management. To that end, COs shall issue their personal Equal Opportunity (EO) policy statement to the command and conduct an EO command assessment within 90 days of taking command and at least annually thereafter. The results of the most recent assessment will be included in the CO's turnover.

c. Command personnel shall review and implement the CMEO program in their everyday working relationships.

d. All Navy personnel will receive annual training in EO and prevention of discrimination.

0207 PREVENTION OF SEXUAL HARASSMENT

a. Policy. As defined by reference (h), sexual harassment is wrong and will not be condoned or tolerated. It is unprofessional and adversely affects morale, discipline, productivity, and ultimately, the mission of the command. Violation of the prohibition on sexual harassment will result in appropriate administrative and/or disciplinary action. Supervisors and managers must take affirmative measures to prevent sexual harassment.

b. Responsibilities. COs, Executive Officers (XOs), Officers in Charge (OICs), Branch Heads and Department Heads are responsible for ensuring persons under their authority receive training on identification, prevention, resolution, and elimination of sexual harassment. All supervisors and managers shall adhere strictly to, and enforce, DON policy on preventing and eliminating sexual harassment. Newly reporting COs shall issue a clear statement prohibiting sexual harassment and are encouraged to include this statement in the EO policy statement required by paragraph 0206 of this Manual.

c. Procedures

(1) The preferred method to resolve most sexual harassment issues is to attempt to resolve the issue at the lowest possible level by informing the offender that his/her behavior is inappropriate.

(2) Ordinarily, personnel who experience sexual harassment should tell the offender such behavior is unwelcome,

offensive, and against DON policy. Although informing an offender that his/her behavior is inappropriate is a recommended course of action, doing so is not required.

(3) Personnel who experience sexual harassment may file a complaint of discrimination or an administrative grievance, request the JAG Inspector General to review the matter, or use other formal remedies available to them.

(4) Personnel in command or supervisory positions who receive reports or complaints of sexual harassment shall take immediate action to investigate the matter, and, if the complaint is substantiated, take appropriate administrative or disciplinary action. Supervisory personnel must always report such matters to the CO, regardless of the resolution or recommended disposition. COs shall report all complaints to their respective COS and advise of any administrative or disciplinary action imposed.

0208 SEXUAL ASSAULT PREVENTION

a. A DON goal is to eliminate sexual assault incidents that impact DON personnel and dependents or are perpetrated by DON personnel.

b. NLSC personnel may be called upon to provide advice, instruction, and assistance regarding the Sexual Assault Prevention and Response Program. COs shall ensure command personnel receive regular training (at least annually) in the various legal issues of the program, including those relating to victim privacy, victim support services, command climate that encourages reporting of incidents, and military justice support. See reference (i).

0209 FAMILY ADVOCACY PROGRAM

a. DSO personnel may assist active duty service members and other persons eligible for legal assistance under JAGMAN 0705 who are alleged offenders, in all aspects of seeking review of an adverse Case Review Committee (CRC) determination. If workload does not permit or where conflicts of interest exist, the DSO will attempt to refer a case to another DSO activity or attempt to make other appropriate arrangements. See reference (j).

b. In general, Staff Judge Advocates (SJAs) or local command representatives provide information outlining procedures

for obtaining relevant CRC records under the Privacy Act and Freedom of Information Act. DON Privacy Act Notice N-01752-1, Family Advocacy Program System, provides information on the categories of individuals who may request such records.

c. The CO of the alleged offender or victim, or the CO of the sponsor of the alleged offender or victim, may request review of a CRC determination. RLSOs may assist these commands in obtaining advice from SJAs or other legal resources.

d. COs shall ensure command personnel receive annual training in family violence risk factors and abuse dynamics; basic community information and referral; safety planning and appropriate responses, which may include screening procedures, identification, assessment, and sensitive interviewing of suspected victims; notification and reporting procedures to military and civilian authorities; evidence collection procedures; case management procedures; victim/witness assistance program; transitional compensation; and specialized discharge planning as appropriate. See also paragraph 1404 of this Manual.

0210 VICTIM AND WITNESS ASSISTANCE PROGRAM

The Victim and Witness Assistance Program (VWAP) is of paramount importance to the Navy and the JAG Corps. References (k) and (l) prescribe procedures to implement the Victim and Witness Assistance Program in the Department of the Navy. DSOs and RLSOs are instrumental in the implementation and success of this program. Processes and procedures relating to the implementation of the VWAP in NLSC are found in reference (m). Although RLSOs have the primary role in implementing the program within NLSC, DSO personnel may have limited involvement and should be aware of the program and the methods for administration. See also paragraph 1405 of this Manual.

0211 NAVY FAMILY CARE PLANS

Service members are responsible for ensuring adequate care for their dependents at all times. To ensure this, reference (n) requires a family care plan for single parent service members, dual military couples with custody of children under 19 years of age, and other service members who are solely responsible for the care of and provision for another person. The plan, which utilizes NAVPERS Forms 1740/6 and 7, outlines the means of financial, medical, and logistical support to be provided to dependents during the absence of the member due to military

duty. NLSC COs shall ensure all command personnel who are subject to these support obligations complete a family care plan within 60 days of either arriving at the command or experiencing a material change in circumstances affecting an existing plan. COs shall also designate a collateral duty Family Care Plan Coordinator to assist service members affected by this policy.

0212 TRAINING SUICIDE PREVENTION AND VICARIOUS TRAUMA PREVENTION

a. Commanding Officers are responsible for ensuring that all personnel are trained on the identification of suicide warning signs, preventive measures to minimize risk, and administrative procedures to be followed in appropriate cases. In particular, all defense counsel, trial counsel, and legal assistance attorneys shall receive annual training in suicide prevention, and completion of such training shall be an Article 6 inspection item. NJS and DCAP/TCAP (as appropriate) are responsible for ensuring training material is available.

b. All defense counsel and trial counsel shall receive annual training regarding vicarious trauma that can be caused by exposure to evidence such as child pornography, death of infants, acts of violence, etc. This requirement extends to other members of the trial and defense teams with exposure to this type of evidence. Completion of such training shall be an Article 6 inspection item. NJS and DCAP/TCAP (as appropriate) are responsible for ensuring training material is available.

0213 TRAINING AND EDUCATIONAL RESPONSIBILITIES

a. A primary duty of COs is to train subordinates. COs shall take an active, personal leadership role in this tasking. Every practicable effort will be made to ensure command personnel participate in training courses (Navy or civilian), subject to budget availability. In addition, COs have a special responsibility to ensure junior personnel are familiar with Naval traditions and operations. Chapters 7 and 10 contain more specific guidance on training related to classified information and national security cases.

b. NLSC COs shall comply with the JAG Corps Training Program including the responsibilities to:

(1) Emphasize to all hands the importance of continued training in the provision of quality legal services and ensure maximum participation in the training program; and

(2) Administer training funds in accordance with the requirements of the JAG Corps Training Program.

c. See section 0306 for a discussion of the Professional Development Officer.

0214 PERSONNEL ASSIGNMENTS

a. COs are responsible for personnel assignments within their units. Unless otherwise authorized by CNLSC, all first-tour Judge Advocates (FTJAs) will be assigned to one of 12 Region Legal Service Offices (RLSOs) and will complete professional development standards (PDS) in Government Services (Command Services and Prosecution support) within 12 months after reporting to the RLSO. After the initial 12 months, FTJAs will complete six-month rotations in Legal Assistance (RLSO) and in Defense Services/PERSREP (DSO), in either order, and complete the associated PDS. If this 24-month period is interrupted by a deployment or other assignment, the FTJA will return to complete the rotation sequence and the associated Professional Development Standards for each practice area. FTJAs will transfer between RLSOs and DSOs under Permanent Change of Activity (PCA) orders.

b. Should the needs of the Navy require a first-tour LEP or first-tour Direct Accession to be detailed to either a core position or to a location outside one of the 12 locations approved for FTJAs, that officer shall complete PDS within 24 months to the maximum extent feasible.

c. Upon completion of the 24 months and the PDS, a FTJA who has not yet executed PCS or ARG/IA deployment orders may assume core duties as prescribed by cognizant DSO or RLSO CO until execution of such orders.

d. Collateral duties will be assigned as necessary. When appropriate, collateral duties may be shared by DSOs and RLSOs, as discussed in paragraph 0215 of this Manual.

0215 OVERLAPPING RESPONSIBILITIES

COs of DSOs and RLSOs with overlapping geographic areas of responsibility or common facilities (including detachments and branch offices) should use memoranda of understanding (MOUs) to divide and/or share collateral duty responsibilities common to both, such as building security, maintenance of the law library,

as well as other duties, assets, benefits, or responsibilities of mutual interest.

0216 PROFESSIONAL RESPONSIBILITY

All judge advocates, other attorneys when practicing under the supervision of the JAG, and, when appropriate, non-lawyer assistants are subject to reference (c) with regard to professional and ethical conduct.

0217 MEDIA AND RELEASE OF INFORMATION

a. The media play an important role in a democratic society; however while courts-martial are generally open forums, COs should be vigilant to protect the rights of service members and the dignity of the courtroom and other command spaces. COs will ensure R.C.M. 806, JAGMAN 0142 and 0143, and Rule 3.6 of reference (c) are followed. Guidance and assistance must be obtained from the local Public Affairs Office (PAO) before information about legal services being performed by NLSC personnel is disseminated. If a PAO contacts NLSC personnel for information or comments about official or legal matters, the PAO should be directed to the CO. See Appendix B for further guidance.

b. COs will notify CNLSC via their respective COS by the most expeditious means when an incident/event occurs having potential high visibility or media interest or when a NLSC activity (e.g., the conduct of a high-visibility court-martial) generates media interest.

c. The Privacy Act, reference (o) and reference (p) (Department of the Navy (DON) Privacy Act (PA) Program) prohibit the unauthorized release of information maintained in a Privacy Act system of records. In releasing any information, NLSC personnel will adhere to the requirements of the Privacy Act and will coordinate all releases of information, including interviews and publications, with the CO.

d. To ensure transparency and promote confidence in the military justice system, RLSOs will provide CONUS and Hawaii Region (Navy) public affairs officers with uniform court martial and Article 32 hearing schedules (dockets). Region public affairs officers will post these hearing schedules on their individual public-facing websites each week. The schedule will not reference names of accused or their anticipated pleas. Web-site disclaimers will mention that the schedule contains only

those cases for the upcoming week, is subject to change, and does not indicate any judgment or ruling by the trial judiciary. Due to host nation sensitivities, hearing schedules will only be posted in CONUS and Hawaii. OCONUS locations will respond to inquiries on an individual basis without an online docket presence.

0218 LIBRARIES

COs, at their discretion, may grant access to NLSC law libraries to non-NLSC personnel. This access must not interfere with the performance of NLSC duties, result in additional expense to the United States, or confer any preferential treatment to any private organization or individual.

0219 SECURITY

a. Physical Security. All personnel are assigned responsibility for the physical security of command, detachment, and branch office spaces. COs are responsible for ensuring spaces and government property are protected and used only for authorized purposes. Command property must be inventoried and marked in accordance with reference (q). Each NLSC activity shall assign a command physical security officer. Reference (r) contains information on the duties of command physical security officers.

b. Sensitive and Classified Information. Each DSO and RLSO department should have available at least one locking cabinet for overnight security of service records, investigation reports, trial tapes, computer media, or other sensitive material. Classified material must be stored in a General Services Administration (GSA)-approved security container and maintained pursuant to reference (s). All files containing personal information should be safeguarded. For additional information regarding the security of physical evidence for trial, see paragraph 1403 of this Manual.

c. Information Assurance Management. All personnel should be aware of the measures necessary to protect and defend information and information systems to ensure the confidentiality, integrity and availability of their data regardless of the form the data may take: electronic, print, or other forms (i.e., CD/DVDs, hard-drives, portable computers). The Privacy Act, Freedom of Information Act, Federal Information Security Management Act (FISMA), reference (t) and other DoD security directives must be obeyed. COs shall appoint a command

Information Assurance Officer to manage the information systems of the command in accordance with reference (u).

d. Information, Personnel, and Physical Security Management. Commands must safeguard the access, transmission, and destruction of classified information. Additionally, they must ensure that personnel who are entrusted with access to classified information are properly trained, loyal, reliable, and trustworthy. To affect these duties, COs shall appoint a command Security Manager in accordance with references (v) and (w) to manage the command Information Security Program (ISP).

0220 ANTITERRORISM/FORCE PROTECTION TRAINING

Reference (x) is designed to ensure antiterrorism/force protection awareness throughout the Navy. All NLSC activities shall comply with this instruction and local implementing directives of major Naval commanders. OJAG Code 63 is the NLSC Force Protection/Antiterrorism Training point of contact and is available to assist with NLSC activity compliance with governing instructions, including providing training, information, and references. See also reference (y).

0221 MANAGEMENT INFORMATION SYSTEMS

Each DSO and RLSO shall utilize CMTIS in accordance with current guidance to manage conflict of interest avoidance, trial docketing, legal assistance, and personnel utilization.

0222 COMPUTER PROCUREMENT AND APPLICATIONS DEVELOPMENT

a. OJAG Code 65, Knowledge and Information Services, is responsible for providing information technology (IT) support to NLSC activities. This technical support exists to:

(1) Ensure procurement, use, and safeguarding of IT hardware, software, and data complies with current DOD and DON instructions and is consistent with JAG/NLSC policy;

(2) Establish hardware and software standards and direction;

(3) Provide IT training and assist activities in developing IT training plans;

(4) Assist end-users in the analysis, design, and development of automated applications with appropriate documentation; and

(5) Provide technical assistance for requirements analyses, hardware and software upgrades, and related problems.

b. The following procedures are established to accomplish the foregoing responsibilities and to ensure the effective and efficient use of resources:

(1) IT Procurement. Activities desiring office information technology resources (e.g., desktop computers, laptops, storage devices, printers, software) shall submit the funding request with a detailed justification to OJAG Code 64. Code 64 will then confer with Code 65 to ensure the resource is allowed on a DON network and that all DON policies are followed in regard to IT procurement and information assurance.

(2) Applications Development. Activities desiring to automate a function or change an existing function within an application shall consult with OJAG Code 65 on the appropriate request form. End-user development of applications is discouraged since the Navy and OJAG are striving for standardization to improve business processes and lower IT costs. All commercial off-the-shelf (COTS) software must be DON approved. Activities desiring COTS software shall contact Code 65 to ensure the software is approved by the DON.

(3) Requirements Analysis, Training, and Technical Assistance. Activities desiring a review of information technology needs, training, or other related technical assistance shall submit a memorandum request to OJAG Code 65 identifying the requested assistance.

0223 INFORMATION TECHNOLOGY ASSIST VISITS

a. Information Technology assist visits provide an opportunity for the computer technicians and management personnel from OJAG Code 65 to visit DSOs/RLSOs, detachments, and branch offices to assist their efforts to increase the systematic integration of JAGC standard IT resources into the work environment. These visits are not inspections. The only formal report prepared will be a brief for the CO at the end of the visit.

b. IT assist visits are scheduled with the consent of the CO after preliminary discussions concerning the command's particular requirements. Decisions concerning team members and visit length are made in light of those requirements.

0224 SUPPORT OF NAVY-MARINE CORPS TRIAL JUDICIARY

a. Support for the judiciary is a responsibility held by DSOs and RLSOs jointly. DSOs/RLSOs, detachments, and branch offices hosting permanent military judges who lack clerical support shall provide a clerk of court as required by reference (z). DSO and RLSO COs and the Circuit Military Judge will jointly determine the extent of clerk of court support actually required. Problems that cannot be resolved locally should be referred to CNLSC via the COSs for resolution.

b. DSOs/RLSOs, detachments, and branch offices shall provide appropriate office space, equipment, furniture, stationery, office supplies, telephone, and other communication services to the resident military judge. Reference (z) pertains.

c. DSOs/RLSOs, detachments, and branch offices shall provide official vehicles for official judiciary travel whenever feasible.

d. DSOs/RLSOs, detachments, and branch offices, to the extent consistent with the maintenance of the independence and impartiality of the trial judiciary, are encouraged to involve military judges in career planning, development and training, regional planning of legal services, speaking, and social engagements.

0225 COMMAND INSPECTION PROGRAM

Inspections are an inherent function of command and are required to ensure proper and efficient accomplishment of assigned missions. CNLSC will exercise an effective Uniform Code of Military Justice, Article 6 command inspection program as implemented by reference (aa). Article 6 inspections of DSOs, RLSOs, and their respective detachments and branch offices as appropriate, will generally be conducted as required by the applicable instruction.

0226 CRIMINAL ACTIVITY, DISCIPLINARY INFRACTIONS, AND COURT-MARTIAL REPORT

Reference (bb) requires Naval activities to submit military justice statistics to Officers Exercising General Court-Martial Jurisdiction (OEGCMJ) on a quarterly basis. All NLSC commands shall submit this quarterly report to OJAG Code 63 on the 8th day of January, April, July, and October. Code 63 will submit a consolidated report OJAG, Criminal Law Division (Code 20) no later than the 30th day of the aforementioned months. Negative reports are required.

0227 DRUG AND ALCOHOL PROGRAM

COs will implement the Navy's alcohol and drug abuse policies and programs. A command Drug and Alcohol Program Advisor (DAPA) will be appointed and trained in accordance with reference (cc). Commands are authorized to coordinate with the Region DAPA to fulfill requirements of this instruction.

0228 RECRUITING

Recruiting law students and attorneys is a mission of all JAGC personnel. We need smart, creative, energetic people who find their reward serving their country in a team-oriented, demanding environment. Recruiting efforts must target the many backgrounds reflected in the nation we serve. Diversity of thought, ethnicity, socio-economic background, gender, race, and geography will ensure continued maximum mission readiness and effectiveness of the JAGC in a changing world. In accordance with reference (dd), the following information is provided to assist in the recruiting effort.

a. Officer Recruiting Focus. NJS and RLSO COs shall make the primary focus of their recruiting efforts the top 100 law schools and the top 20 diverse law schools.

b. Recruiting Plans. NJS and RLSO COs shall prepare and submit to OJAG Code 61 annual recruiting plans in accordance with annual guidance promulgated by the Judge Advocate General, including the estimated dates for law school visits and TAD cost if requesting funding. The name and contact information of the designated representative managing the structured interview process for each command must also be forwarded to OJAG Code 61, as well as information on how each command plans on conducting structured interviews in their area of responsibility (AOR).

DSO COs will support recruiting events to the maximum extent possible within manpower and mission constraints.

c. Funding for Recruiting Plans. NJS and RLSO COs who require supplemental funding to execute recruiting plans must submit their request, in advance of any travel, to OJAG Code 61.

d. Officer Recruiting Metrics. NJS and RLSO COs must forward after action reports on recruiting events to OJAG Code 61.

e. Recruiting Materials. NJS and RLSO COs should request Navy and JAGC recruiting materials from their local Navy Recruiting District (NRD). If the local NRDs cannot meet the demand, NJS and RLSO commands should contact OJAG Code 61 for assistance.

f. Ongoing Recruitment of Professionally Recommended Candidates. NJS and RLSO COs shall maintain regular contact with all professionally recommended candidates within their AOR until they reach the Naval Justice School and submit monthly status reports to OJAG Code 61 as required.

CHAPTER 3
ORGANIZATION, AUTHORITY, AND RESPONSIBILITIES

0300 DSO FUNCTIONAL AREAS

DSOs will be organized to most efficiently and effectively provide legal services and mission functions in the following areas:

- a. Court-martial defense;
- b. Personal representation;
- c. Command administration; and
- d. Legal assistance, as outlined in paragraph 1305 and 1317, where necessary to meet the needs of the Navy.

0301 RLSO FUNCTIONAL AREAS

RLSOs will be organized to most efficiently and effectively provide legal services and mission functions in the following areas:

- a. Trial counsel services/court-martial prosecution;
- b. Command services/administrative law;
- c. Court reporting;
- d. Legal assistance;
- e. International law (overseas RLSOs);
- f. Ethics counseling;
- g. Foreign criminal jurisdiction (overseas RLSOs);
- h. Claims services as necessary by needs of the Navy; and
- i. Command administration.

