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This Newsletter is intended for all Naval Investigative Service personnel concerned with investigations and counterintelligence. Sufficient copies are furnished to allow distribution of individual copies to all NIS professional personnel.

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FROM THE DIRECTOR'S DESK

As this is written, I am finishing my first two months as your Director--but I am not new to this organization. Based on three years duty with the Naval Investigative Service--one year as your Deputy Director and almost two years in San Francisco--I feel that I know the kind of people who make up this fine organization. It is a great honor and distinct pleasure for me to be associated with such people--highly professional and dedicated to service to the Navy and to the country. I pledge to do my best as your Director.

*J. Q. Edwards*



VIP REPORT



William J. SCHAEFER is head of the Internal Security Division (NIS-22), NISHQ. Preparation for the responsibilities of his present post began with a Bachelor of Arts degree from the University of Pittsburgh in 1949 followed by an LLB from George Washington University in 1951. Upon completion of law school Bill was admitted as a member of the Bar, District of Columbia.

Active duty with the United States Marine Corps from 1951 to 1953 preceded his commission in the U. S. Naval Reserve, an affiliation he has continued to maintain although he is not now actively participating in an organized unit.

From 1953 to 1957, Bill served as a Special Agent at NISO Philadelphia. In 1957, he became head of the SEC Department, NISO Philadelphia serving in that capacity until 1964. London was his residence from 1964 to 1966 when he headed the SEC Department, NISO Europe. He returned to the States in 1966 to be Special Assistant for SEC, NISHQ, holding that position until 1968 when he assumed his current duties.

Special Agent SCHAEFER was born in Florence, Alabama but has, in the opinion of some of his colleagues, been assimilated into the "Eastern liberal establishment". Bill, his wife Glory, and children Thomas, John and Nancy, live in nearby Annandale, Virginia. He is an avid reader, sports enthusiast, and enjoys an occasional evening of bridge. His quick wit, genuine sense of humor and capable pen are ever ready to offer qualified professional and social analysis on a wide variety of subjects.



## HANK BARDEN RETIREMENT



Special Agent Heywood L. "Hank" BARDEN retired on 31 July 1970, having served with distinction in the Naval Investigative Service, Office of Naval Intelligence, since 1942.

Hank served in the Wilmington, N. C., Zone Office of ex-DIO-6ND as a Chief Petty Officer from July 1942 to April 1946, when he was appointed as a civilian agent. He was transferred to the Greensboro, N. C., Resident Agents' Office in 1958, and to the Raleigh, N.C., Resident Agents' Office (now NISSU Raleigh) as Senior Agent in 1961, remaining in that assignment until his retirement.

Captain H. H. ELLISON, Commanding Officer, Naval Investigative Service, Charleston, S. C., presented Hank with letters of appreciation from Rear Admiral H. J. KOSSLER, Commandant of the SIXTH Naval District, and Captain E. G. RIFENBURGH, Director of the Naval Investigative Service. Also presented at that time were congratulatory messages from numerous friends and former associates, and a three-instrument "weather station", guaranteed for forecasting good fishing weather

### NAVAL INVESTIGATIVE SERVICE INVESTIGATIONS DEPARTMENT DIVISION NOTES

Division interviews report information concerning items of current interest, suggestions as to more efficient methods of operation, and reminders of operating guidelines. Official guidance, commendation and criticism are promulgated to the field by other more formal means. The information printed here is not to be construed as NIS policy.

### PERSONNEL SECURITY INVESTIGATIONS DIVISION

The NISO's and their subordinate offices continue to do a generally excellent job in affording requisite coverage on PSI investigations. This is accomplished despite limited resources and coverage requirements which vary from case to case. In a percentage of cases it becomes necessary to go out to the "field" and request coverage on missed or inadequately covered leads. The largest number of such leads relate to employment followed closely by LAC's. It should also be noted that ROI's often fail to reflect birth data confirmation despite the fact that such confirmation was probably observed by the Agent during the course of his investigation. Careful attention to each investigation's requirements, adequate investigative coverage, and accurate reporting will reduce the incidence of "miscues" and will assist in the timely completion of investigations.



In addition to the Category and Project Code, PSI NOCP's contain a command in the text which sets forth the coverage requirement and whether it is Standard or Special. When this information does not agree, an ALS should be sent to 0021 for clarification.

NOTE: Do only what is requested unless your investigation of the Subject indicates additional coverage is required. On intelligence personnel project codes watch for this comment "Afford Standard Coverage".

#### INTERNAL SECURITY DIVISION

NISO's and NISRA's throughout NIS deserve much credit for the quality of investigative coverage (including the level of reporting) which has been generally evident in Internal Security and Security Violation investigations. These investigations have aimed at the issues, and have been marked by prompt action and thoroughness. Sometimes, however, one of these investigations will fall short of that which is expected. These deficiencies will often be in the form of failure to apply proper priorities to an obviously important case, the lack of imagination to seeking information when the ordinary paths are closed, or failure to keep NISHQ apprised of developments in an investigation which is known to be of considerable interest. Fortunately, these shortcomings do not happen very often; but unfortunately, they seem to occur in cases which are being followed very closely.

Recently, an increase has been observed in the number of Results of Interviews appended to an ROI in lieu of signed statements when the person interviewed has furnished credible derogatory information. The practice is a sound one provided there is some reference made in the ROI to the fact that the source was requested to provide a signed statement and, for some reason, declined. Section 1-0505.1 of ONI 63-1B provides additional guidance concerning this matter.

In Hostage investigations (Category 3D) Background Investigation coverage is neither necessary nor desired unless it is specifically requested. It is required that pertinent, knowledgeable informants be interviewed concerning the potential "hostage" situation of the subject in terms of pressures and counterpressures. Where there is an absence of information concerning a particular pressure or counterpressure, negative reporting is desired. Similarly, during the interview of the subject, each pressure and counterpressure should be covered in full and reported completely in the resulting ROI.

It has been noted that some 3G (defector) investigations have not always fully complied with Section 2-0927 of ONI 63-1B (which was promulgated by NIS GEN of 05-07-70, Ser 2915). Section 2-0927.3.B directs that when an actual or potential defector has or has had access to classified information at his last duty station, a determination of his level clearance and a definitive assessment of his access to classified material should be made. This means



that a determination should be made as to the specific nature of classified material, such as types of publications, weapon systems, components, equipment, etc., to which the individual had access, and an assessment made by the command, of his knowledge and abilities regarding that material. This information should be included in the NOCP, if possible, or in a subsequent ROI. It has also been noted in numerous cases that the Subjects have been warned regarding UA and/or Defection. There is no offense under UCMJ regarding Defection and a warning in that regard is both unnecessary and useless. Warnings in defection investigations should comply with guidance set forth in Section 2-0927.3.E of ONI 63-1B, which states that when interrogating a suspected defector, he will be warned regarding the offense of DESERTION (Article 85, UCMJ).

