

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:

CO is O-3 and below Maximum Punishment

Restriction: 14 days

EPD: 14 days

Forfeitures: 7 days pay

Reduction: 1 pay grade*

CCU: 7 days (Pvt-LCpl)**

CO is O-4 and above Maximum Punishment

Restriction: 60 days (45 if w/ EPD)

EPD: 45 days

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

Reduction: 1 pay grade*

CCU: 30 days (Pvt-LCpl)**

* The CO's must have promotion authority to be able to reduce. This is normally 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

Forfeitures: 2/3 pay for 12 months

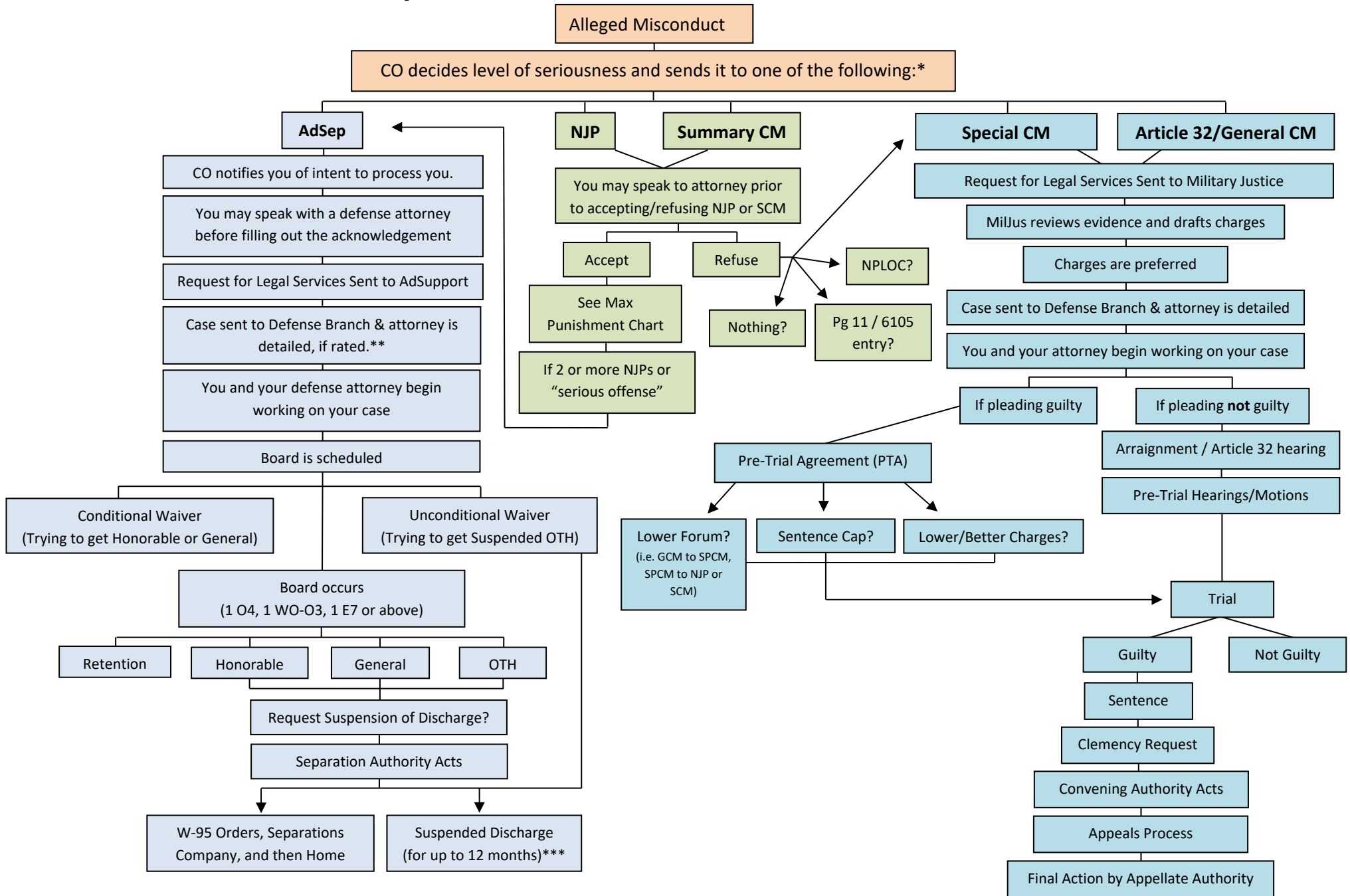
Reduction: to E-1

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.