0302 COMMAND ORGANIZATIONAL STRUCTURE

a. Each NLSC command shall be organized to best meet the needs of its clients and customers, consistent with personnel, fiscal, and physical resources, as well as geographic location.

b. Local conditions may require variations in organizational structure. Furthermore, because NLSC activities cover large areas of responsibility, non-traditional organizational structures may be appropriate. For example, Department Heads may, in some commands, be best located in a detachment vice the parent command. Such organizational innovation is permitted and encouraged when it promotes efficiency and the overall mission. OJAG Code 63 should be notified when modified command structures are used. Also, functions may be contained within a department at the discretion of the CO. In some commands, it will be necessary for personnel to serve in multiple capacities.

c. Command detachments and branch offices will be established or disestablished by CNLSC as needed. Authorization to establish or disestablish detachments or branch offices shall be requested through OJAG Code 63 to ensure procedural requirements are satisfied.

0303 COMMANDING OFFICERS/OFFICERS IN CHARGE

a. The duties and responsibilities of COs and OICs are set forth in Chapter 8 of U.S. Navy Regulations, 1990, as well as throughout this Manual. Specific DSO mission areas are discussed in Chapters 11 and 12 of this Manual, and DSO COs are responsible for meeting those objectives. Likewise, specific RLSO mission areas are discussed in Chapters 13 through 16, and RLSO COs are responsible for meeting those objectives. A branch office does not have an officer-in-charge within the meaning of reference (b). The presiding officer aboard a branch office is a branch head. Branch heads shall report via an officer-in-charge or department head on a command's organizational chart. A branch head is expected to maintain and operate their branch office with specific authority as prescribed in this Manual and as otherwise delineated by the CO and XO.

b. COs and OICs shall expeditiously process all requests for military justice services. See Chapter 10. At times, a NLSC activity may experience a sudden increase in service needs, exceeding the capacity of permanently assigned resources. In these situations, COs and OICs are expected to seek assistance from the chain of command. Conversely, NLSC activities should keep CNLSC apprised when command resources can be shared, even if on a temporary basis. OJAG Code 63 is assigned oversight responsibility in this regard.

c. COs and OICs shall establish a command-wide mentoring program, consistent with current guidance from CNLSC. This program shall provide career guidance and leadership advice by partnering senior personnel with junior personnel. Moreover, COs and OICs shall also create a structure to pass relevant information and guidance from senior to junior personnel.

d. To maintain necessary leadership, either the CO or XO should be present during regular working hours. If the CO will be absent for longer than two days, the CO will notify CNLSC via his/her respective COS. OICs will coordinate leave or other lengthy absences with the CO.

e. Detaching Letter Report

(1) Upon detaching, each CO will forward to CNLSC's personal attention a detaching letter report which analyzes and evaluates his/her former command's accomplishments and deficiencies, if any. See Article 0807, U.S. Navy Regulations, 1990. This letter report will be a frank expression of the CO's evaluation of progress made by the command as well as the status of any unaccomplished goals or objectives. This report shall discuss the support provided to the NLSC command, both locally and at the CNLSC/OJAG level. COs shall request similar reports from detaching OICs.

(2) To the extent possible, detaching letter reports will be treated as sensitive communications to be reviewed only at the highest appropriate level. Each CO is expected to be candid and provide a critical analysis of his/her activity, any co-located NLSC activity, and NLSC headquarters.

(3) A copy of this report will be placed in the CO's turnover file.

(4) The relieving CO will comment on any deficiencies noted in the detaching letter report or otherwise in a relief-of-command report to be sent to CNLSC's personal attention, as required by Article 0807, U.S. NAVREGS, 1990.

0304 EXECUTIVE OFFICERS

The XO is, under U.S. Navy Regulations, 1990, the direct representative of the CO, and all orders issued by the XO have the same effect as though issued by the CO. The XO conforms to and executes the policies and orders of the CO and keeps the CO informed on all significant matters pertaining to the command.

Under the CO, the XO is primarily responsible for the organization, performance of duties, good order and discipline of the entire command, and generally for those matters prescribed in Articles 0803, 0805, 0806, 1005, 1039, 1061, and 1077 of U.S. NAVREGS, 1990. Official communications from subordinates to the CO normally are transmitted through the XO; however, the XO will recognize the right and duty of Department Heads, assistants to the CO, and command liaison officers to confer directly with the CO, at the CO's discretion, on matters relating to their assigned areas of responsibility. The XO is expected to execute the responsibilities of the CO when the CO is not reasonably available. The XO succeeds to command in the CO's absence.

0305 DEPARTMENT HEADS

a. Department Heads represent the CO in their respective departments. All persons assigned to a department are subordinate to and shall obey the orders of the Department Head, subject to the requirement for defense counsel independence in the course of assigned representation.

b. Department Heads will:

(1) Be responsible for the effectiveness of their departments. To that end, they will organize the department; prescribe the duties of personnel assigned; plan, direct, and supervise the work and training of personnel; ensure work assigned to civilian employees of the department conforms to position descriptions; ensure compliance with policies, procedures, and regulations prescribed by the CO and higher authorities; and take necessary action to correct any deficiencies;

(2) Keep the CO and XO informed of the status of workload and personnel within the department, the existence of any condition or circumstance that may adversely affect the operation of the department, and noteworthy accomplishments of the department or assigned personnel;

(3) Initiate timely officer fitness report work sheets, enlisted evaluations, and civilian performance appraisals, thoroughly and accurately describing the duties performed and the character of performance by all persons assigned to the department, including persons assigned for temporary or reserve training duty;

(4) Ensure economy in the use of public money and supplies; be responsible for the proper utilization, care, preservation and maintenance of assigned equipment and facilities;

(5) Be responsible for the maintenance of records and turnover files and submit timely and accurate monthly reports, including productivity reports;

(6) Anticipate the personnel and material needs of the department and submit timely requests to fulfill requirements; and

(7) Inform and educate area commands concerning legal matters under the cognizance of the department.

c. Turnover files will be maintained by each NLSC activity department. It is the responsibility of each Department Head to ensure currency and efficacy. Up-to-date information concerning operations, points of contact, forms, and pending caseloads will ensure a smooth transition without diminution of service. At a minimum, a turnover file will contain the following:

(1) A short statement of functions performed;

(2) Source of work;

(3) Department organizational chart and current staff roles;

(4) Brief description of files, correspondence and reference materials;

(5) Regulations pertinent to department or division operation;

(6) Instructions, notices and other resource material needed for basic understanding of department or division operation;

(7) Required reports (nature, source requiring or prescribing, when due);

(8) Current productivity reports; and

(9) Problem areas and conflicts, if any.

0306 PROFESSIONAL DEVELOPMENT OFFICER

a. Each RLSO Headquarters will have a detailed Professional Development Officer (PDO), filled by a senior LT or junior LCDR. The PDO will work with RLSO, DSO, and NJS chains of command to develop JAGs as both attorneys and officers, Legalmen as both paralegals and Sailors, and civilians as attorneys, managers, and technicians. The PDO will be responsible for coordinating the professional development of personnel at both the RLSO and the respective DSO, but will not sign substantive PDS for DSO personnel.

b. The PDO will be responsible for coordinating the implementation and oversight of:

- (1) Professional Development Standards (PDS) program for FTJAs;
- (2) JAGC specific Professional Military Education (PME);
- (3) LPEP implementation and utilization;
- (4) JAGC mentoring program;
- (5) JPME coordination;
- (6) Civilian education programs; and
- (7) Other command training programs as directed.

0307 COMMAND SENIOR ENLISTED LEADER

Normally, the senior enlisted member of the command shall be appointed as the Command Senior Enlisted Leader (SEL) per reference (ee). This individual will serve as the principal advisor to the CO on matters affecting enlisted personnel. The Command SEL will perform the duties prescribed in reference (ff) and such other duties as may be prescribed by the CO. The Command SEL reports directly to the CO, but will keep the XO and Department Heads advised on matters under their cognizance.

CHAPTER 4 PERSONNEL

0400 WORKING HOURS

Working hours will normally coincide with those of local line activities. The CO may set different hours to comply with local policy, but normally no workday should be shortened to less than 8 hours nor any workweek shortened to less than 40 hours (except for holidays, special liberty, emergencies, etc).

0401 LEAVE AND LIBERTY

Leave, liberty, and administrative absence of military personnel shall be administered in accordance with the MILPERSMAN and appropriate Marine Corps orders. Unauthorized absences of officers shall be reported to the respective COS.

0402 LEAVE, ABSENCES, AND OVERTIME OF CIVILIAN PERSONNEL

Leave and absences shall be administered in accordance with Department of the Navy policy, local Human Resources Office (HRO) directives, and union agreements, when applicable. Flex hours, telecommuting, or other unconventional working arrangements for any NLSC employee requires the approval of CNLSC unless delegated to the COS, CO or other authority by applicable JAG/CNLSC instruction. Paid overtime must be authorized in advance by the CO or XO. Before authorizing paid overtime, COs or XOs must first verify the availability of funds with OJAG Code 64.

0403 PERSONNEL PERFORMANCE EVALUATIONS

a. Officer fitness reports, enlisted performance evaluations, and civilian performance appraisals affect the career, promotion, and duty-assignment opportunities of the persons concerned and have a direct effect on the efficiency and morale of the command. An individual has a right to expect performance to be accurately and timely reflected in the next required fitness report, evaluation, or appraisal. Succinct, honest appraisals best serve all parties and the Navy.

b. Navy officer fitness reports and enlisted evaluations will be prepared and submitted in accordance with reference (gg).

c. Marine Corps officer reports will be prepared and submitted in accordance with reference (hh). Marine Corps Officer reports which require CNLSC endorsement as reviewing officer will be expeditiously forwarded with a proposed endorsement.

d. Civilian performance appraisals will be prepared and submitted in accordance with the Department of the Navy's Interim Performance Management System Covering Positions Transitioning to the General Schedule (GS) from the National Security Personnel System (NSPS), September 2010 and the Department of Defense Instruction Number 1400.25, Volume 430, May 18, 2009 (reference (ii)).

e. Required mid-term performance counseling is a major focus of the fitness and evaluation reporting system. Such counseling should be a frank, open discussion of individual performance with reference to the performance traits noted in the appropriate form. The purpose of the mid-term counseling is to enhance professional growth, encourage personal development, and improve communications, both personally and professionally, among all members within the command. Documentation of this counseling is a requirement.

f. Commanding Officer Fitness Report Inputs. COs shall submit to CNLSC, via their respective COS, fitness report input, including accomplishments and other information pertaining to the reporting period. These summaries must be received by CNLSC at least 15 days before the last day of the reporting period ("regular" or "detaching").

0404 AWARDS

a. Recognition of noteworthy performance is essential for motivation and retention. Depending on the accomplishment, the appropriate recognition might be: verbal praise; comment in the enlisted evaluation, civilian performance appraisal, or fitness report; a CO's letter of appreciation or commendation; a recommendation for a personal decoration; or nomination for sailor/junior officer/civilian of the quarter or year, or Legalman of the year. See "Federal Incentive Awards Program - A Handbook and Guide" and comply with its policies and procedures for civilian personnel. See also paragraph 0814 of this Manual.

b. Consistent with the requirements articulated in reference (jj), appropriated funds may be used to purchase

trophies, plaques, coins and other awards under the following conditions:

(1) The awards program must be officially established and announced;

(2) Generally, the award must be of a continuing nature (e.g., sailor of the month);

(3) Where the awards are made on a one-time basis, the accomplishments must be unique and clearly contribute to increased effectiveness or efficiency of the activity or service (i.e., awards for community service are not included under this authorization); and

(4) Cash awards are excluded from this authorization.

c. Consistent with reference (jj), COs may use appropriated funds for monetary and non-monetary awards and may grant time-off awards to civilian employees.

0405 COMMAND DUTY OFFICER

a. COs shall designate a duty judge advocate as Command Duty Officer (CDO), as appropriate, during non-working hours and holidays. In the discretion of the CO, JAG Corps Limited Duty Officers (LDO), Legalman Master Chiefs, Legalman Senior Chiefs, or Legalman Chiefs (CPOs) may be designated as CDO. In addition, some duty officer responsibilities may be shared by DSOs and RLSOs in accordance with a MOU. See paragraph 0215 of this Manual. COs shall direct publication of lists specifying the location and availability of the command watch officer and, as appropriate, location and availability of command judge advocates. Small detachments may be exempted from this requirement by the CO, but in such cases local commands should have points of contact for after hour service.

b. The CDO watch may be a telephone watch and will be maintained for the purpose of providing legal advice on urgent problems arising outside of normal working hours. Such availability will include conferring personally with a requesting command, or providing a referral, as appropriate. In the event an LDO or CPO is serving as the CDO, there will also be designated judge advocates available to provide emergency legal advice requiring an attorney. The CDO is the representative of the CO or OIC during the period of the watch and will inform that officer (or the XO) of significant

problems. The CDO may be assigned traditional responsibilities incident to any command watch (e.g., security, personnel, and weather bills). The CDO shall maintain a duty log.

c. COs may promulgate an enlisted watch bill to support the CDO.

d. On working days, the DSOs/RLSOs should normally be staffed by the watch or other personnel for a reasonable time (30 to 60 minutes) before and after normal working hours to include extended working hours for court-martial support. Telephone equipment and call routing must function correctly so calls are answered promptly.

0406 SPONSORS FOR NEWLY-DETAILED PERSONNEL

COs are responsible for maintaining an effective sponsor program to help relocate military members and their families. See reference (kk).

CHAPTER 5
ADMINISTRATIVE DEPARTMENT

Administrative Procedures are subject to change based on ongoing re-organization initiatives. Further guidance will be issued as the JAG/CNLSC Combined Administrative Business (JCAB) unit develops.

0500 MISSION

The mission of the administrative department is to provide administrative, fiscal, and supply services, including routing correspondence, preparing administrative reports, accounting, purchasing, contracting procurement, supplies, storage, filing, control of classified matter, mail, facility maintenance, property management, and physical security. Information and personnel security materials are addressed in Chapter 7, below. The administrative department will, to the maximum extent practicable, provide administrative functions and services for detachments and branch offices in the chain of command.

0501 DUTIES AND RESPONSIBILITIES

a. The administrative officer shall:

(1) Ensure letters, messages, memoranda, and other written correspondence for transmittal outside the command conform with Navy correspondence control directives, including CNLSC requirements with respect to correspondence unique to military law;

(2) Be assigned, under ordinary circumstances, as Command Security Manager with the responsibility to control and account for classified material in accordance with reference (11), and other applicable internal and external directives, maintaining classified items as discussed in Chapter 7;

(3) Maintain a tickler file on reports required to be submitted by the command;

(4) Be assigned, under ordinary circumstances, as Command Physical Security Officer, with the responsibility to maintain the physical security of the facility, equipment, furnishings and supplies for which responsibility is not otherwise assigned;

(5) Ensure Navy directives and manuals required for the efficient operation of the command are available and current;

(6) Provide the CO with direct support in financial management, fiscal policy, management control functions, administration of funds, command financial advice and assistance;

(7) Support the information resources needs of the command, except when the command has a designated budget officer; and

(8) Perform other administrative duties assigned by the CO or XO.

b. Files normally maintained include copies of administrative correspondence generated by the command or received from other commands, copies of DON instructions and notices distributed to the command, and instructions and notices local commands have deemed appropriate for distribution.

CHAPTER 6
COMMUNICATIONS AND CORRESPONDENCE

0600 TELEPHONE USAGE

a. Telephone courtesy shall be practiced, monitored, and emphasized.

b. Personnel will not accept charges for collect long-distance telephone calls unless the call is clearly official and necessary; document accepted calls immediately.

c. The use of official telephones and government issued hand-held electronic devices shall be limited to the conduct of official business. Such official business may include emergency calls. Personal calls (such as calls to speak to spouse/minor children or to arrange for emergency repairs to residence or automobile) may be made if such use of official telephones does not adversely interfere with the performance of duties, is of reasonable duration and frequency, could not reasonably have been made at another time, or are provided for in an applicable collective bargaining agreement. Long-distance calls outside of official business are authorized if charged to one's home telephone number or other non-Government number, made to a toll-free number, charged to the called party if a non-Government number, or charged to a personal credit card. Personnel will guard against unauthorized use of official telephones.

d. To minimize costs, NLSC activities should observe the following requirements when telephoning outside a local dialing area:

(1) The call must relate to official government business;

(2) The call will be made through the Defense Switched Network (DSN), Federal Telecommunication System, or other official long-distance telephone system, if possible; and

(3) COs shall establish appropriate management controls for usage of telephones.

e. See paragraph 0711 regarding telephone calls discussing classified information.

0601 OFFICIAL INFORMATION EXCHANGE

a. COMNAVNETWARCOM announced the elimination of unclassified messaging systems and mandated the transition to Official Information Exchange (OIX) effective 1 October 2010.

b. All personnel will comply with references (mm) and (nn) concerning timeliness and content of reports to the chain of command, as well as the proper voice format, text/OIX format, and time limits for OPREP-3 reports, unit SITREPS, and mishap reports. These reporting procedures will be included in the command training plan.

0602 DELIVERY OF LEGAL SERVICES VIA REMOTE MEANS

In order to meet client needs in remote locations as well as to solve local conflicts, Commanding Officers must implement procedures to provide remote legal services. Consistent with other provisions in this Manual, services can be provided remotely via use of Defense Connect On-line, telephone and electronic mail. Procedures shall include a means to confirm identification and eligibility of clients, as well as confidentiality. Personnel shall be trained on the proper way to deliver legal services via remote means and potential clients must be apprised of and consent to its use. See also section 1312 of this Manual.

0603 TELECOMMUNICATION

a. The use of computers equipped with Internet or LAN access facilitates telecommunication and is encouraged as a means to expedite and enhance communications. Although electronic-mail (email) telecommunication is not a substitute for traditional forms of correspondence when authenticity may be critical, it should be used to the maximum extent possible to speed communication.

b. The following forms of telecommunication are available to NLSC activities:

(1) A public Internet web site to facilitate the publication of notices and other information has been established by the Knowledge and Information Services Office (OJAG Code 65). The multi-functional site hosts sub-sites for NLSC activities, which are encouraged to publish mission-related information useful to local constituencies. The Uniform Resource Locator (URL) of the Web site is <http://www.jag.navy.mil>. NLSC activities are encouraged to

monitor the site regularly and ensure that sub-site information is kept up to date.

(2) Email through the Navy-Marine Corps Intranet (NMCI) or OneNet. The use of email is another telecommunications option, and is effective for transmitting official correspondence to NLSC activities and other addressees.

c. Email correspondence containing the characters "/s/" will be considered to have been signed by the person whose name appears below those characters. COs must establish processes to ensure that only email properly released by the appropriate authority contains the "/s/" designation.

d. Digital signing of emails is a requirement across DoD. All emails requiring data integrity, message authenticity, and/or non-repudiation must be digitally signed. This includes any email that:

- (1) Directs, tasks, or passes direction of tasking;
- (2) Requests or responds to requests for resources;
- (3) Promulgates organization, position, or information external to the organization (Division, Department, or Command);
- (4) Discusses any operational matter;
- (5) Discusses contract information, financial, or funding matters;
- (6) Discusses personnel management matters;
- (7) Requires assurances that the email originator is the actual author;
- (8) Requires assurances that the email has not been tampered with in transit;
- (9) Is sent from a DoD-owned system or account which contains an embedded hyperlink (e.g., active link to a web page, web portal, etc.). Pure text references (non-active internet links) to web addresses, uniform resource locators (URL), or email addresses do not require a digital signature; or
- (10) Is sent from a DoD-owned system or account which contains an attachment (any type of attached file).

e. Use of the Internet through NMCI or OneNet shall be for official use and authorized purposes only. Any materials downloaded from sources outside either NMCI or OneNet must be immediately scanned for computer viruses.

0604 INCOMING CORRESPONDENCE

Command mail is routed and controlled in a manner prescribed by the CO or OIC. Incoming correspondence requiring action or reply shall be given prompt attention, regardless of the due date. When there may be delays in answering correspondence, send an interim reply as soon as possible, indicating the anticipated date of a substantive reply. Classified material received in the mail should be handled per paragraph 0702 of this Manual.

