VOLUME 15

"OFFICER MISCONDUCT AND SUBSTANDARD PERFORMANCE OF DUTY"

SUMMARY OF VOLUME 15 CHANGES

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VOLUME 15: OFFICER MISCONDUCT AND SUBSTANDARD PERFORMANCE OF DUTY

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REFERENCES

(a) SECNAVINST 5430.7R CH-1
(b) SECNAVINST 5430.27D
(c) SECNAVINST 5430.25E
(d) 10 U.S.C. §§ 806, 1044, 1044e, 1059, 1072, 1565b, 1588, and 5046
(e) MCO 5430.2
(f) JAGINST 5803.1E
(g) Manual for Courts-Martial, (2016 ed.)
(h) U.S. Navy Regulations, (1990)
(i) MCO 5800.14
(j) MCO 1001.62B
(k) MCO 1200.18
(l) JAGINST 5803.2B
(m) SECNAVINST 1920.6C
(n) Uniform Code of Military Justice, (2016)
(o) MCO 1610.7A
(p) MCO 1300.8
(q) MCO 1000.6
(r) JAGINST 5800.7F
(s) SECNAVINST 5211.5E
(t) 5 U.S.C. §§ 101, 552a, and 3111
(u) JAGINST 5801.2
(v) 37 U.S.C. §§ 601-604
(w) 38 U.S.C. §§ 4301-4334
(x) DoD Instruction 1205.12
(y) 31 U.S.C. § 1342
(z) DoD Instruction 1100.21
(aa) 8 U.S.C. § 1400
(bb) Executive Order 13269, (July 3, 2002)
(cc) DoD Directive 2311.01E
(dd) MCO 3300.4A
(ee) DoD Directive 2310.01E
(ff) DoD Directive 5146.13
(gg) Executive Order 12333, (December 4, 1981)
(hh) DoD Directive 5240.01
(ii) DoD 5240.1-R
(jj) DoD Instruction 3025.21
(kk) DoD Instruction 5525.03
(ll) SECNAVINST 5710.25B
(mm) 1 U.S.C. § 112b
(nn) 22 CFR Part 181
(oo) DoD Directive 5530.3
(pp) DoD 5500.07-R
(qq) 18 U.S.C. § 202
(rr) 5 C.F.R. § 2634

(ss) SECNAV M-5214.1

"REFERENCES"

As changes are made within this MCO Volume, the References list will also update. Annotation of each update/change/addition to the References list is required.

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Report Required: Officer Misconduct Report (Report Control Symbol EXEMPT) par. 010404.A

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"OFFICER MISCONDUCT AND SUBSTANDARD PERFORMANCE OF DUTY"

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CHAPTER VERSION	PAGE PARAGRAPH	SUMMARY OF SUBSTANTIVE CHANGES	DATE OF CHANGE

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OFFICER MISCONDUCT AND SUBSTANDARD PERFORMANCE OF DUTY

0101. PURPOSE

This Volume promulgates policies, standards, and procedures for the reporting and disposition of instances of alleged officer misconduct or substandard performance of duty, and administrative processing of officers for possible separation as a consequence of such alleged misconduct or substandard performance. This Volume also provides policies, standards, and procedures for related personnel actions, including personnel/administrative hold, and promotion delay, withhold, and removal.

0102. GENERAL

010201. References

A. The authoritative sources for the policies, standards, and procedures governing the administrative separation of officers in the Naval Service are Title 10, United States Code (U.S.C.); Department of Defense Instruction (DoD Instruction) 1332.30, Separation of Regular and Reserve Commissioned Officers; and Secretary of the Navy Instruction (SECNAVINST) 1920.6_, Administrative Separation of Officers. Marine Corps Order (MCO) 1900.16, Marine Corps Separation and Retirement Manual (MARCORSEPMAN), supplements the policies, standards, and procedures set forth in SECNAVINST 1920.6_ and this Volume. Any inconsistencies are resolved in favor of SECNAVINST 1920.6_.

B. The authoritative sources for the policies, standards, and procedures governing officer promotion delay, withhold, and removal in the Naval Service are Title 10, U.S.C.; DoD Instruction 1320.04, Military Officer Actions Requiring Presidential, Secretary of Defense, or Under Secretary of Defense for Personnel and Readiness Approval or Senate Confirmation; DoD Instruction 1320.14, Commissioned Officer Promotion Program Procedures; SECNAVINST 1412.6_, promotion of Officers to the Grade of Lieutenant (Junior Grade) and to the Grade of First Lieutenant in the Marine Corps; SECNAVINST 1412.9_, Marine Corps Limited Duty Officer and Warrant Officer Programs, Promotions, and Continuation Procedures; SECNAVINST 1420.1_, Promotion, Special Selection, Selective Early Retirement, and Selective Early Removal Boards for Commissioned Officers of the Navy and Marine Corps. MCO P1400.31C, Marine Corps Promotion Manual, Volume 1, Officer Promotions (MARCORPROMAN, VOL 1, OFFPROM), supplements the policies, standards, and procedures set forth in these sources and this Volume. Any inconsistencies shall be resolved in favor of these sources.

010202. Show Cause Authority

Paragraph 13d of SECNAVINST 1920.6_ designates the Deputy Commandant for Manpower and Reserve Affairs (DC, M&RA) as the Show Cause Authority for the Marine Corps. Generals and lieutenant generals in command have been delegated Show Cause Authority and are hereinafter referred to as Alternate Show Cause Authorities.

010203. Expeditious Processing

A. SECNAVINST 1920.6_ and this Volume establish time processing goals for officer misconduct and substandard performance cases. These time processing goals do not provide a basis of appeal or redress for officers.

B. The Commandant of the Marine Corps (CMC) expects all matters involving officer discipline to be handled promptly. However, it is also important that commanders dispose of cases consistently, equitably, and in a manner that best promotes good order and discipline. The disposition decisions of commanders relative to officer misconduct cases are fundamentally important to good order and discipline and shall take into consideration those factors and guidance articulated in the discussion of Rule for Courts-Martial (R.C.M.) 306(b), Manual for Courts-Martial (MCM). Within the limits established by the MCM and SECNAVINST 1920.6_, commanders retain the authority to determine the most appropriate forum for resolution of a particular case. What is desired is not a "rush to judgment" but, rather, deliberate speed in handling officer discipline cases in the most appropriate manner.

C. To ensure the timely, efficient, and accurate processing of officer misconduct and substandard performance cases, general court-martial convening authorities (GCMCAs) are responsible for the following tasks: (1) through the command SJA, use the Officer Disciplinary Notebook Management System (ODNMS) to report and track all officer misconduct and substandard performance cases; (2) through the command SJA, as reportable events occur, and at least monthly, update the status of all cases reported on the ODNMS; (3) regularly meet with the SJA to discuss all pending officer misconduct and substandard performance cases; (4) ensure that officer cases are not postponed because of operations, exercises, or training commitments (commands shall coordinate with CMC (JPL) before deploying an officer with an active misconduct or substandard performance case); and (5) ensure that expedited mail, courier service, or electronic submission is used to transmit officer misconduct and substandard performance cases during all phases of processing and to each level of command.

0103. SPECIAL CONSIDERATIONS

Certain types of cases involve additional processing requirements. Failure to adhere to such requirements may result in significant delay.

010301. Substance-Related Offenses

A. General

1. The policies and procedures in this section supplement the policies and procedures set forth in SECNAVINST 5300.28_, Military Substance Abuse Prevention and Control, and MCO 5300.17, Marine Corps Substance Abuse Program. Commanders must ensure that the policies and procedures set forth in SECNAVINST 5300.28_ and MCO 5300.17 are followed for all officers alleged to have committed a substance-related offense. Additionally, commanders must consult MCO 1610.7A, Performance Evaluation System (PES), for substance-abuse fitness reporting requirements.

2. Substance (alcohol and drug) abuse by members of the Armed Forces is incompatible with the maintenance of high standards of performance, military discipline, readiness, and reliable mission accomplishment.

3. In all substance-abuse incidents, the officer involved shall be assessed, counseled by the unit commander, disciplined (if warranted, as determined by the commander, in the commander's sole discretion), and referred in a timely manner to the nearest substance-abuse counseling center (SACC)—or other Service equivalent—for screening.

4. Regardless of the type of discharge, all commanders will ensure that no officer requiring treatment is separated until the treatment process is completed. This requirement,

however, does not include aftercare or treatment failures. (For example, a commander will not delay the discharge of a drug-dependent officer for medical or rehabilitation treatment for drug dependency after the officer completes the initial treatment program recommended by the SACC.) In all cases, upon completion of treatment, the treatment facility will advise the Marine of his or her Veterans Affairs (VA) substance-abuse treatment eligibility.

5. Retained officers will be ordered into a treatment program recommended by the SACC and will comply with aftercare program requirements.

B. Alcohol-Related Incidents

1. Definition. Pursuant to SECNAVINST 5300.28_, an alcohol-related incident occurs when an officer commits an offense punishable under the UCMJ or by civilian authorities for which, in the judgment of the officer's commanding officer (CO), the consumption of alcohol was a contributing factor. Although the determination that an incident is alcohol-related is generally a matter within a CO's discretion, enclosure (3) to SECNAVINST 5300.28_ defines what constitutes a substantiated incident of impaired driving and requires that such incidents be properly documented in officer fitness reports, appropriate administrative record entries, and other reports required by instruction.

2. Formal Counseling. In accordance with MCO 5300.17, an officer involved in an alcohol-related incident will receive formal written counseling per paragraph 3005 of MCO P1070.12K (IRAM). The officer's blood alcohol concentration, if known, will be included in the counseling entry. Because such counseling will be included in the officer's Official Military Personnel File (OMPF) in accordance with MCO P1070.12K, Individual Records Administration Manual (IRAM), the officer must be given the opportunity to make a statement in rebuttal. Formal counseling is in addition to any directed comments required by MCO 1610.7.

3. Counseling and Treatment Referral. Timely alcohol screening is vital to determine appropriate administrative actions and is required for later promotion determinations. Accordingly, in any case involving an alcohol-related incident, commanders shall ensure the immediate completion of alcohol screening by appropriate military or civilian medical agencies in accordance with paragraph 010301.C.3, below, to determine the existence of alcohol dependence or abuse.

4. Subsequent Alcohol-Related Incident. An officer who incurs a second driving-under-the-influence (DUI) or driving-while-impaired (DWI) conviction during their naval career (whether or not the member has entered a prescribed treatment program) or a subsequent alcohol-related incident after entering a prescribed treatment program (successful completion notwithstanding) precipitated by a prior alcohol-related incident shall be disciplined as appropriate and processed for administrative separation

5. Subsequent Abuse of Alcohol. An officer who again abuses alcohol, or whose standards of conduct and performance decline following the successful completion of a treatment or aftercare program, shall be processed for separation if determined by a physician or clinical psychologist credentialed and privileged through the Naval Hospital not to be amenable to or qualified for additional treatment.

C. Drug-Related Incidents

1. Definition. Pursuant to SECNAVINST 5300.28_, a drug-related incident is any incident where the use of a controlled substance or illegal drug, or the misuse of a legal drug or intoxicating substance (other than alcohol), is a contributing factor. Mere possession or trafficking in a controlled substance, illegal drug, legal drug intended for improper use, or drug paraphernalia may be classified as a drug-related incident. Additionally, testing positive for a controlled substance, illegal drug, or a legal drug not prescribed, may be considered a drug-related incident.

2. Mandatory Processing. Drug-related incidents require mandatory processing for separation per SECNAVINST 5300.28_ and the MARCORSEPMAN.

3. Counseling and Treatment Referral. In accordance with MCO 5300.17, commanders shall refer to the nearest SACC—or other Service equivalent—officers who test positive for or who admit to using illegal drugs for screening in a timely manner.

D. In accordance with MCO 5300.17, the Marine Corps is required to identify, counsel, and treat Marines identified as having a substance-use disorder. Accordingly, all substance-related incidents must be properly documented in accordance with paragraph 010301.E, below.

E. Any report, recommendation for administrative separation, or endorsement on a resignation/retirement request in a case involving a substance-related incident that is submitted to CMC (JPL) pursuant to paragraphs 010603,, 011003, or 011006 of this Volume must include the following information to document that the officer was screened in accordance with MCO 5300.17:

1. Who conducted the screening (counselor, credentialed provider, etc.) and the name of the appropriate military or civilian medical agency.

2. What diagnosis/finding was made by the qualified counselor/credentialed provider, and what treatment was recommended or mandated, if any.

3. When the screening was completed.

4. When the officer completed the recommended or mandated initial treatment, or refused or failed treatment.

5. Proof of completion of any recommended or mandated initial treatment.

F. Failure to properly document the substance-related incident, to complete the SACC screening, or to include proof of completion or refusal or failure of any recommended or mandated initial treatment, will result in CMC (JPL) being unable to process the case.

G. Promotion Implications of Alcohol-Related Incidents

1. Any officer involved in an alcohol-related incident risks removal from a promotion list by the Secretary of the Navy (SECNAV) in the absence of evidence that qualified personnel screened the officer and the officer completed the recommended treatment in accordance with the procedures set forth in this Volume.

2. Pursuant to SECNAVINST 5300.40, the Department of the Navy has zero tolerance for driving under the influence. All alcohol-related vehicle incidents will be properly

reviewed before an officer's promotion to determine whether that officer is suitable for advancement to the next higher pay grade. Accordingly, all alcohol-screening and treatment documentation must be in the officer's OMPF before the convening of the promotion selection board, or the officer's promotion may be withheld.

H. Treatment Failure

Any officer who refuses, fails to participate in, or does not successfully complete a prescribed alcohol-abuse or dependency treatment/aftercare program and is deemed a treatment failure by a certified Substance Abuse Counselor, physician, or psychologist credentialed and privileged through the Naval Hospital shall be processed for administrative separation.

010302. Medical Qualification for Separation and Medical Evaluations

A. Paragraph 1011 of the MARCORSEPMAN sets forth the requirements for a medical evaluation before separation and retirement.

B. Medical Evaluation Requirements

With certain exceptions, a Marine officer being separated from active duty must receive a separation health physical evaluation (SHPE).

1. These medical evaluations are standard separation evaluations per Article 15 of NAVMED P-117, Manual of the Medical Department (MANMED). At a minimum, a SHPE will include: (1) the officer's completion of DD Form 2807-1 (Report of Medical History), (2) an interview and completion of DD Form 2808 by an appropriately privileged medical provider, and (3) the medical provider's completion and signature on these and any other required documents.

2. Medical providers, COs and GCMCAs in the chain of command, the Alternate Show Cause Authority, or the Show Cause Authority may direct further medical evaluation as warranted by the circumstances of each case.

C. Exceptions to Medical Evaluation Requirements

While every reasonable attempt will be made to provide a separating Marine officer with a SHPE, there will be rare situations when that will be difficult or impossible to provide. Such situations include, but are not limited to:

1. Officers in the hands of civilian authorities (IHCA). Officers IHCA may be evaluated and reported by any of the following: a medical officer of the Armed Forces or other Federal Government agency; credentialed civilian contract physicians; penal institution physician; or, in the absence of the foregoing, a certificate signed by the official in charge of the penitentiary reflecting an opinion about the present state of health of the Marine to be discharged.

2. Officers in a status otherwise beyond the control of the Marine Corps. When a Marine officer is otherwise beyond the control of the Marine Corps (e.g., in the hands of foreign authorities), the command recommending separation will contact the holding authority and request an evaluation be conducted.

3. Marine officers who fail to respond to notification. A medical evaluation is not required for the purposes of this section for Marine officers who are undergoing administrative separation proceedings and do not respond to notification or other requirements for administrative separation. Medical evaluations must be directed in writing and hand-delivered or, in the case of a Reserve officer or other officer not available for personal service, sent to the officer via certified mail. If, after a reasonable amount of time—approximately 45 calendar days—from the date of the request for the medical evaluation, there is no response, or a negative answer is received, the command recommending separation will document the command's efforts to obtain a medical evaluation in the requisite report/endorsement and include an explanation as to why it was the evaluation was not possible.

4. Reserve Marine officers not on active duty with no history of combat experience or deployment. A medical evaluation is not required for the purposes of this section for Reserve Marine officers not on active duty with no history of combat service or deployment; however, the first GCMCA in the chain of command is required to certify that the officer had no combat service or deployment and was not diagnosed with PTSD or TBI.

D. Post-Traumatic Stress Disorder (PTSD)/Traumatic Brain Injury (TBI) Evaluation

1. When Required. In addition to the normal SHPE, an officer shall receive a medical evaluation to assess whether the effects of PTSD or TBI constitute matters in extenuation that relate to the basis for administrative separation if the officer (a) has been previously diagnosed with PTSD or TBI by an appropriately privileged medical provider as described below, or reasonably alleges that PTSD or TBI played a role in the officer's misconduct or substandard performance; (b) was deployed overseas to a contingency operation or was sexually assaulted during the 24 months before the initiation of separation processing, or (c) is being recommended for separation with an Other Than Honorable characterization of service. (The officer's CO, after considering the advice of an appropriately privileged medical provider, shall determine if PTSD or TBI is reasonably alleged and should be further evaluated by a more appropriate medical provider.)

2. Evaluation Requirements. The medical provider who conducts a PTSD or TBI evaluation must specifically comment on the presence or absence of these conditions and, if present, the extent to which they affected the officer's judgment and may have been a contributing factor in the basis for separation. In cases involving PTSD, the evaluations must be performed by a clinical psychologist, psychiatrist, licensed clinical social worker, or psychiatric advanced practice registered nurse as experiencing PTSD. In cases involving TBI, the evaluations must be performed by a neurologist, clinical psychologist, psychiatrist, or other healthcare professional with expertise in diagnosing or treating brain injuries.

3. An officer's separation package will not be processed by CMC (JPL) without the required medical evaluation and appropriate report/endorsement.

4. GCMCA Report/Endorsement Requirements. For those cases in which an appropriately privileged medical provider determined that PTSD or TBI may have been a contributing factor to one or more of the bases for separation, the GCMCA's report/endorsement shall, in light of that identified possible PTSD or TBI contributing factor, explain the reasons for the recommended separation and characterization of service. In contrast, in cases in which the criteria set forth in paragraph 010302.D.1, above, are inapplicable, the GCMCA's report/endorsement must note specifically the reason(s) that a PTSD/TBI evaluation is not required.

E. If the medical evaluation results in a diagnosis of PTSD or TBI and the Separation Authority determines it is service-related, sufficiently mitigating, and possibly a disability, the Separation Authority should consider processing for separation for physical disability under chapter 8 of the MARCORSEPMAN.

F. A PTSD or TBI evaluation is not required if the officer is being separated pursuant to a dismissal adjudged by a general court-martial. However, a PTSD or TBI evaluation and compliance with this section is required for administrative separation in lieu of court-martial.

G. Officers separated under these provisions shall be directed to consult with a representative from the Department of Veteran Affairs regarding veteran benefits and services prior to separation with that counseling dated and signed in DD Form 2648, pre-separation counseling checklist.

H. This section does not provide a basis of appeal or redress for officers.

010303. Security Clearances

Any officer misconduct or substandard performance reportable under this regulation should be analyzed under SECNAVINST 5510.30, Department of the Navy Personnel Security Program Instruction, for possible security clearance issues and any related reporting requirements, to include coordination with unit security managers. SECNAVINST 1920.6_ permits separation processing of an officer who is disqualified for a security clearance. Typically, however, the revocation of the security clearance itself is not the primary basis for separation, but rather it is the substandard performance of duty or misconduct that led to the loss of status that serves as the basis. SECNAV M-5510.30, the Department of the Navy Personnel Security Program Manual, provides that all officers must submit to and must maintain secret eligibility and that those officers determined to be not eligible will be subject to discharge. Officers shall not be separated for failure to meet the requirements of that Manual if separation can be effected under administrative (non-security) military regulations. Moreover, no separation under Other Than Honorable conditions will be taken with respect to an officer in any case where the officer has held access to SCI within 18 months prior to the proposed action, unless approval is first received from the program manager (i.e., the DNI for SCI access).

010304. Domestic Abuse

A. Lautenberg Amendment

The applicability of the “Lautenberg Amendment” should be considered and addressed in any instance of a domestic abuse conviction. The Lautenberg Amendment makes it a felony for anyone convicted of a crime of domestic abuse to ship, transport, possess, or receive firearms or ammunition. A “qualifying conviction” includes a conviction for a “crime of domestic violence” tried by a general or special court-martial, or in a civilian court where the defendant was represented by counsel. Commanders are directed to ensure draw case code “FF” is reported in the Marine Corps Total Force System (MCTFS) for all such convictions. See MARADMIN 186/03, Policy for Implementation of the Lautenberg Amendment, for additional guidance.

B. Marine Corps Family Advocacy Program

Child abuse and domestic abuse in Marine Corps families detracts from military performance, negatively impacts the efficient functioning and morale of military units, and diminishes the

reputation and prestige of the Marine Corps. Commanders must ensure that the policies and procedures set forth in MCO 1754.11, Marine Corps Family Advocacy and General Counseling Program, are followed upon the receipt of allegations of child or domestic abuse. Failure to follow the requirements of MCO 1754.11 may result in delayed processing of a related officer misconduct case.

C. Domestic Abuse Repeat Offenders

1. Domestic abuse is (1) domestic violence or (2) a pattern of behavior resulting in emotional/psychological abuse, economic control, and/or interference with personal liberty when such violence or abuse is directed toward a person who is: (a) a current or former spouse; (b) a person with whom the abuser shares a child in common; or (c) a current or former intimate partner with whom the abuser shares or has shared a common domicile.

2. Repetition of a domestic abuse offense for which rehabilitation/behavior education and counseling services had previously been afforded, or failure to meet the conditions of court orders or terms of probation, should normally result in processing for administrative separation. Additionally, military members who have admitted guilt or have been found guilty at NJP, court-martial, or a civilian criminal trial of child or domestic abuse and thereafter refuse rehabilitation, refuse to cooperate with or complete behavior modification programs, or who are not able to cease their abusive behavior during or after an education or counseling program, should be processed for separation.

3. COs who convene administrative discharge proceedings in child sexual abuse cases shall, in all cases, assign a judge advocate as the recorder unless there is a compelling reason not to do so. In cases of domestic abuse and other types of child abuse, COs shall, where available, assign judge advocates as recorders. Nothing in this paragraph, however, limits the right of the CO to take appropriate measures under the UCMJ and/or to initiate separation proceedings for a first offense involving domestic abuse.

4. When initiating an administrative separation as a result of domestic abuse involvement, the domestic abuse must be included as the reason for separation so the spouse and eligible children may initiate the application process for financial compensation and retention of ID card benefits and privileges through the Transitional Compensation for Abused Family Members program.

010305. Marine Officers Who Fail To Respond To Notification.

Notifications and other requirements (e.g., acknowledgments, medical evaluations, substance-abuse screenings) for administrative separation may be difficult or impossible to obtain from Marine officers who do not respond. The relevant requirement must be directed in writing and hand-delivered or, in the case of a Reserve officer or other officer not available for personal service, sent to the officer via certified mail. If, after a reasonable amount of time—approximately 45 calendar days—from the date of the request, there is no response or a negative answer is received, the command recommending separation will document the command's efforts to obtain the requirement in the requisite report/endorsement and include an explanation as to why it was impossible to obtain.

0104. REPORTING OFFICER MISCONDUCT IN THE OFFICER DISCIPLINARY NOTEBOOK (ODN)

010401. General

The CMC's ODN is a database used to track officer misconduct and substandard performance in the Marine Corps. All information submitted to CMC (JPL) pursuant to the following paragraphs will be placed in the CMC's ODN and will only be provided to those with a need to know. ODN entries are not included in an officer's OMPF.

010402. Responsibility to Report Officer Misconduct to CMC (JPL)

Each GCMCA—and each CO/officer-in-charge (OIC) of a Marine unit where the officer is not under the command of a Marine GCMCA—shall report officer misconduct to CMC (JPL) in a timely manner. For officers assigned to joint commands that lack a Marine GCMCA, CO, or OIC, the Marine GCMCA geographically closest to the officer's joint command shall make the required reports.

A. Misconduct Committed by Marine Officers

Upon receipt of credible information described in paragraph 010403, below, regarding alleged, suspected, or reported misconduct committed by a Marine officer, the cognizant SJA, on behalf of the GCMCA/CO/OIC, shall report the alleged misconduct to CMC (JPL).

B. Misconduct Committed by Officers of Other Services

Upon receipt of credible information described in paragraph 010403, below, regarding alleged, suspected, or reported misconduct committed by a non-Marine officer under the administrative control of a Marine command, the cognizant SJA, on behalf of the GCMCA/CO/OIC, shall report the alleged misconduct to CMC (JPL). In the case of officers of the Navy, the SJA must also coordinate with Navy Personnel Command (PERS 834).

010403. Circumstances that Trigger an Initial Report

A. Officer misconduct must be reported to CMC (JPL) if a Marine officer (or an officer of any other branch of military service serving under the administrative control of a Marine command) is:

1. Alleged, suspected, or reported to have committed misconduct for which NJP, court-martial, civilian prosecution, or a recommendation to CMC (JPL) for administrative discharge proceedings is possible under existing statutes and regulations. While minor traffic offenses need not be reported, all DUI or DWI allegations must be reported. [Note: This is intended to be a low threshold.]

2. Incarcerated in a civilian, foreign, or military detention facility. An incident of this nature must be reported to CMC (JPL) within 24 hours of the command becoming aware of the incarceration.

B. When doubt exists as to whether an initial report is required, contact CMC (JPL) for guidance.

010404. When an Initial Report Must be Made

A. Upon receipt of credible information described in paragraph 010403, above, the cognizant SJA, following consultation with the GCMCA, must immediately report the allegation to CMC (JPL) unless otherwise coordinated with CMC (JPL). However, consultation with the GCMCA shall not

unreasonably delay the notification to CMC (JPL). This report is exempt from reports control according to reference (ss), Part IV, paragraph 7n.

B. In determining the timeliness of the report to CMC (JPL), consideration should be given to the gravity of the alleged, suspected, or reported misconduct, the anticipated media interest, and any pending personnel actions involving the officer (e.g., promotion, PCS move, retirement, and command slating).

