

Admin Officer Guide: Legal Officer

INTRODUCTION

The Legal Officer is a trusted agent of the Commanding Officer (CO). Many first tour LDOs/CWOs will fill the role of the command Legal Officer. The TRIAD will rely on your counsel and advice but, more importantly, your goal is to execute the CO's intention in maintaining good order and discipline while establishing fairness and equity in all judicial and legal processes at the command. Additionally, per 10 U.S.C. § 1044a and JAGINST 5800.7 (series) Ch-3, Section 0902, you may also serve as a certified Notary. The Notary training requirements can be found in JAGINST 5801.2 (series) Sections 7—9. The training is available through the Naval Justice School Blackboard. As a best practice recommend also obtaining your own Notary Logbook, personalized Notary Seal, and thumbprint ink pad. These items are authorized to be purchased for you in your official duties by your command.

OVERVIEW

Your sole legal responsibility lies with the CO, while protecting the rights of those accused of committing a violation. Helping Sailors is in our nature, but you must ensure that your actions are in support of the CO in carrying out sound legal advice and practices. Take your time, review the references, and understand what you, and your command leadership, can and cannot do. Ensure you are familiar with guidance on common issues regarding legal topics, such as Command Authorized Search and Seizures (Property/Urinalysis, etc.) before the questions arise. Be efficient, effective, and precise. Review the governing reference if you do not know the answer (and even if you do to review for recent changes) to a question, and if you are still unsure, do not be afraid to reach out to the Admin LDOs/CWOs or JAG community SMEs (many ISICs will have an assigned SJA) for advice or help, before acting or making a final decision.

Admin LDOs/CWOs serving as Legal Officers are disadvantaged without the appropriate legal training. Hence, you should be given the opportunity to attend a Legal Officer course prior to reporting on board your first command, or shortly thereafter. This course is proctored by staff JAGs, Legalman, and sometimes prior Defense Service Office JAGs. It is a great tool providing a foundational understanding of search and seizures, non-judicial punishment (NJP), administrative separation (ADSEP) boards, boards of inquiry (BOI), and court-marital proceedings.

ADMIN OFFICER/LEGAL OFFICER ACTION

Getting started – Command “must haves” for the Legal Officer. Most recent addition of Manual for Court-Martial (MCM, 2019 edition) and the Manual of the Judge Advocate General (JAGMAN, Rev 01/21). When a Sailor is charged for allegedly committing an offense, the MCM is the **ONLY** source you should utilize in preparing the NAVPERS 1626/7. The JAGMAN aides in your ability to advise the Triad on investigations (i.e., Preliminary Inquiry, Command Investigations, Line of Duty Determinations, etc.). These sources are available at the links provided below. You and your team should be familiar with these manuals before an incident occurs to avoid mistakes, and delays that will negatively impact the CO's ability to maintain good order and discipline.

A unit punishment book (UPB) or log provides a chronological report of NJPs and disposition for the command. It is a useful decision tool for the CO. A green logbook or excel document serves this purpose and function. Name, Rank/Rate, Date of Offense, Charges, Summary of the Offense, Date of NJP, Appeal Status, and Final Disposition are minimum entries for the punishment log. These are subject to inspection, so make sure you are maintaining proper file retention timelines. This is also a great document for training your team.

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NJP is a disciplinary measure more serious than administrative corrective measures such as, counseling or admonitions, but is less serious than trial by court-martial. The purpose of NJP is provide commanders with an essential and prompt means of maintaining good order and discipline. Your job as the Legal Officer is to support the investigating officer while he/she collects the facts or evidence to be evaluated, and then advise the CO when it is time to make a decision. NJP, and the NJP process, takes time – do your research. Do not be afraid to ask the CO for more time.

