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INVESTIGATIVE NOTES
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(These INVESTIGATIVE NOTES are intended for dissemination to all persons concerned with investigations. Sufficient copies are furnished to allow distribution of individual copies to each Naval Intelligence Agent.)

VISITS TO DIOs

The program of visits to the various District Intelligence Offices for consultation purposes by the Assistant Director of Naval Intelligence, Security, Captain F. A. KLAVERNESS, USN, and members of the ONI Headquarters Staff continues. During the last quarter visits were made to DIO-8ND and DIO-9ND. During the next several weeks it is anticipated that DIO-5ND, DIO-6ND, DIO-11ND, and DIO-12ND will be added to the list.

"B" WILLARD TO ATTEND AFIC

Mr. B. L. Willard, Special Assistant to ADNI, Security, (OP-921X), has been designated to attend the ten month course at the Armed Forces Industrial College in August. Since only a very limited number of civilian personnel are selected for this training from the entire Department of Defense, the competition is keen and the screening standards most rigid. Mr. Willard's selection is a tribute to his outstanding qualifications and value to the Department. It also reflects credit on the Office of Naval Intelligence to have one of its key personnel picked for such an assignment.

AGENTS' TRAINING COURSES

At this writing, the academic year at old ONI U. has come to an end. The summer recess will pass all too quickly, however, and already plans are in the making for the next schedule of classes starting in September. Promulgation of dates and quotas will be made in the near future by means of an ONI Notice. In the meantime, there follows a list of graduates of courses held since publication of the last INVESTIGATIVE NOTES:

Agents' Refresher Training Course, 4R-60, 4-15 April 1960

DIO-1ND - Charles H. Chandler	DIO-10ND - Joseph F. Neely
DIO-3ND - Jack F. Ford Raymond A. Milutis Gerald T. Woolsey	DIO-11ND - Reece T. Freeman
DIO-4ND - Christ C. Christ	DIO-12ND - Robert L. Almy Stephen S. Morse
DIO-5ND - Henry W. Person Howard W. Wiseman	DIO-13ND - George L. Morse
DIO-8ND - Ray Maher William J. Sullivan	DIO-17ND - Bernard H. Steacy
DIO-9ND - Alton H. Hilden John G. Smith	IO-PRNC - Paul R. Hutchinson
	IO-NAVEUR - <u>Harold L. Schilling</u>
	ONI - David L. Lasher

Agents' Technical Training Course, 1T-60, 2-20 May 1960

DIO-1ND - John J. Hedderman	DIO-8ND - <u>Clyde J. Roach</u>
DIO-3ND - John J. Lonergan	DIO-9ND - Charles M. Kampton
DIO-4ND - Harry J. Doyle	DIO-12ND - Wayne L. Crawford
DIO-5ND - Homer Doell	DIO-13ND - James E. Sorensen
DIO-6ND - John J. Gelke	

Agents' In-Service Seminar, 1ISS-60, 23-27 May 1960

DIO-1ND - Thomas J. King	DIO-8ND - Lloyd G. Beck Ross G. Hanks
DIO-3ND - Thomas J. Egan Leo J. Kelly Robert T. McLaughlin Luigi G. Noberini	DIO-9ND - Earl S. Richey Donald C. Schunk Ray M. Stephens
DIO-4ND - William T. McNulty	DIO-11ND - Roy A. Mosteller
DIO-5ND - Vernon A. Bonney Daniel F. Rankin	DIO-13ND - Louis B. Herder
DIO-6ND - John L. Laird David N. Planton	IO-PRNC - Donald P. Barron Paul M. James

RECENT TRANSFERS

The following personnel changes have been effected or directed in the recent past:

S/A Charles L. MOREHEAD, Sup. Agt, DIO-11ND to retirement, Sep 1960
 S/A William R. CLAYTON, Sup. Agt, DIO-8ND to be Sup. Agt., DIO-11ND
 S/A David J. KERR, DIO-4ND (SRA, Columbus, Ohio) to be Sup. Agt., DIO-8ND
 S/A Theodore FASON, Sup. Agt., IO-PRNC to ONI
 S/A Veikko E. LEVANDER, Sup. Agt., DIO-9ND to be Sup. Agt., IO-PRNC
 S/A Earl S. RICHEY, Asst Sup. Agt., DIO-9ND to be Sup. Agt., DIO-9ND
 S/A Lloyd R. NOCKER, IO-COMNAVPHIL to resignation accepted
 S/A David G. PEPPIN, DIO-11ND to IO-COMNAVPHIL
 S/A William G. MENDELSON, IO-NAVEUR R/A Rota to ONI
 S/A Maurice S. BLISS, DIO-11ND to IO-NAVEUR R/A Rota
 S/A William B. JEPSON, IO-NAVEUR FIO Port Lyautey to DIO-12ND
 S/A Ralph M. HUPPERT, DIO-12ND to IO-NAVEUR FIO Port Lyautey
 S/A Martin J. FOTUSKY, IO-COMNAVMARIANAS to DIO-4ND
 S/A James B. CHAMBERS, DIO-4ND to IO-COMNAVMARIANAS
 S/A Donald E. SAUER, IO-COMNAVFORJAPAN to DIO-9ND
 S/A William J. JOHNSON, DIO-9ND to IO-COMNAVFORJAPAN
 S/A Victor C. COXHEAD, DIO-11ND to DIO-14ND
 S/A Wilbur E. BLAKE, DIO-14ND to DIO-11ND
 S/A Edward C. WENBERG, IO-COMNAVFORJAPAN to DIO-11ND
 S/A Raymond WILKINSON, DIO-11ND to IO-COMNAVFORJAPAN
 S/A Robert A. MUNSON, DIO-9ND to DIO-8ND

✓ AVAILABILITY OF RESULTS OF OSI, USAF INVESTIGATIONS

An item on this subject appearing in the last edition dated 3-31-60 was slightly misleading. The item stated that copies of reports controlled by 4th District OSI would continue to be obtained by ONI. Actually if the requesting District knows that a desired report is located at 4th District, OSI, the request should be directed to OIC, IO-PRNC, which office services the area in which 4th District, OSI is located. However, where the OSI District in which the file is located is unknown and a request to ONI as a result of an NAC element or otherwise turns up the fact that the file is in fact located at the 4th District, OSI, ONI in that case will obtain the file rather than further forward the request to IO-PRNC. Should it be determined that the file is located in another OSI District, responsibility for obtaining it will be passed on to the appropriate District Intelligence Office.

FORENSIC SCIENCES SYMPOSIUM

On 3, 4, and 5 May 1960 the first Forensic Sciences Symposium was held at the Armed Forces Institute of Pathology, Walter Reed Army Medical Center. The purpose of the event was to gather together a tri-Service representation from the fields of medicine, law and law enforcement for discussion of mutual problems. Presentations were made by outstanding authorities in the three fields from the Services and from civilian life. Many areas in which the three disciplines of law, medicine, and law enforcement interact in the military were discussed, much of it pertinent to the ONI investigative

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mission, for example, the role of the pathologist in a homicide investigation, the problems of homosexuality and alcoholism in the Armed services, laboratory capabilities, and so forth. Mr. C.R. Wilson and Mr. J.W. Lynch of the Investigations Branch, ONI, attended as representatives of ONI and other ONI personnel were able to view various portions of the proceedings through a closed TV circuit to the Pentagon and other Washington area installations. Two more of these symposia are scheduled for Nov 1960 and May 1961 and it is planned that ONI will actively participate in each. Much of the information derived at these meetings will have a definite application to our investigative procedures and will be passed on through the medium of the Agents' Training Courses.

LEGAL NOTES

1. Privileged communication between attorney and client.

During the course of an interrogation, the suspect in a criminal case asked for and was permitted to consult with a junior officer who was made available to him as his counsel. Although the accused offered to go to the office of this officer for the consultation, investigating personnel suggested that the consultation be held in the interrogation room. Unbeknown to the accused and counsel, their consultation was then recorded, which fact was brought out at the subsequent trial of the accused by general court-martial. Although the trial resulted in a conviction, a Navy Board of Review disapproved the findings and sentence and ordered the charge dismissed. The Board invoked the doctrine of general prejudice saying "that there was a flagrant invasion of the rights of the accused when the official representatives of the Government caused a recording to be made of the confidential and privileged consultation between the accused and his counsel. Such action on the part of the government investigators materially prejudiced the substantial rights of the accused." More specifically discussed was the possibility that the information obtained from the illegally recorded conversation might have led to the search (otherwise legal) which led to the Government obtaining certain physical evidence. Were this so, the Board indicated this would be clearly grounds for not admitting such evidence. But, in any event, the fact of actual interference with the confidential nature of communications between attorney and client was sufficiently prejudicial in itself to cause a reversal of the conviction, whether information specifically adverse to the accused had been obtained by this means or not. U.S. v. BENNETT, NCM-59-01255, 28 CMR 650 .