010405. How Misconduct is Reported

All officer misconduct is reported to CMC (JPL) using the Officer Disciplinary Notebook Management System (ODNMS). The ODNMS is an internet-based database for reporting and tracking open officer misconduct and substandard performance cases. An ODNMS user's guide is available on JAD's public website (http://www.hqmc.marines.mil/sja/JADForms.aspx).

A. Initial Reporting Requirements

Upon receipt of credible information described above, the cognizant SJA will (1) enter the initial report in the ODNMS, and (2) inform the cognizant Marine Force Commander and Alternate Show Cause Authority. This notification shall not delay the immediate notification to CMC (JPL).

1. The initial report shall contain all of the information specified in the ODNMS user's guide (e.g., case status, type of offense, offense, additional offense, companion case, officer's personal data).

2. The initial report shall also contain a detailed statement of the allegation, to include the time, date, and location of the alleged offense.

3. If the incident included involvement by law enforcement, the initial report must include the name of the city/county/state/federal law enforcement agency.

4. In the event of a DUI/DWI arrest, the detailed statement must include the officer's BAC level, if available, and whether or not there were injuries to any person or damage to property.

5. Although all of the facts may not be immediately available to the command, every effort must be made to provide a robust, detailed account of the allegation.

6. Initial allegations may change following more detailed investigation. Any additional facts or allegations, or facts or allegations that have been adequately refuted, must be reflected in a separate paragraph, rather than altering the initial account.

B. Ongoing Reporting Requirements

To ensure that the CMC is apprised of the most current status of open officer misconduct cases, the cognizant SJA must:

1. Immediately enter updates reflecting significant events in the chronology section of the ODNMS for each case pending their review. A significant event is one that may affect the

disposition of a case or increase the public attention drawn to it. Significant events include, but are not limited to: the signing of recommendations, reports, or endorsements; new allegations of misconduct; pre-trial confinement; the preferral, referral, withdrawal, or dismissal of charges; acceptance of NJP; acceptance of a pre-trial agreement; the delay or conclusion of a court-martial, BOI, or civilian court proceeding; and a finding that misconduct did not occur.

2. Update and certify each case from their command pending their review in the ODNMS by the 20th of each month. (This requirement is in addition to the real-time update discussed in the preceding paragraph.) Certification ensures that all cases are reviewed every month, even in the absence of developments in a case. When an SJA "certifies" an entry, he or she is endorsing the current case status on behalf of his or her commander and approving the release of the updated information to CMC.

3. Monitor each of their cases in the ODNMS until the case is closed. Although SJAs are only responsible for entering immediate and monthly updates into the ODNMS when a case is pending action at their commander's level of review, they must monitor all cases under their cognizance to facilitate the timely, efficient, and accurate processing of officer misconduct cases through the chain of command.

0105. DISPOSITION OF ALLEGATIONS OF MISCONDUCT

010501. General

Ultimately, as to each allegation of misconduct reported, the GCMCA must determine that the officer either did or did not commit the misconduct alleged. When the GCMCA determines that the officer did commit misconduct, the GCMCA must take appropriate action to dispose of the case under R.C.M. 306. If not an Alternate Show Cause Authority (ASCA), the GCMCA must also forward the case to an ASCA with a show cause recommendation. If the GCMCA determines that the officer did not commit misconduct, the GCMCA must notify CMC (JPL) of that conclusion and forward a Report of No Misconduct directly to CMC (JPL) per paragraph 010602, below. This section details options available to the GCMCA. In each case, a Report must be submitted to CMC (JPL) in accordance with paragraph 0106, below.

010502. Disposition Options

If the GCMCA determines that the officer did commit misconduct, the GCMCA must choose one of the following options per R.C.M. 306:

A. Non-Punitive or Administrative Measures

The GCMCA may decline to take disciplinary action against the officer. Instead, the GCMCA may document the incident in a Report of Misconduct. The GCMCA may also counsel (formally or informally) the officer or issue the officer a non-punitive letter of caution (NPLOC). [Note: In some instances, the GCMCA may determine that a Report of Misconduct with a recommendation that the officer be administratively separated or required to show cause is, by itself, the appropriate administrative disposition action under R.C.M. 306.]

1. Formal Administrative Counseling. Pursuant to paragraph 3005 of the IRAM, officers may receive a Page 11 entry for misconduct or substandard performance of duty. The

entry shall note that the counseling is pursuant to paragraph 3005 of the IRAM, not paragraph 6105 of the MARCORSEPMAN, which applies only to enlisted Marines. (MARCORSEPMAN 6105 counseling entries will not be used in officer cases.) The officer will acknowledge the adverse counseling and be provided with an opportunity to submit a rebuttal. The entry shall be included as an enclosure to a Report of Misconduct. CMC (JPL) will forward the adverse matters for inclusion in the officer's OMPF.

2. Informal Counseling or Non-Punitive Letter of Caution. Although an informal counseling or NPLOC is not entered in an officer's OMPF, it shall be documented in a Report of Misconduct with the following language: "SNO's misconduct was addressed via administrative measures."

B. Nonjudicial Punishment (NJP)

1. The Unit Punishment Book (UPB) will not be used in officer NJP cases. Instead, the officer should be advised of those matters using the documentation provided in Figures 15-1 or 15-2, as appropriate.

2. The procedures for imposing NJP upon an officer are contained in the pertinent sections of chapter 1 of the Manual of the Judge Advocate General, JAGINST 5800.7F (JAGMAN) and in paragraph 4, Part V, MCM.

3. If NJP is imposed, the officer must be advised of the right to appeal as specified in JAGMAN section 0116 (must use Figure 15-3).

4. If a punitive letter of reprimand is awarded, the officer must be advised of the right to appeal and to submit a statement in rebuttal as specified in JAGMAN section 0114 (must use Figure 15-4).

5. Because UPBs are not used in officer NJPs, if forfeitures are awarded at an officer NJP, a copy of the Report of NJP (see paragraph 010605, below) must be provided to the local administrative center to serve as the source document to run the appropriate Unit Diary entry for the forfeitures (must use Figure 15-5).

6. Pursuant to JAGMAN section 0124, NJP may be imposed at any time before adjudication by a civilian court. After civilian adjudication, NJP may be imposed for an offense only in certain limited circumstances after receiving the permission of the GCMCA, and grants of such permission shall be reported by the GCMCA via letter to CMC (JCA), describing the offense alleged, the action taken by civil authorities, and the circumstances bringing the case within one or more of the exceptions to the general policy. However, officers who have been tried by courts that derive their authority from the United States Federal Government, such as U.S. District Courts, shall not be subjected to NJP for the same act or acts.

7. An appeal shall be submitted within five working days of imposition of punishment, excluding weekends and holidays; thereafter, the right to appeal shall be waived in the absence of good cause shown. The fact that the officer signed a statement indicating no intent to appeal immediately after imposition of NJP does not prevent the officer from later submitting an appeal within the five-day period (see paragraph 7, Part V, MCM, and JAGMAN sections 0110 and 0116).

8. No report of officer NJP shall be made to CMC (JPL) until the appropriate authority has taken final action upon an appeal of NJP or the five-day period has elapsed after the imposition of NJP without an appeal having been submitted.

C. Court-Martial of Officers

1. CMC (JPL) must be notified via the ODNMS when charges are preferred, referred, withdrawn, or dismissed against an officer, and when a court-martial is delayed or concluded.

2. Pursuant to JAGMAN section 0124, charges may be referred to a court-martial at any time before adjudication by a civilian court. After a civilian adjudication, charges may be referred to a court-martial only in certain limited circumstances after receiving the permission of the GCMCA, and grants of such permission shall be reported by the GCMCA via letter to CMC (JCA), describing the offense alleged, the action taken by civil authorities, and the circumstances bringing the case within one or more of the exceptions to the general policy. However, officers who have been tried by courts that derive their authority from the United States Federal Government, such as U.S. District Courts, shall not be tried by court-martial for the same act or acts.

3. If the officer was acquitted, or the findings and sentence were disapproved or set aside, the GCMCA must forward a report to the Show Cause Authority in accordance with paragraph 0106, below. The GCMCA must determine that the officer did not commit the alleged misconduct and forward a Report of No Misconduct in accordance with paragraph 010602, below, or determine that the officer committed the alleged misconduct and forward a Report of Misconduct in accordance with paragraph 010603, below. This provision recognizes that the burden of proof at a court-martial (beyond a reasonable doubt) is substantially higher than the burden of proof at a BOI (preponderance of the evidence)(see SECNAVINST 1920.6_).

4. If the officer was convicted and no dismissal was adjudged, or a dismissal was disapproved in the convening authority's action, a Report of Court-Martial Conviction will be forwarded in accordance with paragraph 010607, below.

5. If the officer was convicted and a dismissal was adjudged and approved in the convening authority's action, the convening authority's action will be forwarded to CMC (JPL) and the case will be closed in the ODNMS.

D. Commanders shall not discharge a dismissed officer outside CONUS, except under special circumstances and upon SECNAV's approval.

0106. REPORTING DISPOSITIONS OF MISCONDUCT

010601. General

After the disposition is complete, the GCMCA must report the disposition in accordance with this paragraph and make a recommendation as to whether the officer should be required to show cause for retention at a BOI or, for probationary officers, administratively separated via notification procedures. All allegations of misconduct must be formally closed with a report of disposition.

010602. Reporting Unsubstantiated Allegations of Misconduct

In all cases where the GCMCA determines that misconduct did not occur, the GCMCA will generate a Report of No Misconduct (must use Figure 15-6). The Report of No Misconduct will mirror the Report of Misconduct; however, instead of disposition action, the report will detail the investigative efforts by the command and include an explanation from the command detailing how it reached the conclusion that no misconduct occurred. Once signed, the GCMCA will forward the Report directly to CMC (JPL). The GCMCA must provide a courtesy copy of the Report to each intermediate endorser in the chain of command and the Alternate Show Cause Authority. Upon receipt of the Report and review for compliance with this order, CMC (JPL) will normally close the case in the ODNMS. This Report will not be placed in the officer's OMPF.

010603. Reporting Dispositions of Substantiated Misconduct

A report must be generated in all cases where the GCMCA determines that the officer committed misconduct. This report serves two purposes. First, it provides the Alternate Show Cause Authority and the Show Cause Authority with sufficient information to make a decision on whether to process the officer for administrative separation. Second, it provides a complete record of the misconduct and its disposition for inclusion in the officer's OMPF.

A. Routing

The report is forwarded to the Show Cause Authority via the chain of command and the Alternate Show Cause Authority in the officer's chain of command (or the Alternate Show Cause Authority geographically located nearest to the command if there is no Alternate Show Cause Authority in the chain of command) in order to make a show cause determination. Only the SECNAV; ASN, M&RA, or DC, M&RA, may close the case if an officer is determined to have committed misconduct. If an officer either appropriately requests or is recommended for separation (and has been notified of the recommendation), the report must be forwarded to the ASN, M&RA, via the DC, M&RA, for final disposition. The ASN, M&RA, remains the sole separation authority for officer separations resulting from adverse administrative processing. Nothing in this Volume should be interpreted to preclude an Alternate Show Cause Authority from directing an officer to show cause.

B. Factual Basis

All reports shall include a brief factual statement of the misconduct/offense(s) and the punishment imposed (if NJP conducted) or method of disposition of the misconduct.

C. Matters in Aggravation, Extenuation, and Mitigation

All reports shall include a concise explanation of the circumstances surrounding the offense(s), including significant matters in aggravation, extenuation, and mitigation.

D. Recommendation

All reports shall include a recommendation as to whether the officer should show cause or be administratively separated via notification procedures (for probationary officers) under SECNAVINST 1920.6_, including the basis for such recommendation.

E. Investigation

All reports must include a copy of the investigation (unless classified) upon which the substantiation of the misconduct was based, including, but not limited to, preliminary inquiries, command investigations, Inspector General investigations, CID investigations, NCIS investigations, PMO incident reports, civilian traffic citations, and civilian police reports.

F. Evidence

All reports must include a legible copy of all of the evidence considered, or photographic representations of such evidence, or descriptions through affidavit of any evidence that is not easily includable.

G. Substance-Abuse Counseling Center Screen

If the misconduct involved a substance-related incident, the report must include the substance-abuse screening results and proof of completion of any recommended or mandated initial treatment. The report will not be forwarded to the DC M&RA until this information/documentation is provided to CMC (JPL) (see paragraph 010301.E, above).

H. Medical Evaluation

If separation is recommended, the report must include documentation showing that the officer is qualified for separation as set forth in paragraph 010302, above. The report must also include documentation of the completion of a PTSD/TBI screen, if required, with comments on the presence or absence of such conditions and, if present, the extent to which they affected the officer's judgment and may have been a contributing factor in the basis for separation. If PTSD or TBI is identified as a possible contributing factor, the GCMCA's report/endorsement shall explain the reasons for the recommended separation and characterization of service.

I. Advanced Education Assistance

1. All reports must contain an acknowledgment from the officer that, if separated before fulfilling a service obligation resulting from the receipt of advanced education assistance, the officer may be required to reimburse the Government for the unserved portion of the service obligation on a pro-rata basis (must use Figure 15-7).

2. If the officer received advanced education assistance, all reports must set forth the amount and type of advanced education assistance received.

3. If the officer received advanced education assistance, all reports and endorsements must include a recommendation as to whether the officer should be required to reimburse the Government, on a pro-rata basis, for the unserved portion of the officer's service obligation (see 10 U.S.C. § 2005 for guidance).

J. Official Military Personnel File Acknowledgement

All reports must contain the officer's acknowledgement that adverse material concerning the misconduct will be included in the officer's OMPF. After the report is signed, it shall be provided to the officer, and the officer shall be given 10 calendar days in which to prepare a rebuttal. The officer may

waive the right to submit a rebuttal (must use Figure 15-8).

K. Rebuttal Matters

If the officer submits a rebuttal, the GCMCA who prepared the report must prepare an endorsement to the report and include the matters as an enclosure to the endorsement. If the officer's submission alleges legal errors, the GCMCA, in the endorsement, must address each allegation of legal error.

010604. Report of Misconduct

A Report of Misconduct is required in all cases of misconduct described in paragraph 010403, above, in which a Report of NJP, Report of Court-Martial Conviction, or Report of Civilian Conviction is not applicable, where the first GCMCA in the chain of command determines that the officer committed the misconduct. A sample Report of Misconduct is contained in Figure 15-9. In all cases in which the command addresses the officer's misconduct administratively, a copy of the officer's formal counseling or adverse fitness report, if any, will be included as an enclosure to the Report of Misconduct. Per paragraph 010502.A.2, above, however, if the officer receives an informal counseling or a NPLOC, the Report shall state that "SNO's misconduct was addressed via administrative measures" (see JAGMAN section 0105).

010605. Report of Nonjudicial Punishment

A Report of NJP is required in all cases in which NJP is imposed. A sample Report of NJP is contained in Figure 15-5. In addition to the general requirements set forth above, the Report of NJP will include:

A. All correspondence incident to the imposition of NJP—i.e., the notification of NJP, the officer's acknowledgement of rights and acceptance of NJP, any matters submitted by the officer, etc.

B. All matters relating to an appeal.

C. A verbatim transcript of the NJP hearing.

010606. Report of Civilian Conviction

A Report of Civilian Conviction is required in all cases in which the officer is convicted in civilian court. A sample Report of Civilian Conviction is contained in Figure 15-10. A Report of Civilian Conviction is also required even in cases where the officer pleads to a lesser offense, receives a deferred prosecution, receives a probation in judgment, participates in a court-sanctioned diversionary program that permits the subsequent dismissal of the charge, or similar cases. (Depending on the circumstances of the case, however, the Report may be more appropriately characterized as a Report of Misconduct vice a Report of Civilian Conviction.) In addition to the general requirements set forth above, the Report of Civilian Conviction will include:

A. Copies of the civilian court documents reflecting the findings of the court with respect to all charges and the sentence imposed.

B. Documents reflecting the satisfaction of any sentence imposed.

010607. Report of Court-Martial Conviction

A Report of Court-Martial Conviction is required in all cases in which the officer is convicted at a court-martial but a dismissal is not adjudged. A sample Report of Court-Martial Conviction is contained in Figure 15-11. In addition to the general requirements set forth above, the Report of Court-Martial Conviction will include the record of trial, which includes, but is not limited to, the preferred and referred charges, pre-trial agreement, results of trial, and convening authority's action.

010608. Coordination When an Officer is Pending Civilian Adjudication

Certain types of cases arising from misconduct in the civilian community have historically taken inordinate amounts of time to resolve. In particular, drunk driving or "DUI/DWI" cases often are extended by numerous continuances. Additionally, following a conviction, sentencing is often delayed. In general, CMC (JPL) will not take action on a case while civilian adjudication remains pending. However, in certain cases, proceeding with a Report of Misconduct before civilian adjudication may be appropriate. Commanders may request—in writing and with appropriate justification—that a case be forwarded before the conclusion of civilian adjudication. Such requests shall be forwarded via the chain of command to CMC (JPL) for action. For example, if a command recommends that an officer be required to show cause, a Report of NJP or Misconduct may be routed to the Alternate Show Cause Authority or Show Cause Authority before the adjudication of the civilian charges if the command believes that there is a sufficient basis to direct the officer to show cause for retention at a BOI. Likewise, if a command recommends that a probationary officer be separated via notification procedures before the adjudication of civilian charges, a Recommendation for Administrative Separation may be routed to the ASN, M&RA, via the Alternate Show Cause Authority and Show Cause Authority if the command believes that there is a sufficient basis to separate the officer for cause.

010609. Nonjudicial Punishment /Administrative Action Concurrent with Civilian Adjudication

If NJP is imposed or other administrative action is taken shortly before a civilian conviction is adjudged, the misconduct for which NJP was imposed and the civilian conviction may be documented in one report, e.g., a "Report of NJP and Civilian Conviction."

010610. Timing

GCMCAs shall forward reports to CMC (JPL) as follows: (1) thirty calendar days from the imposition of NJP, if no appeal is submitted; (2) thirty calendar days from final action on the NJP appeal; (3) thirty calendar days from the signing of the convening authority's action following court-martial; and (4) thirty calendar days from the date of civilian conviction.

A. Each intermediate endorser before the Alternate Show Cause Authority shall have 20 calendar days to forward a report.

B. The first GCMCA in the chain of command and all intermediate endorsers shall explain all delays that exceed the specified processing times. If delay is anticipated due to difficulties scheduling or completing the SACC screen, recommended or mandated initial treatment, or medical evaluation, notify CMC (JPL) of the reason for the delay and the anticipated completion date.

010611. Service of Report on Officer

As discussed in the general requirements, a copy of the report with the commander's recommendation as to administrative processing shall be provided to the officer. The officer shall have 10 calendar days to submit a rebuttal. The first GCMCA in the chain of command may grant, in writing, an extension setting forth a specific period of delay, upon the officer's written request, with explanation of the supporting reasons for the requested delay. If the commander recommends that the officer be required to show cause at a BOI, the officer shall be allowed an opportunity to submit a resignation/retirement request (see paragraphs 011006 through 011008, below).

010612. Officer Disciplinary Notebook Management System Actions

The SJA, Deputy SJA, or authorized support staff shall upload all reports and endorsements to the ODNMS and make appropriate entries to the chronology section. CMC (JPL) will update and certify all cases pending review and/or endorsement by CMC (JPL), or the SJA to CMC, DC, M&RA, or ASN, M&RA.

0107. ACTION BY SHOW CAUSE AUTHORITIES

010701. Alternate Show Cause Authority.

Upon receipt of one of the reports identified above, the Alternate Show Cause Authority may direct an officer to show cause at a BOI in accordance with SECNAVINST 1920.6_ and this Volume, initiate separation via notification procedures (if applicable), or forward the report with a recommendation to the Show Cause Authority that an officer not be required to show cause and that the case be closed. If the Alternate Show Cause Authority does not direct an officer to show cause or initiate separation via notification procedures, the package shall be forwarded immediately to the DC, M&RA, via CMC (JPL) for processing. Only the DC M&RA, ASN, M&RA, or SECNAV may close the case of an officer who has been found to have committed misconduct. The Alternate Show Cause Authority shall direct show cause, initiate separation via notification procedures (if applicable), or forward a recommendation of no show cause within 20 calendar days of receipt of the report. The Alternate Show Cause Authority shall explain any delay that exceeds the specified processing time.

0108. REPORTING AND PROCESSING ALLEGATIONS OF SUBSTANDARD PERFORMANCE OF DUTY

010801. General

Officers who do not maintain required standards of performance—or professional or personal conduct—may be processed for administrative separation. Cases of substandard performance of duty are handled in accordance with SECNAVINST 1920.6_ and this Volume. In cases in which the sole basis for separation is substandard performance of duty, the only characterization of service an officer may receive is Honorable.

010802. Reporting Substandard Performance of Duty in the Officer Disciplinary Notebook

Like cases involving officer misconduct, cases involving an officer's substandard performance of

duty are reported via the ODNMS.

010803. Responsibility to Report Officer Substandard Performance of Duty

The same persons specified in paragraph 010402, above, are responsible for reporting officer substandard performance of duty to CMC (JPL).

010804. Circumstances that Trigger an Initial Report

Officer substandard performance of duty must be reported to CMC (JPL) if the performance or conduct of a Marine officer (or an officer of any other branch of military Service serving under the administrative control of a Marine command) is such that processing for separation may be appropriate, as indicated by:

A. A commander's recommendation for administrative separation based on performance or conduct that constitutes substandard performance of duty in accordance with SECNAVINST 1920.6_.

B. An adverse fitness report for performance or conduct that forms a basis of separation established in SECNAVINST 1920.6_.

C. A recommendation for promotion is delayed or withheld due to performance or conduct that constitutes substandard performance of duty.

010805. When an Initial Report Must be Made

The same procedures specified in paragraph 010405, above, are applicable to reporting officer substandard performance of duty to CMC (JPL).

010806. How Substandard Performance of Duty is Reported

All substandard performance of duty is reported to CMC (JPL) using the ODNMS. An ODNMS user's guide is available on JAD's public website (http://www.hqmc.marines.mil/sja/JADForms.aspx). The same procedures detailed in paragraph 010405, above are applicable to reporting and tracking substandard performance of duty cases.

010807. Disposition of Allegations of Substandard Performance of Duty

A. General

Allegations of substandard performance of duty will result in the GCMCA either finding that the officer's performance or conduct was substandard or that the officer's performance or conduct was not substandard. When the GCMCA finds that the officer's performance or conduct was substandard, the GCMCA must take appropriate disposition action. If not an ASCA, the GCMCA must also forward the case to an ASCA with a show cause recommendation. If the GCMCA determines that the officer's performance was not substandard, the GCMCA must notify CMC (JPL) of that conclusion and forward a Report of No Substandard Performance directly to CMC (JPL) per paragraph 010807.C, below. In any case, a Report must be submitted to CMC (JPL) in accordance with paragraphs 010807.C and 010807.D, below. Figures 15-12 and 15-13 must be used.

B. Disposition Options

If the GCMCA finds that the officer's performance or conduct was substandard, the GCMCA may take any action detailed in paragraph 010502.A, above, regarding non-punitive or administrative measures.

C. Reporting Dispositions of Substandard Performance of Duty

After the disposition is complete, the GCMCA must report the disposition and recommend whether the officer should be required to show cause for retention at a BOI, administratively separated via notification procedures (for probationary officers), or that the Show Cause Authority close the case. All allegations of substandard performance of duty must be formally closed with a report of disposition.

D. Report of Unsubstantiated Allegations of Substandard Performance of Duty

In all cases where the GCMCA finds that the officer's performance or conduct was not substandard, the GCMCA will generate a Report of No Substandard Performance of Duty (must use Figure 15-12). The Report of No Substandard Performance of Duty will mirror the Report of Substandard Performance of Duty; however, instead of disposition action, the report will detail the investigative efforts by the command and include an explanation from the command detailing how it reached the conclusion that the officer's performance or conduct was not substandard. Once signed, the GCMCA will forward the Report directly to CMC (JPL). The GCMCA must provide a courtesy copy of the Report to each intermediate endorser in the chain of command and the Alternate Show Cause Authority. Upon receipt of the Report, CMC (JPL) will close the case in the ODNMS. This Report will not be placed in the officer's OMPF.

E. Report of Substandard Performance of Duty

In all cases where the GCMCA finds that the officer's performance or conduct was substandard, the GCMCA will generate a Report of Substandard Performance of Duty. (See Figure 15-13 for an example of such a report.) The routing, format, and content requirements set forth in paragraph 010603, above, apply to Reports of Substandard Performance of Duty. Additionally, the service requirements and ODNMS actions detailed in that paragraph apply to Reports of Substandard Performance of Duty.

F. Action by Show Cause Authorities

The same procedures specified in paragraph 0107, above, are applicable to Show Cause Authority and Alternate Show Cause Authority action on a Report of Substandard Performance of Duty.

0109. ADMINISTRATIVE SEPARATION OF OFFICERS WITH BOARD ACTION

010901. General

The purpose of a BOI—and the policies, standards, and procedures for the conduct of a BOI—are set forth in DoD Instruction 1332.30 and SECNAVINST 1920.6_. The information in this section supplements the provisions of those references.

010902. Convening a Board of Inquiry

A. Direction

The Show Cause Authority or Alternate Show Cause Authority will convene or direct the GCMCA of an officer [hereinafter referred to in this section as "respondent"] to convene a BOI in appropriate cases as provided in SECNAVINST 1920.6_ and this Volume. The SJA for the Alternate Show Cause Authority—or CMC (JPL) for the DC, M&RA—will forward the order directing the BOI to the respondent's GCMCA. The BOI direction letter may be forwarded electronically. The BOI direction letter will be uploaded to the ODNMS. (Sample BOI direction letters are contained in Figures 15-14 and 10-15, and a sample BOI convening order is contained in Figure 15-18.)

B. Notification

A Notification of BOI is prepared by a GCMCA or Alternate Show Cause Authority following the decision by the Alternate Show Cause Authority or Show Cause Authority that the respondent be directed to show cause at a BOI. A Notification of BOI informs the respondent of his/her rights, which may be exercised or waived. The Notification of BOI will also be uploaded to the ODNMS. Sample Notifications of BOI are contained in Figures 15-16 and 15-17.

1. The respondent shall be formally served with a copy of the Notification of BOI. Service of the Notification of BOI constitutes the respondent's official notification of show cause proceedings.

2. The GCMCA should ensure that the respondent is served with a copy of the Notification within two working days of the command's receipt of the show cause order.