- Items for the NJP process:
 - Article 31(b) Very Important – Article 31(b) rights can be found in the UCMJ. Art. 31(b) rights apply if you intend to interrogate or request a statement from a person subject to the UCMJ who is accused or suspected of committing a UCMJ violation. Art. 31(b) states:
 - Ensure the member is advised of the article 31(b) rights if you intend to interrogate or request a statement from the member if the member is accused or suspected of committing a UCMJ violation.
 - Determine if the incident warrants an investigation. If so, prepare a letter for the CO to designate the Investigating Officer (for the Preliminary Inquiry, Command Investigation, or Line of Duty Determination). When in doubt – recommend assigning a PIO to gather the facts – maybe the incident is something or maybe it is nothing – do not leave this to chance – provide the CO with the facts needed to make the best decision/determination.
 - Disciplinary Review Board (DRB). Do you have a command DRB instruction? If not, start the process. Be involved in the process, ensure that whichever Chief Petty Officer is chairing the DRB knows to read the Acknowledgement of Rights (Art. 31(b)) to the alleged offender and give the alleged offender the opportunity to initial and sign this document (be mindful: alleged offender could invoke and decline to sign).
 - Executive Officer of Inquiry (XOI). A new set of Rights Acknowledgement (Art. 31 (b)) must be administered, and the member should be given the opportunity to sign. Best practice, give the member the opportunity to sign their Rights Acknowledgement at every step in the NJP process - it may seem redundant, but it protects you and your CoC. **NOTE:** This is NOT the same as a cleansing warning.
 - NJP:
 - Verify NAVPERS 1626/7: Name, rate, rank (common error: if a frocked PO2 be sure to identify this as PO2/E4), specifications are correct (elements met) and phrase “on active duty” (required to establish jurisdiction). XOI and Preliminary Information is filled out (if applicable).
 - Signatures affixed as needed.
 - NJP Script is updated and reviewed by the CO prior to mast.
 - Brief the CO prior to starting NJP. Answer any questions they may have. Advise them on what they can/cannot do regarding punishment CO can award, make sure the information you are giving them is correct...do not guess.
 - If the member is being separated as a result of the mast, you must first conclude mast before you begin the separation proceedings. Update the CO’s script: “This now concludes CO’s Mast/NJP, we will now begin the separation proceedings.”
 - NOTE: If you are assigned to a shore command, ensure the Sailor has been advised of their right to refuse NJP and demand trial by Courts Martial (aka Booker Rights).
 - Post-NJP:
 - Update Unit Punishment Book (UPB).
 - Appeal Rights. Ensure the member understands the timelines (normally 5 days) and potential ramifications.

- Service record entries (to include Page 7 if the punishment affects pay).
- Determine if a special fitness report or evaluation is needed, document the NJP accordingly. The UPB is also a great tool for ensuring NJP is not left incomplete.
- Disposition annotated on NAVPERS 1626/7. Must be submitted to PERS-313 within one week.
- NAVPERS 1070/613 Warning, required or not?
 - Note: This is imperative. The Page 13 warning states that member was found guilty at NJP but is being retained in service. It further states, that if the member is found guilty again (in the same enlistment contract) that they can be separated by reason of pattern of misconduct. If this is the second NJP in the member's enlistment contract and CO intends to separate for pattern of misconduct **DO NOT** have the member sign this Page 13. A common error occurs when commands issue a NAVPERS 1070/613 warning following the second NJP. In those instances, the member is essentially being given another opportunity by the CO to correct the deficiency, and processing for pattern of misconduct is inappropriate.
 - If initiating processing for pattern of misconduct be sure to complete counseling per MILPERSMAN 1910-202.
- Many times, COs will vacate a frocked status in lieu of reduction in rank. Ensure you immediately complete requirements to WITHHOLD advancement. Note that you do not have to wait until NJP to complete this step, CO may do so at any time if sufficient evidence exists to merit action. If time remains between appeal timeline and expected date of advancement, you can wait until Adverse Special Eval/Page 13s have been completed to officially WITHDRAW advancement recommendation (ensure your CO wants to remove/not just make them wait to wear the new rank until officially advanced). If you fail to take these steps and member is subsequently advanced, it cannot be undone.
- You will need to track the department's completion of post-NJP Special Evaluation/Page 13 (when required) for RIR/Removal of Frocking/Removal of Advancement Recommendation. Remember the signature date cannot be before the Conclusion Date (usually 5 days, unless extension of an appeal timeline is granted). Ensure the special evaluation includes the Concluded Date in the paragraph documenting the NJP and results. Remember reduction in rate evaluations may not be extended, so if a member is subsequently ADSEPed/Transferred a new evaluation will be required.
- For enlisted members in paygrade E6 and above, follow guidance of MPM 1616-040, including mandatory notification of any incident that could possibly result in NJP. Refer to MPM 1616-050 for enlisted members E5 and below.
- For officer misconduct, notify PERS-834 immediately upon discovery of any issue that could lead to NJP, DFC, etc.
 - **NOTE:** In the case of commissioned officers and warrant officers, admonitions and reprimands given as NJP punishment must be administered in writing.
- For discipline involving any nuclear power officer/NEC qualified or in training Sailor, ensure you are also notifying OPNAV N133 and PERS-403.
- Know the guidance on publication of NJP Results. If your command has civilians, the members Rank/Name may not be published in the Plan of the Day. NJP is at its core about maintaining good order and discipline. Providing notice to the command, of NJP actions, can be a useful tool in ensuring the command view on discipline and enforcement is known. Check with your CO on how they would like this handled.