0605 COMMAND CORRESPONDENCE DEFINED

a. Command correspondence consists of any letter or memorandum sent to an addressee outside the activity that concerns a matter within the cognizance or official interest of the activity, with the exception of:

(1) Legal assistance correspondence (see paragraph 0610);

(2) Routine memoranda from command liaison officers, in their capacities as command legal advisors, to their client commands;

(3) Correspondence from trial or defense counsel, in their representative capacities, or to convening authorities and other persons concerning specific cases (see paragraph 0611);

(4) Advice rendered to a staff judge advocate in connection with the review of investigations and military justice matters; and

(5) Responses to surveys or questionnaires requesting information from personnel in confidence.

b. Command correspondence may consist of any one of the following formats: standard letters, which are normally used when writing officially to addressees within DoD; less formal memoranda, which are sometimes used when writing officially to individuals within DoD; standard-form reports addressed to other commands or authorities; and business letters, which are normally used when writing officially to addressees outside DoD.

0606 SIGNATURE AUTHORITY AND PROCEDURE

a. Only the CO, or the XO in the CO's absence, shall sign actions, opinions, directives, or other command correspondence which:

- (1) Establish policy;
- (2) Deviate from established policy;
- (3) Exercise the CO's discretion;
- (4) Deny a request for services;
- (5) Are non-routine and addressed to higher authority;
- (6) Commit command resources or personnel to perform functions not routinely performed by the command;
- (7) Reply to a Congressional Inquiry (after consultation with relevant COS);
- (8) Reply to a complaint;
- (9) Criticize an individual or organization; or
- (10) Involve controversial issues or matters likely to receive attention from higher authority.

b. "By direction" authority should be limited to routine documents and correspondence pertaining to specific areas of responsibility. Follow the format and guidance set forth in reference (oo) (Department of the Navy Correspondence Manual) [hereinafter "Navy Correspondence Manual"].

0607 COMMAND CORRESPONDENCE

NLSC correspondence must comply with the Navy Correspondence Manual. Matters of style (e.g., word division, punctuation, capitalization, and abbreviation) are governed by the Navy Correspondence Manual and the U.S. Government Printing Office Style Manual. The Standard Navy Distribution List shall be used in determining the mailing addresses of naval activities.

0608 CLASSIFIED CORRESPONDENCE

Classified mail, messages, and documents shall be handled and safeguarded as prescribed in reference (s). Ensure any created

documents are properly marked and stored in accordance with that instruction.

0609 "FOR OFFICIAL USE ONLY" DESIGNATION

Official correspondence should be designated as being "For Official Use Only" (FOUO) if it contains matters exempt from compulsory public disclosure under the Freedom of Information Act or must be protected from release to the general public or indiscriminate handling because of significant governmental concerns. The FOUO marking serves to advise the addressee and others the correspondence contains exempt matters requiring special handling. Reference (pp) pertains.

0610 LEGAL ASSISTANCE CORRESPONDENCE

a. Legal assistance attorneys must ensure their correspondence does not imply U.S. Navy or command sponsorship, because such correspondence is a private matter arising from the attorney-client relationship. Legal assistance correspondence will be prepared on distinctive legal assistance office letterhead, in business form, regardless of the identity of the addressee. All outgoing correspondence shall include disclaimer language, either pre-printed on the legal assistance stationery, in a "footer" printed at the bottom of the page, or included in the text: "This letter is written by a legal assistance attorney on behalf of an individual client, and does not represent an official position of the Navy or the United States Government."

b. Such correspondence will be signed by a legal assistance attorney. The term "by direction" or similar terminology will not be used. It will be filed separately from other command correspondence to safeguard confidentiality. Mailing envelopes will bear a distinctive Legal Assistance Office return address.

0611 TRIAL/DEFENSE COUNSEL CORRESPONDENCE

To avoid possible implications of command sponsorship, command letterhead will not be used for correspondence from trial counsel, defense counsel, or counsel for respondents to convening or reviewing authorities concerning court-martial, administrative discharge, or disciplinary cases. Correspondence is to be prepared in standard naval letter format on plain letter-sized paper, with the "from" line as follows: "From: LT _____ JAGC, USN, Defense Counsel, Defense Service Office _____." The creation and use of department or individual letterhead is prohibited.

CHAPTER 7
CLASSIFIED INFORMATION AND PERSONNEL SECURITY

Administrative procedures are subject to change based on ongoing re-organization initiatives. Further guidance will be issued as the JAG/CNLSC Combined Administrative Business (JCAB) unit develops.

0700 PURPOSE

An effective security program requires the constant attention of all personnel. References (s) and (ll) establish strict regulations and guidance for classifying and safeguarding classified information and for maintaining personnel security.

0701 PROGRAM MANAGEMENT

The security organization within DSOs/RLSOs is as follows:

a. Command security manager (CSM or "security manager"). The CSM serves as advisor to the commanding officer on Information Security Program and Personnel Security Program policies and is responsible for the management, formulation, implementation, and enforcement of security policies and procedures for the protection of classified information within the command. Each NLSC commanding officer will appoint an individual in writing to serve as CSM. Note that per paragraph 0501 of this Manual, ordinarily the administrative officer is assigned as the CSM. The security manager:

(1) Coordinates with the CO on information and personnel security matters, as appropriate;

(2) Ensures compliance with Chapter 2 of this Manual and references (s) and (ll) pertaining to the effective management of a command security program;

(3) Conducts an annual review of the command information security program's and personnel security program's effectiveness and reports to the CO; and

(4) Revises the local information and personnel security program as required by paragraph a(3) above.

b. Top Secret Control Officers (TSCOs). COs will designate TSCOs in writing. In most cases, the CSM will be designated as the TSCO. The CSM must have the required clearance and must be

prepared to handle Top Secret material. The TSCO will perform duties as outlined in reference (s) and distribute and control the following:

(1) Material transferred by the Armed Forces Courier Service; and

(2) Other sensitive material handled through top secret channels.

c. CSM/TSCO Relationship. The same individual may hold both positions. If they are held by different persons, then the TSCO reports to the CSM, and the CSM is ultimately responsible to the CO for the command security program.

d. Classified Material Control Center. To limit the potential for unauthorized disclosure of classified information, the command should centralize the receipt, storage, and control of classified information under the CSM.

0702 ORIGINATION, RECEIPT, TRANSMISSION, AND HANDLING OF CLASSIFIED MATERIAL

All personnel are required to abide by SECNAVINST 5510.36A and SECNAV M-5510.36 with regard to the origination, receipt, transmission, and handling of classified material.

0703 STORAGE OF CLASSIFIED MATERIAL

a. Responsibility. Each command will properly store all classified material in a GSA-approved security container. Personnel must ensure all classified material is secured at the end of the day and annotate the SF 701 (activity storage checklist) to secure the general spaces. SF 702 (security container check sheet) will be maintained conspicuously on each safe; it will be annotated when safes are opened, closed, and secured at the end of day. Ensure classified ribbons and diskettes are removed from machines and secured. Classified diskettes and computers containing classified information are to be safeguarded in accordance with reference (qq).

b. Safe combinations. Only those persons whose official duties require access to the safe and are cleared to the highest level of classified material in the safe should know the combination. Combinations shall be changed:

(1) When receiving containers or locks;

(2) When a person knowing the combinations leaves;

(3) When a combination may have been compromised (e.g., when the security container has been unlocked and unattended); and

(4) Annually.

c. The same combination shall not be used for more than one container. After each change, record combinations on Standard Form 700 (security container information), place in the accompanying envelope, and give to the security manager.

d. Affix copy 1 of the SF 700 to the inside of the locking drawer of the container. Do not otherwise record combinations, although a local listing may be made when there are a large number of containers in an office.

e. Listings of safe combinations can be made only when required and approved by the security manager and will be stored in a container qualified for the highest category of classified information protected by any combination recorded.

f. Handling considerations

(1) Do not store valuables in containers used for storage of classified material.

(2) Keep classified documents under constant surveillance and placed face down or covered when removed from storage for work purposes and when not in immediate use.

(3) Attach brightly colored and marked classified material cover sheets (SF Forms 703, 704, and 705 for Top Secret, Secret, and Confidential material, respectively) to all classified documents.

g. Classified materials will be properly stamped and marked immediately upon their creation. Compact Disks, DVDs, diskettes, flash drives, removable hard drives, any other digital media, or typewriter ribbons on which classified materials have been produced must likewise be marked with the highest classification of the materials so produced.

h. Do not leave office spaces unattended when classified material is not secured.

0704 SECURITY INSPECTIONS

The security manager shall conduct an annual security inspection to assess compliance. Results of the inspection will be reported to the CO. A copy will be forwarded to the respective COS and OJAG Code 06.

0705 DESTRUCTION OF CLASSIFIED MATERIAL

Classified material awaiting destruction must be destroyed at least weekly. The CSM must approve destruction of the materials concerned. Proper destruction reports must be executed and retained for at least two years for confidential and secret material, and five years for Top Secret material. Additionally, two persons with current security access to the level of the material being destroyed must witness the destruction of material classified Top Secret and above. See reference (s).

a. Paper products. Classified paper shall be destroyed in an approved cross-cut shredder, as detailed in SECNAV 5510.36, Information Security Manual, or by proper burning. Consult with base/host commands regarding use of burn or shred facilities.

b. Non-paper products. Arrangements should be made with base/host command for destruction of non-paper products.

0706 REPRODUCTION OF CLASSIFIED MATERIAL

Classified material will not be reproduced without prior approval from the CSM. Refer to reference (s) for specific guidance.

0707 SECURITY EDUCATION

NLSC commands must conduct an effective security education program to ensure personnel are familiar with security requirements. Such an education program must include:

a. Indoctrination Briefing. All newly reporting personnel must attend. Briefing should be short, advising personnel that their security clearance/access to classified information is inactive until reactivated.

b. Orientation Briefing. Personnel requiring security access must acknowledge a written orientation briefing. Standard Form 312, Classified Information Nondisclosure

Agreement, will also be executed at that time. See reference (11), regarding nondisclosure agreements.

c. Annual refresher. The security manager will provide an annual security refresher briefing for all personnel with security clearances.

d. Counterespionage briefings. Personnel with at least a Secret clearance must receive a NCIS counterespionage briefing annually.

e. Debriefing. The security manager shall ensure all cleared personnel being discharged, separated, or transferred are debriefed per reference (11).

f. National Security Cases and Cases Related to Classified Information. The COs of RLSO Mid-Atlantic and RLSO Southwest are responsible for providing trial counsel for any case in which charges could result in a national security case. The COs of DSO Southeast and DSO West are responsible for providing defense counsel to represent those accused in such cases. The COs will ensure that there is at least one counsel at each of these commands who is designated in writing as the primary national security case counsel. Those officers must have the requisite combination of training and experience to effectively discharge the duties of representing the United States, and the accused, in national security cases. Training and other information related to the processing of national security cases should be obtained through frequent liaison with OJAG Code 30. Per Section 0126 of reference (b), OJAG Code 30 must be notified immediately in all cases where a possible violation of criminal law involves classified information, whether or not designated a National Security Case.

0708 SECURITY CLASSIFICATION, DOWNGRADING, DECLASSIFICATION AND MARKINGS

Reference (s) provides detailed guidance for classification, downgrading, declassifying, and marking material, especially limitations on classifying information and improper reasons for classifying.

0709 PERSONNEL SECURITY CLEARANCE AND ACCESS

All personnel are required to check-in with the security manager. Access will be granted on a "need to know" basis. The level of access is determined by billet requirements.

a. Eligibility for Access. The number of persons assigned duties involving access to classified material will be kept to a minimum. The security manager periodically reviews the allocation of clearances and makes recommendations to the CO for warranted changes.

b. Issuance of security clearance. Military and civilian personnel clearances are adjudicated and granted by the Department of Navy Central Adjudication Facility (DONCAF). The security manager may grant an interim clearance and access to qualified personnel under certain circumstances. See reference (ll) regarding temporary accesses.

c. Continuous evaluation of eligibility. Each security manager will initiate a program for ongoing evaluation of the eligibility of personnel for continued access to classified information. When information, adverse or otherwise (for example, security violations, suspicion of criminal conduct, drug use, etc.), reflects an individual's unsuitability for access, the information should immediately be forwarded to the security manager. The security manager will assess the circumstances, advise the CO and, if deemed appropriate, will suspend access to classified material. The CMS will immediately report to DONCAF for evaluation or further investigation. The security manager will restore access when directed by the CO, or upon DONCAF's approval. Consult with OJAG Code 30 and reference (ll) for additional guidance.

d. National Security Cases. The Commanding Officers of RLSO Mid-Atlantic, RLSO Southwest, DSO Southeast and DSO West shall coordinate with OJAG Code 30 and the OJAG Security Manager to establish one TS/SCI billet at each of these commands. These commanding officers will also ensure there is at least one counsel at each of these commands designated in writing to fill these billets. Those officers shall hold a TS/SCI clearance and otherwise be authorized to be "read in" to SCI material. Furthermore, in consultation with COS-RLSO, OJAG Code 30, and the OJAG Security Manager, these commanding officers shall ensure a sufficient number of counsel have completed the requisite clearance process to be expeditiously granted access to TS/SCI material, should the need arise. In addition to maintaining clearances for this pool of officers, the COs will coordinate with OJAG Code 30 and the NJS to ensure that these officers receive training in litigating National Security and other complex cases.

0710 PUBLIC MEDIA

In the event of public media inquiries, COs shall consult with OJAG Code 30 and the OJAG Security Manager for further guidance.

0711 TELEPHONE CONVERSATIONS

Personnel shall not discuss classified material over non-secure telephones, nor should they use practices intended to hide information such as private code words or "talking around" classified information. Use of government telephones constitutes consent to communications security monitoring. STE telephones or other secure network telephones must be used if classified information will be discussed.

0712 SECURITY VIOLATIONS

Reference (s) provides detailed policy and guidance for the preliminary inquiry and investigation of security violations and the compromise of classified information. Promptly inform the security manager of any security violations. Reference (11) outlines matters required to be referred to NCIS.

CHAPTER 8
NAVAL RESERVE LAW PROGRAM

0800 BACKGROUND

This chapter provides orientation on the Navy Reserve structure to emphasize CNLSC's commitment to the Navy Reserve Law Program (NRLP) and to promote the full integration of Reserves into Naval Legal Service Command. Many Reserves have expertise invaluable to the active forces. It is important for COs to foster close liaison with their Reserve counterparts and maintain local programs that benefit both the active and Reserve components.

0801 DEPUTY JUDGE ADVOCATE GENERAL (RESERVE AFFAIRS & OPERATIONS)

The Deputy Judge Advocate General (Reserve Affairs and Operations) (DJAG (RA&O)), is a flag grade Reserve judge advocate assigned to Commander, Naval Reserve Force (COMNAVRESFOR), with additional duty to the Judge Advocate General of the Navy (JAG). As JAG's primary advisor concerning Reserve affairs, the DJAG (RA&O) closely monitors and leads the Reserve Law Program, recommending specific objectives, plans, policies, and initiatives for the program's maximum effectiveness and future development. The DJAG (RA&O) also is assigned additional duty to NLSC as Deputy Commander, exercises JAG's UCMJ, Article 6 billet assignment authority for Reserve billet assignments, frequently serves as President of Reserve judge advocate selection boards, oversees the NR JAG Corps Awards Program, and in the event of war or other national emergency, mobilizes as Director of Operations, with additional duty as Deputy Commander, Naval Legal Service Command.

0802 COMMANDER, NAVY RESERVE FORCES COMMAND

The Navy Reserve Law Program (NRLP) is one of many specialized programs administered by Commander, Navy Reserve Forces Command (COMNAVRESFORCOM). COMNAVRESFORCOM writes and funds active duty orders for Annual Training (AT) and Additional Duty Training (ADT) and Inactive Duty Training - Travel (IDTT).

0803 NAVY RESERVE LAW PROGRAM 36 (NRLP 36)

a. NRLP 36, also under the cognizance of COMNAVRESFORCOM, administers the Reserve programs that support OJAG and NLSC. Reserve judge advocates and legalmen assigned to NRLP 36 billets are members of the Selected Reserve (SELRES). All Navy Reserve

Defense Service Offices (NR DSOs), Region Legal Service Offices (NR RLSOs), Naval Justice School (NR NJS), OJAG Support Units, as well as the Reserve Component Command Staff Judge Advocates, are included within NRLP 36.

b. Reserve judge advocates not assigned to SELRES billets may be assigned to non-pay billets in Law Voluntary Training Units (VTU (Law)), where available, or to a General VTU, where no VTU (Law) is available.

c. There are a number of SELRES judge advocates and legalmen assigned to billets outside of NRLP 36. These SELRES billets are not within the JAG/CNLSC manpower structure.

d. An active duty judge advocate, often a recalled SELRES, serves on the staff of COMNAVRESFORCOM as the Force Judge Advocate and Reserve Law Program Manager (NRLPM).

0804 NAVY RESERVE LAW PROGRAM MANAGER (NRLPM)

The NRLPM serves on the staff of COMNAVRESFORCOM, and is directly responsible for the management of the NRLP. The NRLPM works closely with the Deputy Assistant Judge Advocate General, Reserve and Retired Personnel Programs (Code 62), to coordinate Reserve support to active duty forces. The NRLPM assigns/manages quotas for Reserve judge advocates and legalmen and is a permanent member of the NR JAGC Awards Board.

0805 DEPUTY ASSISTANT JUDGE ADVOCATE GENERAL, RESERVE AND RETIRED PERSONNEL PROGRAMS (OJAG CODE 62)

OJAG Code 62 serves as the OJAG/NLSC primary active duty advisor concerning the mobilization readiness, contributory support training/productivity, and professional training of Reserve judge advocates and legalmen. OJAG Code 62 also coordinates ADSW requests from the OJAG/CNLSC claimancy and provides administrative and executive assistance to the DJAG (RA&O).

0806 NAVY RESERVE COMPONENT COMMANDS

a. The Navy Reserve force is currently divided into six regional Reserve Component Commands (RCC). Each RCC reports to COMNAVRESFORCOM. Navy Reserve units generally report administratively via the area NOSC to the RCC where the unit is located. Reserve NLSC units are frequently co-located with their supported or training commands. Operationally, the COs of the NLSC Reserve units are assigned ADDU to their respective

supported or training commands. VTU (Law) COs also administratively report to their respective RCC via the cognizant NOSC.

b. For SELRES within their geographic area of responsibility, Navy Operational Support Centers process individual Inactive Duty for Training (IDT) drills performed and fund orders for Annual Training (AT) and Inactive Duty Training Travel (IDTT).

0807 RESERVE COMPONENT COMMAND STAFF JUDGE ADVOCATES

The Reserve Component Command Staff Judge Advocate (RCC SJA) is a SELRES judge advocate who serves as the principal legal advisor to the RCC commander. The RCC SJA also acts as the local NRLP manager and can be a valuable local problem solver.

0808 NAVY RESERVE DEFENSE SERVICE AND REGION LEGAL SERVICE OFFICES

The NR DSO and NR RLSO units contain the largest concentration of SELRES judge advocates and are aligned with specific DSOs/RLSOs commands (typically in the same geographic area). The role of these Reserve units is to support the operational needs of the assigned active duty command. The organization of Reserve NLSC units generally mirrors the organization of the supported command. The CO of the supported NLSC activity shall assign an active duty member within the command to serve as a liaison to the supporting Reserve unit and coordinate Reserve support.

0809 THE RESERVE TRAINING SYSTEM

a. The mission of the Navy Reserve Force is to align the personal and professional goals of its workforce with the needs of the active duty force; deliver a high-performing, mission focused force to meet operational requirements; and to provide the right person to the right place at the right time.

b. To develop and sustain "Total Force" readiness, NRLP units will educate, train and develop expertise in designated areas of legal practice (pillars) that build and enhance the critical knowledge, skills and abilities needed by the active duty Navy and that allow Reserve personnel to seamlessly integrate. In order to best leverage Reserve expertise, meet operational demands in a timely manner, and provide Reserve personnel opportunities to interact with their active duty counterparts, NRLP unit members are granted flexibility in performing drills.

c. Reserve legal expertise is aligned into three pillars of practice: (1) military justice litigation; (2) command services and legal assistance; and (3) specialty practices (international law, environmental law and admiralty law). Subject to the needs of the Navy, Reserve judge advocates will generally be assigned to a practice pillar based on their military and civilian experience, education, and demonstrated competency (see reference (rr) for further information on pillar selection, designation, re-designation and billet assignment). The areas of practice for each pillar are as follows:

(1) Military Justice Litigation (P1). Reserve judge advocates develop and maintain experience in facets of military justice litigation, including trial counsel, defense counsel, appellate review counsel, trial and appellate judiciary, and other roles that support the development and implementation of policy related to the military justice litigation process.