3. If the respondent refuses service of a copy of the Notification of BOI, then the GCMCA shall document its efforts to serve the Notification on the respondent in lieu of the respondent's formal acknowledgement of receipt.

C. Timing

The GCMCA should ensure that each BOI is scheduled to commence, absent an approved continuance, not earlier than 30 but no more than 60 calendar days from the date the respondent is served with the Notification of BOI. The respondent may request a continuance in accordance with the procedures set forth in SECNAVINST 1920.6_. Any delay in the commencement of the BOI beyond the specified time limits shall be explained in the GCMCA's endorsement to the Report of the BOI.

D. Members

The GCMCA shall detail members consistent with the procedures and membership eligibility requirements set forth in 10 U.S.C. §§ 1187 or 14906, and DoD Instruction 1332.30 and SECNAVINST 1920.6_. BOIs shall consist of not less than three officers.

E. Respondent a Regular commissioned officer commissioned warrant officer

Each member shall be a lieutenant colonel or above. The senior member shall be a colonel or above. Every member must be senior in grade to the respondent (no member may be in the same grade as the respondent). For purposes of BOI membership, a frocked officer is deemed to hold the grade from which frocked, not the higher grade to which frocked. All members must be Regular officers on the active-duty list.

F. Respondent a Reserve Commissioned Officer Commissioned Warrant Officer

In addition to the requirements set forth above—except for the requirement that all members be Regular officers on the active-duty list—at least one member must be a Reserve officer.

G. Respondent a Warrant Officer

The members shall be senior to the respondent unless otherwise directed by SECNAV. Unlike cases involving commissioned officer respondents, members in cases involving warrant officers need only be senior in rank to the respondent; they need not be lieutenant colonels or colonels.

H. When a sufficient number of highly qualified and experienced active-duty officers are not available, the convening authority shall complete Board membership with available retired officers who meet the criteria set forth above other than the active-duty or active-status-list requirement, and who have been retired for fewer than 2 years.

010903. Minimum Qualifications for Recorder and Legal Advisor

A. Recorder

The convening authority must appoint a nonvoting recorder. The recorder for a BOI must be a judge advocate in the pay grade of O-3 or above who has had at least one year of experience as a trial or defense counsel. A frocked O-3 meets the pay grade requirement to serve as a recorder. An assistant recorder need not meet these qualifications. This paragraph is intended to ensure that adequately qualified personnel are detailed as BOI recorders and is not intended to, and does not, create any rights, entitlements, or defenses arising out of the failure to comply with its provisions.

B. Legal Advisor

The convening authority must appoint a legal advisor for a BOI. The legal advisor shall be a judge advocate in the pay grade of O-4 or above who has previously been a BOI recorder, a BOI counsel for the respondent, or who is or has been a military judge or a staff judge advocate to a GCMCA. A frocked O-4 meets the pay grade requirement to serve as a legal advisor. The legal advisor cannot be the SJA or Deputy SJA to any GCMCA in the respondent's chain of command. The legal advisor does not need to be physically present at the proceeding but must be available via telephone for consultation by the BOI members. The legal advisor shall not participate in closed sessions of the Board or engage in non-administrative ex parte communications with members as to the proceedings. If judge advocates meeting the minimum qualifications for the BOI recorder or legal advisor are not available, the SJA for the GCMCA may request a waiver of the minimum requirements from CMC (JPL) (see Figure 15-19). This paragraph is intended to ensure that adequately qualified personnel are detailed as BOI legal advisors and is not intended to, and does not, create any rights, entitlements, or defenses arising out of the failure to comply with its provisions.

010904. Conduct of the Board of Inquiry

The Board shall follow the script contained in Figure 15-20. The Findings Worksheet (see Figure 15-21) shall be completed and signed by all voting members of the Board and counsel for the respondent directly upon conclusion of the Board.

A. Transcript of Hearing

The BOI proceedings shall be recorded using audio tapes, a digital audio recording device, or a court reporter if available. In all cases, a summarized transcript shall be completed within 30 calendar days and delivered to the Recorder for review and any corrections before inclusion in the Report of the BOI, unless a verbatim transcript is directed by the authority directing show cause—either the Show Cause Authority or Alternate Show Cause Authority. Any delay in the preparation of the transcript shall be explained in the GCMCA's endorsement to the Report of the BOI. In all cases, the cognizant LSSS shall retain all materials necessary to prepare a verbatim transcript.

B. Report of the Board of Inquiry

The Report of the BOI is prepared in accordance with SECNAVINST 1920.6_. Additionally, the following provisions apply:

1. Within 30 calendar days of completion of the verbatim or summarized transcript, the transcript and the Report of the BOI (see Figures 15-22 and 15-23) shall be provided by the Government to the Senior Member of the Board for review. Within 10 calendar days of receipt, the Senior Member will sign the Report of the BOI and authenticate the BOI transcript.

2. Upon receipt of the Report of the BOI from the Senior Member, the Report of the BOI shall be forwarded to any non-concurring member. Within 10 calendar days of receipt, the non-concurring member will sign the Report of the BOI. The non-concurring member must also concurrently submit a minority report that includes the extent of non-concurrence as to each finding and recommendation and the reasons therefore (see Figure 15-24).

3. The final Report of the BOI shall then be served on respondent's counsel (or respondent, if no counsel was elected). A certificate of service shall be included with the Report of the BOI verifying service of the Report on respondent's counsel (or respondent, if no counsel was elected) (see Figure 15-25).

4. Respondent's counsel (or respondent, if no counsel was elected) shall have 10 calendar days after receipt of the Report of the BOI to submit the respondent's comments, rebuttal, or a waiver of rebuttal. The respondent's counsel (or respondent, if no counsel was elected) may request an extension from the Alternate Show Cause Authority or Show Cause Authority who directed the BOI. Such extensions shall not exceed 20 calendar days.

5. If the BOI finds substandard performance of duty, misconduct, or moral or professional dereliction, the respondent must acknowledge receipt of the Report of the BOI and acknowledge that adverse material concerning the incident will be included in the officer's OMPF, even if the respondent's counsel receives a copy of the Report of the BOI. The officer shall be given 10 calendar days in which to prepare a rebuttal. The officer may waive, in writing, the right to submit a rebuttal (must use Figure 15-8). Failure to submit matters within the 10-day period (and any extensions) will also

constitute waiver, absent good cause.

6. After the respondent and the respondent's counsel have been afforded the opportunity to review the Report of BOI and submit matters in accordance with the deadline prescribed above, the Report and all exhibits and enclosures shall be provided to the GCMCA for endorsement. If the respondent or respondent's counsel alleges legal errors, the GCMCA must address each alleged error in the endorsement. The GCMCA must also explain any delay in the preparation of the transcript or the processing of the Report of the BOI.

C. Endorsements and Recommendations

The first GCMCA in the chain of command must forward the Report of the BOI to the SECNAV or the ASN, M&RA, via the chain of command, the Alternate Show Cause Authority, and Show Cause Authority (must use Figure 15-26). The first GCMCA in the chain of command and each intermediate endorser, including the Alternate Show Cause Authority, shall have 20 calendar days to forward the Report of the BOI. In addition to the requirements set forth in SECNAVINST 1920.6_, the endorsements to the Report of the BOI must include/address the following:

1. If the BOI finds substandard performance of duty, misconduct, or moral or professional dereliction, and recommends separation, a recommendation as to whether the findings and recommendations of the BOI should be approved or disapproved. If the BOI does not find substandard performance of duty, misconduct, or moral or professional dereliction, or finds substandard performance of duty, misconduct, or moral or professional dereliction but recommends that the respondent be retained, the endorsements need not include a recommendation as to whether the findings and recommendations of the BOI should be approved or denied but may include a recommendation as to whether matters should be included in the officer's OMPF.

2. If separation is recommended and the officer is not retirement eligible, a recommendation as to characterization of service, or, in the case of a respondent who is retirement eligible, a recommendation for retirement grade. (Retirement-eligible LDOs may not be reduced below the last CWO grade satisfactorily held).

3. If separation is recommended, a medical evaluation in accordance with paragraph 010302 of this Volume, if not already included in the package. The medical evaluation shall include the PTSD/TBI screen, if required, including comments on the presence or absence of these conditions and, if present, the extent to which they affected the respondent's judgment and may have been a contributing factor in the basis for separation. If PTSD or TBI was determined to be a possible contributing factor to one or more of the bases for separation, the GCMCA's report/endorsement shall, in light of that identified possible PTSD or TBI contributing factor, explain the reasons for the recommended separation and characterization of service.

4. If the officer was involved in a substance-related incident, the substance-abuse screening results and proof of completion of any recommended or mandated initial treatment, as set forth in paragraph 010301.E of this Volume, if not already included in the package.

5. If separation is recommended and the officer has yet to complete his/her advanced education assistance service obligation, the amount and type of advanced education assistance received and a recommendation as to whether the Government should recoup the advanced education assistance on a pro-rata basis for the unserved portion of the officer's service obligation.

D. Involuntary Leave

Under 10 U.S.C. § 1182 and SECNAVINST 1920.6_, if a BOI recommends that an officer should be separated, that officer may be required to take involuntary leave, beginning at any time following the expiration of the period allotted for the officer to submit a rebuttal to the Report of the BOI (which is after the officer's receipt of the Report of the BOI). (MCO P1050.3J, Regulations for Leave, Liberty, and Administrative Absence, enclosure (1), paragraph 26 implements the Marine Corps policy on leave awaiting administrative separation and excess leave.)

0110. ADMINISTRATIVE SEPARATION OF OFFICERS WITHOUT BOARD ACTION

011001. General

In accordance with SECNAVINST 1920.6_, a commander, an Alternate Show Cause Authority, or the Show Cause Authority may recommend to the ASN, M&RA, that a probationary officer be administratively separated via notification procedures for misconduct or substandard performance of duty. This procedure does not afford an officer a hearing and serves as an expeditious means to separate an officer at the discretion of the ASN, M&RA. When separated in accordance with the notification procedure for misconduct, the least favorable characterization of service that an officer may receive is General (Under Honorable Conditions). When separated in accordance with the notification procedure for substandard performance of duty, the only characterization of service that an officer may receive is Honorable. Therefore, if an Alternate Show Cause Authority or the Show Cause Authority determines that an Other Than Honorable characterization of service would be more appropriate for a probationary officer, he must direct a BOI.

011002. Who May Be Separated Via Notification Procedures

Only probationary officers may be separated via notification procedures. Commissioned officers on the active-duty list with fewer than six years of active commissioned service and Reserve commissioned officers with fewer than six years of commissioned service are in a probationary status. Active-duty warrant officers (WO) are in a probationary status for three years from the date upon which they receive their warrant appointing them to the grade of WO. Reserve WOs are in a probationary status for six years from the date upon which they receive their warrant appointing them to the grade of WO. Officers who have exceeded the applicable probationary threshold are non-probationary and thus cannot be processed for separation without being afforded the opportunity to show cause for retention at a BOI.

011003. Procedures for Processing an Officer for Separation via Notification Procedures

A. Notification

The officer shall be notified of the rights contained in SECNAVINST 1920.6_.

B. Notification by the Show Cause Authority

In cases in which the recommendation for separation via notification procedures originates with the Show Cause Authority, the notification of the separation recommendation will be prepared by CMC (JPL).

C. Notification by the Alternate Show Cause Authority or Command

In cases in which the recommendation for separation via notification procedures originates with the Alternate Show Cause Authority or the officer's command, the notification of the separation recommendation will be prepared by the command (see Figure 15-27).

D. Service on the Respondent

The notification (with all enclosures) will be forwarded to the respondent via the chain of command within five working days of its signing by the commander, the Alternate Show Cause Authority, or the Show Cause Authority, as appropriate. Service of the notification constitutes the respondent's official notification that the officer is being processed for administrative separation.

E. Respondent's Right to Submit Matters

The respondent shall be afforded the opportunity to submit matters in response to the separation recommendation (see Figure 15-28). The respondent's response to the recommendation for separation (or a written waiver of the right to respond) shall be submitted within 10 calendar days of the respondent's receipt of the notification. The GCMCA may, in writing, grant an extension for a specified period upon written request with justification. Failure to submit matters within the 10-day period (and any extensions) will also constitute waiver, absent good cause.

011004. Submission to the Secretary of the Navy

A. Recommendation

The command recommending separation—or the first GCMCA in the chain of command—must prepare the Recommendation for Administrative Separation. A sample is contained in Figure 15-29. The Recommendation shall contain the following:

1. Notification and Rebuttal Matters.

2. Report of Misconduct/NJP/Civilian Conviction/Court-Martial Conviction (if applicable).

3. Recommended characterization of service.

4. Medical evaluation in accordance with paragraph 010302 of this Volume, if not already included in the package.

5. If the officer was involved in a substance-related incident, the substance-abuse screening results and proof of completion of any recommended or mandated initial treatment as set forth in paragraph 010301.E of this Volume, if not already included in the package.

6. If the officer has yet to complete his/her advanced education assistance service obligation, the amount and type of advanced education assistance received, if not already included in the package, and a recommendation as to whether the Government should recoup the advanced education assistance on a pro-rata basis for the unserved portion of the officer's service obligation.

B. Endorsements and Routing

The Recommendation for Administrative Separation is forwarded to the ASN, M&RA, via the chain of command, the Alternate Show Cause Authority, and the Show Cause Authority. Each intermediate endorser and the Alternate Show Cause Authority shall have 20 calendar days to forward the recommendation. Each endorsement shall contain:

1. A recommendation as to whether the Recommendation for Administrative Separation should be approved or disapproved.

2. If approval is recommended, the recommended characterization of service.

3. If approval is recommended, a recommendation as to whether the Government should recoup the advanced education assistance on a pro-rata basis for the unserved portion of the officer's service obligation.

011005. Administrative Separation of Non-Probationary Officers. Officers who have exceeded the applicable probationary threshold are non-probationary and thus cannot be processed for separation without being afforded the opportunity to show cause for retention at a BOI. BOI procedures are provided in paragraph 0109, above.

011006. Resignation/Retirement Request in Lieu of Further Administrative Processing. An officer may tender a resignation/retirement request in lieu of further administrative processing at any time during, or in anticipation of, show cause processing. The type of resignation, the characterization of service available, and the requested retirement grade are all important factors in this decision, and are therefore critical in each submission and any subsequent endorsement(s). Samples of requests for retirement, resignation in lieu of further administrative processing, and resignation in lieu of trial are contained in Figures 15-30, 15-31, and 15-32, respectively.

011007. Requirements for Request for Retirement in Lieu of Further Administrative Processing

A. A request for retirement in lieu of further administrative processing shall contain the information contained in paragraph 2 to enclosure (6) of SECNAVINST 1920.6_.

B. Pursuant to 10 U.S.C. § 6329, no officer may be retired because of misconduct for which trial by court-martial would be appropriate.

011008. Requirements for Request for Resignation in Lieu of Further Administrative Processing

A. A request for resignation in lieu of further administrative processing shall include:

1. A statement that the officer understands that a BOI will not be convened to make a separation recommendation to SECNAV if the request is approved.

2. A statement that the officer understands that the request is voluntary and

may only be withdrawn with the permission of SECNAV.

3. As applicable, a statement that the request is *unqualified* (least favorable characterization is Honorable), *qualified* (least favorable characterization is General (Under Honorable Conditions)), or *for the good of the service* (least favorable characterization is Other Than Honorable) under the definitions provided in enclosure (1) to SECNAVINST 1920.6_.

4. A statement that the officer understands the least favorable characterization of service specifically available for the type of resignation requested and a statement that the officer understands the consequences of that characterization as set forth in paragraph 4104 of the MARCORSEPMAN.

5. The officer's requested characterization of service.

6. A statement that the officer has consulted with counsel, including counsel's name, grade, and branch of Service for military counsel, or counsel's name and address if civilian counsel is retained.

7. A statement that the officer admits that his or her performance of duty was substandard, or, if the officer is being required to show cause for misconduct or is being recommended for separation for misconduct, that he or she admits to committing the misconduct.

8. The investigation and any other documentation (e.g., NJP, civilian conviction, court-martial, etc.) evidencing the substandard performance or misconduct, and a summary of the relevant evidence.

9. A statement that the officer understands that sworn or unsworn testimony or other materials may be submitted on his or her behalf, and that such submissions, including admissions of guilt, are not admissible in a court-martial except as provided by Military Rule of Evidence 410 but may be admissible at other proceedings.

10. A statement that the officer understands that he or she is not entitled to receive a Reserve commission.

11. A statement that the officer understands that he or she may be required to reimburse the Government for advance education assistance that included an active-duty service requirement that has not been completed.

011009. Resignation in Lieu of Trial (RILT)

A RILT shall contain the information required by enclosure (3) of SECNAVINST 1920.6_ and paragraph 4104.4 of the MARCORSEPMAN.

011010. Separation/Retirement Date

Separation and retirement dates are effective upon approval by the ASN, M&RA, or SECNAV, as applicable, and subsequent issuance of the discharge electronic mail and unit diary transaction from CMC (MMSR). Consequently, an officer need not, and normally should not, request a specific separation date.

011011. Endorsements and Routing

Requests for resignation or retirement shall be addressed to the ASN, M&RA, or SECNAV, respectively, via the chain of command, the Alternate Show Cause Authority, and the DC, M&RA. The DC, M&RA, is the denial authority for all resignation and retirement requests. The endorsements shall contain:

A. A recommendation as to whether the request should be approved or disapproved.

B. If approval is recommended, for resignation requests, the recommended characterization of service, or, for retirement requests, a recommended retirement grade. (Retirement-eligible LDOs may not be reduced below the last CWO grade satisfactorily held.)

C. If approval is recommended, a medical evaluation in accordance with paragraph 030102 of this Volume, if not already included in the package. The medical evaluation shall include the PTSD/TBI screen, if required, including comments on the presence or absence of these conditions and, if present, the extent to which they affected the respondent's judgment and may have been a contributing factor in the basis for separation. If PTSD or TBI was determined to be a possible contributing factor to one or more of the bases for separation, the GCMCA's report/endorsement shall, in light of that identified possible PTSD or TBI contributing factor, explain the reasons for the recommended separation and characterization of service.

D. If the officer was involved in a substance-related incident, the substance-abuse screening results and proof of completion of any recommended or mandated treatment as set forth in paragraph 010301.E of this Volume, if not already included in the package.

011012. Advanced Education Assistance Recoupment

If approval is recommended and the officer has yet to complete his or her advanced education assistance service obligation, the amount and type of advanced education assistance received, if not already included in the package, and a recommendation as to whether the Government should recoup the advanced education assistance on a pro-rata basis for the unserved portion of the officer's service obligation.

011013. Voluntary Board of Inquiry Waiver

An officer may waive a BOI at any time during, or in anticipation of, show cause processing. A waiver of a BOI may not be conditional.

A. The waiver shall include the following (use Figure 15-33 for non-retirement-eligible officers and Figure 15-34 for retirement-eligible officers):

B. A statement that the officer understands that a BOI will not be convened to make a separation recommendation to SECNAV if the request is approved.

C. A statement that the officer understands that the request is voluntary and may only be withdrawn with the permission of SECNAV.

D. If the officer is not retirement eligible, a statement that the officer understands that he or she may be separated with an Other Than Honorable characterization of service and that the officer understands the consequences of an Other Than Honorable characterization, as set forth in paragraph 4104 of the MARCORSEPMAN. If the officer is retirement eligible, a statement that the officer understands that SECNAV may retire him or her in a lesser pay grade than currently held and the retirement grade will be the highest grade in which the officer served satisfactorily, as determined by SECNAV. (Retirement-eligible LDOs may not be reduced below the last CWO grade satisfactorily held.)

E. If the officer is not retirement eligible, the officer's requested characterization of service, or, if retirement eligible, the officer's requested retirement grade.

F. A statement that the officer has consulted with counsel, including counsel's name, grade, and branch of service for military counsel, or counsel's name and address if civilian counsel is retained.

G. A statement that the officer admits that his or her performance of duty was substandard, and if the officer is being required to show cause for misconduct or is being recommended for separation for misconduct, that he or she admits to committing the misconduct.

H. The investigation and any other documentation (e.g., NJP, civilian conviction, court-martial, etc.) evidencing the substandard performance or misconduct, as well as a summary of the relevant evidence.

I. A statement that the officer understands that sworn or unsworn testimony or other materials may be submitted on his or her behalf, and that such submissions, including admissions of guilt, are not admissible in a court-martial except as provided by Military Rule of Evidence 410 but may be admissible at other proceedings.

J. If the officer is not retirement eligible, a statement that the officer understands that he or she is not entitled to receive a Reserve commission.

K. A statement that the officer understands that he or she may be required to reimburse the Government for advance education assistance that included an active-duty service requirement that has not been completed.

L. BOI waivers shall be addressed to the SECNAV (retirement-eligible officers) or the ASN, M&RA (non-retirement-eligible officers) via the chain of command, the Alternate Show Cause Authority, and the DC, M&RA. The endorsements shall contain:

1. A recommendation as to whether the BOI waiver should be approved or denied.

2. If approval is recommended, the recommended characterization of service for non-retirement eligible officers, or the recommended retirement grade for retirement-eligible officers. (Retirement-eligible LDOs may not be reduced below the last CWO grade satisfactorily held.)

3. If approval is recommended, a medical evaluation in accordance with paragraph 010302 of this Volume, if not already included in the package. The medical evaluation shall include the PTSD/TBI screen, if required, including comments on the presence or absence of these

conditions and, if present, the extent to which they affected the respondent's judgment and may have been a contributing factor in the basis for separation. If PTSD or TBI was determined to be a possible contributing factor to one or more of the bases for separation, the GCMCA's report/endorsement shall, in light of that identified possible PTSD or TBI contributing factor, explain the reasons for the recommended separation and characterization of service.

4. If the officer was involved in a substance-related incident, the substance-abuse screening results and proof of completion of any recommended or mandated initial treatment, as required by paragraph 010301.E of this Volume, if not already included in the package.

5. If approval is recommended and the officer has yet to complete their advanced education assistance service obligation, the amount and type of advanced education assistance received, if not already included in the package, and a recommendation as to whether the Government should recoup the advanced education assistance on a pro-rata basis for the unserved portion of the officer's service obligation.

011014. Resolution of Retirement Requests and Waivers Prior to Board of Inquiry

Upon receipt of a request for retirement in lieu of further administrative processing, a request for resignation for the good of the Service, or a request for a BOI waiver, and in coordination with CMC (JPL), the GCMCA who convened the BOI may hold the BOI proceedings in abeyance pending approval or disapproval of the request. This paragraph does not apply to unqualified or qualified resignation requests.

0111. RELATED PERSONNEL ACTIONS

011101. Personnel/Administrative Hold

Upon receipt of the required notification of officer misconduct or substandard performance of duty under paragraph 0104 or 0108 of this Volume, the Director, Manpower Management (Dir, MM), in conjunction with local administrative centers, will hold in abeyance all pending personnel actions (i.e., promotion, retirement, separation, transfer to the Reserve component, or PCS/PCA orders) for the reported officer. Personnel/Administrative Hold carries with it no punitive stigma but, rather, is implemented to maintain the *status quo* until matters are resolved by the cognizant commander or civilian authorities. In limited circumstances (e.g., mission requirements or extraordinary delay in the adjudication of a civilian case) commanders may request, in writing and with appropriate justification, execution of PCS orders or transfer to the Reserve component before resolution of the allegation(s). Such requests shall be forwarded via the chain of command to CMC (JPL) for approval on a case-by-case basis.

011102. Service Obligation

As provided in SECNAVINST 1920.6_, officers serve at the pleasure of the President and no terminal dates are established for their commissions. In addition, as provided in SECNAVINST 1920.6_, neither retirement nor release from active duty alters an individual's status as a commissioned or warrant officer until the officer's commission or warrant has been terminated. Accordingly, officers may be kept past their EAS or retirement date for administrative proceedings as appropriate. As provided in 10 U.S.C. § 1181 and SECNAVINST 1920.6_, SECNAV and the ASN, M&RA, have been delegated the authority to administer the separation of officers for voluntary and involuntary reasons.

011103. Mandated Separation Dates

SECNAVINST 1920.6_ addresses specific cases in which officers are either involuntarily separated or retired due to age, service limitations, or failure to be selected for promotion. In such cases, because separation is mandated by statute, it can only be deferred in the case of action taken with a view toward trial by court-martial, or, in limited instances, for medical reasons. Administrative processing for cause is not a valid reason to retain an officer on active duty beyond a mandated separation date.

0112. PROMOTIONS

011201. General

The Marine Corps must select those officers who are best and fully qualified for promotion to meet the needs of the Marine Corps. Accordingly, selection boards should have all relevant information available when making a recommendation regarding an officer's qualifications for promotion. The timely processing of officer misconduct and substandard performance of duty cases ensures that appropriate adverse information is properly included in an officer's OMPF for review by promotion selection boards.

011202. Procedure

Adverse information is not always available to promotion selection boards. Usually, this occurs when an officer has a pending misconduct or substandard performance of duty case at the time the board convenes, when adverse material was not entered into the officer's OMPF until after the board convened, or when an officer commits misconduct or engages in substandard performance of duty after being recommended for promotion by a board. CMC (JPL) is responsible for screening the results of selection boards for any substantiated or alleged adverse information that might affect an officer's suitability for promotion. Additionally, CMC (JPL) is responsible for screening each monthly promotion MARADMIN before its release as an additional safeguard. If an officer selected for promotion has adverse information or alleged adverse information, that officer's promotion may be delayed or withheld. The difference between delay and withhold is largely a matter of timing. A promotion withhold occurs when SECNAV withholds an officer recommended for promotion by a board from nomination to the Secretary of Defense, the President, or the Senate, as appropriate. Promotion withholds are coordinated between CMC (JPL) and Officer Promotions (MMPR-1). A promotion delay occurs when CMC (or designee) or an officer's CO delays an officer's promotion after the nomination and approval processes have been completed but before the promotion has been effectuated. Withholds and delays of promotion will be handled in accordance with applicable directives and are not automatic.

