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A BRIEF GUIDE TO MILITARY JUSTICE

(Note: The following list includes general information and terminology. Each branch of service has different terminology for many of the actions noted below, and this list is not intended to be all-inclusive)

Types of Military Justice Actions:

Administrative: letters of admonition, counseling, reprimand, page 11, etc.
Administrative hearing: separation board, honor board, flying evaluation board, etc.
Nonjudicial punishment (NJP): office hours, captain's mast, etc.
Court-Martial: summary court martial, special court-martial, general court-martial.

Member's courses of action:

For an administrative action:

- File a rebuttal memorandum.
- Depending on rank/grade, respond to any selection record determination, as applicable.
- If appropriate, petition the board of corrections to have the item removed.

NJP or Summary Court-Martial:

- Discuss all options with a good attorney who has had success trying tough cases.
- Discuss all possible punishments and defenses.
- If offered NJP, ultimate decision is whether to demand trial or agree to have the commander act as judge and jury.
- If you accept NJP, file a rebuttal and/or make personal appearance. Attorney should file legal memo.
- If you accept NJP, discuss options for appeal or mitigation of punishment.
- If offered SCM, decision is whether to demand trial or agree to have the summary court officer act as judge and jury.
- If you accept SCM, put on a strong defense and/or give a statement asking for mercy.
- If you accept SCM, discuss options for appeal or clemency.
- Attorney should talk to witnesses and investigators, not just go by investigative report.
- Attorney can represent you at a SCM and put on a real defense, or can assist you in preparing your own case.

Special Court-Martial, General Court-Martial, Administrative Hearing:

- Read the charge sheet closely. Have attorney look for defects.
- Attorney should be very aggressive in discovery.
- Attorney should, whenever possible, visit investigator's office and review the full file.
- Attorney should fully explore circumstances of any interrogation or confession.
- Request all possibly relevant records: medical, phone, internet, banking, etc.
- Attorney must talk to witnesses early.
- Request relevant experts to rebut government evidence or present evidence for you.
- Complete a court-martial preparation package through attorney very early.
- Begin preparing the sentencing case early, even if pleading not guilty. Gather "good paper," character statements, and favorable witnesses who can testify on your behalf at sentencing or, if applicable, during findings
- Consider all options for motions, *voir dire*, jury instructions, arguments, etc.
- If facing a General Court-Martial, typically do not waive the Article 32 hearing. Be very aggressive at Article 32, treat it like a court-martial.
- Don't waive rights solely for the convenience of the government.
- If facing an admin hearing, treat it as seriously as a court-martial.

THERE IS NO SUBSTITUTE FOR PREPARATION AND HARD WORK. AGGRESSIVE HANDLING OF YOUR CASE WILL LAY THE GROUNDWORK FOR THE BEST POSSIBLE RESULT. IF YOU KNOW SOMEONE WHO COULD BENEFIT FROM THIS GUIDE, PLEASE FEEL FREE TO PASS THIS ALONG.