On July 30, 1970, policy allowing the forwarding of certain category 3 and 5 cases to the requestor for use and destruction was promulgated. Category 3F, 3G and Category 5 cases which do not contain adverse loyalty information or documentation from a non-DOD investigative agency may be provided the requestor for use as required by judicial or administrative action and ultimate destruction. The security Information Letter published by OP-092D2 will advise commands of this NIS policy change. It is anticipated that a decrease in the administrative burden of both NIS field components and customer commands will result from this new procedure.

#### PROJECT INDICATORS

Certain investigations, because of their sensitivity, are assigned unclassified Project Indicators. These Project Indicators, which can be used in place of the subject's name, are generally two word groups, such as HOT ROD, GOLD BRICK, etc., which are selected at random and do not contain some obtuse reference to the actual subject.

The primary purpose for using a Project Indicator is security. This can be especially important in message traffic which, although classified, is handled by several people. It is possible that one of these people, even in a large activity, may know the subject of the investigation, and although properly indoctrinated in handling of classified information, may for some reason feel compelled to tell the subject of the investigation, or someone else who will tell the subject of the investigation, something about the content of the message. Very often the mere fact that a person is informed that he is under investigation can be damaging to that investigation. Thus, when it is necessary because of security to severely limit the number of personnel who will be aware of an investigation, it is the best policy to delete the name of the subject from the message and to insert in its place the Project Indicator. Of course, to then draft the message so as to reveal to the reader the identity of the subject would be self defeating, and other methods of secure message communications must be looked to.



Another use of the Project Indicator is in telephonic contact where the conversation would be otherwise unclassified if the name of the subject were not mentioned. For instance, the caller could ask the status of the XXXX XXXX case, the response could be that the ROI will be in the mail tomorrow, the information sought has been imparted, and nothing has been compromised.

ROI's and ALS's which are mailed, and which have Project Indicators assigned, are a different matter. Because mailed ROI's and ALS's can be directed, through instructions on the inner envelope, to a specific person or office, the routing and disclosure of that document can be limited to only those who have a need-to-know. Thus, the use in these cases of a Project Indicator is not needed, and can actually prove very confusing to the reader, especially the reader who may review the case two or three years later and tries to make sense of it.

Wide use of Project Indicators is neither necessary nor desired. But the assignment of a Project Indicator can be extremely helpful in those investigations which require added security because of their sensitivity.

#### CRIMINAL INVESTIGATIONS DIVISION

Many field offices are in possession of, and are utilizing, field test kits for the analysis of suspected narcotics and restricted drugs. It should be kept in mind that these test kits are an investigative aid, and are not intended to replace the formal laboratory analysis by a qualified "expert" which is necessary in order that the evidence might be introduced in court-martial proceedings. NAVINVSERV-23 has noted instances where an investigation was initiated for the analysis of suspected marijuana or other substance. The investigation then consisted of a field analysis of the substance, and an ROI was submitted as # CLOSED. Subsequently, the command concerned wanted to take disciplinary action against the suspect on whom the evidence was found, however, since the analysis was not done by a person qualified as an "expert witness", the command had to request another investigation to have the same evidence analyzed by a crime laboratory or other qualified expert. This situation was compounded in several cases involving afloat commands. The local NAVINVSERVRA conducted a field analysis of evidence found on a Marine who had been on liberty in their area. The Marine and his unit were subsequently returned to their permanent base and the legal authorities requested their local NAVINVSERVRA to obtain the evidence and effect a laboratory analysis so that legal action could be taken. Needless to say, the various delays jeopardized the entire case against the suspect in regard to his right to a "speedy trial".



When a command requests an investigation for analysis only, during any narcotics investigation, the command concerned should be made aware of the limitations of a "field analysis". It should be clearly understood at the outset of the investigation as to whether or not a crime laboratory analysis is necessary. In those cases where a crime laboratory analysis is not conducted the text of the ROI should include the rationale as to why such an analysis was not conducted and that the command is aware of the ramifications. It is of little value to tell a command that a substance they suspect to be marijuana is, in the agent's opinion, marijuana, when in fact, the command really desires an analysis on which they can take disciplinary action.

Additionally, when the amount of evidence recovered is so small that as a result it would be totally consumed in a field test, no such test should be conducted for obvious reasons.

It has been noted with increasing frequency that Section 2-1208.9 of ONI 63-1B regarding reporting the value of recovered property is not being complied with. Reporting recovery value is extremely important in the compiling of statistics at NISHQ for utilization in justifying annual budget requests. Additionally, it is suggested that the last line of the Synopsis contain an entry in capital letters reflecting the value of the recovered property as well as in a separate paragraph of the ROI.

A recent batch of NIS Narcotic Data Sheets (a form familiar to many) were printed with an error which should be brought to your attention. On the reverse of the sheet decimal points were omitted in three places, as follows: between field 64 and 65, 70 and 71 and between 77 and 78. It is requested that this be kept in mind when completing sheets on which these decimal points were not printed.

A reminder is necessary to all field components concerning the handling/mailling of ROI's and NIR's containing category 8 information. As set forth in ONI 63-1B, all correspondence relating to sexual perversion or misconduct should be forwarded between NIS components in a double envelope with the inner envelope stamped with the "Category 8" symbol. All inner envelopes containing such data that is forwarded to NISHQ shall be marked "Category 8, TO BE OPENED BY HEAD, INVESTIGATIONS BRANCH ONLY". A recent case wherein this procedure was not followed involved derogatory allegations concerning an individual assigned to NISHQ. The NIR wherein these allegations were set forth was not contained in a double envelope and did not reflect any special handling caveats, and could have presumably been handled by the person in question. Additional instructions for transmitting to commands outside of NIS are found in Sec. 2-1408, 17(c) of ONI 63-1B and should be reviewed to ensure compliance with same.