011203. Reporting

Monthly promotion MARADMINs charge COs with ensuring that officers to be promoted are mentally, physically, morally, and professionally qualified for promotion. In cases where officers are not qualified, the CO can initiate a delay of promotion. Officers selected for promotion but not listed in the monthly MARADMIN may not be delayed until the officer's name appears in a promotion MARADMIN. Guidance on effectuating promotion delays is detailed in each MARADMIN announcing the promotion authority. When a command desires to delay a promotion, it should contact CMC (JPL) and Officer Promotions (MMPR-1) immediately to ensure appropriate notifications are made to the officer and in the MCTFS. Commanders must give written notice to an officer outlining the grounds for delay before the effective date of promotion, unless it is impracticable to do so. This notice must give the officer the opportunity to submit a statement. Commanders are highly encouraged to contact CMC (JPL) for

assistance in drafting the written notice. Figure 15-35 provides a command promotion delay template that may be used in the event that consultation with CMC (JPL) is not possible before the effective date of promotion.

011204. Closed Cases

If an officer's promotion has been withheld or delayed, and the misconduct or substandard performance of duty case is closed by the appropriate authority without the officer's separation, CMC (JPL) will notify the officer via a Notice and Comment letter of the right to submit matters in support of the promotion. CMC (JPL) will send the Notice and Comment letter directly to the officer via electronic mail. CMC (JPL) will send a courtesy copy to the appropriate staff judge advocate. The officer will have 10 calendar days to submit matters in support of his or her promotion. This 10-day period may be extended for an additional 20 calendar days upon the officer's request. CMC (JPL) will coordinate with the staff judge advocate in the officer's command before acting upon the officer's request. If no matters are received within the 10-day period, and an extension has not been requested and approved, the officer will be deemed to have waived the right to submit matters, and the promotion delay or withhold will be processed accordingly. Promotion matters shall be addressed to CMC (JPL) via the officer's chain of command. The promotion matters shall be endorsed through the commanding general (CG) at the top of the officer's operational chain of command. CG endorsements shall be processed by that CG's SJA. Once endorsed by the CG, the promotion matters will be forwarded to CMC (JPL) for routing to CMC. If the officer declines to submit matters, he or she shall notify the chain of command in writing using the acknowledgement letter that CMC (JPL) provides as an enclosure to the Notice and Comment letter. The declination shall then be forwarded to CMC (JPL) via the chain of command using the process described in this paragraph.

011205. Adverse Material Advisory Board (AMAB)

Promotion withholds and delays are reviewed by the AMAB. The AMAB consists of the SJA to CMC; the Dir, MM; and the DC, M&RA. After AMAB review, the Staff Director, Headquarters Marine Corps, and the Assistant CMC will also review promotion withholds and delays. Each general officer in this process personally reviews the promotion withhold or delay and makes a recommendation to the CMC. The CMC will personally review every promotion withhold or delay and make a final decision or recommendation. The routing of a promotion withhold or delay after AMAB review depends on the rank of the officer and whether his or her promotion has been delayed or withheld (see MCO P1400.31C, Marine Corps Promotion Manual, Volume 1, Officer Promotions; SECNAVINST 1420.1_, Promotion, Special Selection, Selective Early Retirement, and Selective Early Removal Boards for Commissioned Officers of the Navy and Marine Corps; SECNAVINST 1412.6_, Promotion of Officers to the Grade of Lieutenant (Junior Grade) in the Navy and to the Grade of First Lieutenant in the Marine Corps; and SECNAVINST 1412.9_, Marine Corps Limited Duty Officer and Warrant Officer Programs, Promotions, and Continuation Procedures; for additional guidance on promotion delays and withholds). Commanders should contact their SJA for guidance regarding grade-specific promotion delay and withhold issues.

011206. Promotion Recommendations

Per paragraph 011204, above, command endorsements should contain a recommendation regarding promotion and, if applicable, an appropriate date of rank. An officer's promotion withhold or delay will ultimately result in promotion with original date of rank, promotion with an adjusted date of rank, or removal from the promotion list. In the case of a second lieutenant or warrant officer, however, promotion withhold or delay will ultimately result in promotion with original date of rank, promotion

with an adjusted date of rank, notice to reapply for promotion in six months, or discharge. Promotion with original date of rank is generally appropriate if the allegations against an officer have been unsubstantiated. If promotion is authorized, SECNAV may adjust an officer's date of rank for any part of delay in which SECNAV determines that an officer was unqualified for promotion. SECNAV has delegated this authority to the CMC for second lieutenants. A recommendation for an adjusted date of rank shall not be punitive in nature but, rather, should reflect the time needed for an officer to recover from an incident such that he or she may regain the moral authority to lead Marines. Command endorsements should appropriately address this concern. If an officer is removed from the promotion list, he or she will be considered to have failed selection.

Figure 15-1
NJP Notification and Acknowledgement

From: Commanding General/Officer
To: Rank First Name MI Last Name MOS USMC/R

Subj: NOTIFICATION OF INTENT TO IMPOSE NONJUDICIAL PUNISHMENT

Ref: (a) Paragraph 4, Part V, MCM
(b) JAGINST 5800.7F (JAGMAN)
(c) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(d) Investigation/Evidence
(e) SECNAVINST 1920.6_

1. In accordance with references (a) through (c), and based upon the information in reference (d), you are hereby notified that I intend to conduct an Article 15, Uniform Code of Military Justice (UCMJ), nonjudicial punishment (NJP) hearing in your case.

2. You are advised of the following with regard to the proposed NJP:

a. That you are accused of the following violations of the UCMJ: [List offense(s) and respective UCMJ articles violated.]

b. Unless attached to or embarked in a vessel, you have the right to refuse NJP. You may demand trial by court-martial in lieu of NJP. If trial by court-martial is demanded, charges could be referred for trial by special or general court-martial. At a special or general court-martial, you have the right to be represented by counsel.

c. That you may, upon request, examine available statements and evidence upon which the allegations are based.

d. That you have the right not to make any statement concerning these offenses.

e. That any statement you do make may be used against you during these proceedings, in trial by court-martial, or in administrative separation proceedings under reference (e).

f. That you may consult with a lawyer, either a civilian lawyer retained by you at your own expense, or a judge advocate at no expense to you, if one is reasonably available.

g. To be present at the hearing, or if you waive such personal appearance, to submit written matters for consideration.

h. That, if you request personal appearance, you will receive a hearing at which you will be accorded the following rights:

(1) To be advised of the offense(s) of which you are alleged to have committed;

(2) That you will not be compelled to make any statement regarding the offense(s) charged and that any statement you do make can be used against you;

(3) To be present during the presentation of all information against you, including the testimony of witnesses present and the receipt of written statements. Copies of any statements will be furnished to you;

(4) To have made available to you for inspection, all items of information in the nature of physical or documentary evidence to be considered by me;

(5) To submit, orally, or in writing, or both, any matter in defense, extenuation, or mitigation, for consideration by me in determining whether you committed the offense(s) in question and, if so, an appropriate punishment;

(6) To have present witnesses, upon request, if their statements are relevant and they are reasonably available;

(7) To be accompanied at the hearing by a personal representative to speak on your behalf. The command has no obligation to provide such a personal representative. It is your own obligation to obtain and arrange for the presence of such a personal representative if you wish one. The personal representative need not be a lawyer; and

(8) To have the proceeding open to the public, unless I determine that the proceedings should be closed for good cause, or unless the punishment to be imposed will not exceed restriction for 14 days and an oral reprimand.

3. You are further advised that if NJP is imposed, you have the right to appeal the NJP to the next superior authority within five working days, if you consider the punishment unjust or disproportionate to the offense(s) for which it is imposed. Such an appeal must be made within a reasonable time following the imposition of NJP. In the absence of unusual circumstances, an appeal made more than five days following imposition of NJP may be considered as not having been made within a reasonable time. Such an appeal must be in writing and should include your reasons for regarding the NJP as unjust or disproportionate. You may be required to undergo NJP imposed while your appeal is pending, except that if action is not taken on the appeal five days after the appeal was submitted, and you so request, any unexecuted punishment involving restraint shall be stayed until action on the appeal is taken.

4. You are further advised that a report of this NJP will be made to the Commandant of the Marine Corps, (Deputy Commandant, Manpower and Reserve Affairs (DC M&RA)) and that you may be subject to involuntary separation proceedings directed by DC M&RA or an Alternate Show Cause Authority in accordance with the procedures set forth in reference (c). If you are voluntarily or involuntarily separated before you complete an active duty

service requirement incurred because you received advanced education assistance (United States Naval Academy, Reserve Officer Training Corps, Platoon Leaders Class, Funded Law Education Program, etc.), you may be required to reimburse the Government on a pro-rata basis for the unserved portion of your service obligation.

5. You will indicate, by return endorsement hereon, your understanding of the foregoing and your decision whether to accept NJP, and return the endorsement to the [Unit] Staff Judge Advocate within five working days.

I. M. COMMANDING

****

_____
(Date)

FIRST ENDORSEMENT

From: Rank First Name MI Last Name MOS USMC/R
To: Commanding General/Officer

1. I hereby acknowledge my understanding of the advice stated above and my right to demand trial by court-martial in lieu of NJP.

2. I [do]/[do not] desire to demand trial by court-martial and [am]/[am not] willing to accept punishment under Article 15, UCMJ.

3. Prior to making my decision, I [did not have]/[had] the opportunity to consult with a lawyer. I understand that action under reference (e) is not precluded by my acceptance of NJP.

_____
(Signature of accused)

_____
(Date)

_____
(Witness, typed or printed name)

Figure 15-2
NJP Notification Based on Fact-Finding Body

From: Commanding General/Officer
To: Rank First Name MI Last Name MOS USMC/R

Subj: NOTIFICATION OF INTENT TO IMPOSE NONJUDICIAL PUNISHMENT

Ref: (a) Paragraph 4, Part V, MCM
(b) JAGINST 5800.7F (JAGMAN)
(c) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(d) SECNAVINST 1920.6_

Encl: (1) Record of formal fact-finding body

1. You are hereby informed that, in accordance with the references, I intend to impose nonjudicial punishment (NJP) on you based upon the information contained in the enclosure.

2. You are advised that the offense(s) for which you will receive NJP is/are: [List offense(s) and respective UCMJ articles violated].

3. You are advised that under the references, you have the following rights with regard to the proposed NJP:

a. Unless attached to or embarked in a vessel, the right to refuse NJP.

b. The right to submit, in writing, any matter in defense, extenuation, or mitigation, for consideration by me in determining whether you committed the offense(s) in question and, if so, an appropriate punishment.

c. The right to appeal the NJP to the next superior authority within five working days, if you consider the punishment unjust or disproportionate to the offense(s) for which it is imposed. Such an appeal must be made within a reasonable time following the imposition of NJP. In the absence of unusual circumstances, an appeal made more than five days following imposition of NJP may be considered as not having been made within a reasonable time. Such an appeal must be in writing and should include your reasons for regarding the NJP as unjust or disproportionate. You may be required to undergo NJP imposed while your appeal is pending, except that if action is not taken on the appeal five days after the appeal was submitted, and you so request, any unexecuted punishment involving restraint shall be stayed until action on the appeal is taken.

4. You are further advised that a report of this NJP will be made to the Commandant of the Marine Corps, (Deputy Commandant, Manpower and Reserve Affairs (DC M&RA)) and that you may be subject to involuntary separation proceedings directed by DC M&RA or an Alternate Show Cause Authority in

accordance with the procedures set forth in references (c) and (d). If you are voluntarily or involuntarily separated before you complete an active duty service requirement incurred because you received advanced education assistance (United States Naval Academy, Reserve Officer Training Corps, Platoon Leaders Class, Funded Law Education Program, etc.), you may be required to reimburse the Government on a pro-rata basis for the unserved portion of your service obligation.

5. You will indicate, by return endorsement hereon, your understanding of the foregoing and your decision whether to accept NJP, and return the endorsement to the [Unit] Staff Judge Advocate within five working days.

I. M. COMMANDING

****

_____
(Date)

FIRST ENDORSEMENT

From: Rank First Name MI Last Name MOS USMC/R
To: Commanding General/Officer

1. I hereby acknowledge my understanding of the advice stated above and my right to demand trial by court-martial in lieu of NJP.

2. I [do]/[do not] desire to demand trial by court-martial and [am]/[am not] willing to accept punishment under Article 15, UCMJ.

3. Prior to making my decision, I [did not have]/[had] the opportunity to consult with a lawyer. I understand that action under reference (d) is not precluded by my acceptance of NJP.

_____
(Signature of accused)

_____
(Date)

_____
(Witness, typed or printed name)

Figure 15-3
Acknowledgement of NJP Appeal Rights

From: Rank First Name MI Last Name MOS USMC/R
To: Commanding General/Officer who imposed NJP

Subj: ACKNOWLEDGMENT OF NONJUDICIAL PUNISHMENT APPEAL RIGHTS

Ref: (a) SECNAVINST 1920.6_
(b) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(c) MCO 1900.16 w/ch 1 (MARCORSEPMAN)

1. I [Rank First Name MI Last Name MOS USMC/R], assigned or attached to [unit], have been informed of the following facts concerning my right of appeal as a result of [NJP authority] nonjudicial punishment held on [date NJP imposed].

2. My appeal must be submitted within a reasonable time. Five working days after the punishment is imposed is normally considered a reasonable time in the absence of unusual circumstances. Any appeal submitted thereafter may be rejected as not timely. If there are unusual circumstances which I believe will make it extremely difficult or not practical to submit an appeal within the five-day period, I should immediately advise you of such circumstances and request an appropriate extension of time in which to file my appeal.

a. The appeal must be in writing.

b. There are only two grounds for appeal; that is:

(1) The punishment was unjust; or

(2) The punishment was disproportionate to the offense(s) for which it was imposed.

3. I understand that, if I submit an appeal, it may be referred to a military lawyer for consideration and advice before action is taken on the appeal.

4. _____ I intend to appeal the imposition of NJP.

_____ I do not intend to appeal the imposition of NJP.

[If a Board of Inquiry will be recommended, add the following language:]

5. I have been notified of my right to submit a request for [resignation][retirement] in lieu of administrative separation processing.

_____ I desire to submit a request for [resignation] [retirement] in lieu of administrative separation processing in accordance with references (a) through (c).

_____ I do not desire to submit a request for [resignation] [retirement] in lieu of administrative separation processing.

_____ _____
(signature) (date)

_____ _____
(witness signature) (date)

Figure 15-4
Acknowledgement of Punitive Letter of Reprimand

From: Commanding General/Commanding Officer who imposed NJP
To: Rank First Name MI Last Name MOS USMC/R

Subj: ACKNOWLEDGEMENT OF PUNITIVE LETTER OF REPRIMAND AND APPEAL RIGHTS

Ref: (a) CG/CO, [Command] ltr [SSIC] [Code] of [Date]
(b) JAGINST 5800.7F (JAGMAN)

1. I acknowledge receipt of reference (a) on _____.

2. As indicated in the references, I understand that I may appeal the punitive letter of reprimand. I acknowledge that I have five working days from the date I received the punitive letter of reprimand to submit an appeal. The appeal, if made, will be addressed to the Commanding General, [Unit] via the Commanding General [Unit].

In view of the above, I [do not] intend to appeal the punitive letter of reprimand.

3. Per the references, I understand that I may forward, within 15 days of receipt of the final decision on my appeal, or five days of the date of my notification of my intent not to appeal, a statement concerning this letter for inclusion in my Official Military Personnel File (OMPF).

In view of the above, I [do not] intend to submit a statement concerning the punitive letter of reprimand for inclusion in my OMPF.

I. M. OFFICER

Figure 15-5
Report of NJP

From: Commanding General/Officer (who imposed NJP)
To: Commandant of the Marine Corps (JPL)
Via: (1) Chain of Command
(2) Alternate Show Cause Authority

Subj: REPORT OF NONJUDICIAL PUNISHMENT IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(b) Paragraph 4, Part V, MCM
(c) JAGINST 5800.7F (JAGMAN)
(d) UCMJ
(e) SECNAVINST 1920.6_
(f) MCO 1900.16 w/ch 1 (MARCORSEPMAN)

Encl: (1) Verbatim record of NJP hearing
(2) [Punitive letter of reprimand]
(3) Investigation/Evidence
(4) Notification of intent to impose NJP and acknowledgement
(5) Acknowledgement of NJP appeal rights
(6) [Acknowledgement of receipt of punitive letter of reprimand and appeal rights]
(7) [Appeal]
(8) SACC screen and treatment completion (if required)
(9) Medical evaluation (if required)
(10) PTSD/TBI screen (if required)
(11) Acknowledgment of advanced education assistance reimbursement requirement
(12) Acknowledgment of receipt

1. This report is submitted per paragraph 010605 of reference (a).

2. On [date], following the applicable provisions of references (b), (c), and (d), I imposed nonjudicial punishment (NJP) on [Rank Name]. The charges and disposition thereof are as follows:

Charge(s)	Plea	Finding	Appeal/Status
Article ____	[G/NG]	[G/NG]	[Yes/Denied] [Yes/Approved] [No]

3. [Rank Name] voluntarily accepted NJP and I imposed the following punishment: [set forth punishment imposed-forfeitures shall be expressed in whole dollar amounts]. See enclosures (1) and (2).

4. The circumstances giving rise to the imposition of NJP in this case are: [Provide concise, even-handed explanation of the offense(s),

including significant matters in aggravation, extenuation, and mitigation.] See enclosure (3).

5. A verbatim record of the NJP hearing is contained in enclosure (1). [Rank Name] was present at the hearing and was accorded all rights contained in enclosure (4). [Rank Name] indicated [his/her] acceptance of the imposition of NJP and [his/her] desire not to demand court-martial in enclosure (4).

6. I advised [Rank Name] of [his/her] right to appeal the NJP [and punitive letter of reprimand]. See enclosure(s) (5) [and (6)].

7. [On [date],] [Rank Name] [did not] appeal[ed] the NJP [and/or the punitive letter of reprimand]. See enclosures (5)-(7).

8. [If substance-related incident] On [date], the [Name] Substance Abuse Counseling Center evaluated [Rank Name] and found that [he/she] [did/did not] meet the criteria for a substance-related disorder. The counselor recommended that [Rank Name] attend [treatment]. On [date], [Rank Name] completed the recommended treatment. See enclosure (8).

9. [If separation recommended] On [date], a medical provider evaluated [Rank Name] and found that he/she is qualified for separation, enclosure (9). [Brief synopsis of any condition(s) and whether the condition(s) had impact on the officer’s behavior.]

10. [If separation recommended and PTSD/TBI screen required per paragraph 010302.D of reference (a)] On [date], an appropriately privileged medical provider—as enumerated in paragraph 010302.D of reference (a)—evaluated [Rank Name] for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI), enclosure (10). [Rank Name] screened positive for PTSD/TBI. [State whether PTSD/TBI had impact on the officer’s behavior.] [Explain reason for recommended separation and characterization of service]. [OR]

10. [If separation recommended and PTSD/TBI screen required per paragraph 010302.D of reference (a)] On [date], an appropriately privileged medical provider—as enumerated in paragraph 010302.D of reference (a)—evaluated [Rank Name] for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI), and found that he/she does not have PTSD/TBI, enclosure (10).

11. [Rank Name] has been advised of the reimbursement requirement for advanced education assistance. [Rank Name's] acknowledgment of this requirement is contained in enclosure (11). I am not aware that [Rank Name] received any advanced education assistance. [OR]

11. [Rank Name] has been advised of the reimbursement requirement for advanced education assistance. [Rank Name's] acknowledgment of this requirement is contained in enclosure (11). [[Rank Name] attended the Naval Academy and received advanced education assistance in the approximate amount of $_____.]/[[Rank Name] received advanced education assistance via the [Platoon Leaders Class/Naval Reserve Officer Training

Corps program] in the approximate amount of $_____.] I [do not] recommend that the reimbursement requirement be waived in this case.

12. [Rank Name] will be afforded the opportunity to read this report. [Rank Name] will acknowledge that adverse information pertaining to this incident may be included in [his/her] Official Military Personnel File, enclosure (12).

13. I [do not] recommend that [Rank Name] be required to show cause for retention in the Marine Corps at a Board of Inquiry pursuant to reference (e). [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.] [OR]

13. [For probationary officers] I [do not] recommend that [Rank Name] be separated via notification procedures for [substandard performance of duty and misconduct and moral or professional dereliction] with a [General (Under Honorable Conditions)/Honorable] characterization of service pursuant to reference (e). [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.]

I. M. GENERAL

Figure 15-6
Report of No Misconduct

From: Commanding General
To: Commandant of the Marine Corps (JPL)

Subj: REPORT OF NO MISCONDUCT IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(b) SECNAVINST 1920.6_

Encl: (1) Investigation/Evidence

1. This report is submitted per paragraph 010602 of reference (a).

2. I have reviewed the allegations involving [Rank Name] contained in the enclosure and find that [Rank Name] did not commit the alleged misconduct.

3. [Summary of incident, investigative efforts, and reason misconduct is unsubstantiated.] Accordingly, the allegations are unsubstantiated and this case is closed.

I. M. GENERAL

Copy to:
SJA, [Alternate Show Cause Authority]
SJA, [Chain of Command]
[Rank Name of Accused]

Figure 15-7
Acknowledgement of Advance Education Recoupment

From: Rank First Name MI Last Name MOS USMC/R
To: Commanding General/Officer, Unit

Subj: ACKNOWLEDGEMENT OF ADVANCED EDUCATION ASSISTANCE RECOUPMENT

1. I understand that, if I am voluntarily or involuntarily separated before I complete an active duty service requirement incurred because I received advanced education assistance (United States Naval Academy, Reserve Officer Training Corps, Platoon Leaders Class, Funded Law Education Program, etc.), I may be required to reimburse the Government on a pro-rata basis for the unserved portion of my service obligation.

I. M. OFFICER

Figure 15-8
Acknowledgement of Receipt of Report

From: Rank First Name MI Last Name MOS USMC/R
To: Commanding General, Unit

Subj: ACKNOWLEDGEMENT OF RECEIPT OF REPORT OF [NJP, MISCONDUCT, CIVILIAN CONVICTION, COURT-MARTIAL CONVICTION, BOI] AND INCLUSION OF ADVERSE MATERIAL IN OFFICIAL MILITARY PERSONNEL FILE

Ref: (a) CG, [Unit] ltr [SSIC] [Code] of [date] (Report)
(b) MCO P1070.12K w/ch 1 (IRAM)

1. I hereby acknowledge that I received reference (a) on _____ (date) and that I have 10 calendar days to submit either a response or written indication that I have no matters to submit.

2. I understand that the adverse material in reference (a) will be forwarded to the Deputy Commandant, Manpower and Reserve Affairs (DC M&RA) for a decision on whether the material will be included in my Official Military Personnel File (OMPF) in accordance with reference (b). I further understand that if DC M&RA elects to include the adverse material into my OMPF, any statement I submit will be included in my OMPF along with the adverse material. If I choose not to submit a statement and DC M&RA elects to include the adverse material into my OMPF, I understand that this letter will be included in my OMPF along with the adverse material in reference (a).

3. ( ) I desire to submit a statement.

( ) I do not desire to submit a statement and understand that this letter will be included in my OMPF if DC M&RA elects to include the adverse material in my OMPF.

I. M. OFFICER

Figure 15-9
Report of Misconduct

From: Commanding General/Officer
To: Commandant of the Marine Corps (JPL)
Via: (1) Chain of Command
(2) Alternate Show Cause Authority

Subj: REPORT OF MISCONDUCT IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(b) MCO P1070.12K w/ch 1 (IRAM)
(c) SECNAVINST 1920.6_

Encl: (1) Investigation/Evidence
(2) Administrative Counseling
(3) SACC screen and treatment completion (if required)
(4) Medical evaluation (if required)
(5) PTSD/TBI screen (if required)
(6) Acknowledgment of advanced education assistance reimbursement requirement
(7) Acknowledgement of receipt

1. This report is submitted per paragraph 010604 of reference (a).

2. [Synopsis of offense] The circumstances giving rise to this Report are: [Provide concise, even-handed explanation of the reported misconduct including significant matters in aggravation and extenuation and mitigation.] See enclosure (1).

3. [Synopsis of disposition, if any] [On [date], I administratively counseled [Rank Name] in accordance with paragraph 3005 of reference (b), enclosure (2).] [I addressed [Rank Name's] misconduct via administrative measures.*]

(*Note: Do not mention the issuance of non-punitive letters of caution or informal counseling. Generically describe such actions as "administrative measures.")

4. [If substance-related incident] On [date], the [Name] Substance Abuse Counseling Center evaluated [Rank Name] and found that [he/she] [did/did not] meet the criteria for a substance-related disorder. The counselor recommended that [Rank Name] attend [treatment]. On [date], [Rank Name] completed the recommended treatment. See enclosure (3).

5. [If separation recommended] On [date], a medical provider evaluated [Rank Name] and found that [he/she] is qualified for separation, enclosure (4). [Brief synopsis of any condition(s) and whether the condition(s) had impact on the officer's behavior.]

6. [If separation is recommended and PTSD/TBI screen required per paragraph 010302.D of reference (a)] On [date], an appropriately privileged medical provider—as enumerated in paragraph 010302.D of reference (a)—evaluated [Rank Name] for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI), enclosure (5). [Rank Name] screened positive for PTSD/TBI. [State whether PTSD/TBI had impact on the officer's behavior.] [Explain reason for recommended separation and characterization of service.] [OR]

6. [If separation is recommended and PTSD/TBI screen required per paragraph 010302.D of reference (a)] On [date], an appropriately privileged medical provider—as enumerated in paragraph 010302.D of reference (a)—evaluated [Rank Name] for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI), and found that [he/she] does not have PTSD/TBI, enclosure (5).

7. [Rank Name] has been advised of the reimbursement requirement for advanced education assistance. [Rank Name's] acknowledgment of this requirement is contained in enclosure (6). I am not aware that [Rank Name] received any advanced education assistance. [OR]

7. [Rank Name] has been advised of the reimbursement requirement for advanced education assistance. [Rank Name's] acknowledgment of this requirement is contained in enclosure (6). [[Rank Name] attended the Naval Academy and received advanced education assistance in the approximate amount of $_____.]/[[Rank Name] received advanced education assistance via the [Platoon Leaders Class/Naval Reserve Officer Training Corps program, etc.] in the approximate amount of $_____.] I [do not] recommend that the reimbursement requirement be waived in this case.

8. [Rank Name] will be afforded the opportunity to read this report. [Rank Name] will acknowledge that adverse information pertaining to this incident may be included in [his/her] Official Military Personnel File, enclosure (7).

