



DEPARTMENT OF THE NAVY

TRAINING SQUADRON THIRTY-ONE (VT-31)
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VT31INST 5811.1F
ADMIN

04 APR 2008

TRAINING SQUADRON THIRTY-ONE INSTRUCTION 5811.1F

Subj: DUTIES OF PRELIMINARY INQUIRY OFFICERS

Ref: (a) RCM 303, Manual for Courts-Martial 2008
(b) Uniform Code of Military Justice
(c) SECNAVINST 5430.107

Encl: (1) Instructions for Preliminary Inquiry Officers
(2) Report and Disposition of Offense(s) (NAVPERS 1626/7)
(3) Statement of Witness
(4) Suspect's Rights Acknowledgement/Statement NSLO Form
5830/2 (4-82)

1. Purpose. To promulgate instructions pertaining to the duties of preliminary inquiry officers.

2. Cancellation. VT31INST 5811.1E

3. Information

a. Reference (a) requires that the Commanding Officer, upon receipt of charges or information indicating that a member of his command has committed an offense punishable under reference (b), initiate a preliminary inquiry to determine the appropriate disposition of the matter.

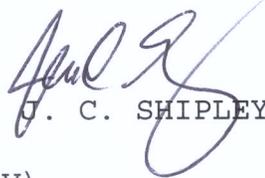
b. An informative inquiry report is of utmost importance to the proper administration of military justice. In determining the proper disposition of the case, the Commanding Officer's options include dismissal of the charge(s), imposition of non-punitive measures, a non-judicial punishment hearing, referral to trial by court-martial, and referral to a formal pretrial investigation. If the Commanding Officer determines that a non-judicial punishment hearing is appropriate, the preliminary inquiry report will assist him in determining the accused's guilt or innocence and the amount of punishment to be imposed. In the event of an appeal from non-judicial punishment, the report will assist the appellate authority in deciding whether relief is warranted. If the case is referred to trial by court-martial or to a formal pretrial investigation, the report will assist the summary court-martial office, counsel for both sides, and a pretrial investigation officer in preparing to discharge their duties.

4. Action

a. The Executive Officer, upon receipt of information indicating an offense has been committed by a member of this command, shall determine who should investigate the case. He shall be guided by reference (c) in making this determination. If an investigation by one of the command personnel is considered appropriate, the Executive Officer will assign a preliminary inquiry officer from the Training Squadron THIRTY-ONE staff. It may be expedient for more than one case to be assigned to the same person for concurrent investigation where the cases are closely related.

b. Preliminary inquiry will proceed in accordance with enclosure (1).

c. In each case, the Executive Officer will review the report of the preliminary inquiry officer and may remand the report for further investigation where appropriate.


J. C. SHIPLEY

Distribution: (VT31INST 5216.1V)
List I

INSTRUCTIONS FOR
PRELIMINARY INQUIRY OFFICERS

1. The Preliminary Inquiry Officer (PIO) will conduct his investigation in accordance with the guidelines contained herein. The PIO's report will consist of the following:

- a. NAVPERS 1626/7, Report and Disposition of Offense(s).
- b. Statements of summaries and interviews with all witnesses (sworn statements will be obtained if practicable).
- c. Statements of the accused's supervisor(s), sworn if practicable.
- d. Originals of copies of documentary evidence.
- e. If the accused waives all his/her rights, a signed sworn statement by the accused, or a summary of interrogation of the accused, signed and sworn to by the accused, or any additional comments by the investigator as desired.

2. Objectives

a. The primary objective of the PIO is to collect all available evidence pertaining to the alleged offense(s). As a first step, the PIO should be familiar with those paragraphs of the Manual for Court-Martial 2008, describing the offense(s). Each of the common offense(s) is described in Part IV, MCM, 1984. Within each paragraph is a section entitled "elements" which lists the elements of proof for that offense. The PIO must be careful to focus on the correct variation. It is suggested that the elements of proof be copied down to guide the PIO in searching for the relevant evidence. The PIO is to look for anything which tends to prove or disprove an element of proof. Note the two-sidedness of the function -- the PIO is to be impartial.

b. The secondary objective of the PIO is to collect information about the accused which will aid the Commanding Officer in making proper disposition of the case and, in the event non-judicial punishment is to be imposed, what the appropriate punishment, if any, should be. Items of interest to the Commanding Officer include: the accused's currently assigned

duties, evaluation of his/her performance, his/her attitudes and ability to get along with others, and particular personal difficulties or hardships which the accused is willing to discuss. Information of this sort is best reflected in the statement of the accused's supervisors, peers, and the accused himself/herself.