The following procedure is suggested for assigning subjects to Category 9A (Protection) investigations. In cases involving assistance to the Secret Service the title should read: I/Presidential (Vice Presidential) Visit/(city of visit). In cases involving the protection of high level dignitaries, other than the President and Vice President, it is requested that the Subject be shown in a manner similar to the following examples: PM of Canada/Protection during visit to New York; Pres of Finland/Protection...etc; HRH Prince Phillip, U.K./Protection...etc; SECNAV/Protection...etc.

Since the institution of our new policy regarding narcotics walk-ins, there have been a few instances in which the wife of a subject was interviewed as a means of corroboration. This is not in line with the spirit of corroboration generally held by NIS, since the reason for obtaining corroboration should be to make use of it in a criminal prosecution. The fact that prosecution is less likely in the case of "walk-ins" does not relieve us of the necessity of following good investigative practice. Since the wife of a subject will, generally, be unable to testify against him she should not be considered as a means of corroboration. She could be used as a source of individuals who might furnish corroboration, if her cooperation can be obtained.

#### CAREER SERVICES DIVISION

A recent article in the Consolidated Civilian Personnel Office Newsletter set forth the following important milestones in a Federal Employee's career:

ENTRANCE ON DUTY: Begin probationary period. Begin serving three-year, career-conditional period. Acquire eligibility for low cost group life insurance and health benefits. Earn annual leave at rate of 13 days a year. Earn sick leave at rate of 13 days a year.

ONE YEAR: Complete probationary. Can be removed only for such cause as will promote the efficiency of the service. Receive within-grade pay increase. Eligible for promotion (in some cases you were eligible earlier).

THREE YEARS: Complete service requirement for full career standing. Earn annual leave at rate of 20 days a year. Have reinstatement eligibility without time limitation. Qualify for highest retention group in reduction of staff.

FIVE YEARS: Have completed minimum service requirement for retirement eligibility.

TWELVE YEARS: Retain life insurance coverage without additional cost if retired on immediate annuity. Retain health benefits coverage if retired on immediate annuity.



FIFTEEN YEARS: Earn annual leave at rate of 26 days a year.

TWENTY YEARS: Eligible for voluntary retirement annuity at age 50 under Section 8336(c) of Title 5 of the United States Code.

Section 8336(c) of Title 5 of the United States Code permits early retirement of an employee whose duties involve primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States. The employee may retire at age 50 after 20 years of service, if the head of his agency recommends his retirement and the Civil Service Commission approves the recommendation. In the Navy, Section 8336(c) applies to certain employees of the Naval Investigative Service and the Naval Disciplinary Command, Portsmouth, New Hampshire. OCMM acts for the Secretary of the Navy in recommending these retirements.

CSC has advised OCMM that the Bureau of Retirement, Insurance and Occupational Health needs at least 30 days to process this type of retirement application. More time is needed if there is any question about the applicant's eligibility. Employees of the Naval Investigative Service, who appear to be eligible for optional retirement under Section 8336(c), are hereby told that it will take at least 60 days to process their applications.

Some agents have raised the question whether it would be better to be in Classification Series 1811 rather than 1810 for retirement purposes. The classification series in itself has no effect upon eligibility for retirement under Section 8336(c). That eligibility is based upon the certification by the Head of the agency (DIRNIS) that the employee meets the provisions of Section 8336(c) and is recommended for retirement thereunder.

Note

The Civil Service Commission is proposing legislation to authorize additional compensation for "on-call" duty. An Amendment to Title 5 of the U.S. Code would require payment of additional compensation to a General Schedule employee who is officially required to remain in an "on-call" status away from his post of duty. The rate would be 10% of the employees hourly overtime rate. If called to work, the employee would receive the premium pay he would otherwise be entitled to, rather than the "on-call" pay.

After reviewing the additional annual premium compensation paid to employees on "standby duty," CSC concluded that the most equitable approach would be to provide a sliding scale for "on call" pay based on the employee's overtime rate. This would eliminate the need for further ammendment in the event the maximum amount on which overtime pay is computed should be changed. CSC also



concluded that it would not be practicable to attempt to establish different rates to recognize varying degrees of restriction on the employee's whereabouts. The Commission would, however, issue guidelines to assist agencies in determining whether certain assignments should be compensated as "on-call" under the proposed provision, or as "standby" under 5 U.S.C. 5545(c)(1).

Wage employees were not included in the proposed legislation, as payment for "on-call" duty can be provided under the present authority, if it is found to be prevailing practice in industry.

CSC requested Navy's comments on the proposed legislation regarding: (1) numbers and types of employees who might be covered and an estimate of additional costs; (2) identification of any situations where "on-call" might be used in place of "standby" duty, with examples; and (3) information, whenever possible, about length and frequency of possible "on-call" assignments, the probability of the employee's being called to work, etc.

Comments and recommendations from representative activities have been distributed to ROCMMs.

The Joint Travel Regulations (JTR) do not permit the compensation of an employee for expenses incurred during purchase or sale of residence unless his old and the new duty stations are located within the United States or its territories. Some Special Agents on overseas assignments have corresponded with NISHQ requesting a modification of their orders to permit compensation for "Buy-Sell" expenses.

Regrettably, the Director can not grant authority to pay "Buy-Sell" expenses for overseas transfers. However, the Director has written to the Office of Civilian Manpower Management recommending that the JTR be amended to permit compensation for "Buy-Sell" expenses for overseas transfers. If OCMM concurs with the recommendation it will be necessary for that activity to seek Civil Service Commission concurrence and endorsement on a recommended change to the law governing travel regulations. If the Civil Service Commission concurs then Congressional action will be required. All of this will take time. In the interim it should be noted that overseas transfers are still desirable for a number of reasons, including the payment of differentials or quarters allowance, cheaper living expenses through the use of commissary and exchange privileges and the enhancement of Career Development potential through the broadening of experience. In addition, some agents have rented their homes while overseas not being in need



of their equity while outside the country. The appreciation in the housing market has helped to defray the "Buy-Sell" costs not compensated under the JTR.

#### SEC DEPARTMENT REORGANIZATION

Reassignments of key personnel and changing workload requirements were high among the factors necessitating the 1 July 1970 reorganization of the Sabotage, Espionage and Countersubversion (SEC) Department at the Naval Investigative Service Headquarters (NAVINVSERVHQ).

In a real sense, the revamping was partially brought about by personnel shifts quite flattering to the Department. While it is true SEC lost the services of Don PASCHAL as its Research Division head, it is gratifying to have a Department alumnus "moved topside." Don was selected for promotion--to succeed Bill CLAYTON as the NAVINVSERV Special Assistant for Plans, Programs and Budget.

