

**SECURITY
DIVISION**

**OFFICE OF NAVAL
INTELLIGENCE**

NEWS



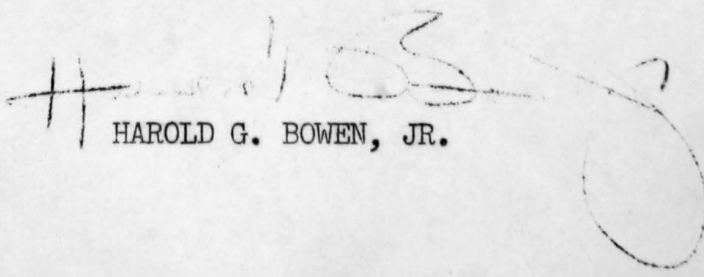
LETTER

20 October 1961

A MESSAGE FROM DEPUTY DNI:

It has been most gratifying to note a general improvement in most of the field components in the output of completed cases during the recent past. While we haven't yet dented the backlog, a significant increase in production has resulted from hard work and ingenuity. In one District, for example, a complete canvass of all pending cases led to the cancellation of a large number of leads no longer needed which had contributed to the backlog. Another excellent program observed was the utilization of a group of Reserve Officers during a two-week training duty period. These officers were given a group of pre-selected cases, of an uncomplicated nature, with a few leads and involving no travel outside of the Headquarters city. The outcome of their coordinated assault on the accumulation of old cases was reflected in a noteworthy increase in the month's production figures.

Continuation of this type of special effort, together with the day to day maximum output of each agent, supervisor, and clerk will be necessary in the months ahead to keep abreast of the tide. With just a little more drive and (optimistically) with just a little more help, we should be able to do more than just hold our own -- we should make some headway. In the meantime, however, all hands should be aware that your present excellent performance is appreciated.


HAROLD G. BOWEN, JR.

THE DEFENSE INTELLIGENCE AGENCY

The newly established Defense Intelligence Agency became effective 1 October 1961. This organization, which operates under the Secretary of Defense, through the Joint Chiefs of Staff, is responsible generally for the organization, direction, management, and control of all Department of Defense intelligence resources assigned to or included within the DIA. It also has review and coordination responsibility over those DOD intelligence functions retained by, or assigned to, the military departments.

As of now, none of the security and counterintelligence functions of ONI, nor of the other Services, have been included in the general merger of intelligence responsibilities within the DIA. Neither is there any immediate prospect that this will happen. Later on (perhaps several years hence) these functions may be absorbed into DIA. Even so, experience to date clearly indicates that Civil Service employees and Special Agents need have no fear of RIFs in that event. It may even be that employment opportunities will be enhanced.

ONI REORGANIZATION

Establishment of the DIA, as mentioned above, has resulted in some internal reorganization of ONI. Of primary interest to our readers, is the fact that Rear Admiral HAROLD G. BOWEN, JR., USN, formerly DDNI Security (OP-92C) becomes the sole Deputy DNI, combining both of the billets of DDNI Intelligence (OP-92B) and his former 92C post. Rear Admiral S. B. FRANKEL, USN, formerly OP-92B, has left ONI to become Chief of Staff DIA.

OVERSEAS AGENTS' BILLETTS

As this issue goes to press, most of the 1961 transfers to and from overseas posts have been effected or are in process as noted below. It is not too early to plan for next year, however, so interested agents having the requisite qualifications should be sure that an application is on file with ONI for the locations of your choice. One particular vacancy that remains to be filled is in Iceland and requests for this duty are desired. No family quarters are available at this post so a tour of BOQ living is in prospect for the man assigned. The tour is only for one year, however, and it should prove to be an interesting and challenging assignment for an agent intent on broadening his career with Naval Intelligence.

RECENT AGENT TRANSFERS

The following transfers have recently been effected or ordered as indicated:

<u>NAME</u>	<u>FROM</u>	<u>TO</u>
Kenneth S. Reid	DIO-5ND	IO-COMNAVFORJAPAN(Sup. Agt.)
Kenneth B. Youngs	DIO-11ND	IO-COMNAVPHIL
<u>William F. Philip</u>	DIO-11ND	IO-COMNAVPHIL
Tyrus C. Alexander	DIO-5ND	IO-COMNAVPHIL(Sup. Agent.)
Donald L. Mitchell	IO-COMNAVMARIANAS	DIO-13ND
Merlin D. Fisher	DIO-13ND	IO-COMNAVMARIANAS