3. Interrogate the witnesses first (not the accused)

a. In most cases, a significant amount of the information must be obtained from witnesses. The person initiating the report and the persons he/she has listed as witnesses are starting points. Other persons having relevant information may be discovered during the course of the investigation.

b. The PIO should not begin by interrogating the accused. The accused is the person with the greatest motive for lying or otherwise distorting the truth, if in fact he/she is guilty. Before encountering such a person, the interrogator should be thoroughly prepared. Therefore, meeting with the accused should be left until last. Even when the accused confesses guilt, the PIO should, nevertheless, collect independent evidence corroborating the confession.

c. Witnesses who have relevant information to offer should be requested to make a sworn statement. Where a witness is interviewed by telephone and is unavailable to execute a sworn statement, the PIO must summarize the interview and certify it to be true.

d. In interviewing a witness, the PIO should seek to elicit all the relevant information from him/her. One method is to start with a general survey question, asking him/her to relate everything he/she knows about the subject of inquiry, and then following up with specific questions. After conversing with the witness, the PIO should assist him/her in writing out a statement that is thorough, relevant, orderly and clear. The substance should always be the actual thoughts, knowledge, or beliefs of the witnesses; the assistance of the PIO must be limited to helping the witness express himself/herself accurately and effectively in a written form. The witness may write his/her statement on a copy of enclosure (3).

4. Collect the documentary evidence. Documentary evidence such as log entries, watchbills, service record entries, local instructions or organization manuals, etc., should be obtained.

The original or a certified copy of relevant documents should be attached to the report. As an appointed investigator, the PIO has the authority to certify copies to be true by subscribing the words "CERTIFIED TO BE A TRUE COPY" with his/her signature.

5. Collect the real evidence. Real evidence is a physical object, such as the knife in an assault case or the stolen camera in a theft case, etc. Before the PIO seeks out the real evidence, if any, he/she must familiarize himself/herself completely with the Military Rules of Evidence concerning rules on searches and seizures. If the item is too large to present before a non-judicial punishment hearing or into a courtroom (for instance, the wrecked government bus in a "damaging government property" case), photographs should be taken. If real evidence is already in the custody of a law enforcement agency, it should be left there unless otherwise directed. The PIO should inspect it personally.

6. Advise the accused of his/her rights during interrogation

a. NLSO Form 5830/2 (enclosure 4) has been provided to ensure the PIO correctly advises the accused of his/her rights before asking questions. Filling in that page must be the first order of business when meeting with the accused. Only one witness is necessary, and that witness may be the preliminary inquiry officer.

b. Before questioning the accused, the PIO should also have the accused sign the acknowledgement line of the Report and Disposition of Offense (enclosure 2) and initial any additional pages of charges that may be attached. The PIO should sign the witness line on the front of the NAVPERS 1626/7 next to the accused acknowledging signature.

7. Interrogate the accused

a. The accused may be questioned only if he/she has knowingly and intelligently waived all of his/her constitutional and statutory rights. Such waivers, if made, should be recorded using enclosure (3) (Suspect's Statement). If the accused asks whether he/she should waive their rights, the PIO must decline

to answer and explain that the decision is the responsibility of the accused. Other than advising the accused of his/her rights as stated in paragraph 6a above, the PIO should never give any other form of legal advice to the accused. If he/she desires a lawyer, the Naval Legal Service Office military lawyers are available to give legal advice.

b. If the accused has waived all his/her rights, the PIO may then question him/her. It is suggested that the PIO begin in a low-key manner so as to not disquiet the accused. If the accused is inclined to lie or distort, permit him/her to do so at this point. Once he/she has spoken his/her piece, the PIO may probe with pointed questions and confront the accused with inconsistencies in his/her story or contradictions with other evidence. The PIO should, with respect to his/her own conduct, keep in mind that if a confession is not "voluntary," it cannot be used as evidence. To be admissible against him/her, a confession of admission which was obtained through the use of coercion, unlawful influence, or unlawful inducement in obtaining a confession or admission are: infliction of bodily harm (including questioning accompanied by deprivation of the necessities of life, such as food, sleep, or adequate clothing); threats of bodily harm; imposition of threats or confinement, or deprivation of privileges or necessities; promises of immunity or clemency as to any offense allegedly committed by the accused; and promises of reward benefit, or threats of disadvantages, likely to induce the accused to make the confession or admission.

c. If the accused is willing to make a written statement, make sure the accused has knowledge and waived all of his/her rights. While the PIO may help the accused to draft the statement, the PIO must be meticulous in refraining from putting words in the accused mouth or from tricking the accused into saying something, which he/she does not intend to say. If the draft is typed, the accused should read it over carefully and be permitted to make any changes he/she wishes. All changes should be initialed by the accused and witnessed by the PIO.

d. Oral statements, even though not reduced to writing, are admissible into evidence against a suspect. If the accused does not wish to reduce his/her statement to writing, the PIO must attach a certified summary of the interrogation to his/her report. Where the accuser has reduced less than all of

his/her statement to writing, the PIO must attach a certified summary of the interrogation to his/her report. Where the accused has reduced less than all of his/her statement to writing but has made a written statement, the PIO must add a certified summary of matters omitted from the accused's written statement.

