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N I S



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NIS BULLETIN

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THE NIS BULLETIN IS PUBLISHED QUARTERLY BY THE NAVAL INVESTIGATIVE SERVICE, 2461 EISENHOWER AVE., ALEXANDRIA, VIRGINIA 22314.

THIS BULLETIN IS INTENDED FOR THE USE AND PROFESSIONAL ENHANCEMENT OF ALL MILITARY AND CIVILIAN SUPERVISORY PERSONNEL, SPECIAL AGENTS AND COUNTERINTELLIGENCE ANALYSTS ASSIGNED TO NIS WORLD-WIDE.

FIELD COMPONENTS ARE ENCOURAGED TO SUBMIT ITEMS FOR PUBLICATION ON A CONTINUING BASIS. AN ARTICLE IN THE APRIL 1972 ISSUE OF THE NIS NEWSLETTER DISCUSSES THE DETAILS REGARDING SUBMISSIONS TO THIS BULLETIN.

FROM THE

DIRECTOR'S DESK

As a consequence of a Defense Executive Management Board action attending the recent transfer of investigative functions within DOD, Mr. Bevelyn L. Willard has resigned from his position as Associate Director, NIS, to accept a position as Assistant Director for Management and Resources, DIS, effective 19 February 1973. I wish to take advantage of this forum to pay tribute to "B" Willard in behalf of his many friends and colleagues throughout the NIS.

In the history of any organization, many dedicated men and women make great contributions to its successes and its moments of glory, but only the rare few mark an organization with the personal stamp of their endeavor in such a way that the very nature of that organization is a reflection of the excellence of the man. "B" Willard is such a person.



MR. BEVELYN L. WILLARD

Throughout his long association with Naval Intelligence, which began with active military service in WWII, "B" Willard has been known and revered by his colleagues as a selfless and dedicated professional and as a man of kindness and compassion. His broad ranging knowledge of the intricate workings of government and his eminently innovative, perceptive and analytical mind have led him to great distinction and honor and have brought to the Navy the highest form of management and leadership.

I join all of you in wishing Mr. Willard fair winds and following seas in his new endeavor.

A handwritten signature in dark ink, which appears to read "J. Q. Edwards". The signature is written in a cursive style with a large, sweeping initial "J".

IN CASE OF FIRE.....!

By S/A D. V. Stuart, NISRA Camp Pendleton

Arson can be an extremely serious offense, not only in itself, but it may also encompass such crimes as sabotage, homicide, and burglary. In instances involving a major explosion or conflagration, the investigation is an immensely complicated affair requiring coordination between NIS and numerous other organizations and their personnel.

In addition to the inherent difficulties encountered during the investigation of serious offenses, an arson investigation involves some unique facets. These include: (1) a proportionally large amount of highly perishable, potential evidence which is collectable only during the very earliest stages of the incident and frequently before notification of NIS; (2) a crime scene requiring the utmost expertise to process and, (3) the fact that many times the establishment of the entire corpus delicti in court can depend solely upon the "expert" opinion of the investigator. The latter situation is analogous to a homicide case in which the cause of death is established by the expert opinion testimony of a pathologist.

Obviously, at the crime scene of an arson case, much of the physical evidence has been destroyed or altered to such an extent that it cannot be recognized as evidence by all but the most experienced fire investigators. This situation dictates that the fire scene examination must be conducted with the aid of an expert. This expert must not only determine the cause of the fire but must also qualify in court as an expert witness and through opinion testimony, based upon circumstantial physical evidence, establish the corpus delicti.

For NIS controlled arson investigations this expertise must be obtained from outside sources, usually persons employed as Inspectors within installation Fire Departments; however, in the absence of any centralized organization and personnel qualification requirements, it is assumed that the expertise of these personnel varies considerably from installation to installation. The Naval Facilities Engineering Command employs Fire Protection Engineers and District Fire Marshals, who normally have the responsibility to investigate major fires aboard Naval Installations. These personnel, however, are

concerned with evaluation of fire protection and suppression effectiveness. Although they are not primarily concerned with the conduct of investigations directed toward obtaining evidence of arson, their assistance can be valuable. In major metropolitan areas the police or fire department arson unit is often able to furnish such expertise.

Given the complexities mentioned above, there is an apparent need for each NISRA which services a Naval Command with any appreciable physical plant, to have an operational plan in readiness. In formulating this plan on a local basis all those organizations with applicable responsibilities and resources should be included in the preparation. It would follow that once the plan was approved and initiated by all concerned, appropriate training of affected personnel would be instituted.

