



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON, D. C. 20370

IN REPLY REFER TO

JUN 26 1968

From: Captain Murl A. Larkin, JAGC, USN
To: Chief of Naval Operations
Via: Judge Advocate General

Subj: Investigation of "command" criminal investigative facilities
and personnel; report of

Ref: (a) CNO ltr Op-09B1L/jm Ser 793P09B1L of 28 Sep 1967
(b) SECNAVINST 5430.13B of 12 Mar 1965

- Encl:
- (1) Policy limitation of criminal investigative jurisdiction of Naval Investigative Service and residual jurisdiction of "command" investigative personnel
 - (2) Description of current "command" investigative facilities, personnel and procedures
 - (3) Inadequacy of selection, training and continuity of experience of "command" investigative personnel
 - (4) Inadequacy of performance of "command" investigators
 - (5) Proposed revised SECNAV Instruction prescribing Naval Investigative Service investigative jurisdiction and responsibilities
 - (6) List of civilian points available for transfer to Naval Investigative Service
 - (7) List of military billets available for civilian substitution and transfer to Naval Investigative Service

1. By reference (a) the Chief of Naval Operations directed that representatives of the Chief of Naval Personnel, the Naval Inspector General and the Director, Naval Investigative Service be provided to the Judge Advocate General to conduct a detailed study respecting the current adequacy of "command" criminal investigative facilities and personnel. In addition, reference (a) invited the Commandant of the Marine Corps to designate a representative to participate in that study. A list of the individuals so designated to conduct or participate in the study is attached as Tab A.

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ENCLOSURE (1)

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2. The study conducted pursuant to reference (a), included visits by members of the Study Group to numerous commands, discussions with numerous individuals having knowledge of or experience with "command" investigative units, consideration of detailed information concerning several existing "command" criminal investigative units (a copy of a letter and questionnaire which was sent to selected commands is attached as Tab B), consideration of the results of 30-day surveys of incidents/offenses allegedly committed by military personnel at selected commands (a copy of the letter which requested such surveys is attached as Tab C), and consideration of various other items of information, directives, and related documents.

3. Reference (b) defines and delimits the criminal investigative jurisdiction and responsibilities of the Naval Investigative Service. Concurrently therewith it enunciates the policy that all minor offenses and matters not expressly vested within the jurisdiction and responsibility of the Naval Investigative Service should be investigated, if at all, by "command investigative personnel, military or civilian," including persons such as "provost marshals, station detectives, Shore Patrol investigators, or other command security personnel." The prescribed scope of the criminal investigative jurisdiction of the Naval Investigative Service and the consequent residual jurisdiction of "command" investigative units is described in detail in enclosure (1). Although extensive statistics do not exist, a tabulation of all incidents or offenses occurring at twenty-eight selected major commands during the 30-day period from 1 February through 1 March 1968 reveals that offenses within the investigative responsibility of "command investigative personnel", as described in enclosure (1), are over eight times more numerous than all major criminal offenses which are during the same period investigated by the Naval Investigative Service. In developing this comparison, purely military offenses of a very minor nature not normally referred for trial by a summary court-martial or superior tribunal and routine unauthorized absences of less than 30 days were not included in the computation. Additionally, as is readily apparent from the description thereof in enclosure (1), the residual jurisdiction of "command" investigative units includes many offenses the adequate investigation of which frequently entails a high order of investigative competency. Also, although not so apparent, the adequate investigation of many offenses included therein, such as, for example, desertion, frequently requires investigative assistance from other localities, often far removed.

4. The existing situation respecting facilities, personnel and procedures of "command" investigative units is set forth in detail in enclosure (2). The study has found significant inadequacies respecting

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Navy "command" investigative units which are described in detail in enclosures (3) and (4). They are:

- (a) Inadequacy of selection, training and continuity of experience of "command" investigative personnel.
- (b) Inadequacy of performance of "command" investigators.