<u>NAME</u>	<u>FROM</u>	<u>TO</u>
Thomas J. Nolan	DIO-3ND	IO-COMNAVMAIANAS
William J. Tannehill	DIO-9ND	IO-COMNAVMAIANAS
Ray M. Stephens	DIO-9ND	DIO-1OND
Dudley B. Thomas	DIO-4ND	DIO-1OND
Joseph M. Patton	IO-COMNAVMAIANAS	DIO-9ND
Thorton H. Lowery	DIO-5ND	DIO-1OND
Joe F. Neely	DIO-1OND	DIO-8ND
Lionel A. Barker	DIO-6ND	DIO-4ND
William V. Kelleher	ONI	IO-PRNC
Walter R. Bruce	IO-PRNC	ONI
David L. Lasher	DIO-1OND	ONI
Thomas E. Ewald	DIO-1OND	DIO-4ND

NEW AGENTS

The gentlemen listed below have recently been piped aboard as agents.

We wish them a long and happy cruise:

DIO-9ND - Robert D. Gill	DIO-1ND - Richard F. Webb
William H. Fry	
John A. Kaye	DIO-5ND - James E. Carson
DIO-11ND - Harry L. Grady	DIO-4ND - Frank D. Draper
David L. McDonald	
Stanley L. Schall	DIO-6ND - Laney S. Spigener
Warren R. Lynch	
IO-PRNC - Robert T. Doyle	<u>DIO-14ND - Robert J. Barrows</u>
Charles P. Bridge	
IO-NAVEUR- Henry J. Fisher	ONI - John W. Starke

SUGGESTED GUIDE FOR REPORT WRITING

An excellent pamphlet bearing the above title has been prepared by Ensign Gerald J. MacDonald, USNR, attached to DIO-1ND. The Guide attempts to clarify certain weaknesses of grammar and construction endemic in ONI reports. Various examples are furnished, illustrating improper usage of words and phrases, together with suggestions for improvement. Copies may be obtained from DIO-1ND and reproduced locally.

HISTORY LESSON

That the problem of putting words together properly is not a new one may be seen from the following translation of an old Roman manuscript submitted by S/A Charles Kampton of DIO-IXND. Mark Anthony had much the same troubles in XLIV B.C. as we have in MCMLXI A.D. and he had to do it in Latin yet!

"Ladies and Gentlemen Friends, My fellow Romans, countrymen, I pray lend me your ears. I come here today to bury Julius Caesar, not to praise him. The rotten riddles a good deed evil that men do lives after them; the good stuff is often oft interred with their bones. I leave this task to the gods. So let it be with Caesar.

Old Brutus says that The noble Brutus has hath told you Caesar was a little power and very ambitious. If it were so, it were was a grievous fault, and grievously has hath Caesar answered answer'd it.

Here, under leave of Brutus and the rest of you boys for Brutus is an honorable man; so are they all, all honorable men--I come I to speak in Caesar's funeral. He and I were comrades was my friend, faithful and just to me. But Caesar Brutus says he was ambitious, and Caesar Brutus is an honorable man.

He has hath brought a whole stage of many captives back here home to Rome, whose ransoms were a lot of money did the general coffers fill up. Did this in Caesar seem ambitious. When that the poor wretch have cried. Caesar hath cried too wept. Poor wretch he shall like that is Ambition should be made of sterner stuff. Yet Brutus says he was ambitious, and Brutus is an honorable man.

You all saw did see that on the Lupercal I thrice thrice thrice....."

BOQ, U.S. NAVAL STATION, WASHINGTON, D.C.

Agents who have attended ONI schools will be saddened at the news that the famed NavSta BOQ, also known as, inter alia, "the Southeast Hilton" is to be no more. Demolition will soon start to make way for a new freeway on the site. Our newer agents will never tread its hallowed halls and will know of its delights only through the nostalgic reminiscences of the old hands. Sic transit gloria Anacostiae!

FPO ADDRESSES

It's about time for our periodic reminder that leads involving ships and mobile units are to be sent to the IO/DIO covering the geographical area where the unit is physically located. Don't, as sometimes happens, send a lead to DIO-12ND for a ship just because it happens to have a FPO, San Francisco, Calif. address. The ship may well be in Guam. Even though the Los Angeles city limits are reputed to be somewhere in mid-Pacific, none of our continental District boundaries extend out that far.

INVESTIGATIVE FORMS - REQUIRED ENTRIES

A recent ONI Notice, since cancelled for record purposes, called attention to the importance of the entire personal history statement as an investigative aid. Review of many background investigations has revealed that some agents may not be properly reviewing personal history statements since they do not follow through on certain entries which require further inquiries. Examples are: foreign connections of Subject, organizational memberships, previous

history of mental and nervous disorders. The controlling District has a responsibility when setting out leads to call attention on the form 152 those items which require inquiries in addition to those leads normally covered. The agent conducting the investigation, however, should still carefully check the PHS, where furnished, and cover all appropriate leads to a sufficient extent.