The following paragraphs will generally describe the phases of such an operational plan which is currently in effect at NISRA Camp Pendleton.

PHASE I - ALARM AND SUPPRESSION

The Base Fire Department is responsible for fully identifying the person(s) who turn in the alarm(s), the time of the alarms(s), and the method(s) of communication utilized. During the actual fire suppression operation, one of the responding fire officials, usually an Inspector, is responsible for making technical observations of the fire and preserving perishable physical evidence. (It would also be most valuable if this person were trained and equipped to photograph not only the fire, but also the spectators.) Further, the firefighters themselves have been appropriately trained through a reciprocal training program, to make technical observations, preserve evidence, and limit unnecessary destruction during fire suppression operations.

During Phase I, the Security Department is responsible for traffic control and field interviews of all spectators and available witnesses on the scene.

Obviously all of this valuable and highly perishable evidence is collected before there is a necessity for it (grounds for a NIS investigation), but during the only period when it is readily collectable.

PHASE II - INSPECTION

Once the fire is extinguished, the Fire Department (the senior official and/or observer, supra) is responsible for making a preliminary inspection of the scene prior to overhaul (clean up). During this procedure, he would preserve perishable evidence and when completed, he would make a determination of the cause of the fire. If suspicious, he would immediately notify NIS and overhaul would be held in abeyance.

During this phase the Security Department is responsible for establishing temporary fire scene security.

PHASE III - INVESTIGATIVE RESPONSE

Once the Fire Department has determined there is a need for a NIS investigation, they assign an Inspector to work with NIS or call in an available expert. The Fire Department is also responsible for having each firefighter write a detailed statement of his actions and observations which is attached to the fire report.

During Phase III, NIS is responsible for interviewing the official who made a preliminary examination of the scene with the aid of the assigned expert. If an investigation is then considered warranted, the appropriate command request for investigation is obtained, a control agent and investigative team are assigned, and scene security is established through command authority for the duration of the investigation. A NIS Command Post (CP) is then established near the fire scene where all developed information would be funnelled, interested command authorities who visit the scene could be briefed and the investigation could be coordinated.

PHASE IV - INVESTIGATION

This phase is divided into four sub-phases: detailed fire scene examination, data collection, interviews and follow-up leads. The fire scene examination is conducted by a joint NIS/Fire Expert Team and includes photographing, sketching, collection and preservation of evidence and controlled examination of the scene by witnesses familiar with the structure enabling them to detect the unusual. This examination might also require the assistance of other specialists, e.g., a photographer for unusual photographic situations, explosives technician, electrical inspector, building inspector, heating

equipment technician, pathologist, etc. Data collection involves the provision of the alarm information, **firemen** statements and fire reports by the Fire Department to the CP. The Security Department provides the field interview information to the CP. NIS is responsible for obtaining area maps and building construction plans, and the identification of normal security personnel in the area, structure occupants (familiar witnesses), and other potential witnesses.

Interviews of the above persons are then conducted by NIS and all information obtained is passed to the CP for coordination and use of those engaged in the fire scene examination.

Follow-up leads would include file checks, submission of evidence to a laboratory, apprehensions, searches, interrogations, etc.

Once the investigation is completed, the scene security is cancelled, and each participating agent records each of his leads separately for final assemblage into a completed ROI.

(Editor's Note: While the foregoing obviously is not applicable to shipboard fires, particularly afloat, without major modifications, the absolute need for pre-planning and training in preparation for possible shipboard fire investigations should be apparent. Such advance planning and training is especially important in the areas of observation of the scene and spectators/firefighters during the course of fighting the fire. More often than not, it is impossible to defer the clean-up of the scene until NIS agents can respond and make a thorough examination. The shipboard fire investigator, therefore, is even more dependent upon the observations of those present during the fire-fighting process.)

REVIEW OF FINDINGS, USCMA, UNITED STATES

VS.

ROGER L. PRIEST, SA, USN

An investigation was conducted by the Naval Investigative Service because the accused, while on active duty in the Naval service, edited, published and distributed an "underground" newsletter entitled "OM." Copies were left for free distribution to military personnel in the Navy Exchange, Washington Navy yard, at a Pentagon newsstand, and were handed to individual members of the Armed Forces. The issues of May and June 1969 contained attacks on the government for its involvement in Viet Nam, militarism in America, and one article intemperately suggested the abolition of our society. Explicit information was provided on how servicemen wishing to desert could enter Canada and receive assistance from deserter groups. The June issue discussed violence and revolution implying future action against government officials and was virulently indicative of the author's abandonment of allegiance to his country. As a result of conviction, the accused was sentenced to a bad conduct discharge and reduction in grade.