5. It is the unanimous opinion of the Study Group that the existing situation described in enclosure (2) and the inadequacies of Navy "command" investigative units and personnel described in enclosures (3) and (4) are seriously affecting adversely the maintenance of discipline in the naval service, the protection and conservation of private and government property, the preservation of a high standard of morality by military personnel, the support of morale of military personnel, and cumulatively the overall efficiency of the Navy as a combat organization. Admittedly, each of these effects cannot be documented by empirical data, nor can the degree of each be precisely measured. However, if, as concluded in enclosure (4), the performance of "command" investigators in the Navy is overall of such quality that numerous offenses either remain undetected, the perpetrator thereof remains unidentified, or the perpetrator and accessories thereto go unpunished and their records unblemished because of non-investigation or inadequate, ill-conceived or incompetent investigation, the cited seriously adverse effects must be presumed beyond any doubt.

6. It is the opinion of the Study Group that the following are the minimum requirements which must be imposed before the inadequacies currently being experienced (1) with respect to the investigation of offenses presently not within the jurisdiction and responsibility of the Naval Investigative Service and (2) involving improper or unguided activities of "command" investigators with respect to offenses presently within Naval Investigative Service jurisdiction may be corrected:

a. Positive professional criteria for the recruitment, employment and assignment of criminal investigative personnel must be established and followed.

b. A comprehensive and continuing training program for criminal investigative personnel, covering both investigative techniques and applicable legal requirements and limitations, must be instituted for all criminal investigative personnel.

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ENCLOSURE (5)

c. A single authority for the organization, management and control of all Navy field investigative units must be established to insure professionalism of techniques, consistency and inter-usability of records, uniformity of organization and procedures, Navy-wide investigative cooperation, and unified management precepts.

d. A sufficient cadre of military criminal investigators must be maintained by the Marine Corps to make possible the adequate investigation of offenses in combat and FMF deployment areas.

7. The Study Group, in view of the foregoing, recommends that the following action be taken:

a. That the criminal investigative jurisdiction and responsibility of the Naval Investigative Service be expanded to include all reported or suspected crimes and offenses the investigation of which may require more investigative expertise than is ordinarily possessed by a station policeman, shorepatrolman, or armed forces policeman. Enclosure (5) is a recommended revision of reference (b) which will accomplish this expansion of jurisdiction and responsibility.

b. That adequate civilian points, together with supporting funds, be transferred to the Naval Investigative Service from those Navy commands which presently employ "command" civilian investigators and which will thereafter be served by the Naval Investigative Service. A list of civilian points which will be available for such transfer is attached as enclosure (6).

c. That adequate military billets be deleted and an equal number of civilian billets be created and, together with supporting funds, be transferred to the Naval Investigative Service from those Navy commands which presently utilize more than one full-time military criminal investigator and which will thereafter be served by the Naval Investigative Service. A list of billets available for civilian substitution is attached as enclosure (7).

d. That, in view of frequent discrepancy between the competence level of personnel presently performing "command" investigative duties and the competence level considered necessary to proper performance, incumbents in existing civilian billets not be employed by the Naval Investigative Service unless they meet the employment criteria of that service.

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e. That all officer Marine Corps investigators (MOS 0140) and all enlisted Marine Corps investigators (MOS 0111) be retained in such specialties and, in the discretion of the cognizant commander, be assigned to the Naval Investigative Service for professional management except when they are transferred to a combat or Fleet Marine Force deployment area; and that such investigators be detailed only to Marine Corps commands on the basis of existing billets for investigators.

f. That, within a properly phased transition to avoid undue disruption of existing criminal investigative assets, the Naval Investigative Service institute programs to accomplish the requirements set out in paragraph 6 above.

M. A. LARKIN
Captain, JAGC, U. S. Navy

Copy to:
Commandant of the Marine Corps
Chief of Naval Personnel
Naval Inspector General
Director, Naval Investigative Service

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POLICY LIMITATION OF CRIMINAL INVESTIGATIVE JURISDICTION OF NAVAL INVESTIGATIVE SERVICE AND RESIDUAL JURISDICTION OF "COMMAND" INVESTIGATIVE PERSONNEL

1. The investigative jurisdiction and responsibility of the Naval Investigative Service are set out in SECNAVINST 5430.13B. Paragraph 5 thereof contains the limitation imposed upon the criminal investigative jurisdiction of the Naval Investigative Service and is quoted herewith:

"5. Policy. In addition to the above-mentioned categories of cases (actual, potential or suspected espionage, sabotage or subversive activities), the facilities of Naval Intelligence shall be utilized in and limited to the following types of investigations:

a. Fraud. Matters pertaining to fraud against the Government in contract and pay and allowances matters, and such matters or activities as may be related or incidental thereto; conflicts of interest and other criminal irregularities in connection with appropriated or nonappropriated funds, and the procurement and disposition of Government property, provided that the matter involves military personnel of the Department of the Navy, or civilians under Naval control, or is a matter under Naval administrative control.

b. Major Criminal Offenses. Alleged major criminal offenses committed against a person, the United States Government or its property, or certain classes of personal property, as defined by law and regulation and in accordance with jurisdictional agreements. These offenses include but are not limited to: arson, assault, bribery, murder, manslaughter, rape, sodomy, larceny, robbery, burglary, house-breaking, forgery, maltreatment of prisoners, narcotics violations, postal violations, customs violations, currency violations, and other major violations of the Uniform Code of Military Justice, other Federal Statutes, and other statutes and regulations. Major offenses in this context are further defined in subparagraph 7b below.

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c. Personnel Security Investigations. Background and other personnel security investigations within the jurisdiction of the Department of the Navy including those required by Executive Order 10450 and by existing Department of Defense and Department of the Navy directives. These extend to the investigation of military personnel of the Navy and Marine Corps, of civilian employees of the Department of the Navy, and of civilian employees of industrial facilities working upon classified contracts under Department of Defense security cognizance. Personnel security investigations of other categories of civilians (e. g., Red Cross employees, employees of nonappropriated fund activities) are also conducted in accordance with specific directives governing such individuals.

d. Security. Security investigations, including those involving the compromise, leakage, or unauthorized disclosure of classified information, when appropriate in accordance with reference (c). Also technical surveys of spaces in which highly classified information is discussed.

e. Special. Special investigations as required by the Department of the Navy, comprising those cases containing unusual circumstances or aspects of sensitivity which may require unusual techniques and the exercise of a high degree of discretion or the employment of extensive investigative resources."

2. Paragraph 7 of SECNAVINST 5430.13B directs that the investigation of minor offenses and of matters not covered in paragraph 5 should be conducted by personnel attached to the command concerned, without recourse to the facilities of (the Naval Investigative Service). The offenses which fall within the jurisdiction of investigative personnel of the command concerned therefore include the following:

a. Minor civilian type offenses, including generally all non-felonious offenses against private persons or property. Included in this category are making a false official statement, drunk or reckless driving, drunkenness on duty or otherwise, breach of the peace, disorderly conduct, larceny of \$50 or less, wrongful appropriation of property other than motor

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vehicles, unaggravated assault and battery, forgery involving \$50 or less, adultery, bad check offenses involving \$100 or less, carelessly discharging a firearm, negligent homicide, fleeing the scene of an accident, gambling, indecent exposure, receiving stolen property, unlawful entry, carrying concealed weapons, etc. As will be readily apparent, adequate investigation of most of these offenses may require "the application of professional investigative techniques", one of the criteria of SECNAVINST 5430.13B.

b. Purely military offenses, including the following offenses which frequently require extended or professional investigation: fraudulent enlistment, desertion, unauthorized absence with specific intent, missing movement, disobedience, violation of or failure to obey a lawful order, misbehavior before the enemy, misbehavior of a sentinel, malingering, making disloyal statements, false pass offenses, etc.

c. Felony larcenies of personal property of individuals, in the absence of special circumstances.

d. Minor offenses of theft, malicious damaging or unlawful disposal of Government property or funds, involving property of a value of \$20 or less.