JAGs are great resource for all legal issues – they are the subject matter experts. A best practice is to create a working relationship with the JAGs in your chain of command. At your first opportunity, seek out the JAGs in your chain of command. Every Strike Group has a Staff Judge Advocate (and in most cases, the Strike Group is the General Court-Martial Convening authority - the first Flag in the CoC).

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The installation JAG can also provide advice, opinions, and recommendations if needed. When an ADSEP Board (enlisted) /Board of Inquiry (officers) is going to take place, utilize a JAG or their legal team if practicable. Do not be afraid to ask for help! If you have never done an ADSEP Board, reach out to your fellow Admin Mustangs who have, or even request to attend one to understand how the board is conducted. The MyNavyHR Separations page has checklists to specifically assist with ADSEP Boards. Items to consider for the ADSEP Board:

- Review the MILPERSMAN 1900 series regarding separations for enlisted and officers.
- Verify you are using the appropriate procedure (Notification procedure, or administrative board procedure). This will dictate what the least favorable characterization of separation can be awarded at the ADSEP Board.
- Board members – know the composition of an Admin board. (i.e., who makes up the board). MILPERSPMAN 1910 – 502.
- Know the terms: ADSEP boards are not criminal in nature, they are administrative. ADESEP boards have Recorders and Respondents, not Prosecutors and Defendants
- Location – on base courtroom, shipboard training classroom, etc. Secluded and controlled.
- Recording device – the command can fund this if they do not have one. When completing the Record of Proceeding the recording device will be essential, so ensure you have one that is of good quality.
- Pens/Paper – for board members to make notes.
- Evidence Binders – five total: (3) for board members, (1) for Defense, (1) Recorder.
- Uniform – you represent the command, understand what that means – Service Khakis at minimum.

Courts-Martial are heavy lifting and expensive. If the case is going to be referred to court-martial (General or Special) the JAG is your friend. The JAG will provide the necessary documents, specifically, the NAVPERS 1626/7 for the CO to sign. Your job is to secure jury members. A note of caution: **YOU CANNOT REQUEST MEMBERS.** Utilize your ISIC to request Questionnaires be sent out to other commands (COs/XOs/CMCs) for them to identify personnel to complete the questionnaire. Any associated travel costs (Trial Counsel, Defense Counsel, eyewitnesses, investigative witnesses, etc.) will come from command funds. Ensure to budget appropriately, and plan to coordinate defense information or base access, if necessary.

REFERENCES

[U.S. Navy JAG Corps Page](http://jag.navy.mil/)
jag.navy.mil/

[MyNavyHR MILPERSMAN 1900 Separation Page](http://mynavyhr.navy.mil/References/MILPERSMAN/1000-Military-Personnel/1900-Separation/)
mynavyhr.navy.mil/References/MILPERSMAN/1000-Military-Personnel/1900-Separation/

[Manual for Court-Martial](http://jsc.defense.gov/Portals/99/Documents/2019%20MCM%20(Final)%20(20190108).pdf?ver=2019-01-11-115724-610)
[jsc.defense.gov/Portals/99/Documents/2019%20MCM%20\(Final\)%20\(20190108\).pdf?ver=2019-01-11-115724-610](http://jsc.defense.gov/Portals/99/Documents/2019%20MCM%20(Final)%20(20190108).pdf?ver=2019-01-11-115724-610)

[Manual of the Judge Advocate General](http://secnav.navy.mil/doni/SECNAV%20Manuals1/5800.7G.pdf)
secnav.navy.mil/doni/SECNAV%20Manuals1/5800.7G.pdf

[Commander's Quick Reference Legal Handbook](http://jag.navy.mil/documents/NJS/QUICKMAN.pdf)
jag.navy.mil/documents/NJS/QUICKMAN.pdf

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MyNavyHR Separations Page

mynavyhr.navy.mil/Career-Management/Personnel-Conduct-Sep/Enlisted-Separations/

MyNavyHR Misconduct Reporting

[Misconduct Reporting Submission Instructions 3 28 23.pdf \(navy.mil\)](#)

QUICKMAN

[QUICKMAN.pdf \(navy.mil\)](#)

The most recent QUICKMAN is available at: https://www.jag.navy.mil/njs_publications.htm