9. I [do not] recommend that [Rank Name] be required to show cause for retention in the Marine Corps at a Board of Inquiry pursuant to reference (c). [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.]

9. [For probationary officers] I [do not] recommend that [Rank Name] be separated via notification procedures for [substandard performance of duty and misconduct and moral or professional dereliction] with a [General (Under Honorable Conditions)]/[Honorable] characterization of service pursuant to reference (c). [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.]

I. M. GENERAL

Figure 15-10
Report of Civilian Conviction

From: Commanding General/Officer
To: Commandant of the Marine Corps (JPL)
Via: (1) Chain of Command
(2) Alternate Show Cause Authority

Subj: REPORT OF CIVILIAN CONVICTION IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(b) MCO P1070.12K w/ch 1 (IRAM)
(c) SECNAVINST 1920.6_

Encl: (1) Civilian arrest/court documents
(2) SACC screen and treatment completion (if required)
(3) Medical evaluation (if required)
(4) PTSD/TBI screen (if required)
(5) Acknowledgment of advanced education assistance reimbursement requirement
(6) Acknowledgement of receipt

1. This report is submitted per paragraph 010606 of reference (a).

2. [Synopsis of offense] The circumstances giving rise to this report are: [Provide concise, even-handed explanation of the civilian conviction, including significant matters in aggravation and extenuation and mitigation.] See enclosure (1).

3. [Synopsis of disposition], enclosure (1). [Include documentation reflecting the satisfaction of any sentence imposed.]

4. [If substance-related incident] On [date], the [Name] Substance Abuse Counseling Center evaluated [Rank Name] and found that [he/she] [did/did not] meet the criteria for a substance-related disorder. The counselor recommended that [Rank Name] attend [treatment]. On [date], [Rank Name] completed the recommended treatment. See enclosure (2).

5. [If separation recommended] On [date], a medical provider evaluated [Rank Name] and found that [he/she] is qualified for separation, enclosure (3). [Brief synopsis of any condition(s) and whether the condition(s) had impact on the officer's behavior.]

6. [If separation recommended and PTSD/TBI screen required per paragraph 010302.D of reference (a)] On [date], an appropriately privileged medical provider—as enumerated in paragraph 010302.D of reference (a)—evaluated [Rank Name] for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI), enclosure (4). [Rank Name] screened positive for PTSD/TBI. [State whether PTSD/TBI had impact on the officer's behavior.] [Explain reason for recommended separation and characterization of service]. [OR]

6. [If separation recommended and PTSD/TBI screen required per paragraph 010302.D of reference (a)] On [date], an appropriately privileged medical provider—as enumerated in paragraph 010302.D of reference (a)—evaluated [Rank Name] for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI), and found that he/she does not have PTSD/TBI, enclosure (4).

7. [Rank Name] has been advised of the reimbursement requirement for advanced education assistance. [Rank Name's] acknowledgment of this requirement is contained in enclosure (5). I am not aware that [Rank Name] received any advanced education assistance. [OR]

7. [Rank Name] has been advised of the reimbursement requirement for advanced education assistance. [Rank Name's] acknowledgment of this requirement is contained in enclosure (5). [[Rank Name] attended the Naval Academy and received advanced education assistance in the approximate amount of $_____.]/[[Rank Name] received advanced education assistance via the [Platoon Leaders Class/Naval Reserve Officer Training Corps program, etc.] in the approximate amount of $_____.] I [do not] recommend that the reimbursement requirement be waived in this case.

8. [Rank Name] will be afforded the opportunity to read this report. [Rank Name] will acknowledge that adverse information pertaining to this incident may be included in [his/her] Official Military Personnel File, enclosure (6).

9. I [do not] recommend that [Rank Name] be required to show cause for retention in the Marine Corps at a Board of Inquiry pursuant to reference (c). [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.] [OR]

9. [For probationary officers] I [do not] recommend that [Rank Name] be separated via notification procedures for [substandard performance of duty and misconduct and moral or professional dereliction] with a [General (Under Honorable Conditions)]/ [Honorable] characterization of service pursuant to reference (c). [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.]

I. M. GENERAL

Figure 15-11
Report of Court-Martial Conviction

From: Commanding General/Officer
To: Commandant of the Marine Corps (JPL)
Via: (1) Chain of Command
(2) Alternate Show Cause Authority

Subj: REPORT OF COURT-MARTIAL CONVICTION IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(b) MCO P1070.12K w/ch 1 (IRAM)
(c) SECNAVINST 1920.6_

Encl: (1) Record of trial
(2) SACC screen and treatment completion (if required)
(3) Medical evaluation (if required)
(4) PTSD/TBI screen (if required)
(5) Acknowledgment of advanced education assistance reimbursement requirement
(6) Acknowledgement of receipt

1. This report is submitted per paragraph 010607 of reference (a).

2. [Synopsis of offense] The circumstances giving rise to this report are: [Provide concise, even-handed explanation of the court-martial conviction, including significant matters in aggravation and extenuation and mitigation.] See enclosure (1).

3. [Synopsis of disposition], enclosure (1). [Include documentation reflecting the satisfaction of any sentence imposed.]

4. [If substance-related incident] On [date], the [Name] Substance Abuse Counseling Center evaluated [Rank Name] and found that [he/she] [did/did not] meet the criteria for a substance-related disorder. The counselor recommended that [Rank Name] attend [treatment]. On [date], [Rank Name] completed the recommended treatment. See enclosure (2).

5. [If separation recommended] On [date], a medical provider evaluated [Rank Name] and found that [he/she] is qualified for separation, enclosure (3). [Brief synopsis of any condition(s) and whether the condition(s) had impact on the officer's behavior.]

6. [If separation recommended and PTSD/TBI screen required per paragraph 010302.D of reference (a)] On [date], an appropriately privileged medical provider—as enumerated in paragraph 010302.D of reference (a)—evaluated [Rank Name] for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI), enclosure (4). [Rank Name] screened positive for PTSD/TBI. [State whether PTSD/TBI had impact on the officer's behavior.] [Explain reason for recommended separation and characterization of service.] [OR]

6. [If separation recommended and PTSD/TBI screen required per paragraph 010302.D of reference (a)] On [date], an appropriately privileged medical provider—as listed in paragraph 010302.D of reference (a)—evaluated [Rank Name] for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI), and found that [he/she] does not have PTSD/TBI, enclosure (4).

7. [Rank Name] has been advised of the reimbursement requirement for advanced education assistance. [Rank Name's] acknowledgment of this requirement is contained in enclosure (5). I am not aware that [Rank Name] received any advanced education assistance. [OR]

7. [Rank Name] has been advised of the reimbursement requirement for advanced education assistance. [Rank Name's] acknowledgment of this requirement is contained in enclosure (5). [[Rank Name] attended the Naval Academy and received advanced education assistance in the approximate amount of $_____.]/[[Rank Name] received advanced education assistance via the [Platoon Leaders Class/Naval Reserve Officer Training Corps program, etc.] in the approximate amount of $_____.] I [do not] recommend that the reimbursement requirement be waived in this case.

8. [Rank Name] will be afforded the opportunity to read this report. [Rank Name] will acknowledge that adverse information pertaining to this incident may be included in [his/her] Official Military Personnel File, enclosure (6).

9. I [do not] recommend that [Rank Name] be required to show cause for retention in the Marine Corps at a Board of Inquiry pursuant to reference (c). [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.] [OR]

9. [For probationary officers] I [do not] recommend that [Rank Name] be separated via notification procedures for [substandard performance of duty and misconduct and moral or professional dereliction] with a [General (Under Honorable Conditions)/ Honorable] characterization of service pursuant to reference (c). [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.]

I. M. GENERAL

Figure 15-12
Report of No Substandard Performance

From: Commanding General
To: Commandant of the Marine Corps (JPL)

Subj: REPORT OF NO SUBSTANDARD PERFORMANCE OF DUTY IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(b) SECNAVINST 1920.6_

Encl: (1) Investigation/Evidence

1. This report is submitted per paragraph 010807.D of reference (a).

2. I have reviewed the allegations involving [Rank Name] contained in the enclosure and find that [Rank Name's] performance was not substandard.

3. [Summary of incident, investigative efforts, and reason substandard performance of duty is unsubstantiated.] Accordingly, the allegations are unsubstantiated and this case is closed.

I. M. GENERAL

Copy to:
SJA, [Alternate Show Cause Authority]
SJA, [Chain of Command]
[Rank Name of Accused]

Figure 15-13
Report of Substandard Performance

From: Commanding General/Officer
To: Commandant of the Marine Corps (JPL)
Via: (1) Chain of Command
(2) Alternate Show Cause Authority

Subj: REPORT OF SUBSTANDARD PERFORMANCE OF DUTY IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(b) SECNAVINST 1920.6_

Encl: (1) Investigation/Evidence
(2) SACC screen and treatment completion (if required)
(3) Medical evaluation (if required)
(4) PTSD/TBI screen (if required)
(5) Acknowledgment of advanced education assistance reimbursement requirement
(6) Acknowledgement of receipt

1. This report is submitted per paragraph 010807.E of reference (a).

2. The circumstances giving rise to this Report are: [Provide concise, even-handed explanation of the reported substandard performance of duty including significant matters in aggravation and extenuation and mitigation.] See enclosure (1).

3. [If substance-related incident] On [date], the [Name] Substance Abuse Counseling Center evaluated [Rank Name] and found that [he/she] [did/did not] meet the criteria for a substance-related disorder. The counselor recommended that [Rank Name] attend [treatment]. On [date], [Rank Name] completed the recommended treatment. See enclosure (2).

4. [If separation recommended] On [date], a medical provider evaluated [Rank Name] and found that [he/she] is qualified for separation, enclosure (3). [Brief synopsis of any condition(s) and whether the condition(s) had impact on the officer's behavior.]

5. [If separation recommended and PTSD/TBI screen required per paragraph 10302.D of reference (a)] On [date], an appropriately privileged medical provider—as enumerated in paragraph 010302.D of reference (a)—evaluated [Rank Name] for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI), enclosure (4). [Rank Name] screened positive for PTSD/TBI. [State whether PTSD/TBI had impact on the officer's behavior.] [Explain reason for recommended separation.] [OR]

5. [If separation recommended and PTSD/TBI screen required per paragraph 010302.D of reference (a)] On [date], an appropriately privileged medical provider—as enumerated in paragraph 010302.D of reference (a)—evaluated

[Rank Name] for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI), and found that [he/she] does not have PTSD/TBI, enclosure (4).

6. [Rank Name] has been advised of the reimbursement requirement for advanced education assistance. [Rank Name's] acknowledgment of this requirement is contained in enclosure (5). I am not aware that [Rank Name] received any advanced education assistance. [OR]

6. [Rank Name] has been advised of the reimbursement requirement for advanced education assistance. [Rank Name's] acknowledgment of this requirement is contained in enclosure (5). [[Rank Name] attended the Naval Academy and received advanced education assistance in the approximate amount of $_____.]/[[Rank Name] received advanced education assistance via the [Platoon Leaders Class/Naval Reserve Officer Training Corps program, etc.] in the approximate amount of $_____.] I [do not] recommend that the reimbursement requirement be waived in this case.

7. [Rank Name] will be afforded the opportunity to read this report. [Rank Name] will acknowledge that adverse information pertaining to this incident may be included in [his/her] Official Military Personnel File, enclosure (6).

8. I [do not] recommend that [Rank Name] be required to show cause for retention in the Marine Corps at a Board of Inquiry pursuant to reference (b). [Comments as to the character of the officer and the allegations of substandard performance of duty.] [OR]

8. [For probationary officers] I [do not] recommend that [Rank Name] be separated via notification procedures for substandard performance of duty with an Honorable characterization of service. [Comments as to the character of the officer and the allegations of substandard performance of duty.]

I. M. GENERAL

Figure 15-14
BOI Direction Letter (Not Retirement Eligible)

From: Commanding General/Commander
To: Commanding General, Unit

Subj: BOARD OF INQUIRY IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) SECNAVINST 1920.6_
(b) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(c) [Report of NJP/Misconduct/etc.]

1. Pursuant to paragraphs 13d of reference (a) and 010202 of reference (b), I have been designated an Alternate Show Cause Authority for the Marine Corps. In that capacity, I have reviewed the allegations in reference (c), and have determined that there is sufficient information to refer this case to a Board of Inquiry (BOI) for a recommendation as to whether [Rank Name] should be retained in the Marine Corps and, if separation is recommended, the recommended characterization of service.

2. Accordingly, you are directed to convene a BOI under the provisions of references (a) and (b) to consider [Rank Name's] case. The specific reasons for separation to be considered by the Board are [substandard performance of duty, misconduct, and moral or professional dereliction] as evidenced by one or more of the following:

a. [Applicable bases from Enclosure (3) of reference (a). If the officer is directed to show cause for the commission of an offense under the Uniform Code of Military Justice (UCMJ) punishable by confinement of six months or more, include the applicable Article(s)].

*Note: BOI Notification (Figure 15-16) may only list bases listed here

3. [Rank Name] will be notified by separate correspondence that separation proceedings have been initiated and of his/her right to 30 days delay in which to prepare his/her case.

4. The written report of the BOI shall be forwarded to this Command (staff judge advocate (SJA)) via the chain of command. A verbatim transcript of the proceedings is required in any case where the Board finds that any of the allegations are supported by a preponderance of the evidence.

5. Correspondence relating to this and all other officer administrative separation processing should be mailed using Federal Express.

6. Reference (b) provides time goals for processing officer administrative separation cases. Failure to comply with those standards shall be addressed in the return endorsement.

I. M. GENERAL

Copy to:
CMC (JAM)
SJA, [Alternate Show Cause Authority]
SJA, [Chain of Command]
[Rank Name of Accused]

Figure 15-15
BOI Direction Letter (Retirement Eligible)

From: Commanding General/Commander
To: Commanding General, Unit

Subj: BOARD OF INQUIRY IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) SECNAVINST 1920.6_
(b) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(c) [Report of NJP/Misconduct/etc.]

1. Pursuant to paragraphs 13d of reference (a) and 010202 of reference (b), I have been designated an Alternate Show Cause Authority for the Marine Corps. In that capacity, I have reviewed the allegations in reference (c), and have determined that there is sufficient information to refer this case to a Board of Inquiry (BOI) for a recommendation as to whether [Rank Name] should be involuntarily retired from the Marine Corps and, if retirement is recommended, whether [Rank Name] should be retired in his/her current grade or a lesser grade.

2. Accordingly, you are directed to convene a BOI under the provisions of references (a) and (b) to consider [Rank Name's] case. The specific reasons for separation to be considered by the Board are [substandard performance of duty, misconduct, and moral or professional dereliction] as evidenced by one or more of the following:

a. [Applicable bases from Enclosure (3) of reference (a). If the officer is directed to show cause for the commission of an offense under the Uniform Code of Military Justice (UCMJ) punishable by confinement of six months or more, include the applicable Article(s)].

*Note: BOI Notification (Figure 15-17) may only list bases listed here

3. [Rank Name] will be notified by separate correspondence that separation proceedings have been initiated and of his/her right to 30 days delay in which to prepare his/her case.

4. The written report of the BOI shall be forwarded to this Command (staff judge advocate (SJA)) via the chain of command. A verbatim transcript of the proceedings is required in any case where the Board finds that any of the allegations are supported by a preponderance of the evidence.

5. Correspondence relating to this and all other officer administrative separation processing should be mailed using Federal Express.

6. Reference (b) provides time goals for processing officer administrative separation cases. Failure to comply with those standards shall be addressed in the return endorsement.

I. M. GENERAL

Copy to:
CMC (JMJ)
SJA, [Alternate Show Cause Authority]
SJA, [Chain of Command]
[Rank Name of Accused]

Figure 15-16
BOI Notification (Not Retirement Eligible)

From: Alternate Show Cause Authority/Commanding General
To: Rank First Name MI Last Name MOS USMC/R

Subj: NOTIFICATION OF BOARD OF INQUIRY

Ref: (a) SECNAVINST 1920.6_
(b) CG, [Unit] ltr 1920 Code of [date] (BOI dir ltr)

Encl: (1) Rights of a Respondent
(2) Acknowledgment of Notice

1. Pursuant to references (a) and (b), you are notified that a Board of Inquiry (BOI) will be convened to make a recommendation on your retention in the U.S. Marine Corps. The specific reason[s] for separation to be considered by the Board [is]/[are] [substandard performance of duty], [misconduct, and moral or professional dereliction] as evidenced by [one of] the following:

a. [Basis/Bases for separation from reference (b).]*

*Note: May only notify the officer of the reason(s) and basis/bases as directed by the Show Cause Authority/Alternate Show Cause Authority.

2. The BOI will make the following determinations, by majority vote, based on evidence presented at the hearing:

a. A finding on the reason[s] for separation. This finding is based on a preponderance of the evidence standard; and

b. One of the following:

(1) If the Board finds that [one or more of] the reason[s] for separation [is]/[are] supported by sufficient evidence to warrant separation, it may recommend your separation and make an additional recommendation as to the appropriate characterization of service; or

(2) If the Board finds that the reason[s] for separation are not supported by sufficient evidence to warrant separation for cause, upon receipt of the Report of the BOI, the Deputy Commandant, Manpower and Reserve Affairs will close your case.

3. The most adverse characterization of service that the Board may recommend is ([Honorable*]/[Other Than Honorable]).

*Note: If the officer is only directed to show cause for substandard performance of duty, the board may only separate the officer with an Honorable characterization of service.

4. You have 30 days in which to prepare your case. As the respondent, you are entitled to exercise the rights set forth in enclosure (1). Your failure to invoke any of these rights will not be considered as a bar to the BOI proceedings.

5. This letter is the notice required by reference (a). You will be notified of the names of the Board members and of the date and location of the hearing by separate correspondence.

6. You are directed to acknowledge receipt of this notification by completing enclosure (2) and returning it to this Command (staff judge advocate (SJA)) within five working days of receipt.

I. M. Commanding
(Can be signed by direction)

Copy to:
CMC (JAM)
SJA, [Alternate Show Cause Authority]
SJA, [Chain of Command]
[Rank Name of Respondent]

Figure 15-17
BOI Notification (Retirement Eligible)

From: Alternate Show Cause Authority/Commanding General
To: Rank First Name MI Last Name MOS USMC/R

Subj: NOTIFICATION OF BOARD OF INQUIRY

Ref: (a) SECNAVINST 1920.6_
(b) CG, [Unit] ltr 1920 Code of [date] (BOI dir ltr)

Encl: (1) Rights of a Respondent
(2) Acknowledgment of Notice

1. Pursuant to references (a) and (b), you are notified that a Board of Inquiry (BOI) will be convened to make a recommendation on your retention in the U.S. Marine Corps. The specific reason[s] for involuntary retirement to be considered by the Board [is]/[are] [substandard performance of duty], [misconduct, and moral or professional dereliction] as evidenced by [one of] the following:

a. [Basis/Bases for retirement from reference (b).]*

*Note: May only notify the officer of the reason(s) and basis/bases as directed by the Show Cause Authority/Alternate Show Cause Authority.

2. The BOI will make the following determinations, by majority vote, based on evidence presented at the hearing:

a. A finding on the reason[s] for retirement. This finding is based on a preponderance of the evidence standard; and

b. One of the following:

(1) If the Board finds that [one or more of] the reason[s] for retirement [is]/[are] supported by sufficient evidence to warrant retirement, it may recommend your retirement and make an additional recommendation as to retirement grade; or

(2) If the Board finds that the reason[s] for retirement are not supported by sufficient evidence to warrant retirement for cause, upon receipt of the Report of the BOI, the Deputy Commandant, Manpower and Reserve Affairs will close your case.

3. Because you are a retirement-eligible officer, if the Board recommends retirement, the Board will also recommend whether you should be retired in your current grade or a lesser grade. The Board must recommend the grade in which you last served satisfactorily. [If the DC M&RA has authorized the Board to recommend a characterization of service: "The board may make an additional charactization as to the approriate characterization of your service. The most adverse characterziation of service of service that the Board may record is_____." The Board's recommendation is

merely a recommendation; the final decision as to retirement grade rests with the Secretary of the Navy.

4. You have 30 days in which to prepare your case. As the respondent, you are entitled to exercise the rights set forth in enclosure (1). Your failure to invoke any of these rights will not be considered as a bar to the BOI proceedings.

5. This letter is the notice required by reference (a). You will be notified of the names of the Board members and of the date and location of the hearing by separate correspondence.

6. You are directed to acknowledge receipt of this notification by completing enclosure (2) and returning it to this Command (staff judge advocate (SJA)) within five working days of receipt.

I. M. Commanding
(Can be signed by direction)

Copy to:
CMC (JAM)
SJA, [Alternate Show Cause Authority]
SJA, [Chain of Command]
[Rank Name of Respondent]

Figure 15-18
BOI Convening Order

From: Commanding General
To: Senior Member USMC/R

Subj: APPOINTING ORDER FOR THE BOARD OF INQUIRY IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) SECNAVINST 1920.6_
(b) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)

1. In accordance with the references, you are hereby appointed as the Senior Member of the Board of Inquiry (BOI) in the case of [Rank First Name MI Last Name MOS USMC/R]. The following other officers are appointed as members:

a. [Rank Initials Last Name], U.S. Marine Corps; and

b. [Rank Initials Last Name], U.S. Marine Corps.

2. [Rank Initials Last Name], U.S. Marine Corps is appointed as the Legal Advisor.

3. You will be guided in the performance of your duties by the provisions of references (a) and (b). The BOI hearing shall be held at [Marine Corps Base Name] in [physical location] or as otherwise directed. The BOI is scheduled for [date]. The hearing is anticipated to take [no more than one day][x days]. The uniform will be [uniform].

I. M. GENERAL

Copy to:
SJA, [Unit]
BOI Members
Recorder
Counsel for Respondent
Legal Advisor

Figure 15-19(a)
Request for Waiver of Minimum Legal Advisor Qualifications

From: Command SJA
To: Commandant of the Marine Corps (JPL)

Subj: REQUEST FOR WAIVER OF MINIMUM LEGAL ADVISOR QUALIFICATIONS IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)

1. Background. Pursuant to paragraph 010903.B of the reference, a legal advisor for a Board of Inquiry (BOI) must be a judge advocate in the pay grade of O-4 or above who has previously been a BOI recorder, a BOI counsel for the respondent, or who is or has been, a military judge or a staff judge advocate to a GCMCA. A frocked O-4 meets the pay grade requirement to serve as a legal advisor. The reference further provides that if the minimum qualifications for a BOI legal advisor cannot be met, the Staff Judge Advocate for the General Court-Martial Convening Authority may request a waiver of the minimum qualifications from the Commandant of the Marine Corps (JPL).

2. Request. Request a waiver of the minimum recorder qualifications for [Attorney Rank Name].

3. Justification. [As applicable]

4. The point of contact for this matter is [...].

I. M. SJA

Figure 15-19(b)
Request for Waiver of Minimum BOI Recorder Qualifications

From: Command SJA
To: Commandant of the Marine Corps (JPL)

Subj: REQUEST FOR WAIVER OF MINIMUM RECORDER QUALIFICATIONS IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)

1. Background. Pursuant to paragraph 010903.A of the reference, a recorder for a Board of Inquiry (BOI) must be a judge advocate in the pay grade of O-3 or above who has had at least one year of trial experience. The reference further states that if the minimum qualifications for a BOI recorder cannot be met, the Staff Judge Advocate for the General Court-Martial Convening Authority may request a waiver of the minimum qualifications from the Commandant of the Marine Corps (JPL).

2. Request. Request a waiver of the minimum recorder qualifications for [Attorney Rank Name].

3. Justification. [As applicable]

4. The point of contact for this matter is [...].

I. M. SJA

Figure 15-20
BOI Script

BOARD OF INQUIRY SCRIPT

IN THE CASE OF _____

PRELIMINARY NOTES

1. Attendance at the board hearing is the primary duty of an officer so detailed. Members, the recorder, and the defense counsel cannot miss the board proceedings unless prevented by illness, ordered away, or excused IN WRITING by a written modification to the convening order signed by the convening authority.

2. This guide is based on SECNAVINST 1920.6_ and Volume 15 of the LSAM. All participants should thoroughly familiarize themselves with the references.

3. The recorder must obtain a Privacy Act statement from the respondent if the respondent plans to provide sworn or unsworn testimony at the hearing.

4. The following abbreviations are used throughout this Guide:

SRMBR: Senior Member of the Board
MBR: Member of the Board
COUNSEL: Counsel for the Respondent
REC: Recorder for the Board
RESP: Respondent
BOARD: Board of Inquiry
UCMJ: Uniform Code of Military Justice

SECTION I. PRELIMINARIES

SRMBR: This board of inquiry will come to order. The reporter will note the time and date for the record.

REC: The Commanding General, _____ [Convening Authority], convened this board by an appointing order dated _____ (with a modification dated _____). The following officers named in that order are present:

_____ as the SENIOR MEMBER
_____ and _____ as the Board.

(If the respondent is a reserve officer, state the following: The following members are reserve officers, as is the respondent: _____).

REC: (All officers named in the appointing order are present)(The following officer(s) listed in the appointing order(s) (is) (are) absent with the express consent of the convening authority) _____).

REC: _____ has been named as recorder for the board and is present. _____ has been assigned as the counsel for the respondent and is present. The respondent does not have an individual military counsel (_____, has been assigned as the individual military counsel for the respondent and is present).

REC: Both the recorder and (the) (both) counsel for the respondent are lawyers certified under Article 27(b)(1), UCMJ.

REC: [(The respondent has no civilian counsel) (_____, a member of the _____ state bar, is the civilian counsel for the respondent and is present).]

REC: _____ has been appointed as court reporter and has been previously sworn.

REC: The board's legal advisor is _____, a judge advocate certified under Article 27(b)(1) of the UCMJ. The legal advisor provides such assistance as the board requires, but does not participate in closed sessions of the board.

SRMBR: The respondent is (present)(absent)(if absent, explain absence).

NOTE: ABSENCE OF RESPONDENT. The board may proceed with the respondent absent if he/she (1) is incarcerated by civil authorities, (2) has waived personal appearance by stating in writing or through counsel that he/she does not want to appear, or (3) fails to appear after he/she or his/her counsel has received notice of the date, time, and place of this hearing. See SECNAVINST 1920.6_ concerning orders for reservists to appear at boards.