ENCLOSURE (1)

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DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20350

SECNAV 5430.13C
NIS-20

SECNAV INSTRUCTION 5430.13C

From: Secretary of the Navy
To: All Ships and Stations

Subj: Naval Investigative Service Jurisdiction and Responsibilities

Ref: (a) Executive Memorandum of 26 June 1939 relating to the Investigation of Espionage, Counterespionage and Sabotage (NOTAL)
(b) Delimitations Agreement of 23 February 1949 (NOTAL)
(c) OPNAV INSTRUCTION 5510.1C (Security Manual for Classified Information)
(d) JAG INSTRUCTION 5800.7 (Manual of the Judge Advocate General)
(e) OPNAV INSTRUCTION 005500.46A (NOTAL)

1. Purpose. This Instruction prescribes the investigative jurisdiction, responsibilities, and authority of the Naval Investigative Service, the Naval Intelligence component charged with providing investigative and counterintelligence support.

2. Cancellation. SECNAV INSTRUCTIONS 5430.13B and 5820.2 are hereby cancelled and superseded.

3. Discussion. Prior instructions have set forth in relatively broad terms the investigative responsibilities of Naval Intelligence and its field components, and have provided policy guidance for the employment of Naval Intelligence investigative resources by commands. Changing requirements have substantially altered the nature of Navy investigative needs and interests, and have thus demanded both an enlargement of the investigative role of Naval Intelligence and a reemphasis of that role. These changing requirements reflect, among other factors, various judicial and administrative decisions which have had their impact on the modes and techniques of conducting investigations. Successful management and administration of the Department of the Navy and the implementation of inherent responsibilities for discipline, morale, and law enforcement dictate that investigations of Naval interest be judiciously organized, professionally conducted, and economically accomplished. This investigative effort must be responsive to sophisticated judicial and management theories and principles.

4. Mission. The mission of the Naval Investigative Service includes the operation of a world-wide organization to fulfill the investigative and counterintelligence responsibilities of the Department of the Navy (less those combat related counterintelligence matters within the functional responsibility of the Marine Corps), and to specifically accomplish the

ENCLOSURE (6)

ENCLOSURE (7)

REFERENCE (a)

REFERENCE (b)

TAB A

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LIST OF CIVILIAN POINTS AVAILABLE FOR TRANSFER TO NAVAL INVESTIGATIVE SERVICE

The following civilian points represent substantially full-time criminal investigators functioning at the activities indicated. Inasmuch as, under the proposed expansion of Naval Investigative Service jurisdiction and responsibilities, the full duties of these civilian employees will be assumed by the Naval Investigative Service, the listed points are considered available for transfer to the Naval Investigative Service.

<u>ACTIVITY</u>	<u>NUMBER OF CIVILIAN POINTS</u>	<u>GRADES INVOLVED</u>
NAAS, Imperial Beach	1	4
NAS, Albany	2	4, 4
NAS, Brunswick	1	4
NAS, Moffett Field	1	4
NAS, Oceana	1	7
NAS, Whidbey Island	1	4
NAAS, Ellyson Field	1	4
NAS, Quonset Point	2	4, 4
NAS, Barbers Point	1	4
NAS, San Diego	3	7, 7, 9
NAAS, Kingsville	2	7, 4
NAS, Alameda	1	4
NAAS, Milton	1	5
NAS, Patuxent River	1	4
NAS, Jacksonville	2	7, 6
NAS, Memphis	2	4, 4
NAS, Pensacola	3	8, 8, 7
NAVPHIBASE, Little Creek	2	7, 7
NAVPHIBASE, Coronado	1	7
NAVSTA, San Juan	2	7, 4
NAVSTA, Mayport	2	9, 7
NAVSTA, Sangley Point	2	4, 4
NAVSTA, Long Beach	2	4, 4
NAVSTA, Subic Bay	1	7
NAVSTA, Rota	1	4
NAVSTA, Brooklyn	1	4
NAVSTA, San Diego	4	7, 7, 7, 7
NAVSTA, Charleston	3	7, 7, 6
NAVSTA, Pearl Harbor	5	8, 8, 8, 7, 7

ENCLOSURE (7)

REFERENCE (a)

REFERENCE (b)