(2) Command Services/Legal Assistance (P2). Reserve judge advocates develop and maintain experience in the areas of administrative law, civil law and intelligence oversight and serve as staff judge advocates, legal assistance attorneys and in related policy development roles.

(3) Specialty Practice (P3). Reserve judge advocates develop and maintain experience in international law, environmental law, or admiralty law and serve as specialty advisors, instructors and in related policy development roles.

d. Senior Reserve judge advocates are responsible for identifying, training, and mentoring junior Reserve judge advocates that have not been assigned to a pillar, or are newly assigned to a pillar. To sustain a sufficient pool of Reserve judge advocates within each pillar, senior Reserve judge advocates shall identify and mentor junior officers who express an interest of proficiency in an area of law falling into one of the three pillars and implement long-term training and development plans to cultivate their skills. Reference (rr) and the respective supporting reserve unit's Individual Training Plan documents the steps each Reserve judge advocate and legalman must take in order to become fully qualified for the billet held. The utilization of Reserve personnel should be consistent with the training established by the ITP for the individual involved. A copy of the ITP for each NR DSO/RLSO/NJS billet assigned in support of the NLSC commands should be on file with the command Reserve coordinator.

e. Reserve support is obtained by any of the following means:

(1) Annual Training (AT). Unless waived, every member of the SELRES must perform 12 days of AT annually. It is JAG and COMNAVRESFORCOM policy that AT be performed at the supported or training command unless superseded by another required training (e.g., Reserve judge advocates are required to attend the Reserve Refresher Course at Naval Justice School every six years; legalmen assigned to Tiger Team duties). This policy may be waived by the supported or training command on a case-by-case basis if equivalent training is to be performed elsewhere. VTU personnel, while not required to perform AT, may be available for AT on a non-pay basis. Travel and per diem may be paid by the command at which the VTU member performs AT out of that command's OPTAR. Commands desiring to bring VTU members to the command for active duty should contact Code 62 to determine possible funding for a status other than AT.

(2) Inactive Duty Training (IDT). Reserve personnel are required to perform 48 inactive duty training (IDT) drills each fiscal year. A drill is generally 4 hours of duty. The scheduling of the drills of Reservists at the supported command will be based on the requirements of the supported command and the availability of the individual Reservist.

(3) Inactive Duty Training - Travel (IDTT). NR DSO/RLSO/NJS personnel are encouraged to utilize IDTT funding to attend out of area training (i.e., participation in Military Continuing Legal Education/Law Training Symposia) and provide legal support to remote active duty commands, when requested or approved by the supported DSO/RLSO/NJS. This funding source is subject to COMNAVRESFORCOM budget constraints, and cannot be for duty at the assigned NOSC's geographic location.

(4) Other training. Other Reserve support can be provided through Active Duty Training (ADT) for short-term projects and Active Duty for Operational Support (ADOS/ADSW) for needs of a longer duration.

(5) Informal assistance. DSO/RLSO/NJS attorneys can often obtain valuable support informally from Reserve judge advocates in their area by contacting the COs of the local NR DSO/RLSO/NJS/VTU (Law). These officers, depending on the exigencies of their private employment, may be able to provide reach-back assistance, research, and support, both at their offices and at their supported command, as well as immediate

local referral services. Such services may be provided and accepted so long as it is expressly understood by all parties concerned that, outside of authorized flex drill credit, such services are without pay or other entitlements and cannot in the future be compensated for in any way by the U.S. Government.

0810 OPERATIONAL SUPPORT OPPORTUNITIES

a. Reserve assets are available to provide operational support. Every effort must be made to ensure Reservists are utilized in their specific pillar of military practice. Specialized training opportunities should be provided in difficult and complex areas of military practice as well as leadership roles such as Department Head and XO.

b. Reserve judge advocates practicing within the Military Justice Pillar must be certified as a trial and defense counsel under Article 27(b) UCMJ. A primary training mission of NRLP and NLSC activities must be to increase proficiency as trial and defense counsel. Priority shall be given to ensure Reserves obtain military justice training and experience during IDT and AT. Ordinarily, detailing Reserve judge advocates as trial or assistant trial counsel is more desirable (and flexible) than detailing them as defense counsel due to the difficulties of terminating the defense counsel/client relationship following a short period of training.

c. Reserve judge advocates provide experience, as well as a different perspective in the areas of command services and administrative law. They can assist in court-martial review, prepare charges and specifications, conduct JAGMAN and other investigations, and provide basic command advice. Particular emphasis should be placed on those judge advocates who served on active duty in SJA billets. Reserve judge advocates can also serve as Article 32, UCMJ Investigating Officers and Summary Court-Martial Officers. Supported or training commands should monitor Reserve assignments and training in these areas to ensure an experienced Reservist is mobilized when active duty command services or SJA assistance is needed.

d. NR DSO/RLSO/NJS units have administration requirements that are unique to the Reserve establishment. Many times these units do not have Legalman support. When Reserve legalmen are part of a unit they are of considerable assistance in providing administrative support to their unit's supported or training command while receiving realistic courtroom and paralegal training in return. Emphasis shall be placed on the need for a

wide variety of Legalman training rather than specialization, including appropriate classroom or correspondence instruction.

e. Every Reserve judge advocate assigned to provide legal assistance must be fully qualified and competent to practice in this area. They may be ideally suited for this role by virtue of their local bar memberships and in-depth knowledge of local law. They may be called upon to provide legal assistance and to train other legal assistance attorneys. Liaison should be maintained between active duty legal assistance attorneys and their Reserve counterparts. Effective use of Reserve judge advocates in the Expanded Legal Assistance Program (ELAP) ensures their availability for training in and assignment to all NLSC activities (see paragraph 1313 of this Manual). Finally, Reserve judge advocates can assist isolated commands in the absence of local NLSC resources. For those assigned to provide legal assistance, they shall establish an active CMTIS account and provide the required metrics via that account.

0811 PERSONNEL ASSIGNMENTS

Reference (ss) requires periodic rotation between units. Senior officers are assigned billets through an administrative board known as APPLY. For O-3 and O-4 personnel, the rotation through JO APPLY is based upon needs and requirements for career enhancement, but is normally of a three year duration. Regular rotation of Reserve judge advocates and legalman enhances personal/professional development and career opportunities.

0812 PROFESSIONAL CONDUCT AND ETHICS OF RESERVE JUDGE ADVOCATES AND OTHER RESERVE PERSONNEL

a. Reserve judge advocates are subject to the Rules of Professional Conduct as promulgated by reference (c) when performing duties subject to the supervision of the JAG.

b. The potential for a conflict of interest always exists for Reserve judge advocates engaged in private practice. Both the individual Reservist and cognizant supported or training commands shall take all necessary precautions to avoid even an appearance of impropriety. All Reservists on AT, ADT, IDT, or IDTT are subject to references (c), (tt) and (uu).

c. In this regard, COs must ensure Reservists detailed to their organizations are assigned duties that will minimize the possibility that the Reserve judge advocate obtains information that could be used to gain an unfair advantage over the

government, their competitors, otherwise further a private financial interest, or place the Reservist in an actual or apparent conflict of interest. For example, assigning a Reservist whose civilian firm engages in tort litigation against the United States to the claims division may expose the Reservist to tactics and strategies of the government and privileged information.

d. When performing duties subject to the supervision of the JAG, Reserve judge advocates shall not accept any salary, fee, compensation, or other payments or benefits, directly or indirectly, other than government compensation, for services provided in the course of the Reserve judge advocate's government duties or employment. Unless authorized by JAG, a Reserve judge advocate, whether or not serving on extended active duty, who has initially represented or interviewed a client or prospective client shall not accept any salary or other payments as compensation for services rendered to that client in a private capacity concerning the same general matter for which the client was seen in an official capacity.

e. Additionally, Reserve judge advocates on active duty for more than 30 consecutive days must obtain approval from JAG before engaging in the outside practice of law.

0813 FITNESS REPORTS AND ENLISTED PERFORMANCE EVALUATIONS

Commanding Officers are responsible for the timely submission of Fitness Reports and Enlisted Performance Evaluations on persons assigned to their commands. Active duty COs may concurrently report on the fitness of assigned NR DSO/RLSO/NJS personnel, and shall submit fitness reports for the COs of their supporting reserve units. Reserve judge advocates and legalmen performing Annual Training for less than 90 days will not receive observed performance marks (NOB only), but will receive comments on the nature and quality of their performance. Performance Information Memoranda (PIMs) are not required or desired.

0814 AWARDS

Navy Reserve judge advocates and legalmen are eligible to receive Navy Awards from their supported commands and Reserve units. Award nominations should be submitted in accordance with procedures established by the applicable chain of command and awarding authority, as reflected on NKO. Templates are located on NKO. COs from supported commands are encouraged to fully use

awards programs to acknowledge superior performance and to motivate staff to excel.

CHAPTER 9

FISCAL MATTERS

Administrative Procedures are subject to change based on ongoing re-organization initiatives. Further guidance will be issued as the JAG/CNLSC Combined Administrative Business (JCAB) unit develops.

0900 GENERAL

a. This chapter provides guidance on budget preparation and execution for NLSC activities. Operating budgets are designed to provide a fiscal plan that is used to measure cost against performance, analyze program variances, and provide a means to make adjustments necessary to manage effectively. Operating budgets are prepared differently for each of the four Department of the Navy "budget activities." All NLSC activities are in Budget Activity 4, "Administration and Other Service-wide Activities."

b. COs and others involved in budget planning and decisions should be familiar with the Financial Management Guidebook for Commanding Officers, NAVSO P-3582, reference (vv). This publication is an excellent introduction to financial management responsibilities, concepts, and procedures.

0901 REFERENCES

The guidance in this chapter is based on the following references: Office of Management and Budget Circular No. A-11 (Revised) (Preparation and Submission of Budget Estimates) and DOD 7000.14-R, Financial Management Regulations. References (ww) and (xx).

0902 TERMINOLOGY

a. Budget. The financial expression of approved plans and programs.

b. Budget formulation. The process of developing fund estimates to support plans and programs. It begins with a date approximately 1 year before the beginning of the budget year and ends with the Congressional enactment of the authorization and appropriation bills.

c. Budget execution. The development and maintenance of operating budgets of all organizations down to and including field activities. Budget execution includes: the preparation

and processing of apportionment requests; execution of programs and operating budgets; the allocation and allotment of funds authorizations; the obligation and expenditure of appropriated funds; and the related fiscal and progress reporting.

d. Commitment. A commitment is a reservation of funds, based upon procurement directives, orders, requisitions, authorizations to issue travel orders, or requests which authorize the recipient to create obligations without further recourse to the official responsible for certifying the availability of funds.

e. Obligation. An obligation is incurred when an order is placed, a contract is awarded, a service is received, orders are issued directing travel, or similar transactions are entered into. Unobligated balances of quarterly allotments may be carried forward to succeeding quarters of the fiscal year. When an appropriation expires, authorizations will remain available for disbursement to cover the liquidation of outstanding obligations, but the unobligated balance will revert to the grantor.

f. Unfilled Order. Any document, meeting the criteria of an obligation, issued for an item or service that has not as yet been received.

g. Expense. Any document representing material or services received.

0903 CENTRALIZED FINANCIAL MANAGEMENT

a. General. Centralizing certain financial management functions uses resources more efficiently by reducing administrative overhead. The goal of centralized financial management (CFM) is to limit local financial management to only those core functions most efficiently done locally. Tasks to be done centrally by NLSC Fiscal and Resource Services Support Division (OJAG Code 64) include payroll accounting, current and most prior fiscal year accounting, and official accounting functions. Tasks that are not centrally managed will remain the responsibility of the NLSC command. OJAG Code 64 will provide financial consolidation policy and training, provide specific financial guidance annually, and manage civilian personnel costs.

b. Management of Funds. CFM does not reduce COs' responsibility or limit their discretion, but instead lessens the administrative overhead associated with managing those

funds. COs will continue to be authorized funds to manage for the use and benefit of their commands.

c. Internet-based Budget Execution and Tracking System (iBETS). NLSC Commands will use the iBETS software to manage their operating budgets. NLSC commands will use the iBETS monthly reports to manage their operating budgets.

d. DSO North and RLSO Europe, Africa, Southwest Asia, DSO Pacific, and RLSO Japan must submit copies of all foreign national payroll reports.

e. Prior Year Accounting. OJAG Code 64 is responsible for all prior year accounting.

0904 BUDGETING

a. As the primary tool that NLSC commands use to manage their financial resources, a budget details the purpose and amount of planned expenses starting with the present year. Budgeting is normally an incremental process that builds on, or makes adjustments to, the current budget. Therefore, when a NLSC command submits its budget, it should be based upon the present budget execution plan, which documents the proposed expenses for the current fiscal year. This plan should be the basis for every fiscal action taken within the current year, and it will be used as the baseline for adjustments in future fiscal years. NLSC commands should refer to the plan to determine if a specific action has already been programmed for, or if there are enough funds to do so.

b. The budget execution plan is an ongoing process. It must be continually updated based upon any unplanned increased or decreased costs. While the budget execution plan should always be current, the accuracy of the plan is especially critical at the time of the midyear review and at the end of the fiscal year. The midyear review is the process used to obtain additional funds by those activities that have requirements such as un-programmed cost increases or unexpected additional mission requirements. Commands must have a current budget execution plan to determine midyear requirements. A current budget execution plan is also critical at the end of the fiscal year to prevent an over-obligation or an unacceptably large un-obligated balance.

0905 BUDGET REPORTING REQUIREMENTS, PLANNING FIGURES, AND SUBMISSION DATES

a. NLSC requires activities to submit an annual consolidated mid-year review budget, and a Program Objectives Memorandum (POM) in early April. NLSC commands will report budget control totals, the program basis for those estimates, and key assumptions and will provide any necessary supporting material.

b. For purposes of this consolidated submission, NLSC commands should report any unfunded or under-funded midyear and budget requirements including any need to hire additional civilian employees. If midyear and budget requirements are over-funded, that should also be reported.

c. Additionally, the following activities must complete the budget exhibit for activities in foreign countries (contained in Appendix C): DSO North and RLSO Europe, Africa, Southwest Asia (separate exhibits for activities in Italy, Spain, United Kingdom and Bahrain), DSO Pacific, and RLSO Japan.

d. OJAG Code 64 will provide NLSC directly with the due date for input and with further clarifying instructions. Please use the current authorization as the baseline for determining Midyear Review unfunded requirements. NLSC commands should also submit unfunded issues to hire additional civilian employees in excess of currently approved billets. Funding issues must have a strong, concise, programmatic justification. NLSC commands should not submit unfunded issues for inflation as the budget will include adjustments for annual inflation increases. Finally, if appropriate, NLSC commands should identify any program decreases to their baseline.

e. NLSC commands should use the iBETS software to prepare their submission as follows:

(1) Update the budget execution plan to precisely match current full-year authorization using the iBETS Plan module. No out-year planning information is required.

(2) Enter unfunded items using the iBETS Unfunded Items module. If the justification is too large for the field on the iBETS Unfunded Items form, NLSC commands can provide a more detailed justification in a cover letter. Please include deadlines where applicable as these are important to headquarters funding decisions and timing. NLSC commands may enter out-year budget and POM unfunded requirements in a similar

manner. Finally, NLSC commands can print the Contingency Report by Group to review the requirements that have been input into iBETS.

f. Prioritizing and justifying individual requirements is critical to the internal midyear review process. In addition to a numerical prioritization of requirements (i.e., 1, 2, 3, etc.), activities must also categorize their unfunded requirements according to the following categories:

(1) Category A: Increased cost of operations due to inflation/pay raise; higher-level authority mandates (e.g., required attendance at Commander's Training Symposium); or supporting entitlements to personnel (e.g., emergency travel, student travel).

(2) Category B: Eliminates safety or health problem. Requirements should be prioritized and identified by degree of risk.

(3) Category C: Improves efficiency or effectiveness of operations. Should provide business case for improved efficiency and identify expected return on investment.

(4) Category D: Replaces equipment/furniture which is no longer functional/usable (e.g., broken or too costly to repair); improves office habitability; or updates technology.

(5) Category E: Improves or updates office appearance (e.g., purchase wall hangings/pictures, paint offices, replace scratched or mismatched furniture).

g. This information should be included in the unfunded items information in the iBETS. The category will be entered in the item description for the requirement (e.g., Category A-emergency travel).

h. Once each activity has identified their requirements all the requirements can be evaluated relative to each other, allowing a more consistent allocation of resources. As piecemeal consideration of the requirements throughout the fiscal year could result in funding lower priority requirements at the expense of higher priority requirements, NLSC will normally defer funding decisions until the internal midyear review, unless a particular requirement cannot be postponed.

0906 BUDGET EXECUTION

a. NLSC must have fiscal controls to prevent over-obligations within the command and to provide a tracking capability that permits re-evaluation of budget estimates during the fiscal year. The responsibility for these requirements rests not only with NLSC, but also with each CO.

b. Each CO should make effective use of the operating budget to plan, control, and evaluate program performance. Operating budgets become increasingly important to managers as they are faced with increased workloads, reduced resources, and constantly increasing costs.

0907 RESPONSIBILITY OF THE DEPENDENT ACTIVITY

COs of NLSC activities are responsible for administering all authorizations of funds allotted to their activities, and for observing all limitations concerning their expenditure. As such, COs are accountable for both their own acts and for those of subordinates within their activity that cause an over-commitment, over-obligation, or over-expenditure of an authorization of funds. Over-expenditure or erroneous expenditure of funds may result in administrative or disciplinary action against the responsible individual. Consequently, extreme care and strict accountability are mandatory.

0908 FILES AND DOCUMENTS

a. COs shall maintain files for commitments, obligations, and expenditures.

b. Commitments received in the fiscal office will be recorded and filed until obligated.

c. Obligations received in the fiscal office will be filed until liquidated by an expenditure.

0909 SUPPORT

a. Support includes provision of material, facilities, and services to NLSC activities.

b. NLSC activities occupy the position of tenant at the activity where located. Appropriate intra-service support agreements (host-tenant agreements) should be executed between NLSC activities and their host activities. The purpose of the host-tenant agreement is twofold: to set forth the support the

host will provide to the tenant, and to establish the areas in which the tenant will reimburse the host for support received. Negotiation of host-tenant agreements is the responsibility of the CO of each NLSC activity.

c. Hosts or other area activities may provide the following support on a non-reimbursable basis, if provided by local agreement. In the event cost is involved, such costs must be funded from each NLSC activity operating budget.

- (1) Comptroller and financial accounting functions;
- (2) Disbursing functions;
- (3) Personnel record maintenance, reports, housing, education and accounting function, both military and civilian;
- (4) Communication services (less telephone);
- (5) Recreational facilities;
- (6) Data processing as necessary;
- (7) Medical and dental services and record maintenance;
- (8) Security services and fire protection;
- (9) Office space and maintenance of NLSC activity offices;
- (10) Supply and procurement support;
- (11) Janitorial service; and
- (12) Utilities.

d. Most DSOs and RLSOs are co-located. Cost sharing among these activities is discussed in Appendix D.

0910 REPORTS REQUIRED

The following reports will be submitted by NLSC activities to CNLSC, via the respective COS.

a. Notification of Personnel Action, SF-50. This report is needed when salary, title, grade, or name changes.

b. Civilian Personnel Report. On the second day of each month, NLSC commands should submit a consolidated personnel

report (including headquarters, detachments, and branch offices). Consult with OJAG Code 64 for further information on the appropriate format for this submission.