Another change in personnel figured materially in the SEC reorganization. Don GORHAM, who had been assigned as the SEC Department head in the U. S. Naval Investigative Service Office, Japan since August of 1967, has returned to NAVINVSERVHQ to assume the newly created position of Special Assistant for SEC (Foreign). Don's counterpart as Special Assistant for SEC (Domestic) is the capable and affable Vernon "Pat" PATTERSON. (A personal sketch of Pat appeared in the NIS Newsletter for July 1970.) Don and Pat, under the new SEC structure, are directly responsible to CDR Bill MYERS, USN, who continues as the Assistant Director for SEC.

Prior to his return to NAVINVSERVHQ, Don GORHAM was given three citations. One, accompanied by a traditional victory helmet, was a Letter of Commendation signed by the Director of the Intelligence Division, (Japanese) Maritime Staff Office. It was presented in recognition of Don's assistance to the Japanese when they were establishing their own Naval Investigative Service. The second citation was from the Commanding Officer, NAVINVSERV PAC for counterintelligence assistance rendered to U. S. Naval operating forces. Don's third citation was presented by the Commanding Officer, USNAVINVSERV Japan for his efforts in increasing the quality and quantity of counterintelligence work in Japan and in Okinawa.

George SHEPHERD was transplanted in the SEC reorganization when he left his duties as head of the NAVINVSERV Support Division at NAVINVSERVHQ to replace Don GORHAM as SEC chieftain in Japan. George's former position at Headquarters, as well as Jack McDONNELL's as Special Projects head, were merged into a Secretariat directly responsible to the Department head.



Jack McDONNELL directs the Secretariat. Bob RAY, who had worked with George SHEPHERD at Headquarters, has moved into the new Foreign Intelligence Division. Harry WARREN, another Headquarters veteran, is head of the new domestic intelligence Division. Harry serves directly under Pat PATTERSON, while Bob RAY is immediately responsible to Don GORHAM in the new organizational framework.

Additional detailed information pertaining to the restructuring of the Sabotage, Espionage and Countersubversion Department may be found in NAVINVSERV NOTICE 05450.

Aside from the personnel changes brought about by the reorganization at Headquarters, there have been other significant transfers of SEC representatives in the field.

Ed EISENSEN in mid-September underwent a special briefing program at NAVINVSERVHQ preparatory to his assuming a newly created position as Analyst in NISRA Iceland. Ed's latest tours have included assignments in NAVINVSERV Japan, NAVINVSERVRA Bethesda, and NAVINVSERO Washington, where he served as Assistant to the Head of the SEC Department.

Frank YAMAMOTO has uprooted himself from Japan to become the Assistant to the Head of the SEC Department in NAVINVSERV San Francisco. Frank, a Lieutenant Colonel in the U. S. Army Reserve, has served in various intelligence capacities in Japan virtually since World War II. He was in the Foreign Liaison section of NAVINVSERVRA Japan from October 1968 until his recent transfer to San Francisco.

Dick ATKINSON has just returned to the SEC Department at Headquarters after serving a tour in NISRA Naples. As a result of his work in the field, Dick was given an Outstanding Performance Award, and a Letter of Commendation from the Commanding Officer of NISO Europe.

Another recent arrival on the SEC Headquarters scene is LCDR Douglas HACKETT, USN. Doug had served with the U. S. Naval Forces Vietnam, and has earned the Bronze Star.

#### LEGAL NOTES

Recently an investigation was completed by NIS concerning the fraudulent execution of three (3) savings withdrawal slips. In an effort to make an analysis of the handprinting on the withdrawal slips, the investigating agent solicited the assistance of the Commanding Officer and requested that he require all of the enlisted men assigned to the command to submit samples of their handprinting by completing a personal history questionnaire. This procedure was confined to enlisted men as the victim was enlisted and the investigation disclosed that the culprit apparently had knowledge of the victim's activities and personal



affairs thus suggesting an enlisted suspect.

The requested questionnaires were obtained and as a result of a comparison of the printing on the slips and questionnaires, a "suspect" was developed. This individual subsequently confessed his responsibility for the offense and following proper Article 31(b), UCMJ advisement, voluntarily submitted handwriting exemplars which were forwarded for expert examination.

What at first glance appears to be a resourceful technique displaying considerable initiative on the part of the investigating agent, when scrutinized, disclosed some question concerning the Constitutional validity of the action taken. The questions raised by these facts are:

a. Does the obtaining of handprinting exemplars in the above described manner constitute the taking of "statements" within the meaning of Article 31, UCMJ?

b. Is the obtaining of handprinting samples from all enlisted men attached to a command under the above described circumstances, without benefit of Article 31 warnings in violation of that Article, or is it permissible investigative procedures?

With regard to the first question, it seems clear from previous CMA decisions that, unlike the holding of the U. S. Supreme Court that handwriting specimens fall outside the purview of the Fifth Amendment, such exemplars are "statements" within the meaning of Article 31. Therefore, in order for handprinting exemplars to be admissible against the accused it must be shown that the provisions of Article 31 have been fully satisfied.

The second question is one for which there is no case law in point. It is the opinion of the Judge Advocate General, however, that from the facts of this case, all of the enlisted men were in fact suspected of the fraudulent execution of the savings withdrawal slips and that the order requiring them to fill out questionnaires was illegal under the circumstances of subject case. The investigators knew that the offense had been committed and that the offender was one of these enlisted men.

They therefore had these men, all of whom were under suspicion, "questioned" by requiring them to fill out questionnaires, an act, which for each man would indicate whether he was guilty or not. These men were ordered to provide exemplars of their own handprinting, evidence which would be completely irrelevant unless they were suspected. It is the opinion of the Judge Advocate General here, that no claim can be made that these men were being questioned merely as witnesses to an offense (article 1216/1217, U.S. Navy Regulations Apply) as the order issued had absolutely



nothing to do with reporting offenses or information about offenses.

It is also pointed out that, whether one person or 200 are questioned, the significant consideration in determining who are suspects is how each is viewed and treated by the investigating authorities and not the number involved.

It is concluded therefore, that all should have been given Article 31 warnings before being requested to provide handprinting samples. It is also pointed out that there may be serious "fruit of the poisoned tree" problems with the second handprinting exemplar submitted by the accused and with his subsequent confession.

The foregoing information furnished as guidance by the Judge Advocate General should be borne in mind when preliminary investigation has, in the mind of the investigator, developed any number of persons suspected of committing an offense.