SRMBR: The record will reflect that this board is properly convened and constituted. The purpose of this board is to consider relevant facts in the case of the respondent and determine whether the respondent should be retained in the naval service or recommended for (discharge)(retirement) from the naval service by reason of (substandard performance of duty) (misconduct)(moral or professional dereliction)(retention not clearly consistent with the interests of national security (discharge)(retirement) from the naval service by reason of (substandard performance of duty) (misconduct)(moral or professional dereliction)(retention not clearly consistent with the interests of national security)(_____).

SECTION II. RIGHT TO COUNSEL

SRMBR: I will now advise the respondent of his/her right to counsel before the board. These rights were listed in the notification. Does counsel desire that I explain these rights to the respondent?

COUNSEL: The respondent (desires explanation) (fully understands his/her right to counsel and does not desire further explanation).

SECTION III. EXPLANATION OF RIGHT TO COUNSEL
(OMIT AND GO TO SECTION IV IF RESPONDENT WAIVES EXPLANATION)

SRMBR: I will now advise the respondent of his/her right to counsel before this board. If you have any questions, you should direct them to me, or, in private, to your counsel.

You have the following rights:

a. To a have appointed as military counsel, a military lawyer certified under Article 27(b)(1), UCMJ.

b. To request individual military counsel of your own choice if the counsel is reasonably available. Both the appointed and individual military counsel may represent you only if the convening authority, in his or her sole discretion, approves a written request from you requesting representation by both counsel and stating in detail why such representation is necessary to ensure a fair hearing.

c. To retain civilian counsel at no expense to the government, in addition to, or in lieu of, military counsel. Consultation with, or retention of civilian counsel, shall not delay orderly processing of the board. The government will not reimburse you for costs or fees of civilian counsel or for any other expenses incurred concerning any board proceedings.

SRMBR: Do you understand your right to counsel before this board of inquiry?

RESP: (Yes)(No) sir/ma'am.

SRMBR: By whom do you wish to be represented?

RESP: _____sir/ma'am.

NOTE: The respondent may elect to represent him/herself at the board, but his/her detailed defense counsel should still be present. If he/she desires to represent him/herself, he/she must so state on the record and sign a written waiver of counsel, which will be included as a government exhibit. The senior member, after inquiring to ensure that the respondent is knowingly and voluntarily waiving his/her right to counsel, should state, "I find your waiver of counsel to be knowing and voluntary."

SECTION IV. ADDITIONAL RIGHTS

SRMBR: In addition to your right to counsel, you have many other rights at this board. These were listed in the notification and the acknowledgment of rights. Does counsel desire that I explain these additional rights to the respondent?

COUNSEL: The respondent (desires explanation) (fully understands his/her rights and does not desire further explanation).

SECTION V. EXPLANATION OF ADDITIONAL RIGHTS
(OMIT AND GO TO SECTION VI IF RESPONDENT WAIVES EXPLANATION)

SRMBR: I now will now advise you your rights before this board. If you have any questions, you should direct them to me, or, in private, to your counsel. You have the following rights:

1. To request reasonable additional time to prepare your case. This is time in addition to the 30 calendar days provided between the time of the notification and the time of the hearing. Before the hearing convenes, the convening authority decides continuance requests. After the hearing convenes, I, as the senior member, will decide them. However, the show cause authority must approve any request that continues the hearing for more than 60 calendar days from the date of notification.

2. To qualified counsel as explained in Section IV of this guide.

3. To present matters in your own behalf.

4. To full access to, and copies of, U.S. Government records relevant to the case. DC M&RA may withhold (1) classified information, or (2) information whose release is prohibited by federal law. A summary of classified information will be provided to the extent the interests of national security permit.

5. To the names of all witnesses in advance of the board hearing. Failure to provide any information or the name of a witness shall not preclude the board from considering the information or hearing the witness, provided you have had the opportunity to examine any statement, or talk with any witness presented, prior to consideration by the board.

6. To question or to challenge any member or the legal advisor for cause at the hearing or to present any information showing that the member cannot render a fair and impartial decision.

7. To request from the convening authority, or the board, the personal appearance before the board of any witness whose testimony you consider to be pertinent to your case, as provided in paragraph (9) of SECNAVINST 1920.6_.

8. To submit prior to, or during the board, any matter from your service record; sworn or unsworn statements; affidavits; depositions; certificates; stipulations; letters; answers; and any other real or documentary evidence.

9. You and counsel may question any witnesses appearing before the board. Any witness who testifies live to the board (in person or by telephone) must be under oath or affirmation, although you may make an unsworn statement.

10. You may remain silent or give sworn or unsworn testimony. You may testify, sworn or unsworn, personally or through counsel. The members and recorder can question or cross-examine you if you testify under oath. Neither the members nor the recorder may question or cross-examine you if you give unsworn testimony, but the recorder may present evidence to rebut the content of your unsworn testimony.

11. You or counsel may present argument on any matter before the board.

12. To receive a copy of the record of the proceedings. The record is the Report of the BOI and its enclosures, including the transcript and exhibits. Classified material may be redacted from the record and replaced with a summary.

13. To provide, within 10 calendar days after receiving the Report of the BOI, corrections of any errors, comments on the record, and any other matters concerning the board proceedings. You, or your counsel, may request an extension to the Alternate Show Cause Authority or Show Cause Authority who directed the BOI. Such requests for extension shall not exceed 20 calendar days.

14. To appear in person, with or without counsel, at all board proceedings except closed proceedings and deliberations.

Your failure to invoke any of these rights is a waiver of those rights and does not bar the board's proceedings, findings, or recommendations. You are also advised that if you are dissatisfied with the ultimate decision in your case that you may request relief from the Board for Correction of Naval Records or, if you are involutarily separated, the Naval Discharge Review Board.

SRMBR: Do you have any questions concerning your rights at this board?

RESP: (Yes) (No), sir/ma'am.

SECTION VI: GENERAL INSTRUCTIONS

SRMBR: The purpose of this board is to give the respondent a full and impartial hearing and an opportunity to respond to and rebut the allegations which are the basis for referring this case to a board of inquiry. After hearing evidence from both sides, the board will determine whether the preponderance of the evidence proves those allegations. If a preponderance of the evidence does not support the allegations, the case will be closed by the Deputy Commandant, Manpower and Reserve Affairs (DC M&RA).

A. READ IF THE RESPONDENT IS NOT RETIREMENT-ELIGIBLE

SRMBR: If the preponderance of the evidence supports the allegations, the board will recommend whether the respondent should be discharged. If it recommends discharge, it will also recommend the characterization of the discharge. Since a discharge would be at the grade the respondent currently holds, the board will not recommend a discharge grade if it recommends discharge in the respondent's current grade.

B. READ IF THE RESPONDENT IS ELIGIBLE FOR RETIREMENT (OR TRANSFER TO THE RETIRED RESERVE)

SRMBR: Depending on the officer's duty status, an officer, whether regular or Reserve, may be eligible for retirement; however, a Reserve officer may not be eligible for retirement, but may instead be eligible for transfer to the retired reserve. In this case, the officer is (eligible for retirement)(eligible for transfer to the retired reserve).

SRMBR: If the preponderance of the evidence supports the allegations, the board will recommend whether the respondent should be retired (transferred to the retired reserve). If it recommends retirement (transfer to the retired reserve), it will also recommend to the Secretary of the Navy whether retirement (transfer) should be in the current grade or the last grade satisfactorily held.

SRMBR: If the DC M&RA has authorized this board to recommend a characaterization of service, the board will make such a recommendation. However, if DC M&RA has not authorized this board to recommend a characterization of service, the board shall not do so.

C. READ IN ALL CASES

SRMBR: Depending on the board's findings and recommendations, final action on the case will be taken by the DC M&RA or the Secretary of the Navy.

SRMBR: The members are informed that Congress created two separate systems for adjudicating officer misconduct cases.

SRMBR: The first system is the judicial system, implemented by the Uniform Code of Military Justice. The purpose of the judicial system is to determine guilt and punishment, and such determinations are made at nonjudicial punishment hearings or courts-martial.

SRMBR: The second system is the administrative system, which is implemented by statute and regulations. The purpose of the administrative system is not to punish but to determine whether an officer's performance or conduct warrants separation from the service. Thus, the board of inquiry examines allegations against an officer and, if it substantiates them, recommends whether the officer should be retained or separated (involuntarily retired).

SRMBR: The officer's commander reviews each case of officer misconduct and determines the most appropriate means of resolving the allegations against the officer: the judicial system alone; the administrative system alone; or both systems.

SRMBR: The judicial and administrative systems may work independently. For example, a board of inquiry may be held without an officer receiving nonjudicial punishment. On the other hand, an officer may receive nonjudicial punishment but never have the case referred to a board of inquiry.

SRMBR: Likewise, the systems may work together; for example, an officer may receive nonjudicial punishment and then have his case referred to a board of inquiry. Referring an officer's case to a board of inquiry after the officer's case has been to a court-martial or to a nonjudicial punishment hearing is not double jeopardy.

SRMBR: Accordingly, this board of inquiry functions as an administrative rather than a judicial body. The rules of evidence applicable at courts-martial do not apply at this hearing; however, Article 31(b), UCMJ, does apply. No military member may be compelled to testify or produce evidence that will tend to incriminate that member or be required to answer questions not material to issues before the board.

SRMBR: The following will occur during the hearing: voir dire of the members and legal advisor and challenges for cause; motions; opening statements; presentation of exhibits; presentation of the government's case; presentation of the respondent's case; rebuttal; closing arguments from counsel; instructions for the members; and deliberation by the members. The members are cautioned not to make any decisions until after hearing all the evidence; final arguments of counsel; and instructions on deliberation. All board proceedings will be conducted in this room while the board is in session.

SRMBR: This board will consider any matter presented which is relevant to the issues before the board, whether written or oral, sworn or unsworn. Real evidence--as distinguished from testimonial or documentary evidence--may be shown and admitted to the board and should be accurately described or reproduced for the record. The board may refuse to consider any oral or written matter presented if it is irrelevant, not authentic, or unnecessarily repetitive or cumulative. However, evidence will not be excluded merely because it would be inadmissible in a court. If evidence is classified, the provisions of the Department of the Navy information security regulations will be observed.

SRMBR: Board decisions are made by majority vote based on the preponderance of the evidence, which is the standard of proof. A preponderance, which is the same standard for nonjudicial punishment hearings, is less than beyond reasonable doubt, which is the standard at a court-marital. A preponderance of the evidence proves a fact if the greater weight of evidence, i.e., 51% or more of the evidence, supports

the fact. The weight of evidence is not determined by the sheer number of witnesses or volume of evidentiary matter; it is determined by the evidence which best accords with reason and probability. The board members will rely on their individual judgment and experience in determining the weight and credibility to be given to the evidence.

SRMBR: The legal advisor will rule on all matters of procedure, evidence, and challenges, except challenges to themselves. The convening authority will rule on all challenges for cause to the legal advisor.

SRMBR: Since the procedures used at this hearing may be unfamiliar to the board members, the members are encouraged to ask questions during the hearing about those procedures.

SRMBR: The hearing will be conducted in an atmosphere of decorum and dignity. Members and witnesses will be treated with respect and protected from questions which exceed the bounds of proper examination and propriety or which are intended merely to harass, annoy, or humiliate. Witnesses will be excluded from the hearing until after their testimony is complete.

VII. CHALLENGES TO BOARD MEMBERS

SRMBR: Does either side desire to question a member [or legal advisor] on possible grounds for challenge for cause?

REC: The recorder has (a few)(no) questions
(_____).

COUNSEL: The respondent has (a few)(no) questions
(_____).

SRMBR: Does the recorder or the respondent wish to challenge any board member or the legal advisor for cause?

REC: The recorder does (not).

COUNSEL: The respondent does (not).

SRMBR: [If a challenge is made, recess to resolve it. Consult the legal advisor if necessary. The senior member announces the results of the challenge and summarizes the reasoning behind the decision]

SRMBR: Are both sides ready to proceed?

REC: The recorder is ready
(_____).

COUNSEL: Counsel for the respondent is ready
(_____).

SECTION VIII: MOTIONS AND OPENING STATEMENTS

SRMBR: Does either side have any motions?

REC: The government does (not)
(_____).

COUNSEL: The respondent does (not)
(_____).

SRMBR: [If a motion is made, recess to resolve it. Consult the legal advisor if necessary. The senior member announces the ruling of the motion and summarizes the reasoning behind the decision.]

SRMBR: The recorder may proceed with an opening statement.

REC: (The recorder has no opening statement)
(_____).

SRMBR: Counsel for the respondent may proceed with an opening statement or may wait until after the recorder has presented the government's case. When does counsel for respondent desire to give an opening statement?

COUNSEL: Counsel (will wait until after the government's case) (will give opening statement now)(has no opening statement)
(_____).

SRMBR: Unless either side objects, the board will receive each side's exhibits now so that the members can review them before hearing testimony. Any exhibits received and reviewed now is merely to assist the Board in understanding the case and possibly ask more informed questions, when appropriate. The Board remains cautioned to not pre-decide any issues before this Board. Does either side object to this procedure?

REC: The recorder (does)(does not) object.

COUNSEL: The recorder (does)(does not) object.

SECTION IX: PRESENTATION OF EXHIBITS

REC: I will hand to the senior member the original government exhibits offered to the board. They are marked as "GE" and numbered as noted in the list of government exhibits in front of government exhibit one. I also have a copy of these exhibits for each member; please write on the copies but not the originals. Included in a separate folder with the original exhibits is the original findings worksheet which the members will use to record findings and recommendations. Instructions are at the top of the worksheet.

SRMBR: Does the respondent object to any of these exhibits?

COUNSEL: The respondent (does) (does not) object (for the following reasons: _____)(If needed, recess to consult legal advisor).

SRMBR: All government exhibits are admitted (except for GE_____)(The following objections are decided as follows:_____(summarize the reasonsing behind the decision)). Does the respondent have any exhibits?

COUNSEL: The respondent offers the following exhibits marked as "RE" and lettered:

RE A: _____
RE B: _____
RE C: _____
RE D: _____

SRMBR: Does the recorder object to any of these exhibits?

REC: The recorder (does) (does not) object (for the following reasons: _____ _____)(If needed, recess to consult legal advisor).

SRMBR: All respondent exhibits are admitted (except for RE_____)(The following objections are decided as follows:_____ (summarize the reasoning behind the decision)).

SRMBR: The board will recess to review these documents. The reporter will note the time and date for the record.

SECTION X: WITNESSES

SRMBR: The board will come to order. All persons who were present when the board recessed are again present. The reporter will note the time and date for the record. The recorder may present the government's case.

REC: The government (calls _____ as a witness)(has nothing further).

NOTE: All witnesses will be sworn. ***OATH: Do you swear or affirm that the evidence you shall provide at this hearing shall be the truth, the whole truth, and nothing but the truth?*** The order of questioning: direct examination by recorder; cross-examination by respondent's counsel; redirect (as necessary); re-cross(as necessary); examination by the board. If during live testimony any witness subject to the UCMJ provides information indicating that he or she committed an offense under the UCMJ, s/he will be advised of her/his rights under Article 31(b) of the UCMJ.

SRMBR: Does the government have any more witnesses?

REC: The government (has no further witnesses)(_____).

SRMBR: Does the respondent have any witnesses?

COUNSEL: The respondent (calls _____ as a witness)(has nothing further).

NOTE: All witnesses will be sworn (the respondent, however, may give unsworn testimony; if he/she gives unsworn testimony, neither the board nor the members can cross-examine him/her). ***OATH: Do you swear or affirm that the evidence you shall provide at this hearing shall be the truth, the whole truth, and nothing but the truth?*** The order of questioning: direct examination by counsel for respondent; cross-examination by the recorder; redirect (as necessary); re-cross(as necessary); examination by the board. If the respondent testifies (sworn or unsworn), he/she will sign and date a Privacy Act statement to be attached to the record as a government exhibit. If during live testimony any witness subject to the UCMJ provides information indicating that he/she committed an offense under the UCMJ, s/he will be advised of her/his rights under Article 31(b) of the UCMJ.

SRMBR: Does the respondent have any more witnesses?

COUNSEL: The respondent (has no further witnesses)(_____).

XI. REBUTTAL

SRMBR: Does the government have any rebuttal evidence?

REC: The government has (none)(calls the following witnesses:_____).
(submits the following exhibits: GE-
_____).

SRMBR: (The following government exhibits are admitted: GE-
_____)
.

SRMBR: Does the respondent have any more evidence?

COUNSEL: The respondent has (none)(calls the following witnesses:_____).
(submits the following exhibits: RE-
_____).

SRMBR: (The following respondent's exhibits are admitted: RE-
_____).

SRMBR: Does any member of the board want to recall a witness, call an additional witness, or obtain any further evidence?

SRMBR: The members (do not want to recall a witness, call an additional witness, or obtain any further evidence)(want to_____).

XII. CLOSING ARGUMENTS

SRMBR: Are both sides prepared for argument?

REC: The government is.

COUNSEL: The respondent is.

SRMBR: The recorder may proceed.

REC: _____.

SRMBR: Counsel for the respondent may proceed.

COUNSEL: _____.

SRMBR: Does the recorder have any final argument?

REC: The government (has no rebuttal)(has the following rebuttal: _____).

SRMBR: Does either side have anything further to present?

REC: The Government has (nothing further) (_____).

COUNSEL: The respondent has (nothing further)(_____).

XIII: INSTRUCTIONS ON DELIBERATION

SRMBR: The board will make the following determinations by majority vote based on the preponderance of the evidence presented at the hearing:

A. READ IF RESPONDENT IS NOT ELIGIBLE FOR RETIREMENT (OR TRANSFER TO THE RETIRED RESERVE)

SRMBR: If the board finds that the evidence DOES NOT SUBSTANTIATE the allegations, the board will recommend that the case be closed. If the board finds that the evidence SUBSTANTIATES the allegations, the board will make one of two recommendations:

(1) it will recommend that the respondent, notwithstanding the substantiated allegations, be retained and that the case be closed, OR

(2) it will recommend that the respondent be separated.

SRMBR: If the board recommends separation, it must recommend characterization of service. If the basis for separation is substandard performance, the characterization of service must be honorable. If the basis includes misconduct or moral or professional dereliction, the board may recommend an Honorable, a General (Under Honorable Conditions), or an Other Than Honorable characterization of service.

SRMBR: During deliberation, the board will review the guidance in SECNAVINST 1920.6C on determining retention and characterization.

B. READ IF THE RESPONDENT IS ELIGIBLE FOR RETIREMENT (OR TRANSFER TO THE RETIRED RESERVE)

SRMBR: If the board finds that the evidence DOES NOT SUBSTANTIATE the allegations, the board will recommend that the case be closed. If the board finds that the evidence SUBSTANTIATES the allegations, the board will make one of two recommendations:

(1) it will recommend that the respondent, notwithstanding the substantiated allegations, not be retired and close the case, OR

(2) it will recommend that the respondent be retired (transferred to the retired reserve).

SRMBR: If the board recommends retirement (or transfer to the retired reserve), it must recommend a retirement grade.

SRMBR: Since an officer retires at the highest grade in which the officer served satisfactorily, the board must determine if the officer has served satisfactorily in the current grade. If that service is satisfactory, the board recommends retirement (or transfer to the retired reserve) in the current grade; if that service is unsatisfactory, the board recommends retirement (or transfer to the retired reserve) in the last grade satisfactorily held.

SRMBR: In determining if service in grade was satisfactory, the board will consider the record of service during the entire period the grade was held. The board will follow the guidance in enclosure (6) of SECNAVINST 1920.6_.

SRMBR: In order to retire in grade (or be transferred to the retired reserve) the officer must also have served the minimum time required by statute or regulations. The respondent has (has not) served for a minimum time to be retired (transferred to the retired reserve) in grade.

NOTE: The recorder will provide retirement eligibility information to the members. 10 USC §§ 1370 and 6323 address regular and Reserve officers; section 1371 and 1293 address warrant officers; and section 12771 addresses officers eligible for transfer to the retired reserve. MCO 1900.16 w/ch 1 (MARCORSEPMAN) also addresses minimum time in grade requirements. Consult the legal advisor with any questions.

SRMBR: If the DC M&RA has authorized this board to recommend a characterization of service, the board will make such a recommendation. However, if the DC M&RA has not authorized this board to recommend a characterization of service, the board shall not do so.

C. READ IN ALL CASES

SRMBR: Board deliberations include a full and free discussion of all matters presented for the board's consideration. The board will decide its findings and recommendations by majority vote. The senior member will record the findings and recommendations on the findings and recommendations worksheet by placing his or her initials in the blank beside any finding or recommendation decided by majority vote. Instructions are at the top of the worksheet. I have the original worksheet. Does either side object to the worksheet?

REC: The recorder (does)(does not) object (for the following reasons: _____)(If needed, recess to consult legal advisor).

COUNSEL: The respondent (does)(does not) object (for the following reasons: _____)(If needed, recess to consult legal advisor).

SRMBR: (The following objections are decided as follows: _____ (summarize the reasoning behind the decision)).

SRMBR: **[Read if evidence of preservice misconduct has been introduced]** The board is advised that SECNAVINST 1920.6_ imposes a limitation on considering evidence of preservice misconduct. The board may only consider it for the purpose of deciding whether to recommend separation or retention of the respondent. Such evidence shall not be used in determining the recommendation for characterization of service. The board will affirmatively state on the findings and recommendations worksheet that such evidence was considered only for the purpose of determining whether it should recommend retention or separation.

SRMBR: **[Read if performance or conduct identified more than five years prior to the initiation of processing for separation has been introduced]** The board is advised that SECNAVINST 1920.6_ imposes a limitiation on considering performance or conduct identified more than five years prior to the initiation of processing for separation. Performance or conduct is deemed to have been "identified" when it is reported to the show cause authority. "Initiation of processing" is deemed to have occurred when the the show cause authority officially notifies the officer of administrative separation processing. The board will affirmatively state on the findings and recommendations worksheet that the board did not consider such evidence.

SRMBR: **[Read if the respondent is a Reservist being processed for separation based on conduct in the civilian community committed while the respondent was not on active duty or active duty for training and not wearing the military uniform]** The board is advised that SECNAVINST 1920.6_ imposes a limitation on the characterization of service for conduct in the civilian community of members of a reserve component who are not on active duty or active duty for training. Such conduct may form the basis for an Other Than Honorable characterization of service only if such conduct affects directly the performance of the member's military duties. Such conduct may form the basis for a General (Under Honorable Conditions) characterization of service only if such conduct has an adverse impact on the overall effectiveness of the Naval Service, including the military morale and efficiency. If a military member tests positive for the presence of illegal drugs in the member's body while in an active or inactive status, the drug abuse shall be deemed to have affected directly the member's readiness and performance of military duties. The board will review SECNAVINST 1920.6_ during deliberation.]

SRMBR: Does either side have any questions or anything further?
REC: The Government has (none).

COUNSEL: The respondent has (none).

SRMBR: The board closed for deliberation at _____ hours, on _____. All parties, except board members, will leave the hearing room.

XIV: ANNOUNCEMENT OF FINDINGS AND RECOMMENDATIONS

SRMBR: The board opened at _____ hours _____ on _____. I will announce the findings and recommendations of the board by reading from the worksheet: (senior member reads findings and recommendations worksheet). The worksheet will be made an enclosure to the board's report.

SRMBR: The board has no minority report (The following member(s) will be submitting minority reports: _____(summarize reason for minority report(s)); this (these) minority report(s) will include the extent of nonconcurrence with the majority and will be attached as an enclosure (enclosures) to the board's report).

SRMBR: Does anyone have any other business to bring before the board? If not, the board is adjourned.

END OF PROCEEDING

Figure 15-21(a)
BOI Findings Worksheet (Not Retirement Eligible)

(Note: Below is an example using the most common reasons for separation. Each reason listed on the BOI direction letter must be listed on the findings worksheet. The findings worksheet may NOT contain a basis for separation that is not in the BOI direction letter. The worksheet must be tailored for each case.)

FINDINGS OF THE BOARD OF INQUIRY

[AS THE BOARD VOTES DURING DELIBERATION, THE SENIOR MEMBER INITIALS BLANKS ON THIS WORKSHEET TO INDICATE THE BOARD'S DECISIONS. THE SENIOR MEMBER WILL THEN ANNOUNCE THE BOARD'S DECISIONS BY READING THIS WORKSHEET WHEN THE BOARD RECONVENES.]

[Rank First Name MI Last Name MOS USMC/R], by a majority vote, this Board of Inquiry finds that:

[SELECT AND INITIAL NEXT TO PARAGRAPH (1) OR (2). IF 2 IS SELECTED, ALSO SELECT AND INITIAL PARAGRAPHS (3)-(5).]

1. _____ **ALLEGATION(S) UNSUBSTANTIATED**. The preponderance of the evidence substantiates none of the reasons for separation for cause. Accordingly, the Board recommends that your case be closed.

2. _____ **ALLEGATIONS(S) SUBSTANTIATED**. The preponderance of the evidence substantiates [one or more of] the reason(s) for separation for cause as set forth below.

a. _____ **Substandard Performance of Duty**. Specifically:

(1) _____ Failure to demonstrate acceptable qualities of leadership required of an officer of [his/her] grade.

(2) _____ Failure to properly discharge the duties expected of an officer of [his/her] grade and experience.

b. _____ **Misconduct and Moral or Professional Dereliction**. Specifically:

(1) _____ Commission of a military or civilian offense that, if prosecuted under the UCMJ, could be punished by confinement of six months or more, or if prosecuted under the UCMJ, would require specific intent for conviction. Specifically:

(a) _____ A violation of Article [xxx], UCMJ.

(b) _____ A violation of Article [xxx], UCMJ.

(list each Article separately)

(2) _____ Intentional misrepresentation or omission of material fact in official written documents or official oral statements.

3. **RETENTION OR SEPARATION**. Having found that the preponderance of the evidence substantiates [one or more of] the reason(s) for separation:

a. _____ **Retention**. The Board finds that none of the reasons listed above warrant [Rank Name's] separation from the naval service and recommends closing the case.

b. _____ **Separation**. The Board recommends separating [Rank Name] from the naval service for the reason(s) listed above. The Board further recommends that [Rank Name's] service be characterized as:

(1) _____ Honorable*

(2) _____ General (Under Honorable Conditions)

(3) _____ Other Than Honorable

*Note: If the CG directed the officer to show cause for substandard performance only, the only available characterization of service is Honorable.