TAB A

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<u>ACTIVITY</u>	<u>NUMBER OF CIVILIAN POINTS</u>	<u>GRADES INVOLVED</u>
NAVSTA, Newport	2	4, 4
NAVSTA, Treasure Island	1	4
NAVSTA, Norfolk	9	9, 7, 4, 4, 4, 4, 4, 4, 4
NAVSTA, Argentia	1	7
SUBASE, New London	1	8
NATTC, Memphis	1	7
FLTACTS, Sasebo	2	4, 4
NAVSHIPYD, Bremerton	2	7, 7
NAVSHIPYD, Philadelphia	2	6, 6
NAVSHIPYD, Portsmouth	3	4, 4, 4
NAVSHIPYD, Mare Island	3	9, 7, 8
NAVSHIPYD, Hunters Point	3	4, 4, 4
NTC, Bainbridge	1	9
U. S. Naval Academy	2	7, 7
NSC, Oakland	4	8, 8, 6, 6
NSD, Philadelphia	1	7
CBC, Gulfport	1	7
Naval Ordnance Station, Indian Head	2	7, 6
Naval Weapons Center	2	7, 7
PMR, Point Mugu	3	7, 7, 6
TOTAL	98	

TAB B

ENCLOSURE (7)

REFERENCE (a)

REFERENCE (b)

TAB A

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DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
WASHINGTON, D.C. 20350

03
IN REPLY REFER TO
Op-09B1L/jm
Ser 793P09B1L

28 SEP 1967

From: Chief of Naval Operations
To: Judge Advocate General

Subj: Inadequacy of "command" criminal investigative facilities and personnel; report of

Ref: (a) JAG ltr JAG:03:MAL:as Ser 7293 of 8 August 1967
(b) SECNAVINST 5430.13B of 12 March 1965

1. Reference (a) reported that investigative responsibilities assigned by reference (b) to command investigative personnel have been fulfilled only marginally in the past and that due to recent court decisions; this condition can be expected to worsen. It further reports that although the offenses required to be investigated by such personnel constitute the overwhelming majority of all offenses committed by naval personnel and have a substantial impact on discipline, morale and welfare of naval personnel, there is no central guidance for staffing, organizing and training of command investigative personnel. Accordingly, the Judge Advocate General recommended that a group composed of representatives of the Chief of Naval Personnel, the Naval Inspector General, the Judge Advocate General and the Director, Naval Investigative Service be appointed to conduct a detailed study of this problem and that the Commandant of the Marine Corps be invited to appoint a representative to such group.

2. The recommendation of the Judge Advocate General is approved. By copy of this correspondence, the Commandant of the Marine Corps is invited to designate a representative and the Chief of Naval Personnel, the Naval Inspector General and the Director, Naval Investigative Service are requested to provide a representative to the Judge Advocate General to participate in the study.

Copy to:
CMC
CHBUPERS
NAVINSPGEN
NAVINVSERVHQ

J. C. Dempsey

J. C. DEMPSEY
Assistant Vice Chief of Naval Operations
Director of Naval Administration

TAB B

TAB C

TAB D

REFERENCE (b)

TAB A

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LIST OF INDIVIDUALS PARTICIPATING IN STUDY

Chairman

Captain Murl A. Larkin, JAGC, U. S. Navy
Assistant Judge Advocate General (Military Law)
Office of the Judge Advocate General

Captain Joseph Ross, JAGC, U. S. Navy Reserve
Deputy Assistant Judge Advocate General (Military Justice)
Office of the Judge Advocate General

Mr. M. Sherman Bliss
Special Assistant for Investigations
Naval Investigative Service

Mr. John W. Lynch
Assistant Director for Investigations
Naval Investigative Service

Mr. B. L. Willard
Special Assistant, Security Coordination
ACNO Intelligence

Captain George F. Stearns, Jr., JAGC, U. S. Navy
Director, Special Investigations Division
Office of Naval Inspector General

Colonel C. B. Sevier, USMC
Director, Judge Advocate Division
Headquarters, U. S. Marine Corps

Mr. Jerome A. Vacek
Head, Investigations Section
Headquarters, U. S. Marine Corps

Captain T. R. Johnson, Jr., U. S. Navy
Head, Active Enlisted Plans Branch
Bureau of Naval Personnel

LCDR Michael J. Blackwell, U. S. Navy
Assistant for A and B School Plans
Bureau of Naval Personnel

TAB B

TAB C

TAB D

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