The facts here serve as example of an investigation which has progressed to the point where the logical suspects have been identified as such and where the investigation is no longer involved in a search for suspects but rather the building of a case against a suspect.

O'Callahan v Parker 395 U. S. 258; Trends Emerging in  
Decisions Since

In the period following the landmark U. S. Supreme Court decision of O'Callahan v Parker, 395 U.S. 258 (June 1969), a wealth of cases dealing with questions raised by the O'Callahan decision have been decided by the Court of Military Appeals (COMA). As will be recalled, O'Callahan held that in the absence of any "service connection," the status of an accused as a member of the Armed Forces was not sufficient in and of itself to confer upon a military court jurisdiction to try a crime that is also cognizable in a civilian court. The Court, however, either could not or would not develop certain tests for determining the meaning of "service connection". As a result, COMA, in its subsequent decisions has set forth certain basic tests for determining "service connection" which will be adequate to confer jurisdiction on military tribunals. It is felt that knowledge of these tests would be valuable to NIS agents and it is with this thought that the following summary of the current state of the law following O'Callahan is forwarded.

Following O'Callahan, the Court quickly recognized that the military can justifiably exercise jurisdiction when an offense is committed on station. This position is clearly pointed out when one compares two cases involving the offenses of carnal knowledge committed by off-duty servicemen on the dependent



daughters of other servicemen. In both cases, the offenses were cognizable in the civilian courts. The critical difference, however, was that one offense occurred on post (conviction confirmed) while the other took place off post (conviction reversed)

Also, if the victim of an offense is another serviceman, whether or not this fact is known to the accused, a sufficient service connection has been found. The Court's basic position relying on footnotes 14 and 19 of the O'Callahan decision can be summarized by its statement in U.S. v Everson 19 USCMA (1969): "An offense perpetrated against the person or property of another serviceman, regardless of circumstances,...is cognizable by court martial...". This is so even if the offense against the person or property of the serviceman takes place in the civilian community.

A third test which the court has relied on to determine service connection is whether the defendant abused his military status in the commission of the offense. Thus, for example, when a young private dressed himself in the uniform of a Marine Lieutenant and ran up bills in a civilian hotel by assuring the management that he had accumulated back pay, the court stated that when military rank is the moving force, as it was here, in victimizing the civilian community, the offense committed is "service connected" within the meaning of O'Callahan. Thus, an offense is "service connected" when positive misuse of the military status to secure privileges or recognition not accorded others causes the Armed Forces to have a substantial interest in punishing the abuse lest innocent members suffer.

The fourth major criteria relied upon by the court to find service connection is whether the offense had "disasterous effects ...on the health, morale, and fitness for duty of persons in the Armed Forces. This test has been used primarily in those cases involving narcotics. In U.S. v Beeker 18 USCMA 563 (1969), the court stated that the "possession of marijuana is a matter of immediate and direct concern to the military as an act concerned with prejudice to the good order and discipline of the Armed Forces." It should be noted however, that this holding concerning the possession of drugs being service connected was questioned in the United States District Court for the District of Rhode Island in Moylan v Laird 305 F Supp 551. In enjoining a court martial for possession of marijuana off the post, the court distinguished the Beeker decision. Acknowledging the probable correctness of Beeker regarding the use of marijuana, it held that mere possession (either on or off post) does not undermine military authority any more than any other crime cognizable in civilian courts. This decision however, has had little influence on COMA rulings on the drug as the Beeker rationale has been affirmed in two subsequent decisions.



Although the foregoing has been a summary of the basic tests used by COMA to determine "service connection", other factors such as whether the accused was on duty or off duty or in uniform could influence the results of a particular case. With the passage of time and the consideration of more cases by COMA, more guidance would seemingly be forthcoming concerning the limits of court martial jurisdiction over military personnel.

#### DRUG INTELLIGENCE

A recent narcotics investigation conducted by NIS agents in CONUS developed some rather interesting facts. Vegetable matter having the general characteristics of marijuana was confiscated from a Marine enlisted man during the conduct of a legal search. The vegetable matter was forwarded to the FBNDD Laboratory for analysis, where it was determined that the suspect matter was not marijuana but instead, parsley flakes that had been soaked in phencyclidine HCL, a controlled drug, commonly known as "PCP". "PCP" or the "Peace Pill", is usually taken orally and is capable of producing hallucinogenic effect. This drug has also been detected on blotter paper, a vehicle often used in conjunction with LSD. Liaison with local police and FBNDD determined that this was the first time phencyclidine in this form had been detected in the area. It was further indicated that "PCP" in this form is known in "Hip" circles as "Angel Dust".

Another method of narcotic concealment continues to plague the investigator. It is by no means original, for it is a method which has been used for years, but not to such a degree of packaging expertise. The substance is marijuana. The hiding place, the filter tip cigarette package. The marijuana is placed in the middle of the cigarettes, and the ends are plugged with tobacco. The cigarette are repackaged, which many times requires one cigarette to be reversed. Loose marijuana flecks can be detected at the ends of the packs, and the middle portion of the packs are softer than the legitimate product. Marijuana has also been utilized as stuffing in the souvenir type pillow which is so often sent home by servicemen to their friends back home. Not to be outdone the Vietnamese have been putting marijuana in quilted mattresses, sewing it into the quilted squares. The methods of hiding narcotics are far too numerous to list. When searching for narcotics the agent must be more ingenious and use more imagination than the individual he is dealing with.



## NEW NI SRA ESTABLISHED



The fatal shooting of Bennie LIGHTSY by Mario ESCAMILLA on 16 July 1970 on Fletcher's Ice Island predicated a request for investigative action and created a situation in which some "firsts" were established. The ice island, a 3 x 6 mile ice floe approximately ninety feet thick, drifts aimlessly in the arctic ocean at the rate of four to five miles a day in a region about 300 miles south of the North Pole. The Office of Naval Research sponsors a year round weather/research station on the island which is inhabited only by the 19 civilian employees necessary to the operation.

Personnel and supplies are flown in by C-130 except for the period 1 June through 30 September when the surface ice thaws due to the 24 hour sunlight and hence, aircraft landings are unsafe. NIS responded to the request when the FBI declined, and the U. S. Air Force launched a massive effort to land the investigating team on the island. This was accomplished by a helicopter flying from Thule, Greenland being refueled in mid-air twice each way by a C-130 tanker. Another C-130 accompanied the flight to provide cover in case of an emergency. The investigating team consisted of two NIS Special Agents R. E. MCKENNA and V. L. KALIHER, Special Operations, NISHQ, to conduct the investigation, one assistant U. S. Attorney to provide concurrence for the ultimate arrest, and one U. S. Coast Guard investigator to effect the arrest on "the high seas."