CHAPTER 10
MILITARY JUSTICE GENERAL PROVISIONS

1000 TIMELY PROCESSING OF CASES

The paramount duty of all NLSC military justice personnel is to ensure the impartial, dignified, and professional administration of military justice. COs of DSOs/RLSOs shall establish procedures to promptly process all military justice cases. Expeditious processing of military justice cases, consistent with the rights of the accused, is in the best interest of the accused and the Navy. See reference (yy).

1001 ASSIGNMENT OF COUNSEL

a. All counsel assignments (courts-martial, Article 32 hearings, pretrial confinement proceedings, administrative boards, personal representation at JAG Manual investigations, etc.) will be promptly made by competent authority, as determined by the CO and OICs. First Tour Judge Advocates (FTJA) may only be detailed as Trial Counsel, Assistant Trial Counsel, Defense Counsel, or Assistant Defense Counsel on any court-martial in accordance with DSO and RLSO Chief of Staff Business Rules for Utilization of FTJAs. See reference (zz). For cases in which charges are eligible for capital referral, detailing of trial and defense counsel may not be delegated by commanding officers, unless required to do so by professional ethics considerations. In these cases, defense counsel shall be detailed based on the criteria found in Chapter 11 of this Manual. Assignments in every case shall be of qualified counsel, taking into consideration such matters as necessity for counsel, competence of nominated counsel, including experience and training, counsel caseload, anticipated dates and locations of courts-martial or other proceedings, security clearance, and availability of the nominated counsel, including consideration of nominated counsel's projected rotation date (PRD). Once assigned, any officer's PRD with the potential to significantly impact pending cases must be reported to the cognizant Chief of Staff as soon as known. See generally, reference (c). Counsel assignment will be given high priority upon receipt of a counsel request.

b. The detailing of counsel is one of the most important responsibilities entrusted to NLSC Commanding Officers and Officers-in-Charge. Such assignments are an exercise of command authority and discretion for which commanding officers are ultimately accountable. It follows that a CO's responsibility

and authority extends to the training, detailing, and supervision of assigned counsel. In exercising their discretion, COs must recognize that even seasoned counsel can become overwhelmed with administrative tasks, logistical arrangements, or substantive case preparation, and yet be reluctant to request assistance. COs must, within the bounds of ethical propriety, actively monitor and aggressively support assigned counsel. If necessary, RLSO COs and OICs have the authority to replace counsel, in accordance with governing Rules for Courts-Martial and applicable ethical canons. Though more constrained by the nature of the attorney-client relationship and the applicable professional ethics considerations, DSO COs also have authority to augment, substitute, or relieve counsel.

c. RLSO and DSO COs exercise detailing authority over core trial counsel and defense counsel, respectively, and should carefully consider whether to detail two core trial counsel or defense counsel to court-martial cases. Utilization of two counsel may be appropriate in some circumstances (e.g., complex cases or for training and development of new core counsel). The expectation is that the experience level of core counsel will increase over time, and it will be unnecessary to routinely assign two to every case.

d. As soon as possible after assignment to a military justice case, assigned counsel must identify any factors that could require the assignment of some other counsel and promptly inform supervisors.

e. Defense counsel should not ordinarily be made available to act as counsel in a summary court-martial; however, DSO COs may elect to make defense counsel available on a case-by-case basis.

f. RLSOs shall arrange for appointment of officers by the convening authority to serve as investigating officers in Article 32 hearings. The investigating officer may be a military judge, a staff judge advocate, a Reserve judge advocate or, if none of the foregoing are reasonably available, an O-4 or above or an officer with legal training. RCM 405 only prohibits assignment as an investigating officer when the individual has been the accuser, or has acted (or will act) in another capacity in the case. Accordingly, officers assigned to a DSO or RLSO may be made available for appointment as investigating officers in the event that other potential Article 32 officers are not readily available. DSO COs have final decision authority as to whether a DSO officer can act as investigating officer in a particular case.

g. See paragraph 1005 for provisions related to the detailing of counsel in cases involving classified information.

1002 TRIAL DATE

Military judges are primarily responsible for docketing and trying courts-martial. RLSOs are primarily responsible for expeditious case processing, but all parties have a responsibility to ensure that the accused is afforded a speedy trial. RLSOs shall coordinate with the convening authority to ensure timely attendance of the accused, members, bailiff, and witnesses.

1003 PREPARING AND FORWARDING GENERAL AND SPECIAL COURTS-MARTIAL RECORDS OF TRIAL

RLSOs are responsible for preparing records of trial. See paragraph 1403. Defense counsel are authorized to examine records before authentication by the military judge, unless such examination will cause unnecessary delay. Records of trial shall be authenticated and forwarded to the convening authority promptly. Trial and defense counsel shall accord high priority to examining records of trial in order to ensure compliance with the deadlines set forth in U.S. v. Moreno, 63 M.J. 129 (CAAF 2006) and monitor and record case status as required by CNLSC.

1004 RESPONSIBILITIES FOR THE CUSTODY OF DETAINEES AND PRISONERS

Under reference (aaa), brig personnel are generally accountable for prisoners and detainees during appointments outside the brig. However, there will be occasions during visits to DSOs/RLSOs when prisoners or detainees will be out of the sight and physical custody of brig personnel, such as when they are being counseled in private by defense counsel. On these occasions, DSO/RLSO personnel must ensure brig personnel are at all times in a position to exert positive control over detainees and prisoners. DSO/RLSO COs will prescribe procedures assigning responsibility and accountability for liaison with brigs, shore patrol, and other activities, concerning the transport, custody, and delivery of prisoners and detainees.

1005 ESPIONAGE, NATIONAL SECURITY, AND OTHER CASES INVOLVING CLASSIFIED MATERIAL

a. All cases involving classified information require liaison with COS-RLSO and OJAG Code 30. As soon as the RLSO learns of a potential national security case, CNLSC must be informed through appropriate channels. COS-RLSO/DSO, in consultation with OJAG Code 30 and the concerned commanding officers, will determine which of the RLSOs and DSOs designated below will retain cognizance over the matter. As the case progresses, the RLSO designated shall keep CNLSC advised.

b. DSO Southeast, DSO West, RLSO Mid-Atlantic, and RLSO Southwest are designated to provide counsel in the case of charges involving espionage and national security. These designated COs have the responsibility for maintaining counsel with necessary clearance and training in accordance with paragraphs 0213 and 0707, and the personal security provisions of paragraph 0709. Such counsel shall be considered a pool and must be available for worldwide assignment in national security cases.

c. In the case of charges involving classified information, COs shall, when designated as having cognizance over such a case, promptly detail counsel with clearances sufficient to obtain expeditious access to any information at issue. COs shall affirmatively and aggressively assist assigned counsel to process requirements to gain clearance and access and to obtain equipment, facilities, and any other resources needed for effective representation.

d. National security cases, or other cases that may involve classified information, require several immediate actions. In these cases, the NLSC activity will be assisted by OJAG Code 30.

(1) Cognizant COs must ensure counsel have the necessary security clearances and access to information at issue;

(2) Cognizant RLSO COs, through assigned government counsel, trial counsel or the cognizant staff judge advocate, must require any military defense counsel, individual military counsel, or civilian counsel not holding an adequate current clearance to process clearance and access requests immediately upon being detailed or retained;

(3) Cognizant RLSO COs must, in consultation with the cognizant staff judge advocate, advise the convening authority to request a classification review of classified evidence; and

(4) Cognizant COs must ensure their counsel have a working knowledge of Military Rule of Evidence 505.

1006 REQUESTS FOR INDIVIDUAL MILITARY COUNSEL (IMC)

a. Defense counsel shall ensure IMC requests are forwarded per R.C.M. 506(b) and JAGMAN 0131c. All IMC requests will be submitted in writing. IMC requests for courts-martial will be routed via the trial counsel to the convening authority. IMC requests for administrative boards will be routed via the recorder to the officer who convened the board.

b. Unless denied by the convening authority pursuant to JAGMAN 0131c (2), IMC requests will be referred immediately to the CO of the requested counsel for a determination. The XO and other intermediaries in the chain of command of the requested judge advocate will be informed of the request as soon as possible.

c. If the request for IMC is granted, the authority that detailed the original counsel will decide whether detailed counsel is excused pursuant to R.C.M. 506(b)(3). Such decision shall be in writing and shall clearly state whether detailed counsel is excused or is to act as associate counsel.

1007 FINANCIAL RESPONSIBILITY FOR COSTS INCURRED IN SUPPORT OF COURTS-MARTIAL

JAGMAN paragraph 0145 describes financial responsibility for costs incurred in support of courts-martial. The RLSO should advise the Convening Authority, as soon as practicable, of the anticipated costs likely to be incurred in a particular case. This is especially important when circumstances require assignment of counsel or other personnel (e.g., court reporting personnel) from NLSC activities other than the one that normally serves or is closest to the command.

CHAPTER 11
DEFENSE SERVICE OFFICES

1100 MISSION

The primary mission of the DSO Defense Department is to provide effective representation to eligible Armed Forces personnel before general courts-martial (GCMs), special courts-martial (SPCMs), Article 32 hearings, pretrial investigations, pretrial confinement proceedings, custodial interrogations, boards of inquiry, administrative boards, and proceedings in which service members have been designated a party pursuant to the JAGMAN. Additionally, defense counsel shall provide counseling for required pre-mast Booker rights, pre-summary court-martial advice, mental health evaluation reports, and administrative boards. Defense counsel may be assigned to assist service members in preparing complaints under Article 138, UCMJ, and Article 1150, U.S. NAVREGS, 1990. Further, defense counsel may be assigned as counsel to represent service members before Physical Evaluation Boards. COs may also make defense counsel available to assist service members in other legal and quasi-legal subject areas, if resources allow. Defense counsel may be assigned other additional duties, as required by the CO or his/her designee. The term "defense counsel" in this chapter applies to all counsel assigned to the DSO, to include FTJAs.

1101 COMMANDING OFFICERS AND OFFICERS IN CHARGE

a. COs are personally responsible for the insulation of defense counsel from any influences that might be perceived as unlawful or detrimental to counsel's zealous representation of an assigned client. Because some DSO and RLSO offices are co-located, defense counsel office spaces must be separate from RLSO offices and must preserve the confidentiality of the attorney-client relationship. Administrative support must be provided in a manner that will preserve the confidentiality of the attorney-client relationship. If defense counsel are transferred temporarily or permanently to a RLSO, they must be reminded of the significant professional responsibility requirements under reference (c) and governing case law requirements relating to obtaining written waivers from clients after appropriate independent legal consultation.

b. Except for cases in which charges are eligible for capital referral, the CO and OIC have the primary responsibility for making defense counsel assignments. For cases in which charges are eligible for capital referral, only commanding officers may detail defense counsel, and may not be delegated by

commanding officers, unless required to do so by professional ethics considerations. In cases involving charges that are not eligible for capital referral, this responsibility may be delegated to the XO, Branch Heads and Department Heads. Any appointment of defense counsel shall be in writing. Great care must be exercised to ensure assignments are made with full awareness of such factors as expected counsel rotation, current workload, travel needs, counsel experience, and potential conflicts of interest. The following guidelines are provided:

(1) COs shall ensure defense counsel understand when they are authorized to provide defense services to military personnel. This applies not only in courts-martial, but also in administrative and non-judicial punishment (NJP) proceedings, and to settings involving suspects or accused facing custodial interrogation.

(2) Subject to paragraph 1302 and UCMJ Articles 2 and 27, defense counsel services will not be provided to non-active-duty personnel in a matter involving an actual or potential interest adverse to the United States Government. Reserve personnel are not authorized to receive defense services except for matters that arise during periods of service when they are subject to the UCMJ as provided by Article 2 of the UCMJ. Reservists may seek legal assistance for non-defense matters from the RLSO's Legal Assistance Department.

(3) R.C.M. 505(d)(2) and R.C.M. 506(b)(3) provide the detailing authority with discretion, under certain circumstances, to excuse detailed counsel. Any excusal of defense counsel shall be in writing. COs shall ensure that detailing authorities within the command are familiar with the provisions and application of these rules.

(4) COs will make defense counsel available to advise personnel who believe they have been the target of reprisal action in accordance with references (e) and (bbb).

(5) The seriousness and complexity of investigations and courts-martial involving, or potentially involving, classified information and/or capital offenses, requires special consideration on the part of the CO in assigning counsel. The lead defense counsel must possess sufficient combination of experience and training to understand and appreciate the issues and challenges unique to national security or other potential capital cases. Two defense counsel should be assigned to each potential capital case, both to provide adequate defense

resources and to ensure continued training of junior judge advocates in capital litigation. When counsel are assigned to assist or represent service members facing, or potentially facing, court martial for capital offenses, they are to expeditiously enlist the assistance of available capital litigation resources such as the Defense Counsel Assistance Program (DCAP). Commanding Officers should detail counsel to cases referred capital, to the maximum extent practicable, which have demonstrated:

- a) Prior experience as lead counsel in GCM panel cases tried to findings;
- b) Substantial knowledge and understanding of the relevant law, both procedural and substantive, governing capital cases;
- c) Skill in the management and conduct of complex negotiations and litigation;
- d) Skill in legal research, analysis, and the drafting of litigation documents;
- e) Skill in oral advocacy;
- f) Skill in the use of expert witnesses and familiarity with common areas of forensic investigation;
- g) Skill in the investigation, preparation, and presentation of evidence bearing upon mental status;
- h) Skill in the investigation, preparation and presentation of mitigating evidence;
- i) Skill in the elements of trial advocacy, such as panel selection, cross-examination of witnesses, and opening and closing statements;
- j) Completed capital litigation training; and,
- k) The necessary proficiency, diligence, and quality of representation appropriate for a capital case.

(6) The suggested qualifications subparagraph (5) above serve as guidelines to assist the CO in determining the appropriate personnel to assign capital cases, and should not be viewed as mandatory requirements. These guidelines should not

be construed as a right to a particular counsel or as a standard for determining the effectiveness of counsel under the Sixth Amendment to the U.S. Constitution.

1102 SENIOR DEFENSE COUNSEL (SDC) RESPONSIBILITIES

a. Supervise, train, and direct all defense counsel, paralegals, and other military and civilian personnel assigned to the department. Ensure all personnel are aware of the policies stated in paragraphs 1101 and 1103 of this Manual.

b. If authority is delegated by the CO, assign defense counsel for those accused of non-capital eligible charges, including GCMs, SPCMs, Article 32 hearings, and pretrial confinement proceedings as applicable, ensuring an equitable distribution of the caseload and taking into consideration the experience level of counsel and the complexity of each case.

c. Assign defense counsel to represent respondents before administrative boards.

d. Maintain a case log or other means of case tracking or case assignments as required by CNLSC.

e. Train assigned counsel concerning substantive legal issues, case preparation, and advocacy skills. The Senior Defense Counsel shall monitor the progress of FTJAs in completing the Professional Development Standards for Defense Counsel.

f. Assist newly assigned defense counsel in the preparation and handling of their assignments, and facilitate assignments, to the extent practicable, that permit FTJAs to complete the Professional Development Standards for Defense Counsel.

g. Keep the CO and XO informed of all issues within the department, including professional competence and progress of counsel.

h. Provide liaison between the judiciary and defense counsel in appropriate matters such as courtroom demeanor, interpretation of court rules, and other areas relating to courtroom procedures, conduct, and advocacy skills.

i. Act as defense liaison with commands, command Staff Judge Advocates, and Region Legal Service Office(s) concerning defense representation services.

j. Consult with DCAP as necessary on a case by case basis.

1103 DEFENSE COUNSEL - GENERAL

a. The formation of an attorney-client relationship between a judge advocate and a client service member is one of the most important relationships that can be created under military law. It requires the total commitment by the judge advocate to represent the best interests of the client to the fullest extent of the judge advocate's ability, within the bounds of law and ethical responsibilities.

b. Once assigned, the defense counsel will advise the client that his/her role, and the duration and scope of the attorney-client relationship, can be expected to be no greater than that required to perform the currently assigned duties on behalf of the client (including all reasonable and foreseeable direct consequences of the case). This is especially important when the client is a transient, or when NJP, investigations, custodial interrogations, or pretrial confinement proceedings are involved.

c. Counsel must keep in mind that not all service members are entitled to or eligible for defense counsel services. Defense counsel must first screen prospective clients to determine their eligibility for such services. Only the defense services authorized in this chapter may be provided unless the DSO CO has authorized assistance for the type of matter raised by the prospective client. If a prospective client seeks assistance on a matter that is not authorized in this chapter or has not been authorized previously by the DSO CO, the counsel will refrain from assisting that prospective client unless specifically authorized by the DSO CO or his/her designee.

d. Whenever possible, legal advice to a prospective defense client should be given in person to facilitate free and frank communication, the development of rapport and trust, and to safeguard the confidentiality of communications. However, legal advice may be given by telephone or through a web-enabled medium in circumstances such as when the prospective client is assigned to a remote location or is at sea. See sections 0602 and 1312b for further guidance.

e. For some categories of defense services, such as providing NJP advise, the scope of authorized defense services is limited to the provision of legal advice and counsel by an independent defense counsel. In cases where the defense counsel's role is limited to providing advice and counsel, the

defense counsel should ensure that the service member understands the limited scope of the attorney's role and that the defense counsel is not under a duty to continue to represent or advocate for the service member. The defense counsel should explain that counsel is not authorized to represent the service member at NJP, or at any resulting administrative or disciplinary proceeding. For example, a service member facing NJP should be advised that if the service member refuses NJP, it is likely that another defense counsel will be appointed to represent the accused at any ensuing court-martial.

All communications with Defense Service Office clients are confidential and privileged, and defense counsel are authorized to discuss facts and circumstances of the service member's case in order to provide meaningful legal advice and so that the service member can make an informed decision. The defense counsel's advice should extend to explaining all direct consequences of the NJP (or other action at issue). If it appears that the defense counsel should take action beyond providing legal advice and counsel, the attorney involved may request the appropriate authority make him or her available. If exigent circumstances require the defense counsel to do more than provide legal advice and counsel before obtaining authorization from the detailing authority, the defense counsel's immediate supervisory attorney should be informed as soon as possible.

f. If the client is more properly a legal assistance client, the Defense Service Office will refer the client to the RLSO Legal Assistance Department.

g. Unless the individual's command has requested and the DSO CO has approved, defense counsel will not be provided for personnel attached to commands not normally served by the NLSC activity, including personnel assigned to transiting ships or units. In exigent circumstances, such as where a transient service member is subject to custodial interrogation, the DSO CO may authorize the provision of defense services.

h. All suspects, including transients, who are the subject of custodial interrogation, and who request assistance of a lawyer, are entitled to the assistance of counsel and the counsel's representation. In the case of transients, the DSO CO (or XO in the CO's absence) shall be informed before defense counsel services are provided.

i. Particular care should be given to initial interviews with transient accused. All suspects who request assistance of a lawyer including transients entitled to Miranda/Tempia counsel because of a custodial interrogation, are entitled to the expert assistance of counsel and the counsel's full representation. Full representation includes discussion of the facts of the case with the client and being present during the interrogation process if requested by the accused.

j. Counsel should inform the suspects referred to in subparagraph (g) and (h) that he or she may not be available to represent them in further proceedings, particularly if conducted at a distant installation.

(1) Counsel providing initial advice should clearly explain to the suspect being counseled that another counsel may be detailed to represent the suspect but that as the current counsel, he or she will continue to actively assist the suspect until another counsel undertakes representation.

(2) Whenever a decision is made that local counsel cannot be made available to assist a transient who is the subject of custodial interrogation, the CO shall contact the DSO that will likely be responsible for providing defense counsel services to the transient and make suitable arrangements for the transient to talk with a defense counsel who can provide the needed assistance. Such arrangements could include, but are not limited to, telephone conversation between the defense counsel and the transient.

k. Non-judicial Punishment (NJP) and Summary Courts-Martial (SCM)

(1) Defense counsel provide legal advice and counsel to service members pending NJP or SCM and must advise service members of this limited role and the fact that defense counsel will not represent the service member at NJP or SCM. Defense counsel should also advise the service member that it is likely that another defense counsel will be detailed to represent the accused should the service member elect to refuse NJP or if the service member is administratively processed for separation.

(2) Defense counsel will not normally be provided to represent service members at NJP or SCM. The CO or delegated detailing authority will review and act on any such requests. See JAGMAN Section 0109 and R.C.M. 1301.

l. Administrative Separations

(1) Assignment of counsel to represent service members at administrative boards and Boards of Inquiry will be accomplished expeditiously.