DISTRICT HEADQUARTERS AND AREAS OF JURISDICTION, OSI, USAF

The following lists the locations of various Office of Special Investigations (OSI), U.S. Air Force, District Offices, as well as the territorial coverage of each. Retention for future reference is suggested:

1. The administrative and operational structures of the Office of Special Investigations, USAF, include the Directorate of Special Investigations, Headquarters 1005th Special Investigations Group (IG), both located at Washington, D.C. and 24 districts, numbered 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 24, 27, 28 and 29. The territorial jurisdiction of the 24 district offices is set forth below. See AFM 11-4 Volumes I and II, for mailing addresses.

a. OSI Dist 1 - Headquarters at Westover AFB, Chicopee Falls, Mass.
Territorial area comprising the states of Maine, Vermont, New Hampshire, Massachusetts, Rhode Island and all counties of Connecticut, with the exception of Fairfield County, which is assigned to OSI Dist 2.

b. OSI Dist 2 - Headquarters at 111 East 16th Street, New York, New York
Territorial area comprising the State of New Jersey, the County of Fairfield in the State of Connecticut and the following counties in the State of New York: Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster and Westchester.

c. OSI Dist 3 - Headquarters at Olmsted AFB, Middletown, Pennsylvania.
Territorial area comprising the states of Delaware, Pennsylvania and West Virginia, and the counties of Garrett, Washington, Allegany, Cecil, Kent, Queen Annes, Talbot, Caroline, Dorchester, Wicomico, Somerset, and Worcester in the state of Maryland.

d. OSI Dist 4 - Headquarters at Suitland Hall, Suitland, Maryland
Territorial area comprising the District of Columbia; the counties of Arlington, Fairfax, and Prince William in the State of Virginia, (including the city of Alexandria, Virginia); the counties of Anne Arundel, Baltimore, Baltimore City, Calvert, Carroll, Charles, Frederick, Harford, Howard, Montgomery, Prince Georges and Saint Mary's in the State of Maryland.

e. OSI Dist 5 - Headquarters at Wright-Patterson AFB, Dayton, Ohio
Territorial area comprising the states of Ohio, Kentucky and Michigan, including the Upper Peninsula.

f. OSI Dist 6 - Headquarters at Robins AFB, Warner Robins, Georgia.
Territorial area comprising the State of Georgia and the State of Florida, with the exception of the following counties: Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington, which are assigned to OSI Dist 8. In addition OSI Dist 6 will furnish special investigative service to the following Air Force Missile Test Center down range stations: Cape

Canaveral Missile Test Annex, Jupiter Missile Data Collection Annex, Grand Bahama Missile Airfield, Eleuthera Main Base Annex, San Salvador Missile Airfield, Mayaguana Auxiliary Airfield, Grand Turk Main Base Annex, Dominican Main Base Annex, Antigua Test Site, Beane Air Force Base, Fernando de Noronha, Wideawake Field, and Port of Spain, Trinidad.

g. OSI Dist 8 - Headquarters at Maxwell AFB, Montgomery, Alabama.

Territorial area comprising the states of Alabama and Tennessee and the following counties in Florida: Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington.

h. OSI Dist 9 - Headquarters at Barksdale AFB, Shreveport, Louisiana.

Territorial area comprising the states of Arkansas, Mississippi and Louisiana and the following counties in the State of Texas: Bowie, Cass, Harrison, Marion, Panola and Rusk.

i. OSI Dist 10 - Headquarters at San Antonio Air Force Station, 2100 N. New Braunfels Ave., San Antonio, Texas. Territorial area comprising the following

counties in the State of Texas: Anderson, Angelina, Aransas, Atascosa, Austin, Bandera, Bastrop, Bee, Bell, Bexar, Blanco, Boxque, Brazos, Brazoria, Brewster, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Cameron, Chambers, Cherokee, Coke, Coleman, Colorado, Comal, Comanche, Concho, Coryell, Crane, Crockett, Culberson, DeWitt, Dimmitt, Duval, Ector, Edwards, Falls, Fayette, Fort Bend, Freestone, Frio, Galveston, Gillespie, Glasscock, Goliad, Gonzales, Grimes, Guadalupe, Hamilton, Harris, Hardin, Hays, Henderson, Hidalgo, Hill, Houston, Irion, Jackson, Jasper, Jeff Davis, Jefferson, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kimble, Kinney, Kleberg, Lampassas, LaSalle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Llano, Loving, Madison, Mason, Matagorda, Maverick, McCulloch, McLennan, McMullen, Medina, Menard, Midland, Milam, Mills, Montgomery, Nacogdoches, Navarro, Newton, Nueces, Orange, Pecos, Presidio, Polk, Reagan, Real, Reeves, Refugio, Robertson, Runnels, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Shelby, Starr, Sterling, Sutton, Terrell, Tom Greene, Travis, Trinity, Tyler, Upton, Uvalde, Val Verde, Victoria, Waller, Walker, Ward, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Winker, Zapata and Zavala.

j. OSI Dist 11 - Headquarters at Tinker AFB, Oklahoma City, Oklahoma.