The United States Court of Military Appeals in the case of the United States vs. Roger L. Priest, Journalist Seaman Apprentice, USN, (21 USCMA 564, 45 CMR 338) in consideration of the sufficiency of the evidence to support the findings of guilty, concluded as it had previously in United States vs. Gray "we must...take the accused's words, and the reasonable inferences they raise, as we find them," that the fact finders could reasonably determine that the May and June issues of "OM" were, in their entirety, statements disloyal to the United States.

In consideration of the contention that the accused did not publish "OM" with the intent to promote disloyalty and disaffection among the troops it was concluded that the court members were justified in finding that their (issues of "OM") publication and distribution tended palpably and directly to affect military order and discipline and were punishable under the general article.

As to whether the military judge denied the applicant due process of law by excluding evidence on whether the publications were in fact disloyal, and whether the accused's conduct was prejudicial to the good order and discipline, the court considered testimony offered by the accused from former Senator Ernest Gruening, General David M. Shoup, RADM Arnold E. True, and others to show their opposition to the Viet Nam war and to demonstrate historically that views similar

to those espoused by the accused had been violently and intemperately expressed by individuals whose loyalty to the United States was well established. The military judge excluded all testimony of this nature and the court concurred in the correctness of the action by citing the applicable principle set forth in United States vs. Pelley, 132 F2d 170 (CA7th Cir) (1942):

"It is argued in this case, as in similar cases, that defendants should not have been convicted, because others have expressed, in newspapers, pamphlets, and in oral statements, some of the words and ideas appearing in the...(publications), and used as the basis of this indictment. It is sufficient to say that we are considering this case only. Whether others have been guilty of like violations, affords no legal excuse for the defendants."

The court affirmed the decision of the United States Navy Court of Military Review.

Findings in this case are of professional instructional value to Special Agents of the Naval Investigative Service.

- (1) A declaration of personal belief can amount to a disloyal statement if it disavows allegiance owed to the United States by the declarant; the disloyalty involved, however, must be to the United States as a political entity and not necessarily to a department or other agency that forms a part of its operative administration.
- (2) The evidence presented was legally sufficient to support the factfinders' determination that two pamphlets, printed and distributed by the accused, each taken in its entirety, were statements disloyal to the United States, where the lead article in one pamphlet was an indictment of the United States and a call to resist its "illegitimate authority," wherein the accused suggested turning to the streets and the possibility of violent revolution, and expressly provided information encouraging desertions from the armed forces, and where, in the second pamphlet, the assassinations of the President and Vice President were impliedly advocated.
- (3) Where the accused's pamphlets suggested means by which the troops might actively demonstrate their own disloyalty and disaffection as, for example, by

deserting to Canada, refusing promotions, or themselves taking to the streets, such statements permitted an inference of the accused's intent to promote disloyalty and disaffection among the troops from the contents of the pamphlets and their free distribution to members of the armed services.

- (4) Veneration of constitutionally-protected free speech values, makes extraordinarily important the application of the standard of conduct punishable under Article 134 to publications and statements by military personnel. It is a standard by which such conduct, to be punishable, must be palpably and directly prejudicial to good order and discipline, and not merely prejudicial in an indirect and remote sense.
- (5) The right of free speech in the armed services is not **unlimited** and must be brought into balance with the paramount consideration of providing an effective fighting force for the defense of the United States.
- (6) The accused's publication and distribution of two pamphlets tended palpably and directly to affect military order and discipline where the papers in question were directed primarily to other members of the armed services and they expressly sought a breakdown in military discipline, called attention to methods by which members might safely flee from military control, heaped maledictions upon the United States, called into disrespect all military superiors and particularly those who had chosen the defense of their country as their life's vocation, impliedly advocated assassination of the President and Vice President, and appealed to readers to take to the streets in violent revolution. The lack of success was not the criterion, for the Government is entitled to protect itself in advance against a calculated call for revolution.
- (7) There is no basis in law or fact for a conclusion that commercial availability of publications at a Navy exchange newsstand constituted a sanction of their contents by military authorities.
- (8) That other writers and speakers have advocated measures similar to those espoused by the accused does not tend to establish the loyalty of those statements; the question of disloyalty is not found in the identification of the declarant but in the content of the declaration.