The mission was highlighted by the excellent cooperation between the Navy, Air Force, Coast Guard and Justice Departments. Moreover, the first helicopter landing in the Arctic Ocean and the first mid-air refueling of a helicopter over Arctic ice was accomplished.

Special Agents MCKENNA and KALIHER are now official members of the "ORDER OF THE BLUE NOSE."



## PROMOTIONS - TRANSFERS - NEW HIRES

The quarterly notification of promotions and transfers in the Newsletter is intended expressly for the information of its readers and does not constitute official notification. Regarding the GS-11 examination, a certain time lag must ensue from the point of taking the quarterly examination until the results are processed; however, all NAVINVSERVO's are notified of the results of the examinations.

### GS-11 EXAMINATIONS

The following Special Agents have successfully completed the professional examination administered during the Fourth Quarter FY 1970 and have been advanced to GS-11.

ROWE, Harvey F.	01	HENLEY, Alvah M.	12
DUNLAY, Louis S.	03	TURNER, Robert A.	12
MC CARTHY, Michael E.	03	BAUMAN, Robert H.	12
HOUSEMAN, Carl R.	04	KIRKHAM, Richard J.	12
MORGAN, Wayne R.	05	DAVIS, Roger H.	13
LAMBERT, Anderson T.	05	WITTENBERGER, Willis W.	13
INGRAM, Robert B.	06	ROBERTS, Randall L.	14
GOODCHILD, Jerald P.	06	YEE, Andrew K. C.	14
BAIN, John R.	06	BROWNING, James B.	20
ALLEN, Robert S.	06	DWORKIN, Edwin L.	20
TODD, Stephen A.	08	LINDER, James C.	20
COVELL, Robert R.	09	RUSSELL, Raymond J.	20
MESA, Richard C.	11	WITKOWSKI, James B.	20
PIERPOINT, Charles C.	11	KELLEY, Paul W.	83
STRAHAN, Douglas H.	11	UPCHURCH, Larry C.	83
WEAVER, James H.	11	VELOTTA, Vincent A.	11
MILLS, Daniel A.	12		
SCHULTZ, Robert J.	12		

### AUTHORIZED PROMOTIONS TO GS-12

WELLS, Chester E.	SRA, NISRA New York
CHAMBERS, James B.	Representational RA, NISRA Phila NavHosp
DAVID, Robert	SRA, NISRA Albany, Ga.
WEBB, Donald L.	SRA, NISRA Washington, D. C.
GIVENS, Fred F.	SRA, NISRA Siagon

### AUTHORIZED PROMOTIONS TO GS-13

DONNENWIRTH, Thomas J.	SRA, NISRA Great Lakes
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## COMMENDATIONS - LETTERS OF APPRECIATION - AWARDS

### QUALITY STEP INCREASE

SALB, George R.	00	HOWERTON, Elton C.	20
WEBB, Donald L.	05	BAUERLY, Milo A.	82
NAGLE, Michael D.	14	BURKE, George F.	82
<u>DONAHUE, Neil A.</u>	<u>14</u>		

### SUPERIOR ACCOMPLISHMENT CASH AWARD

HANSEN, Rodney J.	00	LAWRENCE, Gerald A.	08
LANKFORD, James M.	08	<u>CLEVELAND, Walter G.</u>	<u>14</u>
GOERTZ, Jerome J.	08		

### LETTER OF APPRECIATION

SCHMITT, Frank H.	00	BELL, William G.	14
KALIHHER, Vernon L.	00	RYAN, Richard M.	14
MCKENNA, Richard E.	00	MONIER, Donald R.	14
DONNEWIRTH, Thomas J.	01	CLEVELAND, Walter G.	14
PROFFITT, George H.	01	BEENE, Joe F.	14
STAGLIANO, Frank E.	01	COOK, Richard H.	60
TUZA, Conrad J.	01	SWEENEY, Daniel J.	60
BOUCHER, Paul R.	01	WOELFFER, Russel A.	60
SMITH, Albert F.	01	MIDDLETON, Bruce M.	60
HUEY, Robert L.	04	PENDER, James P.	60
AMICK, Carl R.	04	CROSSMAN, Gordon W.	81
SANFORD, James T.	05	BAUERLY, Milo A.	82
WISEMAN, Howard F.	05	RICHARDSON, Robert A.	82
DEMPSEY, John W.	05	BRANNON, Thomas E.	83
LACOSTA, Robert	13		
SKINNER, Larry V.	13		
SAGARA, Stanley M.	13		

### LETTERS OF COMMENDATION

CUSACK, John T.	05	SPURLOCK, Stephen D.	09
SEES, Rudolph D.	05	WOLFORD, Edmund A.	09
SLAUGHTER, George L.	05	BAUERLY, Milo A.	82
HEMPHILL, Eddie W.	05	BRANNON, Thomas E.	83
WISEMAN, Howard W.	05	FITZPATRICK, Edward J.	84
ANTHONY, Kenneth W.	09	GRIM, Gordon F.	84
KAMPTON, Charles M.	09	SUNDSTROM, Carl W.	84
ELMQUIST, Roy C.	09	HUBBARD, Douglass H.	84
LAING, William D.	09	UPCHURCH, Larry C.	84
HOUGHTON, Michael M.	09	FOCHT, Walter S.	84
BAKER, James J.	09	DILL, John IV	84



The Secretary of the Navy recently awarded the Meritorious Unit Commendations to the U. S. Naval Investigative Service Office, Vietnam for meritorious service in providing investigative and counterintelligence support to Naval commands serving with elements of Free World Military Assistance Forces in the Republic of Vietnam from 1 November 1966 to 1 November 1969.

The following Special Agents were assigned to USNAVINVSERO Vietnam during part of this period and were presented a Letter of Appreciation from the Director, Naval Investigative Service.