PRELIMINARY INQUIRY REPORT

From: Commanding Officer

Date: _____

To: _____
1. Transmitted herewith for preliminary inquiry and report by you, including, if appropriate in the interest of justice and discipline, the preferring of such charges as appeal to you to be sustained by expected evidence.

REMARKS OF DIVISION OFFICER (Performance of duty, etc.)

NAME OF WITNESS	RATE/GRADE	DIV/DEPT	NAME OF WITNESS	RATE/GRADE	DIV/DEPT

RECOMMENDATION AS TO DISPOSITION REFER TO COURT-MARTIAL FOR TRIAL OF ATTACHED CHARGES (Complete Charge Sheet (DD Form 458) through Page 2)

DISPOSE OF CASE AT MAST NO PUNITIVE ACTION NECESSARY OR DESIRABLE OTHER

COMMENT (Include data regarding availability of witnesses, summary of expected evidence, conflicts in evidence, if expected. Attach statements of witnesses, documentary evidence such as service record entries in UA cases, items of real evidence, etc.)

(Signature of Investigating Officer)

ACTION OF EXECUTIVE OFFICER

DISMISSED REFER TO CAPTAIN'S MAST

SIGNATURE OF EXECUTIVE OFFICER _____

RIGHT TO DEMAND TRIAL BY COURT-MARTIAL

(Not applicable to persons attached to or embarked in a vessel)

I understand that nonjudicial punishment may not be imposed on me if, before the imposition of such punishment, I demand in lieu thereof trial by court-martial. I therefore (do) (do not) demand trial by court-martial.

WITNESS _____

SIGNATURE OF ACCUSED _____

ACTION OF COMMANDING OFFICER

DISMISSED

DISMISSED WITH WARNING (Not considered NJP)

ADMONITION: ORAL/IN WRITING

REPRIMAND: ORAL/IN WRITING

REST. TO _____ FOR _____ DAYS

REST. TO _____ FOR _____ DAYS WITH SUSP. FROM DUTY

FORFEITURE: TO FORFEIT \$ _____ PAY PER MO. FOR _____ MO(S)

CONF. ON _____ 1, 2, OR 3 DAYS

CORRECTIONAL CUSTODY FOR _____ DAYS

REDUCTION TO NEXT INFERIOR PAY GRADE

REDUCTION TO PAY GRADE OF _____

EXTRA DUTIES FOR _____ DAYS

PUNISHMENT SUSPENDED FOR _____

REFER TO ART. 32 INVESTIGATION

RECOMMENDED FOR TRIAL BY GCM

DETENTION: TO HAVE \$ _____ PAY PER MO. FOR (1, 2, 3) MO(S) DETAINED FOR _____ MO(S)

AWARDED SPCM AWARDED SCM

DATE OF MAST _____

DATE ACCUSED INFORMED OF ABOVE ACTION _____

SIGNATURE OF COMMANDING OFFICER _____

It has been explained to me and I understand that if I feel this imposition of non-judicial punishment to be unjust or disproportionate to the offenses charged against me, I have the right to immediately appeal my conviction to the next higher authority within 5 days.

SIGNATURE OF ACCUSED _____

DATE _____

I have explained the above rights of appeal to the accused.

SIGNATURE OF WITNESS _____

DATE: _____

FINAL ADMINISTRATIVE ACTION

APPEAL SUBMITTED BY ACCUSED _____

FINAL RESULT OF APPEAL: _____

DATED: _____

FORWARDED FOR DECISION ON: _____

APPROPRIATE ENTRIES MADE IN SERVICE RECORD AND PAY ACCOUNT ADJUSTED WERE REQUIRED

FILED IN UNIT PUNISHMENT BOOK:

DATE: _____

(Initials)

DATE: _____

(Initials)

REPORT AND DISPOSITION OF OFFENSE(S)

NAVPERS 1626/7

To: Commanding Officer, _____ Date of Report: _____

I hereby report the following named person for the offense(s) noted:

NAME OF ACCUSED	SERIAL NO.	SOCIAL SECURITY NO.	RATE/GRADE	BR. & CLASS	DIV/DEPT

PLACE OF OFFENSE(S)	DATE OF OFFENSE(S)

DETAILS OF OFFENSE(S) (Refer by Article of UCMJ if known. If unauthorized absence, give following info: time and date of commencement, whether over leave or liberty, time and date of apprehension or surrender and arrival on board, loss of ID card and/or liberty card, etc.):

NAME OF WITNESS	RATE/GRADE	DIV/DEPT	NAME OF WITNESS	RATE/GRADE	DIV/DEPT

(Rate/Grade/Title of person submitting report)

(Signature of Accuser)

I have been informed of the nature of the accusation(s) against me. I understand I do not have to answer any questions or make any statement regarding the offense(s) of which I am accused or suspected. However, I understand any statement made or questions answered by me may be used as evidence against me in event of trial by court-martial (Article 31, UCMJ).