(2) Normally, respondents will not receive counseling on their election or waiver of rights unless the command has provided all pertinent documents, including pertinent service record entries, the notice of administrative separation processing, the election/waiver of rights form, and if necessary, the respondent's medical record. Counsel made available to consult with the respondent shall explain the administrative separation process and inform the respondent of his/her rights in connection therewith. Counsel are authorized, but not required, to witness the respondent's election/waiver of rights. Additionally, counsel are authorized to discuss fully the facts specific to the respondent's case and to make a recommendation to the respondent regarding the respondent's election or waiver of rights. However, unless the detailing authority has already made the counsel available to represent the respondent at an administrative board, the respondent shall be informed that the consultation does not entitle the respondent to consulting counsel's representation at an administrative board, and that if the respondent elects an administrative board, it is possible another counsel may be appointed to represent the respondent before the board.

m. JAG Manual Investigations

(1) Any member entitled to counseling or representation regarding rights at a JAG Manual investigation shall be referred to a defense counsel specified by the Department Head.

(2) Notice of available counsel shall be given within one (1) working day of receipt of a command request for assistance to persons who are designated as parties pursuant to reference (ccc).

n. Initial Review of Pretrial Confinement. Counsel shall be provided, if requested, to a service member before the initial review of confinement under R.C.M. 305.

(1) Unless directed otherwise by the CO or OIC, such assignment is for the limited purpose of representation during the pretrial confinement proceedings before the charges are referred. Assigned counsel is authorized to fully and completely represent the service member for this limited purpose. Assigned counsel will advise the service member of the

limited nature of the representation at the earliest opportunity.

(2) Unless the command has already requested defense counsel services, on the tenth day of continuous pretrial confinement at the brig within the servicing DSOs area of responsibility (AOR), it shall be assumed by the CO that the charges upon which the accused was placed in pretrial confinement will be referred to trial by special or general court-martial, and defense counsel shall be detailed to represent the accused for such purposes. Such detailing of defense counsel shall occur regardless of whether counsel was provided to represent the service member during pretrial confinement proceedings. The detailed counsel shall meet with the service member as soon as practicable after being detailed.

o. Family Advocacy Program. Defense counsel may be called upon to assist alleged offenders in seeking review of adverse determinations in child and spouse abuse cases, as outlined in paragraph 0209.

p. Foreign Criminal Proceedings. Service members or civilian component members overseas who become the focus of a foreign criminal proceeding or investigation may be referred to a defense counsel. Defense counsel shall advise such members of their rights and obligations under applicable Status of Forces or bilateral agreements with the host nation, as well as the requirements of the UCMJ and JAG Manual. Defense counsel shall, as appropriate, provide advice with regard to the Military Extraterritorial Jurisdiction Act of 2000, 18 U.S.C. § 3261 et seq.

q. First Tour Judge Advocates who are assigned to the DSO as part of their first 24 month rotation are limited in the extent of representation and services that they can provide to clients and role they can play in criminal and administrative proceedings (See enclosure (2) of reference (zz), Business Rules for FTJAs Reporting to DSOs). FTJAs should consult their Professional Development Standards and work with their immediate supervisory defense counsel, and Department Head, to ensure they are acting within the approved scope of responsibilities.

1104 DUTIES AND RESPONSIBILITIES OF A DEFENSE PARALEGAL

A Defense Paralegal serves a vital role in a DSO defense department as a member of the defense team assisting both the defense counsel and the client. As part of the defense team, the paralegal will be made aware of information that is both

privileged and confidential. A primary responsibility of the paralegal is to maintain the confidentiality of such information. Other important duties and responsibilities of the defense paralegal include but are not limited to:

- a. Tracking the location and caseloads of all assigned defense counsel;
- b. Organizing and updating command defense library and resource materials;
- c. Aiding in defense-related legal research and writing and document review;
- d. Screening defense clients;
- e. Maintaining counsel appointment schedules;
- f. Coordinating duty counseling;
- g. Scheduling pretrial detainee counseling and IRO representation;
- h. Collecting defense department reports;
- i. Maintaining the defense department case tracking log;
- j. Maintaining and updating a selection of pre-printed commonly used forms (e.g., appellate rights and BCNR petitions) as well as "shell" documents generated upon request (e.g., pre-trial agreements, request for separation in lieu of trial by court-martial, etc.);
- k. Coordinating defense counsel assignments with the RLSO and other commands;
- l. Court Reporting; and
- l. Performing other duties (e.g., inputting management information data, law office management) in furtherance of the defense mission as directed by the CO, XO, and Senior Defense Counsel.

1105 MENTAL HEALTH EVALUATIONS

Under references (ddd) and (eee), DSOs, detachments, and branch offices will provide counsel for mental health evaluations, as appropriate.

1106 MULTIPLE ACCUSED SITUATIONS

a. Defense counsel will not undertake or be detailed to represent more than one client in cases where two or more persons are potential accuseds arising from closely related factual situations. Requests for multiple representation shall be directed, in writing, to the CO via the Senior Defense Counsel.

b. If it appears the DSO and its detachments cannot provide sufficient counsel to represent each accused, the DSO should attempt to obtain counsel from other DSOs and keep COS-DSO/CNLSC informed. Telephonic contact shall be made between counsel and the accused as soon as the identity of counsel is known.

c. Detailing a CO, XO, OIC or the Senior Defense Counsel to a client that has a real or potential conflict of interest with the client of a subordinate attorney should be avoided. See paragraph 0303.f. If it appears for any reason that detailing the CO, XO, OIC or the Senior Defense Counsel to a client that has a real or potential conflict of interest with the client of a subordinate is necessary, COS NLSO should first be informed. In such cases, an alternate supervisory attorney or attorneys should be designated for that matter.

d. In situations of multiple representation, great care must be exercised to ensure full independence of each attorney. For example, paralegal administrative support must be organized to accommodate and respect client confidences, strategy, negotiations, and other aspects of case preparation.

1107 RESERVE ATTORNEYS

Reserve attorneys assigned to support the DSO are a tremendous resource contributing to the DSO's ability to accomplish the defense mission. Reserve attorneys assigned to support the DSO are considered to be part of the office for the purpose of applying the Professional Responsibility rules concerning confidentiality, and detailed defense counsel may consult with a reserve attorney concerning confidential and privileged matters in a case with the client's consent. For courts-martial, the preferred utilization of reserve attorneys is typically in a mentoring relationship, with guidance and assistance in trial preparation (i.e. murder boards, trial strategy and evidentiary advice). Care should be taken to ensure that a client does not perceive that the reserve attorney has been detailed to represent the client, and the client should be

so advised. Because it is never clear how much time will be required to defend a particular client, and because it is difficult to ensure that cases are docketed and scheduled for dates that are consistent with the reserve attorney's schedule and availability, it is typically preferable not to detail a reserve counsel to a pending court-martial. See paragraph 0810.b and 0809.e.(5). Reserve attorneys may be detailed to enlisted administrative separation boards, officer boards of inquiry and other administrative proceedings subject to their availability, and may be utilized to provide defense services in other cases where charges have not been preferred.

CHAPTER 12
DEFENSE COUNSEL ASSISTANCE PROGRAM (DCAP)

1200 MISSION

The mission of the Defense Counsel Assistance Program (DCAP) is to support Defense Service Offices by providing advice and assistance to trial defense counsel in the field when requested throughout every phase of court-martial litigation. Serving as the military justice subject matter expert on defense related matters for CNLSC, DCAP counsel may be consulted to provide support to trial defense counsel in all aspects of case preparation, including, but not limited to, motion drafting, expert witness preparation, devising trial strategy, assisting with post-trial matters, and providing advice concerning professional responsibility issues.

1201 COMMAND RELATIONSHIP

a. The Director of DCAP works under the direct supervision of Chief of Staff, Defense Service Office (COS-DSO) and serves a supporting role for DSOs. The DCAP Director supervises only those personnel detailed to DCAP but will assist COS-DSO in the exercise of his or her oversight and reporting responsibilities. DSO COs maintain their supervisory role of, and fitness report writing responsibility for, trial defense attorneys assigned to their command.

b. DCAP will provide defense related subject matter expertise and support to DSO trial defense counsel when requested by trial defense counsel, the DSO CO, or as directed by COS-DSO. DCAP is available to defense counsel as a resource to assist in defending cases.

c. DCAP may request case specific or other administrative information from trial defense counsel or DSO COs as necessary to assist in fulfilling its roles and responsibilities.

d. DCAP may coordinate as necessary with OJAG Code 45.

1202 ROLES AND RESPONSIBILITIES

a. In coordination with DSO COs, DCAP may provide training in military justice, trial practice and professional responsibility to trial defense counsel. DCAP will monitor the relative experience levels of trial defense counsel through on-site, periodic observations of Navy judge advocates in the

performance of their defense functions. The DCAP Director may be consulted by DSO COs on a case-by-case basis to make recommendations concerning detailing decisions of defense counsel, primarily in cases involving complex or novel issues.

b. DCAP shall coordinate with DSO COs to continually assess the quality of defense counsel functions as well as the professional training and continuing legal education opportunities provided for defense counsel. DCAP shall develop programs and policies to promote the effective and efficient use of defense counsel resources that enhance the professional qualifications of all personnel involved in providing defense services.

c. DCAP Director shall provide reports to COS-DSO as required.

1203 ATTORNEY-CLIENT RELATIONSHIP

A defense counsel may disclose information concerning a client to COS-DSO or a covered attorney assigned to the DCAP when requested by COS-DSO or DCAP, or for the purpose of seeking advice and assistance from DCAP in the representation of the client. Such disclosures are authorized in accordance with Rule 1.6.a. of the Rules of Professional Conduct (Enclosure (1) to reference (c)) and are considered privileged communications. The DCAP office shall maintain a system for identifying conflicts and shall be careful to avoid conflicts of interest in providing advice to trial defense counsel.

1204 AVAILABILITY OF COUNSEL

The Director of DCAP may make counsel assigned to the DCAP office available to be detailed to represent a client, in consultation with the CO of the DSO responsible for detailing defense counsel in a particular case.

CHAPTER 13
RLSO - LEGAL ASSISTANCE DEPARTMENT

1300 MISSION

The mission of the legal assistance department is to provide prompt, courteous, and high quality legal assistance to active duty members, thereby enhancing morale, welfare, and combat readiness. As resources permit legal assistance will be provided to active duty family members, retirees and their family members, and to other eligible persons listed in JAGMAN 0705 or authorized by the Judge Advocate General. Legal assistance departments shall develop, promote, and execute preventive law programs to educate eligible persons regarding their legal rights, responsibilities, and duties. In addition, legal assistance departments are encouraged to assist local SJAs in maintaining command legal assistance programs within fleet and shore units.

1301 POLICY

Legal assistance is governed by JAGMAN Chapter VII and reference (fff) (Legal Assistance Manual) [hereinafter Legal Assistance Manual], which are to be liberally construed to accomplish the mission of the Navy Legal Assistance Program. Any legal assistance attorney may request permission to deviate from the provisions of the manual by sending a request to OJAG via the chain of command. Questions should be referred to the Legal Assistance Division (OJAG Code 16).

1302 SUPERVISORY RESPONSIBILITIES AND RELATIONSHIPS WITH OTHER ORGANIZATIONS

a. COs have broad discretion to administer legal assistance, subject to the provisions of JAGMAN Chapter VII and the Legal Assistance Manual. They shall ensure that the legal assistance practice adheres to the standards of professional competence, responsibility, and ethics made applicable by reference (c), and other applicable laws and regulations.

b. COs or other supervisors may personally provide direct client services. However, they must be sensitive to the possibility of actual or apparent conflicts of interest with the attorneys they supervise. COs and other supervisors may not personally represent an individual whose interest conflicts with that of another client represented by a subordinate in the chain-of-command.

c. COs should encourage the exchange of information and ideas between legal assistance attorneys and attorneys and organizations in the local community. Items of mutual interest should be discussed and joint training between the legal assistance attorneys and civilian bar is encouraged.

d. COs should maximize the interaction between Reserve and active duty attorneys. Active duty attorneys should train Reserve attorneys on all Navy legal assistance matters. Reserve judge advocates should instruct active duty attorneys on specific areas of local civil law and should, if qualified, augment the department during their Reserve assignments. See paragraph 0810e of this Manual.

1303 SUPERVISION

a. The Department Head is responsible for supervising the delivery of legal assistance. Legal assistance attorneys are responsible for their own work and the work of the staff under their direction. Paralegals and legalmen may supervise the work of clerical personnel, as directed. Detailed information on delegation and supervision is contained in the Legal Assistance Manual.

b. All supervisors shall constantly guard against conflicts of interest and unauthorized disclosure of information.

1304 DUTIES AND RESPONSIBILITIES

a. Legal assistance attorneys shall provide each client with professional and individualized service without any form of compensation (apart from official government compensation). Provisions relating to the duties and responsibilities of legal assistance attorneys are found throughout this Chapter, as well as in JAGMAN Chapter VII, the Legal Assistance Manual, and reference (c).

b. Civilian attorneys may be assigned as legal assistance attorneys and as heads and assistant department heads of legal assistance; however, assignments of civilians in such positions requires CNLSC approval. Once assigned, their duties are identical to those of judge advocate legal assistance attorneys unless otherwise directed by the CO or OIC.

c. Overseas RLSO offices may hire or retain foreign civilian attorneys to provide legal assistance. Unless admitted

to practice in the highest court of a state, territory, the District of Columbia, or to a federal court, foreign attorneys will not advise clients in matters involving federal or state law of the United States.

1305 LIMITATIONS

a. When acting as a legal assistance attorney, neither judge advocates nor civilian attorneys will provide advice with regard to courts-martial, investigations, non-judicial punishment, other military justice matters, or administrative discharge processes, and will not form an attorney-client relationship concerning these matters. In such cases, the client should be referred to the Defense Service Office. If the client provides confidential information before the legal assistance attorney has ascertained that the client should be referred to the Defense Service Office, the legal assistance attorney will maintain that communication as privileged and confidential and not divulge it to other RLSO personnel.

b. Legal assistance attorneys may be called upon to provide legal assistance support for crime victims as discussed in reference (1). See paragraph 0210. This advice may include general information about VWAP, the Victims' Bill of Rights, programs for counseling or treatment, and federal and state compensation programs. Before giving such advice, legal assistance attorneys must conduct a careful conflicts of interest analysis to assure assistance was not provided to an opposing party, including parties who may now be defendants and/or respondents. If advice was provided to an opposing party, the legal assistance attorney must consult the legal assistance department head prior to formation of an attorney-client relationship to help ensure the conflicted victim receives timely and meaningful support. In such cases, the conflicted victim may be referred to an independent unit of the same RLSO, an alternate RLSO, an independent Reserve provider, or other alternative providers cited in Legal Assistance Manual instruction regarding conflict referral. A defendant and/or respondent seeking legal assistance should be referred to the DSO for support.

c. Any client seeking legal assistance related to an adverse determination by the Family Advocacy Program (FAP) Committee shall be referred to an alternate Legal Assistance provider when any member of the same RLSO, at that specific RLSO office, has participated in or provided counsel to that relevant FAP committee.

d. Except as noted in JAGMAN Chapter VII and other regulations, a legal assistance attorney shall not advise, represent, or assist an individual in a matter in which the United States has a direct and substantial interest, whether or not the government's position is adverse to that of the individual, without specific approval of the Judge Advocate General, or his designee. See JAGMAN 0708d, the Legal Assistance Manual, and 18 U.S.C. § 203 and 205 (which prohibit Government employees from personally representing or receiving, directly or indirectly, compensation for representing, any person before any Federal agency or court on matters in which the Government is a party or has an interest, other than in the proper discharge of official duties). This includes advice regarding claims. Legal assistance providers may not furnish more than a basic referral of claims documents.

e. Legal assistance is for personal legal matters only. It is not authorized for organizations or for business ventures. Exceptions include infrequent business transactions, such as the sale of a personal residence or car, and preparation of Schedule C (Profit and Loss from Business) for Family Home Care Providers certified to provide child care in government quarters pursuant to military regulations. See JAGMAN 0708a and the Legal Assistance Manual.

f. Legal assistance attorneys shall refer questions pertaining to Government standards of conduct or ethics, or to post-government service or employment restrictions, to their respective ethics counselor in accordance with Deputy JAG ltr (Subj: Designation of Ethics Counselors of 13 Jun 08) for ethics advice. See paragraph 1603 of this Manual.

g. In the absence of unusual or compelling circumstances, the initial communication with a client should not be accomplished by telephone or email. However, remote services may be utilized to meet mission requirements where prudent and effective. RLSO COs, with Legal Assistance Department Heads, must establish procedures for engaging these clients and confirming identification and eligibility. See paragraph 0603 of this Manual and JAGMAN 0708e and the Legal Assistance Manual.

1306 LEGAL ASSISTANCE PARALEGALS AND CLERICAL PERSONNEL

a. Attorneys may delegate various tasks to non-attorney support personnel, provided the attorney maintains direct contact with the client, supervises the support personnel in the

performance of the delegated work, assumes complete professional responsibility for the work product, and ensures support personnel are not represented as attorneys to the client or to third parties. While commanding officers and OICs are ultimately responsible, Branch Heads and Department Heads are responsible as first-line supervisors for ensuring support personnel are trained, supervised, and properly employed on a daily basis. See the Legal Assistance Manual for a non-exhaustive list of duties that may be assigned to paralegals.

b. Support personnel are prohibited from engaging in the unauthorized practice of law and may not provide any service requiring the professional judgment of a lawyer. Reserve legalmen who are also civilian attorneys are not authorized to serve as legal assistance attorneys, but may only function in their legalman capacity.

c. Support personnel must safeguard client confidences and privileged information, disclosing matters only at the direction of the legal assistance attorney or the client after he or she has discussed the matter with the legal assistance attorney.

d. Legal assistance personnel, whether permanently assigned or TAD, shall not accept any compensation (apart from official government compensation) for any service provided.

1307 SERVICES

a. All RLSOs, detachments, and branch offices have legal assistance departments or divisions. Standard services are set forth in JAGMAN 0707 and the Legal Assistance Manual.

b. Additional services may be provided in areas of legal assistance attorney competence if the services are not otherwise prohibited. Limitations on services are discussed in paragraph 1305, JAGMAN 0708, and the Legal Assistance Manual.

1308 ELIGIBILITY FOR SERVICES

The persons specified in JAGMAN 0705 are eligible for legal assistance in the indicated priority. Under JAGMAN 0705(b)(13), the Judge Advocate General may extend eligibility to other persons (see the Legal Assistance Manual). Questions relating to an individual's eligibility should be directed to the Legal Assistance Division (OJAG Code 16).

1309 RULES OF PROFESSIONAL RESPONSIBILITY

a. Attorneys are responsible for their own work and for that of their subordinates. Legal assistance attorneys are bound by the Rules of Professional Conduct, promulgated in reference (c) and by the Rules of Professional Conduct of their admitting jurisdiction(s). Legal assistance attorneys practicing in Expanded Legal Assistance Program (ELAP) cases must also adhere to the rules governing the practice in local courts. Problems or questions should be discussed with supervisors. Formal advisory opinions may be requested from the Professional Responsibility Committee. Informal advice may be obtained from supervisory judge advocates or OJAG Code 13.

b. Items requiring special attention and caution include: disclosure of confidential or privileged information; matters involving referrals, solicitations, fees and compensation (see JAGMAN 0709a); and professional conflicts of interest, especially in domestic relations cases. Professional conflicts of interest are conflicts that arise out of or are caused by the attorney-client relationship and should not be confused with conflicts of interest as defined and discussed in the Joint Ethics Regulations (JER). Departments must have procedures for identifying and avoiding potential professional conflicts.

c. Supervisors shall ensure competency of the legal assistance providers by providing training commensurate with the type and frequency of legal assistance being provided.

