CHECKLIST FOR NJP COUNSELING

I. Right to APPEAR

Right to REMAIN SILENT

Right to a **SPOKESPERSON** (not a military attorney)

Right to **CONFRONTATION** (witnesses and documents)

Right to plead GUILTY OR NOT GUILTY

Right to PRESENT MATTERS IN DEFENSE, EXTENUATION (explain why you did it) & MITIGATION (explains why the CO should lessen the punishment)

Right to HAVE WITNESSES APPEAR IN YOUR DEFENSE

Right to HAVE PROCEEDINGS OPEN TO THE PUBLIC

II. Right to REFUSE NJP UP TO THE TIME PUNISHMENT IS ANNOUNCED

III. Right to **APPEAL.** It must be submitted, in writing, within 5 calendar days. The basis must be that punishment was **unjust** and/or **disproportionate** to the offense committed. You may also request any punishment involving restraint be stayed if appeal is not acted upon within 5 business days.

IV. What if I accept NJP? The maximum punishment is determined by the rank and billet of the commanding officer imposing NJP:

Restriction:

CO is O-3 and below Maximum Punishment

Restriction: 14 days

EPD: 14 days EPD: 45 days

Forfeitures: 7 days pay Forfeitures: 1/2 of 1 months pay for 2 months

Reduction: 1 pay grade* Reduction: 1 pay grade*

CCU: 7 days (Pvt-LCpl)** CCU: 30 days (Pvt-LCpl)**

* The CO's must have promotion authority to be able to reduce. This is <u>normally</u> held by Battalion/Squadron commanders and above. Per JAGINST 5800.7E, warrant officers do not have the authority to reduce, regardless of billet.

**CCU is a possibility; however, due to current operational considerations, it is highly unlikely.

V. What if I refuse NJP?

- a. Charges may be dropped;
- b. Administrative action may be taken (page 11 entry/NPLOC/etc); or
- c. Charges may be referred to a court-martial.

Summary Court-Martial Maximum Punishment

Confinement: 30 days (E-4 and below)

Restriction: 60 days (E-5 and above)

Forfeitures: 2/3 pay for one month Reduction: E-4 and below: to E-1

E-5 and above: 1 pay grade

Special Court-Martial Maximum Punishment

Confinement: 12 months

CO is O-4 and above Maximum Punishment

60 days (45 if w/ EPD)

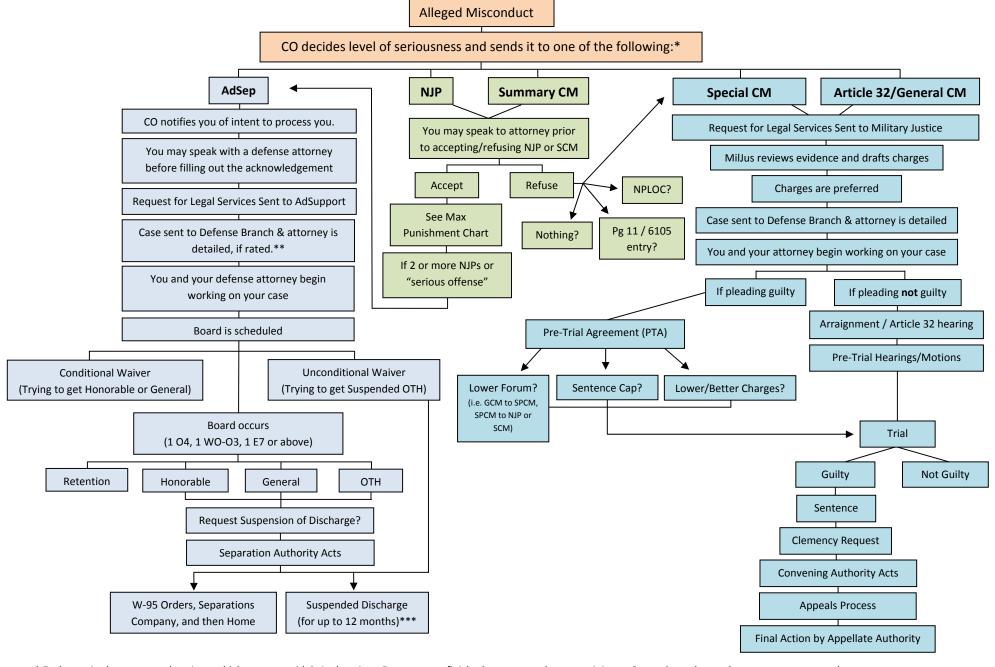
Forfeitures: 2/3 pay for 12 months

Reduction: to E-1
Discharge: BCD

- Usually considered a federal misdemeanor conviction

- If you are suspected of an offense, you have the absolute right to remain silent! No one can order you to make a statement or incriminate yourself. Anything you say or write will likely be used against you at NJP or court-martial.
- During walk-in counselings, no attorney-client relationship is formed. The attorney can answer questions about the process, your rights, and potential impacts of decisions but **can't** tell you whether to accept or refuse NJP or what decision to make.
- The burden of proof at NJP is "by a preponderance of the evidence" which basically means more likely than not, i.e. 51%. The burden of proof at Summary, Special, and General Courts-Martial is "beyond a reasonable doubt" which is the highest legal burden.
- Rules of Evidence (hearsay, for example) apply at Summary, Special, & General Courts-Martial only.
- You only rate a detailed defense attorney to assist you at Administrative Separations Boards, Special & General Courts-Martial.
- Two NJPs and/or counseling entries which could have resulted in NJP may justify administrative separation under the MARCORSEPSMAN or MILPERSMAN.
- NJP and Summary Courts-Martial don't normally follow you on your civilian criminal record; however, Special Court-Martial
 convictions are generally considered to be federal misdemeanor criminal convictions. National Crime Information Center (NCIC)
 reporting requirements: if law enforcement was involved, they will likely report the incident to NCIC, regardless of disposition; field grade NJP
 results must be reported back to law enforcement.

NJP / AdSep / Court-Martial Flowchart For Defense Services



^{*} Each step in the process takes time, which can vary widely in duration. From start to finish, the process takes at a minimum 2 months and can take over a year to complete.

^{**} Only certain bases under the MARCORSEPSMAN or MILPERSMAN rate a board. You will not be detailed a defense attorney if you do not rate a board.

^{***} While serving during the period of a suspended discharge, you are not eligible for promotion for the entire duration.