[SEE ENCLOSURE (5) OF SECNAVINST 1920.6_ FOR GUIDANCE ON CHARACTERIZATION OF SERVICE RECOMMENDATION]

4. **MINORITY REPORT**

[IF ANY MEMBER OF THE BOARD DOES NOT CONCUR WITH THE MAJORITY, THE NONCONCURRING MEMBER MUST SUBMIT A MINORITY REPORT WHICH INCLUDES THE EXTENT OF NON-CONCURRENCE AS TO EACH FINDING AND RECOMMENDATION AND THE REASONS THEREFORE.]

a. _____ There is no minority report. *OR*

b. _____ The minority report will be attached to the Report of the Board of Inquiry.

5. **ADDITIONAL CONSIDERATIONS**

a. **Preservice Misconduct**

[IF THE BOARD CONSIDERS PRESERVICE MISCONDUCT, THE SENIOR MEMBER MUST INDICATE THAT THE MEMBERS CONSIDERED THE PRESERVICE MISCONDUCT ONLY FOR THE PURPOSE OF DETERMINING WHETHER TO RECOMMEND RETENTION OR SEPARATION.]

(1) _____ The Board of Inquiry did not consider preservice misconduct. *OR*

(2) _____ The Board of Inquiry considered preservice misconduct, but only for the purpose of determining whether to recommend retention or separation.

b. **Misconduct Older Than Five Years**

*[THE BOARD MAY NOT CONSIDER MISCONDUCT **IDENTIFIED** MORE THAN FIVE YEARS PRIOR TO THE INITIATION OF PROCESSING FOR SEPARATION TO FORM THE **BASIS** FOR SEPARATION (SUBSTANDARD PERFORMANCE OF DUTY OR MISCONDUCT AND MORAL OR PROFESSIONAL DERELICTION). THE SENIOR MEMBER MUST INDICATE THAT THE MEMBERS DID NOT CONSIDER THIS TYPE OF MISCONDUCT TO FORM THE BASIS OF SEPARATION. THE BOARD MAY CONSULT WITH THE LEGAL ADVISOR WITH QUESTIONS CONCERNING PRIOR MISCONDUCT. SECNAVINST 1920.6_ ENCLOSURE (4), PARAGRAPH 11e]*

(1) _____ The Board of Inquiry did not consider misconduct identified more than five years prior to the initiation of processing for separation.

_____	_____	_____
Initials LName	Initials Lname	Initials Lname
Rank, USMC	Rank, USMC	Rank, USMC
President	Member	Member

_____	_____	_____
Initials Lname	Initials Lname	Initials Lname
Rank, USMC	Rank, Service	Rank, Service
Recorder	Respondent’s Counsel	Respondent’s Counsel

Figure 15-21(b)
BOI Findings Worksheet (Retirement Eligible)

(Note: Below is an example using the most common reasons for separation. Each reason listed on the BOI direction letter must be listed on the findings worksheet. The findings worksheet may NOT contain a basis for separation that is not in the BOI direction letter. The worksheet must be tailored for each case.)

FINDINGS OF THE BOARD OF INQUIRY

[AS THE BOARD VOTES DURING DELIBERATION, THE SENIOR MEMBER INITIALS BLANKS ON THIS WORKSHEET TO INDICATE THE BOARD'S DECISIONS. THE SENIOR MEMBER WILL THEN ANNOUNCE THE BOARD'S DECISIONS BY READING THIS WORKSHEET WHEN THE BOARD RECONVENES.]

[Rank First Name MI Last Name MOS USMC/R], by a majority vote, this Board of Inquiry finds that:

[SELECT AND INITIAL NEXT TO PARAGRAPH (1) OR (2). IF 2 IS SELECTED, ALSO SELECT AND INITIAL PARAGRAPHS (3)-(5).]

1. _____ **ALLEGATION(S) UNSUBSTANTIATED**. The preponderance of the evidence substantiates none of the reasons for separation for cause. Accordingly, the Board recommends that your case be closed.

2. _____ **ALLEGATIONS(S) SUBSTANTIATED**. The preponderance of the evidence substantiates [one or more of] the reason(s) for separation for cause as set forth below.

a. _____ **Substandard Performance of Duty**. Specifically:

(1) _____ Failure to demonstrate acceptable qualities of leadership required of an officer of [his/her] grade.

(2) _____ Failure to properly discharge the duties expected of an officer of [his/her] grade and experience.

b. _____ **Misconduct and Moral or Professional Dereliction**. Specifically:

(1) _____ Commission of a military or civilian offense that, if prosecuted under the UCMJ, could be punished by confinement of six months or more, or if prosecuted under the UCMJ, would require specific intent for conviction. Specifically:

(a) _____ A violation of Article [xxx], UCMJ.
(b) _____ A violation of Article [xxx], UCMJ.

(list each Article separately)

(2) _____ Intentional misrepresentation or omission of material fact in official written documents or official oral statements.

3. **RETENTION OR INVOLUNTARY RETIREMENT**. Having found that the preponderance of the evidence substantiates [one or more of] the reason(s) for involuntary retirement:

a. _____ **Retention**. The Board finds that none of the reasons listed above warrant [Rank Name's] involuntary retirement from the naval service and recommends closing the case.

b. _____ **Involuntary Retirement**. The Board recommends involuntarily retiring [Rank Name] for the reason(s) listed above. The Board further recommends that [Rank/Name] be retired:

(1) _____ In [his/her] current grade.

(2) _____ In the inferior grade of _____.

c._____ **Characterization of Service**. (Only if authorized by the DC M&RA.) The Board recommends that [Rank/Name's] service be characterized as:

(a) _____ Honorable.

(b) _____ General (Under Honorable Conditions).

(c) _____ Other Than Honorable.

[THE BOARD IS NOT LIMITED TO ONE GRADE LOWER THAN SNO'S CURRENT GRADE IF THE BOARD FINDS THAT SNO HAS NOT SATISFACTORILY HELD THAT INFERIOR GRADE. SEE ENCLOSURES (6) and (8) OF SECNAVINST 1920.6_ FOR GUIDANCE ON RETIREMENT GRADE RECOMMENDATION.]

4. **MINORITY REPORT**

*[THE BOARD MAY NOT CONSIDER MISCONDUCT **IDENTIFIED** MORE THAN FIVE YEARS PRIOR TO THE INITIATION OF PROCESSING FOR SEPARATION TO FORM THE **BASIS** FOR SEPARATION (SUBSTANDARD PERFORMANCE OF DUTY OR MISCONDUCT AND MORAL OR PROFESSIONAL DERELICTION). THE SENIOR MEMBER MUST INDICATE THAT THE MEMBERS DID NOT CONSIDER THIS TYPE OF MISCONDUCT TO FORM THE BASIS OF SEPARATION. THE BOARD MAY CONSULT WITH THE LEGAL ADVISOR WITH QUESTIONS CONCERNING PRIOR MISCONDUCT. SECNAVINST 1920.6_ ENCLOSURE (4), PARAGRAPH 11e]*

a. _____ There is no minority report. *OR*

b. _____ The minority report will be attached to the Report of the Board of Inquiry.

5. **ADDITIONAL CONSIDERATIONS**

a. **Preservice Misconduct**

[IF THE BOARD CONSIDERS PRESERVICE MISCONDUCT, THE SENIOR MEMBER MUST INDICATE THAT THE MEMBERS CONSIDERED THE PRESERVICE MISCONDUCT ONLY FOR THE PURPOSE OF DETERMINING WHETHER TO RECOMMEND RETENTION OR INVOLUNTARY RETIREMENT.]

(1) _____ The Board of Inquiry did not consider preservice misconduct. *OR*

(2) _____ The Board of Inquiry considered preservice misconduct, but only for the purpose of determining whether to recommend retention or involuntary retirement.

b. **Misconduct Older Than Five Years**

*[THE BOARD MAY NOT CONSIDER MISCONDUCT **IDENTIFIED** MORE THAN FIVE YEARS PRIOR TO THE INITIATION OF PROCESSING FOR SEPARATION TO FORM THE **BASIS** FOR SEPARATION (SUBSTANDARD PERFORMANCE OF DUTY OR MISCONDUCT AND MORAL OR PROFESSIONAL DERELICTION). THE SENIOR MEMBER MUST INDICATE THAT THE MEMBERS DID NOT CONSIDER THIS TYPE OF MISCONDUCT TO FORM THE BASIS OF SEPARATION. THE BOARD MAY CONSULT WITH THE LEGAL ADVISOR WITH QUESTIONS CONCERNING PRIOR MISCONDUCT. SECNAVINST 1920.6_ ENCLOSURE (4), PARAGRAPH 11.e]*

(1) _____ The Board of Inquiry did not consider misconduct identified more than five years prior to the initiation of processing for separation.

_____	_____	_____
Initials LName	Initials LName	Initials LName
Rank, USMC	Rank, USMC	Rank, USMC
President	Member	Member

_____	_____	_____
Initials LName	Initials LName	Initials LName
Rank, USMC	Rank, Service	Rank, Service
Recorder	Respondent’s Counsel	Respondent’s Counsel

Figure 15-22
Report of BOI (Not Retirement Eligible)

From: Senior Board Member
To: Secretary of the Navy
Via: (1) Chain of Command
(2) Alternate Show Cause Authority
(3) Commandant of the Marine Corps (JPL)

Subj: REPORT OF THE BOARD OF INQUIRY IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) SECNAVINST 1920.6_
(b) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(c) CG, [Unit] ltr 1920 Code of [date] (BOI dir ltr)
(d) CG, [Unit] ltr 1920 Code of [date] (BOI convening order)

Encl: (1) Transcript of the Board's proceedings
(2) Government Exhibits
(3) Respondent Exhibits
(4) Findings and Recommendations Worksheet
(5) [Minority Report]
(6) Certificate of Service
(7) Acknowledgement of Receipt
(8) Privacy Act Statement

1. This report is submitted per enclosure (8) of reference (a) and paragraph 010904.B of reference (b).

2. As directed by references (c) and (d), a Board of Inquiry (BOI) convened at [command/location] and conducted a hearing in accordance with the requirements of references (a) and (b).

3. Enclosures (1) through (8) are forwarded pursuant to references (a) and (b).

4. Reasons for showing cause for retention. The purpose of the BOI was to recommend whether the respondent should be separated from the U.S. Marine Corps, and if so, the appropriate characterization of service. The Board considered these specific reasons for separation:

a. [Insert bases from reference (c)].

5. Acts alleged. The specific acts supporting the above bases are: [insert brief summary of allegation(s)].

6. Respondent's position with respect to the allegation(s). The respondent asserts that [insert brief summary of the respondent's position].

PARAGRAPHS SEVEN AND EIGHT WILL DEPEND ON THE BOI'S FINDINGS AND RECOMMENDATIONS.

ALLEGATIONS UNSUBSTANTIATED

7. Findings. The Board found that a preponderance of the evidence did not prove the allegations. See enclosures (1) and (4).

8. Recommendations. The Board recommended closing the case. Enclosures (1) and (4).

ALLEGATIONS SUBSTANTIATED – RETENTION RECOMMENDATION

7. Findings. The Board found that a preponderance of the evidence proved the allegations. See enclosures (1) and (4).

8. Recommendations. The Board recommended that the respondent be retained and that the case be closed. See enclosures (1) and (4).

ALLEGATIONS SUBSTANTIATED – SEPARATION RECOMMENDATION

7. Findings. The Board found that a preponderance of the evidence proved the allegations. See enclosures (1) and (4).

8. Recommendations. The Board recommended that the respondent be separated with [an Honorable][a General (Under Honorable Conditions)][an Other Than Honorable] characterization of service. See enclosures (1) and (4).

9. Service and background. As required by reference (a), the following information is submitted concerning the respondent's service record and background:

a. Date of birth:

b. Marital Status:

c. Civilian Education:

d. Date of Appointment:

e. Date of Rank:

f. MOS:

g. Service Schools: See NAVMC 118(8a) at Government Exhibit _ in enclosure (2).

h. Decorations/awards: See NAVMC 118(9) at Government Exhibit _ in enclosure (2).

i. Disciplinary History: None

10. Preservice misconduct. [The Board did not consider any preservice misconduct.][The Board considered preservice misconduct, but only for the purpose of determining whether to recommend retention or separation. Specifically, the board considered [insert].]

11. Misconduct older than five years. The Board did not consider misconduct identified more than five years prior to the initiation of processing for separation.

12. Minority report. [There is no minority report.] [One of the members submitted a minority report, enclosure (5).] [Provide a brief explanation of the extent of nonconcurrence with the majority.]

13. Respondent's counsel will be served with a copy of this Report, enclosure (6). Respondent's counsel will have 10 calendar days from the date of service to submit written comments to this Report.

14. [Rank Name] will be afforded the opportunity to read this Report. [Rank Name] will acknowledge that adverse information pertaining to this incident may be included in his/her Official Military Personnel File (OMPF), enclosure (7). [Rank Name] will have 10 calendar days from receipt of this Report to submit written comments for inclusion in [his][her] OMPF.

I. M. SRMEMBER

I. M. MINORITY
(If minority report attached)

Figure 15-23
Report of BOI (Retirement Eligible)

From: Senior Board Member
To: Secretary of the Navy
Via: (1) Chain of Command
(2) Alternate Show Cause Authority
(3) Commandant of the Marine Corps (JPL)

Subj: REPORT OF THE BOARD OF INQUIRY IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) SECNAVINST 1920.6_
(b) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(c) CG, [Unit] ltr 1920 Code of [date] (BOI dir ltr)
(d) CG, [Unit] ltr 1920 Code of [date] (BOI convening order)

Encl: (1) Transcript of the Board's proceedings
(2) Government Exhibits
(3) Respondent Exhibits
(4) Findings and Recommendations Worksheet
(5) [Minority Report]
(6) Certificate of Service
(7) Acknowledgement of Receipt
(8) Privacy Act Statement

1. This report is submitted per enclosure (8) of reference (a) and paragraph 010904.B of reference (b).

2. As directed by references (c) and (d), a Board of Inquiry (BOI) convened at [command/location] and conducted a hearing in accordance with the requirements of references (a) and (b).

3. Enclosures (1) through (8) are forwarded pursuant to references (a) and (b).

4. Reasons for showing cause for retention. The purpose of the BOI was to recommend whether the respondent should be involuntarily retired from the U.S. Marine Corps, and if so, the recommended retirement grade. [If applicable: The Board was also directed by the DC M&RA to recommend a characterization of service.] The Board considered these specific reasons for involuntary retirement:

a. [Insert bases from reference (c)].

5. Acts alleged. The specific acts supporting the above bases are: [insert brief summary of allegation(s)].

6. Respondent's position with respect to the allegation(s). The respondent asserts that [insert brief summary of the respondent's position].

PARAGRAPHS SEVEN AND EIGHT WILL DEPEND ON THE BOI'S FINDINGS AND RECOMMENDATIONS.

ALLEGATIONS UNSUBSTANTIATED

7. Findings. The Board found that a preponderance of the evidence did not prove the allegations. See enclosures (1) and (4).

8. Recommendations. The Board recommended closing the case. See enclosures (1) and (4).

ALLEGATIONS SUBSTANTIATED – RETENTION RECOMMENDATION

7. Findings. The Board found that a preponderance of the evidence proved the allegations. See enclosures (1) and (4).

8. Recommendations. The Board recommended that the respondent be retained and that the case be closed. See enclosures (1) and (4).

ALLEGATIONS SUBSTANTIATED – RETIREMENT RECOMMENDATION

7. Findings. The Board found that a preponderance of the evidence proved the allegations. See enclosures (1) and (4).

8. Recommendations. The Board recommended that the respondent be retired [in his/her current grade][in the lesser grade of [grade]]. See enclosures (1) and (4). [If applicable: The Board recommended that the respondent's service be characterized as _____.]

9. Service and background. As required by reference (a), the following information is submitted concerning the respondent's service record and background:

a. Date of birth:

b. Marital Status:

c. Civilian Education:

d. Date of Appointment:

e. Date of Rank:

f. MOS:

g. Service Schools: See NAVMC 118(8a) at Government Exhibit _ in enclosure (2).

h. Decorations/awards: See NAVMC 118(9) at Government Exhibit _ in enclosure (2).

i. Disciplinary History: None

10. Preservice misconduct. [The Board did not consider any preservice misconduct.][The Board considered preservice misconduct, but only for the purpose of determining whether to recommend retention or retirement. Specifically, the board considered [insert].]

11. Misconduct older than five years. The Board did not consider misconduct identified more than five years prior to the initiation of processing for retirement.

12. Minority report. [There is no minority report.][One of the members submitted a minority report, enclosure (5).] [Provide a brief explanation of the extent of nonconcurrence with the majority.]

13. Respondent's counsel will be served with a copy of this Report, enclosure (6). Respondent's counsel will have 10 calendar days from the date of service to submit written comments to this Report.

14. [Rank Name] will be afforded the opportunity to read this Report. [Rank Name] will acknowledge that adverse information pertaining to this incident may be included in his/her Official Military Personnel File (OMPF), enclosure (7). [Rank Name] will have 10 calendar days from receipt of this Report to submit written comments for inclusion in [his][her] OMPF.

I. M. SRMEMBER

I. M. MINORITY
(If minority report attached)

Figure 15-24
Minority Report

From: Board Member
To: Secretary of the Navy
Via: (1) Chain of Command
(2) Alternate Show Cause Authority
(3) Commandant of the Marine Corps (JPL)

Subj: MINORITY REPORT IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(b) SECNAVINST 1920.6_

1. This report is submitted per paragraph 010904.B.2 of reference (a) and paragraph 12d of enclosure (8) of reference (b).

2. [A detailed explanation of why the member disagrees with the findings and recommendations of the BOI. When able, the member should focus specifically on evidence, testimony, or arguments that he/she found persuasive or unpersuasive.]

I. M. MINORITY

Copy to:
[Rank Name of Respondent]

Figure 15-25
BOI Certificate of Service

From: Rank First Name MI Last Name USMC/R (Recorder)
To: Rank First Name MI Last Name USMC/R (Respondent's Counsel)

Subj: SERVICE OF THE REPORT OF THE BOARD OF INQUIRY IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) SECNAVINST 1920.6_
(b) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)

Encl: (1) Report of the Board of Inquiry (BOI)

1. Per the references, you are hereby formally served with a copy of the Report of the BOI in the subject case.

2. You have 10 calendar days from the date of service to submit written comments to the Deputy Commandant, Manpower and Reserve Affairs. You must submit your comments via the chain of command and the Alternate Show Cause Authority. You may request an extension to submit comments from the [Alternate Show Cause Authority or Show Cause Authority who directed the BOI]. Such request for extension shall not exceed 20 calendar days.

3. You are requested to sign below to indicate acceptance of service.

I. M. RECORDER

Figure 15-26
Endorsement

____ ENDORSEMENT on [Rank Name] ltr 1920 [Code] of [date]

From: Commanding General/Officer
To: Commandant of the Marine Corps (JPL)
Via: (1) Chain of Command
(2) Alternate Show Cause Authority

Subj: [REPORT OF [REPORT]]/[REQUEST FOR [TYPE] RESIGNATION IN LIEU OF FURTHER ADMINISTRATIVE PROCESSING]/[REQUEST FOR RETIREMENT IN LIEU OF FURTHER ADMINISTRATIVE PROCESSING]/[BOI WAIVER] IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) SECNAVINST 1920.C_
(b) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)

Encl: (x) DC ltr [SSIC] [code] of [date]
(x1) SACC screen and treatment completion (if required)
(x2) Medical evaluation
(x3) PTSD/TBI screen
(x4) Acknowledgment of advanced education assistance reimbursement requirement

1. Forwarded, [insert recommendation].

[Sample language to include if endorsement to Report of Misconduct, Report of NJP, Report of Court-Martial Conviction, or Report of Civilian Conviction] recommending that [Rank Name] [not] be required to show cause for retention in the Marine Corps at a Board of Inquiry. [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.] [OR]

[Sample language to include if endorsement to administrative separation via notification procedures recommending separation] recommending that [Rank Name] be separated via notification procedures for [substandard performance of duty, misconduct, and moral or professional dereliction] with a [General (Under Honorable Conditions)]/ [Honorable] characterization of service. [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.] [OR]

[Sample language to include if endorsement to administrative separation via notification procedures recommending retention] recommending that the administrative separation recommendation be denied and that [Rank Name] be retained. [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.] [OR]

[Sample language to include if endorsement to BOI recommending separation] recommending that [Rank Name] be separated for [substandard performance of duty, misconduct, and moral or professional dereliction] with [an Other Than Honorable]/[a General (Under Honorable Conditions)]/[an Honorable] characterization of service. [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.] [OR]

[Sample language to include if endorsement to BOI recommending involuntary retirement] recommending that [Rank Name] be involuntarily retired for [substandard performance of duty, misconduct, and moral or professional dereliction] in [his/her current grade]/[the lesser grade of [grade]]. [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.] [OR]

[Sample language to include if endorsement to BOI recommending retention] recommending that the case be closed. [OR]

[Sample language to include if endorsement to resignation request] recommending that [Rank Name's] request for [unqualified]/[qualified] resignation/[resignation for the good of the service] in lieu of administrative processing be approved and that [he/she] be separated with [an Honorable]/[General (Under Honorable Conditions)]/[Other Than Honorable] characterization of service. [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.] [OR]

[Sample language to include if endorsement to retirement request] recommending that [Rank Name's] request for retirement in lieu of administrative processing be approved and that [Rank Name] be retired in [his/her current grade]/[the lesser grade of [grade]]. [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.] [OR]

[Sample language to include if endorsement to BOI waiver (not retirement eligible)] recommending that [Rank Name] be separated for [substandard performance of duty, misconduct, and moral or professional dereliction] with [an Other Than Honorable]/[a General (Under Honorable Conditions)]/[an Honorable] characterization of service. [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.] [OR]

[Sample language to include if endorsement to BOI waiver (retirement eligible)] recommending that [Rank Name] be involuntarily retired for [substandard performance of duty, misconduct, and moral or professional dereliction] in [his/her current grade]/[the lesser grade of [grade]]. [Comments as to the character of the officer and the allegations of substandard performance of duty/misconduct and moral or professional dereliction.]

2. [Explain any delays in the processing of the case]

3. [Include if officer submits rebuttal matters] On [date], [Rank Name], [through counsel], submitted matters in response to the Report of [report], enclosure (x). [Brief summary of matters.] [Address each legal error raised in the matters.]

4. [Include if substance-related incident and SACC documents not already included in the package] On [date], the [Name] Substance Abuse Counseling Center evaluated [Rank Name] and found that [he/she] [did/did not] meet the criteria for a substance-related disorder. The counselor recommended that [Rank Name] attend [treatment]. On [date], [Rank Name] completed the recommended treatment. See enclosure (x1).

5. [Include if separation/involuntary retirement recommended and medical evaluation not already included in the package] On [date], a medical provider evaluated [Rank Name] and found that [he/she] is qualified for separation, enclosure (x2). [Brief synopsis of any condition(s) and whether the condition(s) had impact on the officer's behavior.] [OR]

5. [Include if separation/involuntary retirement recommended and medical evaluation already included in the package] [Comment on any condition that had an impact on the officer's behavior and explain reason for recommended separation and characterization of service/involuntary retirement and retirement grade.]

6. [Include if: 1) separation/involuntary retirement recommended; 2) PTSD/TBI screen required per paragraph 010302.D of reference (b); 3) screen is positive; and 4) screen is not already included in the package] On [date], a medical provider evaluated [Rank Name] for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI), enclosure (x3). [Rank Name] screened positive for PTSD/TBI. [State whether PTSD/TBI had impact on the officer's behavior.] [Explain reason for recommended separation and characterization of service/ involuntary retirement and retirement grade.] [OR]

6. [Include if: 1) separation/involuntary retirement recommended; 2) PTSD/TBI screen required per paragraph 010302.D of reference (b); 3) screen is negative; and 4) screen is not already included in the package] On [date], a medical provider evaluated [Rank Name] for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI), and found that [he/she] does not have PTSD/TBI, enclosure (x3). [OR]

6. [Include if: 1) separation recommended; 2) PTSD/TBI screen required per paragraph 010302.D of reference (b); 3) screen is positive; and 4) screen is already included in the package] [Comment on any positive screen/diagnosis and explain reason for recommended separation and characterization of service/ involuntary retirement and retirement grade.]

7. [Include if acknowledgement is not already in the package and the officer did not receive advanced education assistance] [Rank Name] has

been advised of the reimbursement requirement for advanced education assistance. [Rank Name's] acknowledgment of this requirement is contained in enclosure (x4). I am not aware that [Rank Name] received any advanced education assistance. [OR]

7. [Include if education acknowledgement, type, and amount is not already included in the package and officer received advanced education assistance] [Rank Name] has been advised of the reimbursement requirement for advanced education assistance. [Rank Name's] acknowledgment of this requirement is contained in enclosure (x4). [[Rank Name] attended the Naval Academy and received advanced education assistance in the approximate amount of $_____.]/[[Rank Name] received advanced education assistance via the [Platoon Leaders Class/Naval Reserve Officer Training Corps program, etc.] in the approximate amount of $_____.] I [do not] recommend that the reimbursement requirement be waived in this case. [OR]

7. [Include if education acknowledgement, type, and amount is already included in the package and officer received advanced education assistance] I [do not] recommend that the reimbursement requirement be waived in this case.

I. M. GENERAL

Figure 15-27
Notification of Administrative Separation via Notification Procedure

From: Commander
To: Rank First Name MI Last Name MOS USMC/R

Subj: NOTIFICATION OF RECOMMENDATION FOR ADMINISTRATIVE SEPARATION IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) SECNAVINST 1920.6_
(b) [Report of Misconduct/NJP/Civilian Conviction
(c) [Command Investigation/Evidence]

Encl: (1) Sample Resignation Format
(2) Acknowledgment of Respondent's Rights

1. In accordance with reference (a), I am recommending your separation from the Marine Corps with [a General (Under Honorable Conditions)] [an Honorable] characterization of service.*

*Note: If the officer is recommended for separation only for substandard performance of duty, the officer may only be separated with an Honorable characterization of service.