1310 COMMUNICATIONS

a. Legal assistance attorneys may communicate among themselves and Code 16 about cases within their department, unless the client expressly requests that information remain confined to a particular attorney or attorneys, or another attorney has an actual or apparent conflict of interest with respect to a particular client or case. In those situations, appropriate measures will be taken to shield client confidences and privileged information. Subject to the same limitations, an attorney may communicate with the CO and other supervisors, as well as Code 16. Attorneys with whom communications are made are bound by the confidences and privileges owed to the client. See reference (c).

b. Legal assistance attorneys may communicate with third parties on behalf of their clients. However, in doing so, they

must ensure that their position as advocates for their clients, rather than for the government, is clearly stated in oral discussions and indicated in written communications. Communications made on behalf of the client to non-governmental parties are not official RLSO or DON communications. Officers must not use or threaten to use their official positions for the benefit of clients. Such actions would constitute misuse of an officer's official position for the private benefit of another in violation of the JER and the Standards of Ethical Conduct for the Executive Branch Employees. For example, if a legal assistance attorney is on a base housing board, he/she cannot use or threaten to use the authority of that position against a third party for the benefit of the attorney's client or to the detriment of a third party against whom the client may have a legal cause of action.

1311 REFERRALS

Referral is appropriate whenever a client needs assistance beyond the capability of the legal assistance attorney, beyond the scope of the Navy's Legal Assistance Program, or in conflict of interest situations. Details may be found in the Legal Assistance Manual.

1312 OFFICE ADMINISTRATION

a. Regular office hours shall be established and maintained. Additional hours may be established for evenings and weekends. Hours should be promulgated by all available means. The preferred office procedure is to maintain scheduled appointments vice walk-in service, although walk-in service may be used for emergency clients and as a supplement to the scheduled appointments, but the actual system used is subject to the CO's discretion.

b. The Legal Assistance Departments for those RLSOs in locations where there is no on-site defense counsel are expected to help facilitate and maintain a consistent high level of service to those personnel requiring defense counsel. This includes providing use of personnel and equipment to help DSO personnel screen prospective clients to determine their eligibility for such services. Once confirmed, RLSO Legal Assistance personnel will provide access to a confidential space for defense appointments, access to available equipment such as telephones, webcams, scanners and fax machines, and be physically available to assist with the use of any and all technology in support of the delivery of services via remote

means. Commands may promulgate local procedures to complete this support.

c. The use of Reserve judge advocates is encouraged, especially in evening and weekend schedules, provided they are qualified and competent under applicable regulations. See paragraph 0810 and the Legal Assistance Manual.

d. Information on the creation, maintenance, and disposal of records is found in the Legal Assistance Manual, references (p) and (ggg).

1313 EXPANDED LEGAL ASSISTANCE PROGRAM (ELAP)

RLSOs are strongly encouraged to initiate and maintain an ELAP as resources and local conditions permit (see JAGMAN 0710 and the Legal Assistance Manual). If an ELAP is not feasible, RLSOs should develop a strong relationship with local courts and bar associations to ensure availability of the highest quality and most economical legal services for eligible persons.

1314 PREVENTIVE LAW PROGRAM

RLSOs shall establish Preventive Law Programs (see the Legal Assistance Manual). Typical activities include pre-deployment briefings, command-assist visits, informational lectures, publication of topical articles in base or local newspapers, and involvement with programs established by other base activities, such as hospitals and Family Service Centers. Initiative, creativity and perseverance are vital ingredients of effective programs, which should be tailored to local needs and conditions.

1315 VOLUNTEER INCOME TAX ASSISTANCE PROGRAM

RLSOs routinely give tax advice as a legal assistance matter. Where there is no Volunteer Income Tax Assistance and Electronic Tax Filing (VITA/ELF) program under the management of a Family Service Center or Staff Judge Advocate's Office, RLSOs should, resources permitting, assume responsibility for the program at their installation.

1316 INNOVATIVE PROGRAMS

Local needs or conditions may justify unique or innovative programs. RLSOs should informally discuss plans with OJAG Code 16 to determine past experience with such programs in other

locations, to obtain a perspective based upon a Navy-wide point of view, and to determine whether the program should also be offered at other legal assistance offices.

1317 DSO/RLSO INVOLVEMENT IN LEGAL ASSISTANCE PROGRAM

a. All judge advocates, civilian attorneys, legalmen and paralegals, active and Reserve, shall provide legal assistance to the extent circumstances require and their abilities allow.

b. Within Naval Legal Service Command, RLSOs are the primary providers of legal assistance. DSOs shall not normally provide legal assistance services. However, DSO counsel may be called on to provide legal assistance services in extremely rare cases where alternate providers are unavailable. DSO attorneys shall not serve as primary alternate providers; primary alternate providers will include independent and unconflicted Main Office, Detachment or Branch Office attorneys of the same RLSO, attorneys at a wholly separate RLSO, area independent duty staff judge advocates, independent and qualified reserve judge advocates, and qualified other military service providers before engagement of any DSO attorney.

CHAPTER 14
RLSO - TRIAL DEPARTMENT

1400 MISSION

The mission of the trial department is to provide qualified trial counsel for the prompt, efficient, and professional prosecution of SPCMs and GCMs; government counsel for the conduct of Article 32s; and counsel (recorders) for administrative boards. Additional duties delineated in reference (a).

1401 DUTIES AND RESPONSIBILITIES OF THE SENIOR TRIAL COUNSEL

a. Supervise, train, and direct all trial counsel, paralegals, and other military and civilian personnel assigned to the department.

b. Assign government and trial counsel for all SPCMs, GCMs, and Article 32 hearings, ensuring an equitable distribution of the caseload and taking into consideration the experience level of counsel and the complexity of each case.

c. Assign counsel for administrative boards and investigative bodies, as resources permit. See also paragraphs 1001, 1404, and 1406.

d. Direct military justice and, as appropriate, administrative discharge board case tracking by use of approved NLSC management information system(s).

e. Assist local staff judge advocates with military justice matters.

f. Provide legal advice on criminal investigations to Naval Criminal Investigative Service agents or other Government investigators.

g. Maintain a list of confinees and review it to ensure compliance with current speedy trial rules.

h. Maintain a password protected database for all electronic child pornography evidence.

i. As the senior litigator, assist newly assigned trial counsel in the preparation of their cases as needed.

j. Train assigned counsel in trial preparation and courtroom advocacy.

k. Ensure assigned counsel and/or senior trial paralegals promptly and accurately enter case data into the approved NLSC management information system.

l. Provide liaison between the judiciary and junior trial counsel in appropriate matters such as courtroom demeanor, interpretation of court rules, and other areas relating to courtroom procedures, conduct, and advocacy skills.

m. Ensure prompt, accurate transcription and authentication of records of trial and delivery to appropriate parties.

n. Keep the CO and XO informed of all issues within the department, including the professional competence and progress of counsel.

o. Coordinate with Special Assistant U.S. Attorneys on cases involving both military and Federal jurisdiction.

p. Consult with TCAP as necessary on a case-by-case basis.

1402 LIAISON WITH CONVENING AUTHORITY

Personal contact by the trial counsel with the convening authority or the designated representative during the entire course of a case disposition is important. Trial counsel should, within five working days of assignment, make initial contact with the convening authority (or the assigned command judge advocate). Throughout the course of litigation, the trial counsel shall keep the convening authority informed as to witness requests and other funding issues, any defense requests for members or enlisted members, and other administrative issues such as the need for bailiffs, brig chasers, etc. At the conclusion of trial, trial counsel shall communicate the results to the convening authority or a representative. In cases of particular importance, interest, or controversy, trial counsel should meet personally with the convening authority to discuss the results of trial. However, the trial counsel for a particular case shall not also act as the convening authority's staff judge advocate and shall not draft the Staff Judge Advocate's Recommendation.

1403 PHYSICAL EVIDENCE, TRIAL RECORDINGS, AND RECORDS OF TRIAL

a. RLSO COs shall establish procedures to provide for the custody, safeguarding, and chain of custody of physical evidence. Specific accountability and record keeping procedures will be prescribed. Disposal of evidence after trial is governed by reference (r). The timing of such disposal prior to completion of appellate review is an issue involving considerable judgment and is dependent upon the strength of the case before the appellate review authorities. Trial counsel should consult with the TCAP, as necessary, for guidance.

b. Both the trial counsel and the senior court reporter are responsible for monitoring assigned court reporters to ensure the timely completion of all records of trial. See also paragraph 1401m of this Manual. The CO will be advised of delays. Court reporters' primary duties are to provide the services set forth in R.C.M. 501, 502, and 1103. Requests for additional court reporting services, such as recording and transcribing Article 32 proceedings, depositions, or administrative proceedings, should be directed to the RLSO CO. COs may approve these services at their discretion.

c. Under R.C.M. 1103, trial counsel are charged with producing the record of trial for each GCM and SPCM. Trial counsel is required to examine the record to ensure the proceedings are accurately recorded. Trial counsel shall allow defense counsel to review the record prior to authentication (R.C.M. 1103(i)(1)(B)) by the military judge, unless it will cause an unreasonable delay.

d. Trial counsel shall ensure compliance with the post-trial procedures and checklists prescribed in reference (yy). They will monitor the completion of required post-trial actions and subsequent forwarding of records of trial by convening authorities to higher authority. They will monitor the status of records until their arrival at the Navy-Marine Corps Appellate Review Activity (NAMARA, OJAG Code 40) and utilize CNLSC approved case tracking systems.

e. CMTIS is the current system used for monitoring post-trial processing. RLSO COs may monitor the status of records of trial in transcription, records awaiting authentication, and records sent to convening authorities. COs will advise COS-RLSO and OJAG Code 40 of any delays in processing records of trial.

f. In accordance with JAGMAN 0150b, notes and recordings from trial shall be retained by the RLSO until review of the case is final. Computer disk copies of records of trial shall be retained for the same period of time. A hard copy of the record of trial shall be retained until confirmation that the original has been received by the appellate review activity. However, a copy of attachments (e.g., appellate exhibits) to the record of trial shall be retained until review of the case is final.

1404 FAMILY ADVOCACY PROGRAM

a. RLSO COs will, in consultation with the cognizant staff judge advocate or type commander as appropriate, ensure a judge advocate is made available to act as a recorder for all administrative separation boards and boards of inquiry for child sexual abuse cases absent compelling reasons why one cannot be assigned. COs will, in consultation with the cognizant staff judge advocate or type commander as appropriate, assign a judge advocate as a recorder in other types of child and spouse abuse administrative separation hearings when personnel assets are available.

b. General responsibilities for support of the Family Advocacy Program, to include assisting victims in seeking review of adverse Case Review Committee (CRC) determinations in child and spouse abuse cases, are discussed in paragraph 0209 of this Manual.

1405 VICTIM AND WITNESS ASSISTANCE PROGRAM

Reference (hhh), as implemented by references (k) through (m) prescribes procedures to implement the Victim and Witness Assistance Program in DOD and DON. Each RLSO will have a program in place to ensure victims and witnesses are provided the required information and assistance in accordance with these instructions, taking special care to fulfill the unique responsibilities set forth in reference (m). See also paragraph 0210 of this Manual.

1406 DUTIES AND RESPONSIBILITIES OF A TRIAL PARALEGAL

A RLSO paralegal serves a vital role in a RLSO trial department. As part of the prosecution team, the paralegal will be made aware of information that is both privileged and confidential. A primary responsibility of the paralegal is to maintain the

confidentiality of such information. The following are some of the most important duties and responsibilities:

- a. Tracking the location and caseloads of all assigned trial counsel;
- b. Organizing and updating command trial library and resource materials;
- c. Aiding in trial-related legal research and drafting legal documents;
- d. Maintaining counsel appointment schedules;
- e. Collecting trial department reports;
- f. Maintaining trial department case tracking;
- g. Participating in witness interviews;
- h. Assisting in the development and execution of trial strategy;
- i. Arranging for production and travel of witnesses;
- j. Assisting the assigned trial counsel with inputting data as required in the management information data base;
- k. Performing other duties in furtherance of the trial department mission as directed by the CO, XO, and Senior Trial Counsel; and
- l. Maintain evidence locker.

CHAPTER 15
TRIAL COUNSEL ASSISTANCE PROGRAM (TCAP)

1500 MISSION

The mission of the Trial Counsel Assistance Program (TCAP) is to support Region Legal Service Offices by providing advice and assistance to trial counsel, upon request, throughout every phase of court-martial litigation. Serving as the military justice subject matter expert on government-related matters for CNLSC, TCAP counsel may be consulted to provide support to trial counsel in all aspects of case preparation, including, but not limited to, drafting charges and specifications, drafting motions, preparing expert witnesses, devising trial strategy, and assisting with post-trial matters.

1501 COMMAND RELATIONSHIP

a. The Director of TCAP works under the direct supervision of Chief of Staff, Region Legal Service Office (COS-RLSO) and serves a supporting role for RLSOs. The TCAP Director supervises only those personnel detailed to TCAP but will assist COS-RLSO with the exercise of his oversight and reporting responsibilities. RLSO COs shall maintain their supervisory role of, and fitness report writing responsibility for, trial attorneys assigned to their command.

b. TCAP shall provide government-related subject matter expertise and support to RLSO trial counsel when requested by trial counsel, the RLSO CO, or as directed by COS RLSO. TCAP is available to government counsel as a resource to assist in the prosecution of cases.

c. TCAP may request case specific or other administrative information from trial counsel or RLSO COs as necessary to assist in fulfilling its roles and responsibilities.

1502 ROLES AND RESPONSIBILITIES

a. In coordination with RLSO COs, TCAP may provide training in military justice, trial practice and professional responsibility to trial counsel. TCAP will monitor the relative experience levels of trial counsel through on-site, periodic observations of Navy judge advocates in the performance of their prosecutorial functions. The TCAP Director may be consulted by RLSO COs on a case-by-case basis to make recommendations

concerning detailing decisions of trial counsel, primarily in cases involving complex or novel issues.

b. TCAP shall coordinate with RLSO COs to continually assess the quality of trial counsel functions as well as the professional training and continuing legal education opportunities provided for trial counsel. TCAP shall develop programs and policies to promote the effective and efficient use of trial counsel resources that enhance the professional qualifications of all personnel involved in providing trial services.

c. The Director of TCAP shall report to COS-RLSO as requested on the state of trial counsel services within the Navy.

d. TCAP shall hold weekly meetings with OJAG Code 46 for purposes of facilitating and coordinating advice and assistance to trial counsel.

e. TCAP may coordinate as necessary on a case-by-case basis with OJAG Code 20.

1503 ADVICE TO TRIAL COUNSEL

A trial counsel may disclose case information, including that which concerns a victim or witness to COS-RLSO or a covered attorney assigned to the TCAP when requested by COS-RLSO or TCAP, or for the purpose of seeking advice and assistance from TCAP. The TCAP office shall maintain a system for identifying conflicts with immunized witnesses and shall be careful to avoid conflicts of interest in providing advice to trial counsel.

1504 AVAILABILITY OF COUNSEL

The Director of TCAP may make counsel assigned to the TCAP office available to serve as trial counsel, in consultation with the Commanding Officer of the RLSO responsible for detailing trial counsel in a particular case.

CHAPTER 16
RLSO - COMMAND SERVICES DEPARTMENT AND STAFF JUDGE ADVOCATE
(SJA) SUPPORT

1600 POLICY

a. The purpose of the RLSO command services department is to provide prompt and effective legal services to commands throughout the Navy sea and shore establishment. Every RLSO (and detachment with sufficient assets) will have a command services program and designate a command services department head. Every command and activity within a RLSO's (or detachment's) area of responsibility will be informed of points of contact for specific legal matters. Local instructions or other means should be used to inform commands of the availability of services and the procedures to obtain them.

b. RLSO COs have the authority to establish SJA positions that are separate departments from their command services department. The SJA to the Region Commander will act as the operational chain of command for all installation command judge advocates within the region while the command services department will provide assistance to commands which do not have organic judge advocate support. The SJA to the Region commander will be ADDU to the Region Commander, while installation command judge advocates will have no similar ADDU relationships. However, in some circumstances, the Command Services Department Head may be dual-hatted as the Region SJA.

c. The SJA ADDU to the Region Commander will provide advice and services as necessary to execute day-to-day mission responsibilities for the Region Staff. As stated above, commands without judge advocates assigned will be given legal advice and support as necessary. If resources are available, RLSOs may provide assistance to area command/staff judge advocates that request services.

d. Command Services personnel, Installation Staff Judge Advocates and Legalmen should not provide legal advice on environmental matters without first consulting with the billeted uniformed environmental JAG within the Region. The environmental JAG officer shall be the sole conduit (among RLSO personnel) to the Region Commander in his role as the Regional Environmental Coordinator (REC). If RLSO personnel are asked to provide environmental law litigation support (e.g., on environmental issues related to sonar or encroachment), they shall contact the REC as soon as possible and not provide

requested information prior to coordination with the environmental JAG. See 1605 of this Manual. In regions without Regional Environmental Counsel, the RLSO CO or SJA will coordinate to provide military advice on environmental law matters.

1601 IMPLEMENTATION OF COMMAND SERVICES

a. Command services officers serve as the initial points of contact and advisors to assigned commands. The command services officer must serve as an effective liaison to enable RLSO personnel to learn of potential legal issues and to provide appropriate legal support even before a request for services is made. Established processes, especially with regard to a potential court-martial case, must vigorously stress bringing the client command's legal issues to the department for action as soon as possible.

b. Each preferred charge sheet received by the RLSO should be considered as a convening authority request for trial and defense counsel and should be accompanied by all supporting documents such as investigation reports, evidence, and witness statements. Immediately upon receipt of preferred charges, the RLSO will provide copies of the charge sheet and all discoverable supporting documents provided by the convening authority to the cognizant DSO for assignment of defense counsel. If the RLSO receives preferred charges not accompanied by supporting documentation, a copy of the preferred charge sheet will immediately be provided to the cognizant DSO. The RLSO will immediately notify the convening authority that delivery of supporting documentation is required and may delay assignment of counsel. Each RLSO and DSO will maintain a log or other means of tracking requests for counsel.

c. Brig reports should be monitored to ensure confinees are promptly assigned counsel, if required or if requested by a confinee's command.

d. Command services responsibility continues in a potential court-martial case at least until the assignment of a trial counsel (for SPCMs) or government counsel (Article 32s). Then, the primary responsibility for guidance and assistance usually shifts to the detailed trial or government counsel. At this point, the command services officer shall refer requests concerning the case to the detailed counsel. The command services officer should assist the assigned counsel in turning

over responsibility and may be required to provide continuing liaison to client commands.

e. The designated staff judge advocate to a region commander, installation commanding officer and Special Courts-martial Convening Authorities will provide independent advice to the commanders on military justice matters as required.

f. Command services officers shall familiarize themselves with the mission, organization, and operations of client commands and shall become personally acquainted with local COs and other command personnel. Periodic visits and personal contact are highly encouraged.

g. Area commands often ask for training lectures on legal topics as part of their general military training programs. The command services or training officer should coordinate all requests and strive to respond favorably to them.

h. Command services officers shall advise client commands of the full range of services available from NLSC departments, including defense services available from Defense Service Offices. Where practicable, command services officers will facilitate customer command access to all DSO and RLSO services.

i. Command services officers will monitor pending administrative discharge boards, ensure customer convening authorities are familiar with processing time guidelines contained in the MILPERSMAN, and advise on appropriate actions to ensure expeditious processing of such proceedings. Command services officers shall advise prospective administrative discharge board recorders as to their duties and responsibilities.

j. Command services officers will assist commands with foreign criminal jurisdiction advice, when required. Foreign criminal jurisdiction practice involves, among other matters, jurisdiction waiver requests, contracting of foreign counsel to represent the accused, trial observation, and prisoner visitation. Although these functions are often within the purview of the cognizant staff judge advocate, the RLSO may be called on to assist.

k. After coordination with the regional environmental counsel, command services officers may assist commands with advice on environmental law issues.

1602 POST-TRIAL RESPONSIBILITIES.

See reference (yy) for specific responsibilities and duties regarding post-trial matters.

1603 SPECIAL ASSISTANT UNITED STATES ATTORNEY (SAUSA).

The Command Services Department may have at least one Attorney designated as a SAUSA. The SAUSA represents the Government in federal criminal misdemeanor court proceedings.