Witness: _____ Acknowledged: _____
(Signature) (Signature of Accused)

PRE-MAST RESTRAINT	<input type="checkbox"/> <u>PRE-TRIAL CONFINEMENT</u>	<input type="checkbox"/> RESTRICTED: You are restricted to the limits of _____ in lieu of arrest by order of the CO. Until your status as a restricted person is terminated by the CO, you may not leave the restricted limits except with the express permission of the CO or XO. You have been informed of the times and places which you are required to muster.
	<input type="checkbox"/> <u>NO RESTRICTION</u>	

(Signature and title of person imposing restraint)

(Signature of Accused)

INFORMATION CONCERNING ACCUSED

CURRENT ENL. DATE	EXPIRATION CURRENT ENL. DATE	TOTAL ACTIVE NAVAL SERVICE	TOTAL SERVICE ON BOARD	EDUCATION	GCT	AGE
MARITAL STATUS	NO. DEPENDENTS	CONTRIBUTION TO FAMILY OR QTRS. ALLOWANCE <small>(Amount required by law)</small>		PAY PER MONTH <small>(Including sea or foreign duty pay, if any)</small>		

RECORD OF PREVIOUS OFFENSE(S) (Date type action taken etc. Nonjudicial punishment incidents are to be included.)

STATEMENT OF WITNESS

I, _____, hereby make the following voluntary statement to _____, who has identified himself/herself to me as an Officer of the United States Navy:

I make this statement freely and voluntarily with no threats or promises of reward being made to me. I have read over the complete statement, which consists of one page and have corrected and initialed all errors.

(Signature) _____

Subscribed and sworn to be me at _____ on _____ of _____.

(Signature) _____

SUSPECT'S RIGHTS ACKNOWLEDGEMENT/STATEMENT (See JAGMAN 0170)

FULL NAME (ACCUSED/SUSPECT)	SSN	RATE/RANK	SERVICE (BRANCH)
ACTIVITY/UNIT			DATE OF BIRTH
NAME (INTERVIEWER)	SSN	RATE/RANK	SERVICE (BRANCH)
ORGANIZATION		BILLET	
LOCATION OF INTERVIEW		TIME	DATE

RIGHTS

I certify and acknowledge by my signature and initials set forth below that, before the interviewer requested a statement from me, he warned me that:

(1) I am suspected of having committed the following offense(s): _____

(2) I have the right to remain silent; - - - - -

(3) Any statement I do make may be used as evidence against me in trial by court-martial, - - - - -

(4) I have the right to consult with lawyer counsel prior to any questioning. This lawyer counsel may be a civilian lawyer retained by me at my own expense, a military lawyer appointed to act as my counsel without cost to me, or both; and - - - - -

(5) I have the right to have such retained civilian lawyer and/or appointed military lawyer present during this interview. - - - - -

WAIVER OF RIGHTS

I further certify and acknowledge that I have read the above statement of my rights and fully understand them, and that, - - - - -

(1) I expressly desire to waive my right to remain silent; - - - - -

(2) I expressly desire to make a statement; - - - - -

(3) I expressly do not desire to consult with either a civilian lawyer retained by me or a military lawyer appointed as my counsel without cost to me prior to any questioning; - - - - -

(4) I expressly do not desire to have such lawyer present with me during this interview; and - - - - -

(5) This acknowledgment and waiver of rights is made freely and voluntarily by, and without any promises or threats having been made to me or pressure or coercion of any kind having been used against me. - - - - -

SIGNATURE (ACCUSED/SUSPECT)	TIME	DATE
SIGNATURE (INTERVIEWER)	TIME	DATE
SIGNATURE (WITNESS)	TIME	DATE

The statement which appears on this page (and the following ___ page(s), all of which are signed by me), is made freely and voluntarily by me, and without any promises or threats having been made to me or pressure or coercion of any kind having been used against me.

SIGNATURE (ACCUSED/SUSPECT)

The statement which appears on this page (and the following _____ page(s), all of which are signed by me), is made freely and voluntarily by me, and without any promises or threats having been made to me or pressure or coercion of any kind having been used against me.

SIGNATURE (ACCUSED/SUSPECT)