2. The specific reasons for your separation [is/are] [substandard performance of duty, misconduct, and moral or professional dereliction] as evidenced by the following:

[Insert appropriate [basis/bases] from Enclosure (3) of reference (a).]

3. Based upon reference (b), the factual [basis/bases] for this recommendation [is/are] as follows:

[Insert specific factual [basis/bases] supporting the recommendation.]

4. You are afforded the following rights regarding this recommendation for your separation:

a. The right to submit a statement to the Secretary of the Navy in rebuttal to this recommendation or to decline to make a statement.

b. The right to tender a resignation in lieu of separation processing. The format for such a resignation is included at enclosure (1).

c. The right to confer with a judge advocate concerning this matter.

d. The right to consult with a civilian counsel at your own expense. This right shall in no way be allowed to delay the orderly processing of this recommendation.

e. The right, upon request, to be provided copies of the papers to be forwarded to the Secretary of the Navy to support your proposed separation. Any classified documents will be summarized.

5. You also have the right to waive the rights contained in paragraph 4(a)-(e), and any failure to respond as indicated in paragraph 7, below, shall constitute a waiver of these rights.

6. If you are voluntarily or involuntarily separated before you complete an active duty service requirement incurred because you received advanced education assistance (United States Naval Academy, Reserve Officer Training Corps, Platoon Leaders Class, Funded Law Education Program, etc.), you may be required to reimburse the Government on a pro-rata basis for the unserved portion of your service obligation.

7. You are directed to acknowledge receipt of this notification and to designate your election of rights in enclosure (2). All matters you submit concerning this recommendation are due to [me] within 10 calendar days of your receipt of this notice. You may request an extension of this time upon a timely showing of good cause.

I. M. COMMANDING

Figure 15-28
Acknowledgement of Administrative Separation

From: Rank First Name MI Last Name MOS USMC/R
To: CO/CG, Unit

Subj: ACKNOWLEDGMENT OF NOTIFICATION OF SEPARATION RECOMMENDATION

Ref: (a) [CO/CG], [Unit] ltr 1920 [Code] of [date]

1. I acknowledge receipt of the reference informing me of the recommendation for my administrative separation from the Marine Corps.

2. I understand the factual basis for my recommended separation and understand that I am being recommended for [a General (Under Honorable Conditions)]/[an Honorable] characterization of service.

3. I understand that, if I am voluntarily or involuntarily separated before I complete an active duty service requirement incurred because I received advanced education assistance (United States Naval Academy, Reserve Officer Training Corps, Platoon Leaders Class, Funded Law Education Program, etc.), I may be required to reimburse the Government on a pro-rata basis for the unserved portion of my service obligation.

4. I understand that I may submit matters in response to the proposed administrative separation within 10 calendar days of receipt of the notification.

5. _____ I (do) (do not) desire to submit matters to the Secretary of the Navy in rebuttal to this recommendation.

6. _____ I (do) (do not) desire to tender a resignation in lieu of separation processing.

7. _____ I (do) (do not) desire to confer with a judge advocate concerning this matter. _____ I have conferred with_____ on _____.

8. _____ I (do) (do not) desire to consult with a civilian counsel at my own expense. I understand that the processing of my case shall in no way be unduly delayed to await the availability of such civilian counsel.

9. _____ I (do) (do not) desire to be provided copies of the papers to be forwarded to the Secretary of the Navy to support the proposed separation. Any classified documents will be summarized.

I. M. MARINE
Date: _____

Figure 15-29
Recommendation for Administrative Separation via Notification

From: CG/CO (who notified officer of adsep)
To: Secretary of the Navy
Via: (1) Chain of Command
(2) Alternate Show Cause Authority
(3) Commandant of the Marine Corps (JPL)

Subj: RECOMMENDATION FOR ADMINISTRATIVE SEPARATION IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(b) SECNAVINST 1920.6_

Encl: (1) [Notification of AdSep]
(2) [Acknowledgement of Notification of AdSep]
(3) [Report of Misconduct/NJP/Civilian Conviction/Court-Martial Conviction
(4) [Command Investigation/Evidence, if any]
(5) [Any rebuttal matters by SNO]
(6) SACC screen and treatment completion (if required)
(7) Medical evaluation (if required)
(8) PTSD/TBI screen (if required by 10 USC § 1177 or otherwise)
(9) Acknowledgment of advanced education assistance reimbursement requirement

1. This recommendation is submitted per paragraph 011003 of reference (a).

2. Per reference (b), on [date], I notified [Rank Name], via enclosure (1), of my recommendation that [he/she] be administratively separated for cause, specifically: [insert basis for separation verbiage here: substandard performance of duty, misconduct, and moral or professional dereliction]. On [date], [Rank Name] acknowledged receipt of the notification, enclosure (2).

3. [Summary of allegations of misconduct and substandard performance of duty], enclosure (3).

4. On [date], [Rank Name] submitted matters in rebuttal, enclosure (4). [Rank Name] claims [Brief summary of SNO's matters]. [[Rank Name] requests to be retained.]

5. [If substance-related incident] On [date], the [Name] Substance Abuse Counseling Center evaluated [Rank Name] and found that [he/she] [did/did not] meet the criteria for a substance-related disorder. The counselor recommended that [Rank Name] attend [treatment]. On [date], [Rank Name] completed the recommended treatment, enclosure (5). (SACC documents do

not need to be a separate enclosure if they are already attached to an enclosed Report).

6. On [date], a medical provider evaluated [Rank Name] and found that [he/she] is qualified for separation, enclosure (6). [Brief synopsis of any condition(s) and whether the condition(s) had impact on the officer's behavior.] (Medical Evaluation documents do not need to be a separate enclosure if they are already attached to an enclosed Report).

7. [If PTSD/TBI screen is required per paragraph 010302.D of reference (a)] On [date], a medical provider evaluated [Rank Name] for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI), enclosure (7). [Rank Name] screened positive for PTSD/TBI. [State whether PTSD/TBI had impact on the officer's behavior.] [Explain reason for separation and recommended characterization of service.] (PTSD/TBI screen does not need to be a separate enclosure if it is already attached to an enclosed Report). [OR]

7. [If PTSD/TBI screen is required per paragraph 010302.D of reference (a)] On [date], a medical provider evaluated [Rank Name] for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI), and found that [he/she] does not have PTSD/TBI, enclosure (7). (PTSD/TBI screen does not need to be a separate enclosure if it is already attached to an enclosed Report).

8. [Rank Name] has been advised of the reimbursement requirement for advanced education assistance. [[Rank Name's] acknowledgment of this requirement is contained in enclosure (8).] I am not aware that [Rank Name] received any advanced education assistance. (Acknowledgement does not need to be a separate enclosure if it is already attached to an enclosed Report). [OR]

8. [Rank Name] has been advised of the reimbursement requirement for advanced education assistance. [[Rank Name's] acknowledgment of this requirement is contained in enclosure (8).] [[Rank Name] attended the Naval Academy and received advanced education assistance in the approximate amount of $_____.]/[[Rank Name] received advanced education assistance via the [Platoon Leaders Class/Naval Reserve Officer Training Corps program, etc.] in the approximate amount of $_____.] I [do not] recommend that the reimbursement requirement be waived in this case. (Acknowledgement does not need to be a separate enclosure if it is already attached to an enclosed Report).

9. I notified [Rank Name] that I would recommend that [he/she] be administratively separated with [a General (Under Honorable Conditions)]/[an Honorable] characterization of service. [After considering [Rank Name's] matters [and any other relevant matters such as a positive screen for PTSD/TBI], I [continue to] recommend [that [Rank Name] be administratively separated with [a General (Under Honorable Conditions)]/[an Honorable] characterization of service.] [Comments as to the character of the officer and the allegations of misconduct/substandard performance.]

I. M. COMMANDING

Copy to:
[Rank Name of Accused]

Figure 15-30
Voluntary Retirement in lieu of Further Administrative Processing

From: Rank First Name MI Last Name MOS USMC/R
To: Secretary of the Navy
Via: (1) Chain of Command
(2) Alternate Show Cause Authority
(3) Commandant of the Marine Corps (JPL)

Subj: VOLUNTARY RETIREMENT REQUEST IN LIEU OF FURTHER ADMINISTRATIVE PROCESSING FOR CAUSE IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) SECNAVINST 1920.6_
(b) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(c) MCO 1900.16 w/ch 1 (MARCORSEPMAN)

Encl: (1) [Report of Misconduct/NJP/Civilian Conviction/Court-Martial Conviction or, if none, Investigation/ Evidence]
(2) CG, [SCA/ASCA] ltr 1920 [Code] of [date]
(3) Matters

1. Pursuant to references (a) through (c), I voluntarily request to retire in lieu of further processing for administrative separation for cause.

2. I understand that a Board of Inquiry (BOI) will not be convened to recommend my retirement grade to the Secretary of the Navy.

3. This request to retire is purely voluntary and, once submitted, I understand that it can only be withdrawn with the permission of the Secretary of the Navy.

4. I understand that the Secretary of the Navy may retire me in a lesser grade than I currently hold and that the retirement grade will be the highest grade in which I served satisfactorily, as determined by the Secretary of the Navy. I respectfully request to retire [in my current grade of [grade]].

5. This retirement request is based on [my nonjudicial punishment for _____/my civilian conviction for _____/my court-martial conviction for _____/ my misconduct/substandard performance of duty by _____], enclosure (1).

6. [If ASCA/SCA already directed show cause] On [date], [the Alternate Show Cause Authority/Show Cause Authority] directed that I show cause for retention at a BOI for [substandard performance of duty, misconduct, and moral or professional dereliction], enclosure (2). I admit [that I committed misconduct [and/or] that my performance of duty was substandard]. [OR]

6. [If ASCA/SCA has not directed show cause] I admit that I am guilty of [all] the charges/allegations detailed in enclosure (1). I admit [that I committed misconduct [and/or] that my performance of duty was substandard].

Note: The officer must admit that his/her performance of duty was substandard, and if the officer is being required to show cause for misconduct, he/she must admit to committing the misconduct.

7. I understand that I may submit a sworn or unsworn statement or other material on my behalf for consideration by the Secretary of the Navy, and that any statements submitted in connection with this request, including admissions of guilt, are not admissible in a court-martial except as provided by Military Rule of Evidence 410, but may be admissible at other proceedings. [I hereby decline to submit any matters.]/[My matters are included in enclosure (3).]

8. I understand that, if I am voluntarily or involuntarily retired before I complete an active duty service requirement incurred because I received advanced education assistance (United States Naval Academy, Reserve Officer Training Corps, Platoon Leaders Class, Funded Law Education Program, etc.), I may be required to reimburse the Government on a pro-rata basis for the unserved portion of my service obligation.

9. In submitting this request, I consulted with [insert counsel's rank name, branch of service]/[name and address of civilian counsel], a qualified defense counsel.

I. M. MARINE
Date: _____

Figure 15-31
Resignation in lieu of Further Administrative Processing

From: Rank First Name MI Last Name MOS USMC/R
To: Assistant Secretary of the Navy (M&RA)
Via: (1) Chain of Command
(2) Alternate Show Cause Authority
(3) Commandant of the Marine Corps (JPL)

Subj: REQUEST FOR RESIGNATION IN LIEU OF FURTHER ADMINISTRATIVE PROCESSING FOR CAUSE IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) SECNAVINST 1920.6_
(b) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)
(c) MCO 1900.16 w/ch 1 (MARCORSEPMAN)

Encl: (1) [Report of Misconduct/NJP/Civilian Conviction/Court-Martial Conviction or, if none, Investigation/Evidence]
(2) CG, [SCA/ASCA] ltr 1920 [Code] of [date]
(3) Matters

1. Pursuant to references (a) through (c), I voluntarily tender my [unqualified resignation]/[qualified resignation]/[resignation for the Good of the Service] of my commission in the United States Marine Corps [Reserve] in lieu of [further] processing for administrative separation for cause. I understand that a Board of Inquiry (BOI) will not be convened to make a separation recommendation to the Secretary of the Navy.

2. [If unqualified resignation] I understand that, if the Secretary of the Navy approves my request for unqualified resignation, my service will be characterized as Honorable. [OR]

2. [If qualified resignation] I understand that, if the Secretary of the Navy approves my request for qualified resignation, my service may be characterized as General (Under Honorable Conditions). I respectfully request that my service be characterized as _____. [OR]
2. [If resignation for the good of the service] I understand that, if the Secretary of the Navy approves my request for resignation for the good of the service, my service may be characterized as Other Than Honorable. I respectfully request that my service be characterized as _____.

3. [If unqualified resignation] I have been informed and understand that if my resignation in lieu of processing for administrative separation for cause is accepted, I shall subsequently receive a certificate of honorable discharge from the naval service. [OR]

3. [If qualified resignation] I have been informed and understand that if my resignation in lieu of processing for administrative separation for

cause is accepted, I may subsequently receive a certificate of general discharge from the Marine Corps; that such a separation, although considered by the Navy Department to be under honorable conditions, is not the highest qualitative type of separation provided for officers of the naval service, and that, while I shall be entitled to the major portion of veteran's rights and benefits presently authorized for former officers whose service has been similar to my own, should any present or future statutes specifically require an honorable discharge as a condition precedent to the granting of rights and benefits thereunder, my eligibility for any such rights and benefits may be at least doubtful. [OR]

3. [If resignation for the good of the service] I have been informed and understand that if my resignation in lieu of processing for administrative separation for cause is accepted, I may subsequently receive a characterization of service from the Marine Corps which will state upon its face that it is under other than honorable conditions; that I may be deprived of substantial rights, benefits, and bounties which Federal or State legislation confers or may hereafter confer upon persons with honorable service in, or separated from, the Armed Forces, that I may expect to encounter substantial prejudice in civilian life in situations where the nature of service rendered in, or the character of separation from, the Armed Forces may have a bearing.

4. This resignation is purely voluntary and, once submitted, I understand that it can only be withdrawn with the permission of the Secretary of the Navy.

5. This resignation is based on [my nonjudicial punishment for _____/my civilian conviction for _____/my court-martial conviction for _____/my misconduct/substandard performance of duty by _____], enclosure (1).

6. [If ASCA/SCA already directed show cause] On [date], [the Alternate Show Cause Authority/Show Cause Authority] directed that I show cause for retention at a BOI for [substandard performance of duty, misconduct, and moral or professional dereliction], enclosure (2). I admit [that I committed misconduct [and/or] that my performance of duty was substandard*]. [OR]

6. [If ASCA/SCA has not directed show cause] I admit that I am guilty of the [charges/allegations] detailed in enclosure (1). I admit [that I committed misconduct [and/or] that my performance of duty was substandard*].

*Note: The officer must admit that his/her performance of duty was substandard, and if the officer is being required to show cause for misconduct, he/she must admit to committing misconduct.

7. I understand that I may submit a sworn or unsworn statement or other material on my behalf for consideration by the Secretary of the Navy, and that any statements submitted in connection with this request, including

admissions of guilt, are not admissible in a court-martial except as provided by Military Rule of Evidence 410, but may be admissible at other proceedings. [I hereby decline to submit any matters.]/[My matters are included in enclosure (3).]

8. I understand that, if I am voluntarily or involuntarily separated before I complete an active duty service requirement incurred because I received advanced education assistance (United States Naval Academy, Reserve Officer Training Corps, Platoon Leaders Class, Funded Law Education Program, etc.), I may be required to reimburse the Government on a pro-rata basis for the unserved portion of my service obligation.
9. I understand that I do not rate nor do I desire a reserve commission.

10. In submitting this request, I consulted with [military counsel's rank name, branch of service]/[civilian counsel's name and address], a qualified defense counsel.

I. M. MARINE
Date: _____

Figure 15-32
Resignation in lieu of Trial

From: Rank First Name MI Last Name MOS USMC/R
To: Secretary of the Navy
Via: (1) Chain of Command
(2) Alternate Show Cause Authority
(3) Commandant of the Marine Corps (JPL)

Subj: REQUEST FOR RESIGNATION IN LIEU OF TRIAL IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) MCO 1900.16 w/ch 1 (MARCORSEPMAN)
(b) SECNAVINST 1920.6_

Encl: (1) Charge Sheet
(2) Evidence
(3) Matters

1. Pursuant to paragraph 4104.3 of reference (a), I voluntarily request to resign in lieu of trial by court-martial.

2. Prior to submitting this request, I have been afforded the opportunity to consult with counsel certified in accordance with Article 27(b), Uniform Code of Military Justice (UCMJ). I have consulted with my detailed defense counsel, [military counsel's name, rank, and branch of service], and I am entirely satisfied with [his/her] advice.

3. I understand that I am currently pending [status of court-martial] for the offense(s) listed in enclosure (1). Before I submitted this request, my detailed defense counsel explained to me each and every element of the offense(s) of which I am accused and I understand each and every element.

4. I acknowledge guilt to [one or more of the charge(s) and specification[s]] in enclosure (1)]. I make this acknowledgement voluntarily and of my own free will. I understand that a punitive discharge is authorized for [any one of the specification(s) contained in enclosure (1)].

5. I have reviewed the evidence in enclosure (2) and have had an opportunity to consult with my counsel regarding the evidence.

6. Having discussed this matter with my defense counsel, I believe that this request is in my best legal and personal interest. I understand that I have an unqualified right to withdraw this request at any time prior to it being approved by the Secretary of the Navy. I understand that any statement submitted by my counsel or me in connection with this request is not admissible against me in a court-martial except as provided by Military Rule of Evidence 410.

7. I understand that, if I am voluntarily or involuntarily separated before I complete an active duty service requirement incurred because I

received advanced education assistance (United States Naval Academy, Reserve Officer Training Corps, Platoon Leaders Class, Funded Law Education Program, etc.), I may be required to reimburse the Government on a pro-rata basis for the unserved portion of my service obligation.

8. I have been informed and understand that if my resignation in lieu of trial is accepted, I may subsequently receive a characterization of service from the Marine Corps which will state upon its face that it is under other than honorable conditions; that I may be deprived of substantial rights, benefits, and bounties which Federal or State legislation confers or may hereafter confer upon persons with honorable service in, or separated from, the Armed Forces, that I may expect to encounter substantial prejudice in civilian life in situations where the nature of service rendered in, or the character of separation from, the Armed Forces may have a bearing.

9. With my understanding of the previous paragraph, I respectfully request to be discharged with a characterization of service as [General (Under Honorable Conditions)] per enclosure (5) of reference (b). In support thereof, I respectfully request that you consider [matters], enclosure (3).

I. M. MARINE

I. M. DEFENSE
RANK, USMC
DETAILED DEFENSE COUNSEL

Figure 15-33
Waiver of BOI (Not Retirement Eligible)

From: Rank First Name MI Last Name MOS USMC/R
To: Secretary of the Navy
Via: (1) Chain of Command
(2) Alternate Show Cause Authority
(3) Commandant of the Marine Corps (JPL)

Subj: VOLUNTARY WAIVER OF A BOARD OF INQUIRY IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) SECNAVINST 1920.6_
(b) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)

Encl: (1) [Report of Misconduct/NJP/Civilian Conviction/Court-Martial Conviction or, if none, Investigation/Evidence]
(2) CG, [SCA/ASCA] ltr 1920 [Code] of [date]
(3) Matters

1. Pursuant to the references, I voluntarily waive my right to a Board of Inquiry (BOI) for processing for administrative separation for cause and I understand that a BOI will not be convened to make a separation recommendation to the Secretary of the Navy.

2. This waiver is purely voluntary and, once submitted, I understand that it can only be withdrawn with the permission of the Secretary of the Navy.

3. I understand that, if the Secretary of the Navy approves my waiver, I may be separated with an Other Than Honorable characterization of service. If I am separated from the Marine Corps, I respectfully request that my service be characterized as _____.

4. I have been informed and understand that if I am separated from the Marine Corps, I may receive a characterization of service from the Marine Corps which will state upon its face that it is under other than honorable conditions; that I may be deprived of substantial rights, benefits, and bounties which Federal or State legislation confers or may hereafter confer upon persons with honorable service in, or separated from, the Armed Forces, that I may expect to encounter substantial prejudice in civilian life in situations where the nature of service rendered in, or the character of separation from, the Armed Forces may have a bearing.

5. This waiver is based on [my nonjudicial punishment for _____/my civilian conviction for _____/my court-martial conviction for _____/my misconduct/substandard performance of duty by _____], enclosure (1).

6. [If ASCA/SCA already directed show cause] On [date], [the Alternate Show Cause Authority/Show Cause Authority] directed that I show cause for

retention at a BOI for [substandard performance of duty, misconduct, and moral or professional dereliction], enclosure (2).

7. I understand that I may submit a sworn or unsworn statement or other material on my behalf for consideration by the Secretary of the Navy, and that any statements submitted in connection with this request, including admissions of guilt, are not admissible in a court-martial except as provided by Military Rule of Evidence 410, but may be admissible at other proceedings. [I hereby decline to submit any matters.]/[My matters are included in enclosure (3).]

8. I understand that, if I am voluntarily or involuntarily separated before I complete an active duty service requirement incurred because I received advanced education assistance (United States Naval Academy, Reserve Officer Training Corps, Platoon Leaders Class, Funded Law Education Program, etc.), I may be required to reimburse the Government on a pro-rata basis for the unserved portion of my service obligation.

9. [Regular Officers] I understand that I do not rate nor do I desire a reserve commission.

10. In submitting this waiver, I consulted with [military counsel's rank name, branch of service]/[civilian counsel's name and address], a qualified defense counsel.

I. M. MARINE
Date: _____

Figure 15-34
Waiver of BOI (Retirement Eligible)

From: Rank First Name MI Last Name MOS USMC/R
To: Secretary of the Navy
Via: (1) Chain of Command
(2) Alternate Show Cause Authority
(3) Commandant of the Marine Corps (JPL)

Subj: VOLUNTARY WAIVER OF A BOARD OF INQUIRY IN THE CASE OF [RANK FIRST NAME MI LAST NAME MOS USMC/R]

Ref: (a) SECNAVINST 1920.6_
(b) MCO 5800.16 (LSAM), Vol 15 (Officer Misconduct and Substandard Performance of Duty)

Encl: (1) [Report of Misconduct/NJP/Civilian Conviction/Court-Martial Conviction or, if none, Investigation/Evidence]
(2) CG, [SCA/ASCA] ltr 1920 [Code] of [date]
(3) Matters

1. Pursuant to the references, I voluntarily waive my right to a Board of Inquiry (BOI) for processing for involuntary retirement and I understand that a BOI will not be convened to make a separation recommendation to the Secretary of the Navy.

2. This waiver is purely voluntary and, once submitted, I understand that it can only be withdrawn with the permission of the Secretary of the Navy.

3. I understand that the Secretary of the Navy may retire me in a lesser grade than I currently hold and that the retirement grade will be the highest grade in which I served satisfactorily, as determined by the Secretary of the Navy. I respectfully request to retire [in my current grade of [grade]]. [If characterization of service has been authorized by the DC, M&RA: If I am involuntarily retired from the Marine Corps, I respectfully request that my service be characterized as _____.]

4. This waiver is based on [my nonjudicial punishment for _____/my civilian conviction for _____/my court-martial conviction for _____/my misconduct/substandard performance of duty by _____], enclosure (1).

5. [If ASCA/SCA already directed show cause] On [date], [the Alternate Show Cause Authority/Show Cause Authority] directed that I show cause for retention at a BOI for [substandard performance of duty, misconduct, and moral or professional dereliction], enclosure (2). I admit [that I committed misconduct [and/or] that my performance of duty was substandard*]. [OR]

5. [If ASCA/SCA has not directed show cause] I admit that I am guilty of the [charges/allegations] detailed in enclosure (1). I admit [that I committed misconduct [and/or] that my performance of duty was substandard*].

*Note: The officer must admit that his/her performance of duty was substandard, and if the officer is being required to show cause for misconduct, he/she must admit to committing the misconduct.

6. I understand that I may submit a sworn or unsworn statement or other material on my behalf for consideration by the Secretary of the Navy, and that any statements submitted in connection with this request, including admissions of guilt, are not admissible in a court-martial except as provided by Military Rule of Evidence 410, but may be admissible at other proceedings. [I hereby decline to submit any matters.]/[My matters are included in enclosure (3).]

7. I understand that, if I am voluntarily or involuntarily separated before I complete an active duty service requirement incurred because I received advanced education assistance (United States Naval Academy, Reserve Officer Training Corps, Platoon Leaders Class, Funded Law Education Program, etc.), I may be required to reimburse the Government on a pro-rata basis for the unserved portion of my service obligation.

8. In submitting this waiver, I consulted with [military counsel's rank name, branch of service]/[civilian counsel's name and address], a qualified defense counsel.

I. M. MARINE
Date: _____

Figure 15-35
Command Delay Letter

From: Commanding Officer
To: Rank First Name MI Last Name MOS USMC/R

Subj: NOTIFICATION OF PROMOTION DELAY

Ref: (a) MARADMIN XXX/XX
(b) 10 U.S. Code
(c) SECNAVINST 1420.1_ (1stLt and above), 1412.9_ (WO, CWO, and LDO), or 1412.6_ (2ndLt)

Encl: (1) Acknowledgment of receipt

1. Per reference (a), you were scheduled for promotion to the grade of [grade] on [1 Month 20XX].

2. Prior to the release of the promotion authority, you [explain basis for delay, e.g. received nonjudicial punishment for disobeying a lawful order and fraternization].

3. After careful consideration of this information, your promotion has been delayed pending a determination of whether you are mentally, physically, morally, and professionally qualified for promotion. This action is being taken in accordance with references (b) and (c).

4. You are entitled to submit matters for consideration in response to your promotion delay. You may submit matters now or you may wait until all disciplinary and administrative proceedings are completed.

5. Enclosure (1) is an acknowledgment of receipt. Please note your decision and return this acknowledgement upon receipt of this letter. Enclosure (1) and any statements you wish to submit should be addressed, via your chain of command, to the Commandant of the Marine Corps (CMC) (JPL), Headquarters, U.S. Marine Corps, 3000 Marine Corps Pentagon, Washington, DC 20350-3000. Any statement or information you wish to provide must be submitted within 10 calendar days of receipt of this letter. For any questions regarding this matter, please contact your command's OSJA at (XXX)-(XXX)-(XXXX), and if you are represented by counsel, you should direct your attorney to contact your command's OSJA on your behalf with any questions.

I. M. COMMANDING

Copy to:
CMC (MMPR)
CMC (JPL)