1604 ETHICS ADVICE

In accordance with Deputy JAG ltr (Subj: Designation of Ethics Counselors of 13 Jun 08), RLSO COs, as well as designated SJAs and OICs, are Ethics Counselors as defined by reference (tt) and shall provide ethics advice to commands and DOD personnel, as required. Communications received by an attorney acting in an Ethics Counselor capacity are not protected by the attorney-client privilege. Ethics Counselors must advise individuals as to the inapplicability of the privilege prior to any communication from the individual being counseled.

1605 REGIONAL ENVIRONMENTAL COUNSEL

a. Separate from Command Services, but within the RLSO, there may be billeted a Regional Environmental Counsel (REC), whose purpose is to provide environmental counsel at the Region level concerning environmental policy or law. The function of providing environmental legal support is coordinated among the judge advocates from the RLSO and OGC counsel at various commands within a region. The judge advocates are primarily responsible in assisting and advising commands on operational environmental law/compliance matters.

b. The REC coordinates as necessary with other environmental counsel such as Office of General Counsel, Fleet environmental counsel, Navy Litigation Office, OPNAV N45 and ASN (EI&E) counsel. The REC has cognizance over operational environmental issues while General Counsel has primary cognizance over shore installation support facilities environmental compliance and tribal consultation legal advice. Careful coordination on issues will ensure necessary involvement of one or both when there is overlap.

c. In regions where there is a billeted REC, the senior such billet will be designated as ADDU to the Region. The REC

shall be functionally supervised by the RLSO CO and the RLSO CO is the regular reporting senior for the REC serving in the designated billet; the Region Commander is the concurrent reporting senior. The RLSO CO should be briefed at least weekly on environmental law issues that may affect the REC mission.

d. The REC coordinates with Region General Counsel, the Region SJA, and NAVFAC Environmental Counsel, and primarily supports the Regional Program Director for Environment, Region Environmental Support, and Regional Director for Operations for substantive issues.

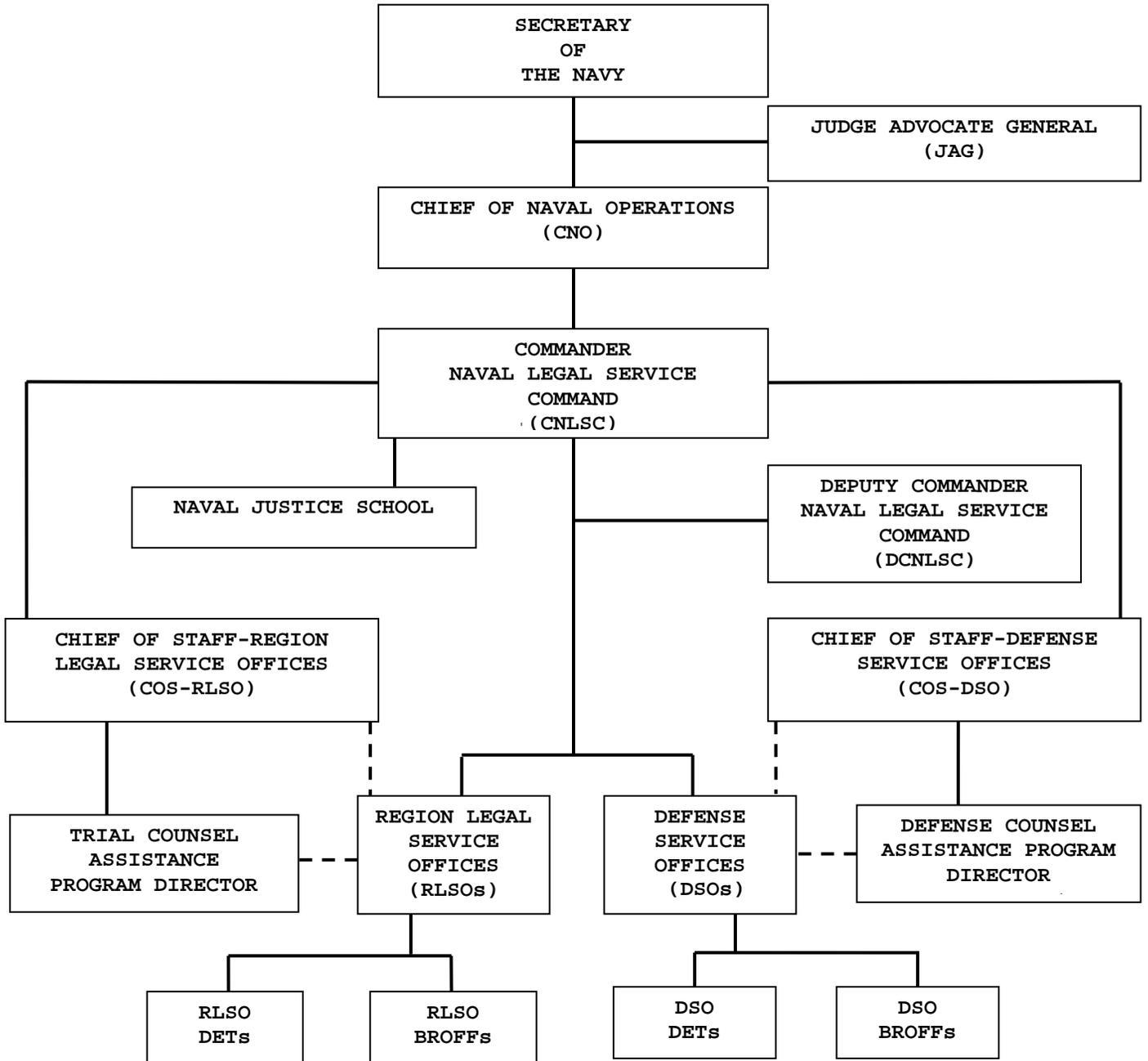
1606 FAMILY ADVOCACY PROGRAM

a. RLSO COs will, in consultation with the cognizant staff judge advocate, ensure a judge advocate is assigned to participate in the installation Family Advocacy Committee (FAC) and CRC. When the installation has no staff judge advocate, and after consultation with the type commander, COs will ensure a judge advocate is appointed as an active, permanent member of the installation FAC or CRC.

b. General responsibilities for support of the Family Advocacy Program, including assisting victims in seeking review of adverse CRC determinations in child and spouse abuse cases, are discussed in paragraph 209 of this Manual.

APPENDIX A

NLSC CHAIN OF COMMAND



While not in the direct chain of command, Commanding Officers of RLSOs and DSOs should ordinarily consult and coordinate with their respective Chiefs of Staff on matters affecting their command.

APPENDIX B
MEDIA RELATIONS

1. Preface. Judge advocates (and other members of the JAG community) may be confronted with press inquiries and media interest regarding the military justice system, in general, and their cases, in particular. The references below are intended to provide initial guidance to NLSC COs to assist them when dealing with the media. For additional guidance, NLSC commanders should contact the OJAG Public Affairs Office.

2. References

a. U.S. Navy Regulations (1990), Art. 1121. This section, entitled "Disclosure, Publication and Security of Official Information," prohibits Naval personnel and civilian employees from acting as a news service correspondent, commentator or analyst, unless specifically assigned to public affairs duties or authorized by the Secretary of the Navy.

b. Manual for Courts-Martial, R.C.M. 806.

(1) R.C.M. 806, entitled "Public Trial," applies to spectators at courts-martial. It presumes courts-martial will be open to the public and it acknowledges the military judge's dual role of protecting the accused's right and public's interest in a public trial, while also maintaining the dignity of the proceeding. It also empowers the military judge to "reasonably limit the number of spectators in, and the means of access to, the courtroom and exclude specific persons from the courtroom." The defense has a right to object to the actions of the military judge. See also M.R.E. 505(j)(5).

(2) R.C.M. 806 also strictly prohibits the use of audio-visual recording equipment and photography, unless the military judge determines closed-circuit transmissions are necessary to accommodate an overflow of spectators or when an accused has been excluded from the courtroom pursuant to R.C.M. 804. Compare R.C.M. 1103(j) which permits, under the authority of the Secretary concerned, a general or special court-martial to videotape, audiotape, or use other means of reproduction, to record a court-martial. Such means of recording may be used in lieu of, or in addition to, recording by a qualified court reporter.

(3) JAGMAN 0142. This section, entitled "RELEASE OF INFORMATION PERTAINING TO THE ADMINISTRATION OF MILITARY JUSTICE AND ACCUSED PERSONS," provides extensive policy guidance with regard to releasing information on pending investigations or military justice matters. It does not apply to judge advocates assigned to represent individual clients other than the Government when making statements concerning the subject matter of that representation; they must comply with reference (c) The bottom line is simple: "No statements or other information shall be furnished to news media for the purpose of influencing the outcome of an accused's trial, or which could reasonably be expected to have such an effect." Release limitations apply to preliminary investigations, the imposition of NJP, and the court-martial process (i.e., the apprehension of the accused, preferral of charges, or initiation of an investigation).

(4) JAGMAN 0143. This section, entitled "Spectators at Proceedings," applies to spectators at courts-martial and Article 32 hearings. It permits the Presiding Officer to close all or part of the hearing if inadmissible information might be disseminated and is likely to interfere with the right of an accused to a fair trial.

(5) COMNAVLEGSVCCOMINST 5800.1 [series] (Subj: Naval Legal Service Command Manual). Section 0217 of this instruction recognizes the importance of the media's role in a democratic society, but admonishes COs to protect the rights of service members and to maintain courtroom dignity. It requires guidance from local PAO experts when information about DSO or RLSO services is to be disseminated. It also mandates notice to CNLSC of high visibility/media interest matters.

(6) JAGINST 5803.1 [series] (Subj: Professional Conduct of Attorneys Practicing under the Supervision of the Judge Advocate General). Rule 3.6 of this instruction, concerning extra-tribunal statements, sets out specific rules for practicing judge advocates.

(7) SECNAVINST 5720.42 [series] (Subj: Department of the Navy Freedom of Information Act). This instruction governs requests for government held-information. It imposes no duty to create files or generate information.

(8) SECNAVINST 5211.5 [series] (Subj: Department of the Navy Privacy Act Program). This instruction provides individuals with access rights to information held by the

government regarding themselves and limits disclosure of sensitive/personal information to third parties.

(9) SECNAVINST 5720.44 [series] (Subj: Department of the Navy Public Affairs Policy and Regulation). Section 209 of this instruction outlines Navy public affairs policy concerning military justice matters.

(10) JAGINST 5400.1 [series] (Subj: Office of the Judge Advocate General (OJAG) Organization Manual). The OJAG SORM provides guidance for judge advocates on release of official information, Freedom of Information Act, Privacy Act requests and information about individual representation.

(11) "Public Affairs Tactics Manual" (August 2009), Office of U.S. Navy, Chief of Information. Chapter 7 provides a full explanation of how to prepare for a media interview and coordinate a proper response when queried by media.

3. Media Experts – Points of Contact

a. OJAG (OOPA): (202) 685-5493, DSN 325-5493.

b. Local contacts as appropriate (see complete PAO directory at <http://www.chinfo.navy.mil/paodir/index.html>).

c. Chief of Naval Information (CHINFO) (Arlington, Virginia): (703) 697-5342, DSN 227-5342.

**APPENDIX C
BUDGET/FISCAL FORMS FOR ACTIVITIES IN FOREIGN COUNTRIES**

COUNTRY: _____

| | PAY RAISE PERCENTAGE(S) | EFFECTIVE DATE(S) |
|---------|-------------------------|-------------------|
| FY 19PY | | |
| FY 20CY | | |
| FY 20BY | | |

| FOREIGN CURRENCY EXCHANGE DATE FY 19PY ONLY (DOLLARS IN THOUSANDS) | PAYABLE IN FOREIGN CURRENCY | PAYABLE IN U.S. DOLLARS |
|--|--------------------------------|----------------------------|
| | | |

Civilian Personnel Compensation

| | | |
|--|-----|-----|
| 101 GS Basic Salary | XXX | |
| 102 G5 Awards and Overtime | XXX | |
| 103 GS Benefits | XXX | |
| 104 Foreign Nat'l Direct Hire(FNDH) Basic Salary | | XXX |
| 105 FNDH Awards and Overtime | | XXX |
| 106 FNDH Separation Liability | | XXX |
| 107 FNDH Benefits | | XXX |
| 110 Unemployment Compensation | | |

Travel

| | | |
|---|--|-----|
| 304 Per Diem | | |
| 305 Other Travel Cost | | |
| 306 MAC Passenger | | |
| Other Purchases | | |
| 901 Foreign National Indirect Hire (FNIH) | | XXX |
| 902 Separation Liability | | XXX |
| 913 Purchased utilities | | |
| 914 Purchased Communications | | |
| 915 Rents | | |
| 916 Disability Compensation | | |
| 918 Equipment: Furniture | | |
| 919 Equipment: All Other | | |
| 920 Supply & Material (Non-SF) | | |

| | | |
|---|--|--|
| 921 Printing & Reproduction | | |
| 922 Equipment Maintenance by Contract | | |
| 923 Facility Maintenance by Contract | | |
| 989 Other Contracts | | |
| GRAND TOTAL TO OPERATE OFFICE/DETACHMENT/BRANCH OFFICE | | |

APPENDIX D
COST SHARING AMONG CO-LOCATED NLSC ACTIVITIES

1. The host NLSC activity will fund all fixed costs. Fixed costs are non-discretionary costs whose charges are relatively independent of the level of activity/operations. The tenant NLSC activity will receive the same level of services related to fixed costs as the host activity.

2. The tenant NLSC activity will fund only variable costs directly related to their operation. Variable costs are:

- a. Travel, per diem, and miscellaneous travel expenses;
- b. Local travel (Mileage reimbursement will be the preferred method of funding local travel versus command vehicle);
- c. Long distance toll calls and line rental charges;
- d. Supply items/subscriptions normally procured by the tenant activity;
- e. Materials normally printed by the tenant activity; and
- f. Minor construction.

3. All other costs will be considered fixed costs. Examples of fixed costs are:

- a. Base operation support costs except for long distance toll calls and line rental charges;
- b. Equipment rental charges including usage-related charges;
- c. Training sponsored by the Regional Training Authority (RTA);
- d. Field Law Library operations;
- e. Materials normally printed by the host activity; and
- f. Maintenance of Real Property.

4. The tenant NLSC activity will receive funding to cover variable costs.

5. The tenant NLSC activity will submit a midyear/budget submission for variable costs. The host NLSC activity will include fixed costs of the tenant activity when preparing midyear review/budget submission.

APPENDIX E
REFERENCES

- (a) CNLSCINST 5450.1 series, Mission, Functions and Tasks of Naval Legal Service Command Offices
- (b) JAGINST 5800.7 series, Manual of the Judge Advocate General
- (c) JAGINST 5803.1 series, Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General
- (d) 10 U.S.C. § 1034, Protected Communications; Prohibition of Retaliatory Personnel Actions
- (e) DoDD 7050.06 series, Military Whistleblower Protection
- (f) OPNAVINST 6110.1 series, Physical Readiness Program
- (g) OPNAVINST 5354.1 series, Navy Equal Opportunity Policy
- (h) SECNAVINST 5300.26 series, Department of the Navy Policy on Sexual Harassment
- (i) OPNAVINST 1752.1 series, Sexual Assault Victim Intervention (SAVI) Program
- (j) OPNAVINST 1752.2 series, Family Advocacy Program
- (k) SECNAVINST 5800.11 series, Victim and Witness Assistance Program (VWAP)
- (l) OPNAVINST 5800.7 series, Victim and Witness Assistance Program (VWAP)
- (m) JAG/CNLSCINST 5800.4 series, Victim and Witness Assistance Program (VWAP)
- (n) OPNAVINST 1740.4 series, U.S. Navy Family Care Policy
- (o) 5 U.S.C. § 552a, Records Maintained on Individuals
- (p) SECNAVINST 5211.5 series, Department of the Navy (DON) Privacy Act (PA) Program
- (q) SECNAVINST 7320.10 series, Department of the Navy (DON) Personal Property Policies and Procedures
- (r) OPNAVINST 5530.14 series, Navy Physical Security and Law Enforcement Program
- (s) SECNAVINST 5510.36 series, Department of the Navy (Don) Information Security Program Instruction
- (t) SECNAVINST 5239.3 series, Department of the Navy Information Assurance Policy
- (u) JAG/CNLSCINST 5239.2 series, Information Assurance Program
- (v) SECNAV M-5510.36 series, Department of the Navy Information Security Program
- (w) SECNAV M-5510.30 series, Department of the Navy Personnel Security Program
- (x) OPNAVINST F3300.53 series, Navy Antiterrorism Program
- (y) DoDD 2000.12 series, DoD Antiterrorism/Force Protection (AT/FP) Program
- (z) SECNAVINST 5400.40 series, Mission, Organization, Functions,

- and Support of Navy-Marine Corps Trial Judiciary
- (aa) JAGINST 5040.1 series, Command Evaluation, Article 6 Legal Office Assessments and Management Internal Controls
 - (bb) JAGINST 5800.9 series, Criminal Activity, Disciplinary Infractions and Court-Martial Report (QCAR)
 - (cc) OPNAVINST 5350.4 series, Navy Alcohol and Drug Abuse Prevention and Control
 - (dd) JAG/CNLSCINST 1150.1 series, Recruiting, Internship, Externship, Student and Direct Appointment Accession Programs
 - (ee) OPNAVINST 1306.2 series, Command Master Chief Program
 - (ff) OPNAVINST 3120.32 series, Standard Organization and Regulations of the U.S. Navy
 - (gg) BUPERSINST 1610.10 series, Navy Performance Evaluation System
 - (hh) MCO P1610.7 series, Performance Evaluation System
 - (ii) DoDI 1400.25 series, DoD Civilian Personnel Management System
 - (jj) SECNAVINST 3590.4 series, Award of Trophies and Similar Devices in Recognition of Accomplishments
 - (kk) OPNAVINST 1740.3 series, Command Sponsor and Indoctrination Programs
 - (ll) SECNAVINST 5510.30 series, Department of the Navy (DON) Personnel Security Program (PSP) Instruction
 - (mm) OPNAVINST F3100.6 series, Special Incident Reporting (OPREP-3 Pinnacle, OPREP-3 Navy Blue, and OPREP-3 Navy Unit SITREP) Procedures
 - (nn) OPNAVINST 5102.1 series, Navy and Marine Corps Mishap and Safety Investigation, Reporting, and Record Keeping
 - (oo) SECNAV M-5216.5 series, Department of the Navy Correspondence Manual
 - (pp) SECNAVINST 5720.42 series, Department of the Navy Freedom of Information Act (FOIA) Program
 - (qq) OPNAVINST 5239.1 series, Navy Information Assurance (IA) Program
 - (rr) JAGINST 1001 series, Reserve Component Judge Advocate Total Force Structure
 - (ss) COMNAVRESFORINST 1001.5 series, Administrative Procedures for the Drilling Reserve and the Participating Members of the Individual Ready Reserve (IRR)
 - (tt) DoD 5500.07-R series, Joint Ethics Regulation
 - (uu) 5 C.F.R. Part 2635, Standards of Ethical Conduct for Employees of the Executive Branch
 - (vv) NAVSO P-3582 series, Financial Management Guidebook for Commanding Officers
 - (ww) OMB Circular No. A-11, Preparation, Submission, and Execution of the Budget

- (xx) DoD 7000.14-R series, Department of Defense Financial Management Regulations (FMRS)
- (yy) JAGINST 5814.1 series, Post-Trial Processing
- (zz) COMNAVLEGSVCCOMNOTE 1300, Utilization of First Tour Judge Advocates
- (aaa) SECNAVINST 1640.9 series, Department of the Navy Corrections Manual
- (bbb) SECNAVINST 5370.7 series, Military Whistleblower Reprisal Protection
- (ccc) JAGINST 5830.1 series, Procedures Applicable to Courts of Inquiry
- (ddd) DoDD 6490.1 series, Mental Health Evaluations of Members of the Armed Forces
- (eee) SECNAVINST 6320.24 series, Mental Health Evaluations of Members of the Armed Forces
- (fff) JAGINST 5801.2 series, Navy-Marine Corps Legal Assistance Program
- (ggg) SECNAVINST 5210.8 series, Department of the Navy Records Management Program
- (hhh) DoDI 1030.2 series, Victim and Witness Assistance Procedures