COVERAGE OF LEADS AT THE SEAT OF GOVERNMENT

Over a period of years, numerous leads have been forwarded to NISHQ for coverage at the Seat of Government (SOG). There has always been some confusion as to the type of information SOG agencies and activities possessed. The recent reorganization, which placed the responsibility for coverage of most SOG leads with NISRA Washington, presents an opportunity to clearly establish the extent of information available at these agencies/activities.

(1) Military Personnel Records - The Bureau of Naval Personnel (BUPERS) and Headquarters, U. S. Marine Corps (HQMC) maintain master records on officers and enlisted personnel currently on active duty and/or members of the organized reserve. Moreover, these offices maintain a complete index on all officers and enlisted personnel who have been separated, discharged or retired from the Navy and/or Marine Corps since 1964. Additionally, Navy and Marine Corps officer records generally contain a current photograph. Navy enlisted records do not contain photographs. Some Marine enlisted records contain a "boot camp" photograph of the member; however, this is generally unacceptable for identification purposes. Records of Marines who enlisted in the past two to three years do not, as a general rule, contain any photograph of the member. Marine records, unlike those maintained by the Navy, do not usually contain information concerning earned or used leave. BUPERS and HQMC generally retain military personnel records at Washington, D.C. for approximately four months following discharge, transfer to the inactive reserve or retirement. The entire file is then sent to the Military Personnel Records Center (MPRC) at St. Louis, Mo. In connection with the topic of handwriting/handprinting exemplars it is noted that military personnel records do contain a limited amount of such material. The withdrawal of such material from military personnel records is a complicated process and should not be requested unless considered vital to the resolution of a case. In rare instances where it is necessary, it is recommended that consideration be given to forwarding questioned documents to (05DC) for comparison by the FBI Laboratory with exemplars which can be extracted from military personnel records and made available to the FBI Laboratory. In the case of military personnel records, a more complete search for a particular record is possible when a Social Security Account Number (SSAN) is furnished.

(2) Military Health Records - Bureau of Medicine & Surgery (BUMED) maintains complete master health records on all retired and reserve USN and USMC members. In the case

of active duty members, BUMED has not maintained a master health record for these persons since January 1972. Accordingly, only a partial master health record exists at BUMED for active duty members whose period of active duty commenced before January 1972. In addition, a BUMED representative has advised that six months after death, retirement or complete separation of a member from the Navy or Marine Corps, any health record on the member is automatically forwarded to MPRC, St. Louis, Mo.

(3) U. S. Postal Money Orders - Copies and certified true copies are available from the U. S. Postal Service. When handwriting/latent fingerprint analysis is desired, it is recommended that exemplars of suspects be furnished to (05DC) for comparison with the original which can be obtained and made available to the FBI Laboratory for appropriate analysis. The number, date and identity of the issuing post office will assist in locating the questioned postal money order, but when necessary it can be located with the number alone. Allow two to four weeks for processing of such requests inasmuch as negotiated money orders are in "dead" storage.

(4) U. S. Treasury Checks - Copies and certified true copies are available from the Check Claims Division of the Treasury Department. When making requests for treasury checks, provide (05DC) with check number, symbol number, date of issue (if known), amount (if known) and identity of payee. Remaining guidance set forth in section (3), supra, applies to requesting originals for analysis relative to handwriting/latent fingerprints.

(5) USN and USMC Flight Logs - Copies and certified true copies are available from the Federal Records Center (FRC), Suitland, Md. Identity of the military unit responsible for the aircraft in question is required to locate the desired log.

(6) FBI Headquarters - Name checks available. Separate files are maintained on criminal and security matters and an indication is required as to which type search is desired. The name of the city of Subject's current residence has proven useful in such searches.

(7) Veterans Administration (VA) Central Office - Maintains an index which will reflect the identity of the VA Regional Office (VARO) holding a Subject's VA file. Such files are not usually maintained at the VA Central Office in Washington.

(8) U. S. Secret Service Headquarters Files - File searches available relative to criminal matters as well as to persons of protective intelligence interest to the Secret Service.

(9) Military Unit Diary Records - Navy and Marine Corps unit diaries are available for review at the SOG. The identity of the command in question and dated parameters should be included with the request for examination as these files are voluminous.