It should be remembered that while certain investigative techniques may be appropriate in different contexts, there are well established rules which strictly limit their use when the case is one which may result in criminal prosecution.

Aside from the legal issue, another interesting point was raised by this case. Involved was a major criminal offense resulting in a general court-martial, yet the investigation was conducted by two or more station investigators assisted by an ONI agent. This agent was present at the interrogation and events surrounding it and testified at the trial. As a result, Naval Intelligence is associated in the Board's decision with

this flagrantly improper action, although Naval Intelligence was not officially in the case. While occasions may arise in which ONI might properly conduct an investigation jointly with command investigative personnel, the ONI agent should always be in control of the case, not merely serving in an assisting capacity.

2. Administration of oaths to suspects.

Two cases have recently been decided by Navy Boards of Review on the question of agents administering oaths to suspects prior to obtaining statements from them. One of these cases has gone up to the U.S. Court of Military Appeals, but has been returned to the Board of Review for a technical clarification. A later ruling on this issue may be forthcoming from the Court of Military Appeals.

While the two cases involved differ slightly on the facts, in both of them the agent, in the view of the reviewing authorities, required the suspect to be sworn. In one case this occurred immediately at the outset of the interrogation and in the other case after a considerable period of interrogation in which the suspect steadfastly denied his complicity. In neither case was there any indication that the suspect was given any choice on the matter of being sworn. The rationale of the decisions in each case is somewhat involved, but the gist is that requiring that the suspect be sworn effectively nullifies the warning previously given, amounts to unlawful inducement, and renders a subsequently obtained confession inadmissible. (U.S. v. STIVERS WC NCM 59-01221; U.S. v. ROBISON WC NCM 60-00321).

The problem raised here is believed to stem from misinterpretation of ONI INST 5520.64A of 16 June 1959. In this directive, it is stated in part;

"Under certain circumstances, it may be desirable to place an individual under oath at the outset of the interview or interrogation. This applies equally to suspects.....etc."

The foregoing must not be construed as ever requiring that the individual be sworn. Indeed, an agent has no authority to order that any individual take an oath. Circumstances under which a person might be sworn at the beginning of an interview should be generally limited to instances where it is clearly indicated that the individual intends to impart information, and is willing to be sworn, well knowing that he has an opposite choice. In the case of suspects particularly, the oath should not be administered until a point has been reached in the interrogation procedure where the suspect indicates a willingness to talk about the subject matter of the interrogation. He may then be asked if he is willing to swear to what he has to say, but no necessity for him to do so should be implied. Or, as is preferable in most cases, he should be asked if he is willing to swear to his statement after it has been reduced to writing.

Although the Instruction referred to above indicates that written statements should generally be taken under oath or affirmation, it should be remembered that this is not applicable where the interviewee declines to be sworn. Moreover, in the case of suspects there is no legal requirement that a statement be under oath to be admissible in evidence before a court-martial. The governing factors are that the statement be truly voluntary and have been preceded by a proper Article 31b warning. The legal requirement for oaths applies only to the written statements of witnesses at an Article 32 pre-trial investigation where the witness cannot personally appear.

In summary, in the case of suspects, it is desirable that statements given by them be taken under oath. This will usually be accomplished after the statement has been reduced to writing by having the suspect swear to it after he has read it and signed it, providing he indicates his willingness to do so. It is permissible to administer the oath at the outset of the interrogation, or at some later point in the verbal interchange, should it be indicated that the suspect is willing to talk and is willing to be sworn. The agent should not emphasize the oath aspects of the transaction at the possible risk of rendering the statement inadmissible.

Additional guidance on this subject will appear in the impending Manual revision.