MEYER, John A.	00	FRY, William H.	09
TRUXELL, Bertrand G.	00	SEACH, Jerald P.	09
DEITCH, Barry N.	00	HALL, David L.	09
SEGERSTEN, Peter G.	00	BAKER, James J.	09
TRIPLETT, John W.	01	BEATTIE, Frederick F.	10
DOKTOR, Kenneth R.	03	DILKES, Howard V.	11
MC BRIDE, Daniel A.	04	RYAN, Richard M	11
CALDWELL, James J.	04	REILLY, Peter	11
COLEMAN, Lawrence A.	04	BISCOMB, William M.	11
GIVENS, Fred F.	05	SUNDSTROM, Carl W.	11
MERRITT, Carl J.	05	LEAVITT, James S.	12
TUGWELL, Robert J.	05	WARD, William J.	12
SEEHORN, Frederick R.	05	FERGUSON, Thomas E.	13
OAKUM, Vernon P.	05	NAGLE, Michael D.	14
WEBB, Donald L.	05	<u>ORRANTIA, Frank E.</u>	<u>14</u>
HEMPHILL, Eddie W.	05	ROBERTS, David L.	20
MASDEN, Donald P.	05	MORRICE, Robert G.	20
SCHUNK, Donald C.	05	EDMONDS, Frank J.	60
JONES, Michael B.	05	MIDDLETON, Bruce M.	60
BALDWIN, Charles A.	06	PENDER, James P.	60
PAGE, Charles V.	06	COOK, Richard H.	60
ARNOLD, Lance W.	06	POWERS, Robert J.	81
BONNER, Edward K.	06	MC MULLEN, John P.	81
MC COY, Donald L.	06	STALLINGS, Thomas Y.	81
SCHLICHTMAN, John D.	06	FERRELL, Lawrence E.	81
LOGAN, Royce E.	08	BOURKE, Michael G.	81
JOHNSON, George B.	08	HUBBARD, Douglass H.	84
LILES, Charles D.	08	VELOTTA, Vincent A.	84
GONZALES, Leo A.	08	TAYLOR, Bernard C.	84
CARR, Paul A.	09	FOCHT, Walter S.	84
NICKEL, Kenneth W.	09	NEWMAN, Arthur D.	84



<u>AGENT TRANSFERS</u>	<u>FROM</u>	<u>TO</u>
ORME, Robert T.	NISHQ	NISRA KEFLAVIK
CLAYTON, William R.	NISHQ	NISRA CAMP PENDLETON
BLISS, M. SHERMAN	NISHQ	NISO SAN DIEGO
MERRILL, John F.	NISRA BOSTON	NISRA MOFFETT FIELD
SEGERSTEN, Peter G.	NISRA NEWPORT	NISHQ
MCPHERSON, Victor H.	NISRA BOSTON	NISRA GREAT LAKES
DONNENWIRTH, Thomas J.	NISRA SPRINGFIELD	NISRA GREAT LAKES
BOUCHER, Paul R.	NISRA BOSTON	NISHQ
MORGAN, William L.	NISSU AUGUSTA	NISRA DETROIT
HOPKINSON, Peter A.	NISRA CAMDEN	NISO VIETNAM
KLEMP, William J.	NISRA PHILA	NISRA OKINAWA
LAMBERT, Anderson T.	NISRA BAINBRIDGE	NISO VIETNAM
DEES, Rudolph D.	NISRA CAMP LEJEUNE	NISO VIETNAM
STAPLES, Claud H.	NISRA CHARLOTTESVILLE	NISRA DETROIT
MARQUETTE, John J.	NISRA CAMP LEJEUNE	NISRA SUBIC BAY
CUSACK, John T.	NISRA CAMP LEJEUNE	NISRA SUBIC BAY
LANNOM, Charles R.	NISRA NORFOLK	NISHQ
BLACK, Verner G.	NISRA LOUISVILLE	NISRA SUBIC BAY
SLAUGHTER, George L.	NISRA CAMP LEJEUNE	NISRA HONOLULU
HATCHETT, William H.	NISSU MAYPORT	NISRA LONDON
SPIGENER, Laney S.	NISRA ALBANY, GA	NISHQ
WESTBERRY, Robert G.	NISRA BIRMINGHAM	NISO VIETNAM
NEWMAN, Arthur D.	NISRA MEMPHIS	NISO VIETNAM
MOUNT, Ronald L.	NISRA CHARLESTON	NISHQ
SKIFF, Carl L.	NISSU SAN ANGELO	NISO VIETNAM
HUDSON, Bill E.	NISRA LITTLE ROCK	NISO HONOLULU
HOWE, Wesley W.	NISO NEW ORLEANS	NISRA SAN DIEGO (NS)
NICKEL, Kenneth W.	NISRA GREAT LAKES	NISO HONOLULU
SMOOT, Marvin W.	NISRA SAN JUAN	NISRA MOFFETT FIELD
THIES, Lawrence F.	NISRA SAN JUAN	NISRA ST LOUIS
FOWLER, Earl S.	NISRA SAN BERNARDINO	NISRA SAN JUAN
PANICO, Robert G.	NISRA SAN BERNARDINO	NISRA OKINAWA
GRAY, William F.	NISRA CAMP PENDLETON	NISHQ
HILL, Neil C.	NISRA SAN DIEGO (NS)	NISSU SAN ANGELO
RICHEY, Earl S.	NISO SAN DIEGO	NISHQ
BERRYMAN, Robert B.	NISRA PT HUENEME	NISRA MONTEREY
TATE, Terrance R.	NISRA SAN FRANCISCO	NISRA YOKOSUKA
HELBOCK, Robert G.	NISRA SAN FRANCISCO	NISRA SUBIC BAY
SCHULZE, Robert H.	NISRA MOFFETT FIELD	NISSU COLORADO SPRINGS
HAMILTON, Lorne R.	NISRA MOFFETT FIELD	NISO VIETNAM
BERNASCONI, Robert J.	NISRA SACRAMENTO	NISRA SUBIC BAY
RYAN, Richard M.	NISRA HONOLULU	NISRA LONG BEACH
BELL, William G.	NISRA KANEOHE	NISHQ
MOSTELLER, Roy A.	NISO HONOLULU	NISRA CAMP PENDLETON
TURK, Frank	NISRA FT. AMADOR	NISRA LITTLE ROCK
PECK, Richard L.	NISRA ANDREWS AFB	NISRA YOKOSUKA
HINCKEN, Robert A.	NISRA ANNAPOLIS	NISHQ
MC DONALD, Vincent K.	NISRA GUANTANAMO	NISSU BARSTOW
SCHWAB, Charles A.	NISRA LONDON	NISSU MAYPORT
BADER, John E.	NISRA KEFLAVIK	NISRA BALTIMORE
ALDRIDGE, Goethe W.	NISRA KEFLAVIK	NISRA CAMP LEJEUNE