(10) Navy Ship's Deck Log Review Section at BUPERS - Such logs are filed by name of ship and are available for review.

(11) State Department Passport Office Files - All applications for U. S. passports are available for review. Applications executed in excess of two (2) years prior to current inquiry are maintained in "dead" storage in the Washington area and a delay of one to two weeks is usually experienced. However, urgent requests can be handled on a selective basis. Passport applications contain a photograph of the applicant (copy available to NIS), identifying data and a non-binding statement by the applicant as to the details of his planned overseas itinerary. A full name and date of birth will assist in conducting a meaningful search for passport applications.

(12) FBI Identification Division (FBIID) Inquiries - FBIID files contain a complete collection of fingerprints, present and past, of military personnel and many civilians who are or were employees of the U. S. Government or governmental contractors. The FBIID will also provide copies of a suspect's FBI record which is based on fingerprints submitted by law enforcement agencies in connection with an arrest of a suspect. These records can be located by fingerprint classification or by name. In the latter case as much identifying data as available concerning the suspect should be submitted to permit the most reliable search.

(Editor's Note: When requesting FBI Laboratory assistance regarding comparisons of latent prints with those of a suspect or suspects it is advisable to include the suspect's fingerprints (assuming he or she is available) to expedite the procedure. In the event the suspect(s) is not available it is permissible to forward sufficient identifying data regarding the individual to ensure the proper FBI fingerprint file card is pulled. In both of the aforementioned circumstances (05DC) will handle the arrangements with the FBI Laboratory upon request, or, if desired, a NISRA may contact the laboratory directly as outlined in ONI 63-1B.)

(13) Navy and Marine Corps World-Wide Locators - Provide current information concerning duty station of active duty enlisted and officer members. Completeness and reliability of the search is increased if a requester provides the full name and SSAN of the individual. For the information of field components, telephonic inquiries may be directed to the aforementioned locators by utilizing the following AUTOVON numbers:

Navy - Enlisted

A - GN	224-2925
GO - N	224-1527
O - Z	224-2072

Navy - Officer

A - G	224-2005
H - O	224-2378
P - Z	224-2971

Marine - Officer and Enlisted

224-1610, 224-1913, 224-1624,
224-2380, or 224-1861

Investigative leads involving the Internal Revenue Service (IRS), Central Intelligence Agency (CIA) and the Social Security Administration are handled exclusively by NIS Headquarters. Such leads should be directed to the appropriate NISHQ code controlling the case under investigation, e.g., Criminal Investigations Division (0023); Internal Security Division (0022).

TRANSFERS

Name	From	To
ANDERSON, Peter J.	NISSU Greenville	NISRA Camp Lejeune
BECK, Lloyd G.	NISO Boston	NISO Charleston
CLARK, Paul L.	NISRA Pasadena	NISSU China Lake
DAVIS, James R.	NISRA Sasebo	NISRA Lemoore
FERGUSON, Thomas E.	NISRA Lemoore	NISHQ
KING, Lawrence P.	NISRA Minneapolis	NISRA Great Lakes
KLEMP, William J.	NISRA Okinawa	NISRA Orlando
MCBRIDE, Daniel A.	NISRA Camden	NISRA Pensacola
MENDELSON, William G.	NISO Seattle	NISO San Diego
OULAHAN, Joseph C.	NISO Philadelphia	NISO Norfolk

NEW HIRES

AUSTIN, James A.	NISO Norfolk
GEWERTH, Joseph F.	NISO New York
JANSON, Ronald C.	NISO San Diego
MCFADDEN, Edward J.	NISO Norfolk
NUGENT, William K.	NISO San Diego
PARKS, James M.	NISO New York
SLOAN, Thomas H.	NISO Norfolk
WARD, Hugh P.	NISO San Diego

A REMINDER

The recent death of Special Agent Harry J. SCHANZ brings to focus an often forgotten item in the personal affairs of each of us. Commercial insurance companies will frequently insert exclusionary clauses into policies to limit liability under certain unique conditions such as death while serving as a combatant in a theater of war. NIS Special Agents should be alert to clauses which exclude payment of benefits for accident or death occurring aboard "non-scheduled" or "military aircraft/vessels." Where such clauses exist in personal policies, it would be wise to obtain the requisite riders. Similarly, we should not overlook the essential value of a current will as a basic document in a well ordered personal life.