ADDISON, Millard E.	NISRA YOKOSUKA	NISRA WASHINGTON
WILLIAMS, Thomas C.	NISRA OKINAWA	NISRA ANNAPOLIS
PERRIN, Anthony W.	NISRA OKINAWA	NISHQ
CROSSMAN, Gordon W.	NISRA YOKOSUKA	NISRA WASHINGTON
FOY, Robert A.	NISRA ATSUGI	NISRA LONG BEACH
VALENTINE, Richard A.	NISRA KAOSHIUNG	NISRA SAN DIEGO
WALSH, Richard J.	NISRA SUBIC BAY	NISRA PHILA
PARSONS, Benonia E.	NISRA SUBIC BAY	NISRA NORFOLK
HERR, Richard K.	NISRA SUBIC BAY	NISRA MEMPHIS
JONES, Michael B.	NISRA SAIGON	NISRA CAMP LEJEUNE
BISCOMB, William	NISRA SAIGON	NISRA EL TORO
GONZALES, Leo A.	NISRA DANANG	NISRA HOUSTON
VELOTTA, Vincent A.	NISRA SAIGON	NISRA WASHINGTON

#### WELCOME ABOARD

PACE, Bobby S.	05	CASSADA, Stephen H.	11
ARNOLDY, Dennis L.	11	MARTY, Stephen M.	12
BOGGS, William E.	11	RAPP, Fred V.	12
VAN SKAIK, Albert L.	11	STANTON, John J.	20
ODOM, John C.	11		

#### Personnel reassignments in NISHQ Investigations Department

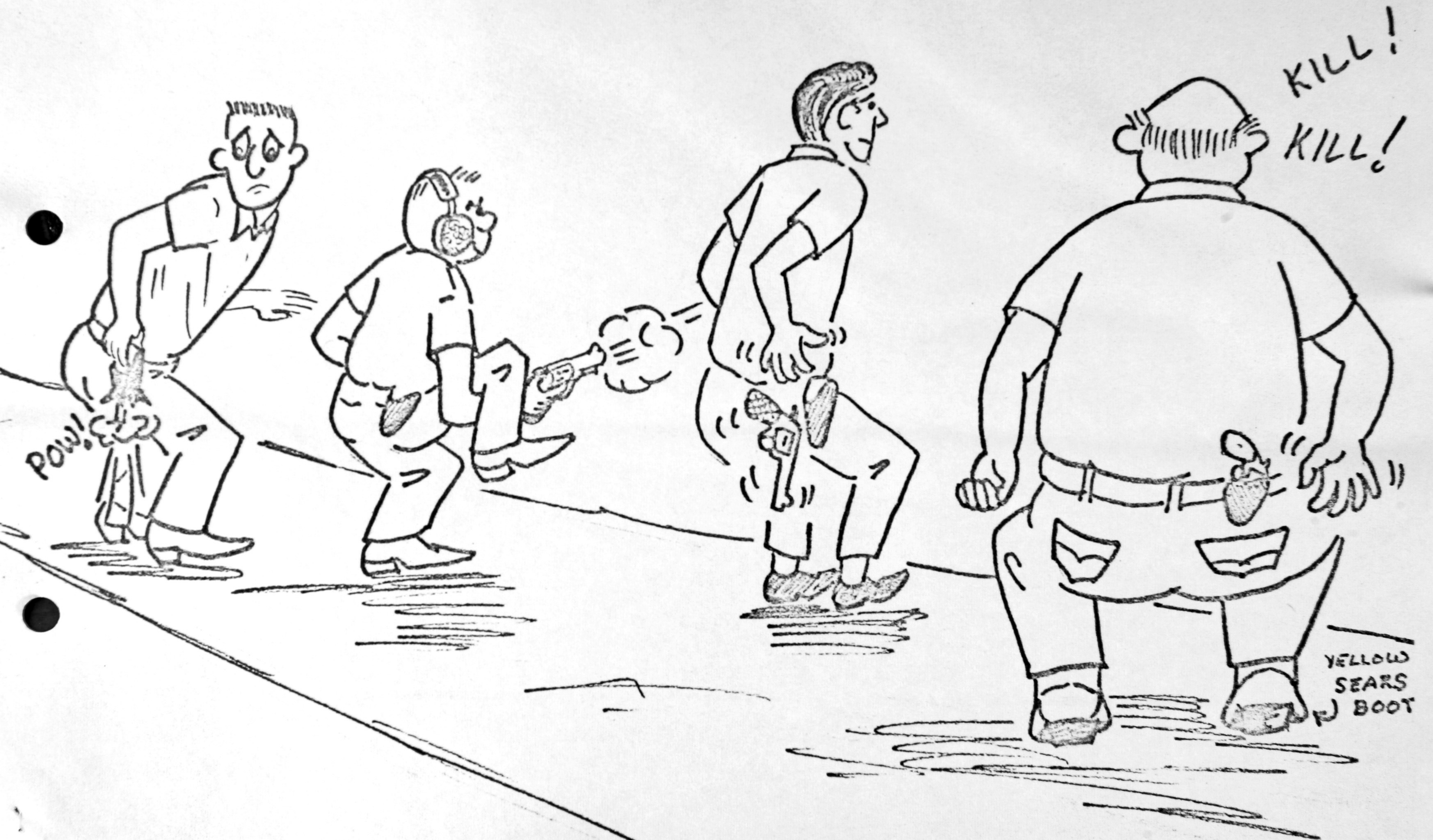
YEAGER, William E.	to Head, Opening Branch, PSI Division
CURTIS, Robert E.	to Internal Security Division
MC DONALD, David L.	to Process & Control Br., PSI Division
KUEHL, Winston C.	to Assistant Head, Criminal Invest. Div.
GRAY, William E.	to Head, Agent Training Branch
KALIHHER, Vernon L.	to Assistant Head, Agent Training Branch
LUTSCH, Nicholas T.	to Head, Agent Control Branch
HANSEN, Rodney J.	to Special Operations
HAWKINS, Carroll L.	to Criminal Investigations Division
STAUFFACHER, Peter K.	to Criminal Investigations Division

#### Directive of Interest

NISINST 12410.2 of 18 August 1970, Subj: Correspondence Courses for Special Agents and Intelligence Operational Specialists. Discusses need, lists courses available and includes an enrollment application.



NIS SPECIAL AGENTS ANNUAL RE-QUALIFICATION



CEASE FIRE? HELL, I DON'T HAVE IT OUT OF MY HOLSTER YET!