Territorial area comprising the State of Oklahoma and the following Counties in the State of Texas: Armstrong, Andrews, Archer, Bailey, Baylor, Borden, Briscoe, Callahan, Camp, Carson, Castro, Childress, Clay, Cochran, Collingsworth, Collin, Cooke, Cottle, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, Dickens, Donley, Eastland, Ellis, Erath, Fannin, Fisher, Floyd, Foard, Franklin, Gaines, Garza, Gray, Grayson, Gregg, Hale, Hall, Hansford, Hardeman, Hartley, Haskell, Hemphill, Hockley, Hood, Hopkins, Howard, Hunt, Hutchinson, Jack, Johnson, Jones, Kaufman, Kent, King, Knox, Lamar, Lamb, Lipscomb, Lubbock, Lynn, Martin, Mitchell, More, Montague, Morris, Motley, Nolan, Ochiltree, Oldham, Parker, Parmer, Palo Pinto, Potter, Rains, Randall, Red River, Roberts, Rockwall, Scurry, Schackelford, Sherman, Smith, Somervell, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Upshur, VanZandt, Wheeler, Wichita Falls, Wilbarger, Wise, Wood, Yoakum and Young.

k. OSI Dist 12 - Headquarters at Chanute AFB, Rantoul, Illinois.
Territorial area comprising the State of Illinois with the exception of the following counties: Cook, DuPage, Lake, Kane, Kendall, McHenry, and Will which are assigned to OSI Dist 24. The State of Indiana with the exception of Lake County which is assigned to OSI Dist 24; the State of Missouri with the exception of the following counties: Andrew, Atchison, Buchanan, Cass, Clay, Clinton, DeKalb, Holt, Jackson, Johnson, Lafayette, Nodaway, Pettis, Platte and Ray, which are assigned to OSI Dist 13.

l. OSI Dist 13 - Headquarters at Offutt AFB, Omaha, Nebraska.
Territorial area comprising the states of South Dakota, Nebraska, Iowa and Kansas, and the following counties in Missouri: Andrew, Atchison, Buchanan, Cass, Clay, Clinton, DeKalb, Holt, Jackson, Johnson, Lafayette, Nodaway, Pettis, Platte and Ray.

m. OSI Dist 14 - Headquarters at Lowry AFB, Denver, Colorado.
Territorial area comprising the States of Colorado, Utah, Wyoming, and the following counties in Idaho: Ada, Adams, Bannock, Bear Lake, Bingham, Blaine, Boise, Bonneville, Butte, Camas, Canyon, Caribou, Cassai, Clark, Custer, Elmore, Franklin, Fremont, Gem, Gooding, Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Owyhee, Payette, Power, Teton, Twin Falls, Valley and Washington.

n. OSI Dist 15 - Headquarters at Malmstrom AFB, Great Falls, Montana.
Territorial area comprising the State of Montana and the State of North Dakota.

o. OSI Dist 17 - Headquarters at Kirtland AFB, Albuquerque, New Mexico.
Territorial area comprising the State of Arizona, with the exception of Yuma and Mohave counties; New Mexico, and the following counties in Texas: El Paso and Hudspeth.

p. OSI Dist 18 - Headquarters at Cheli Air Force Station, Maywood, California.
Territorial area comprising the following counties in Southern California: Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Diego, San Luis Obispo and Ventura; the County of Clark in Southern Nevada; and Yuma and Mohave counties in Arizona.

q. OSI Dist 19 - Headquarters at Travis AFB, Fairfield, California.
Territorial area comprising the following counties in central and Northern California: Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, Eldorado, Fresno, Glenn, Humboldt, Inye, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba; and the State of Nevada, with the exception of Clark County which is assigned to OSI Dist 18.

r. OSI Dist 20 - Headquarters at McChord AFB, Tacoma, Washington.
Territorial area comprising the states of Washington, Oregon and Idaho with the exception of the following counties in Idaho: Ada, Adams, Bannock, Bear Lake, Bingham, Blaine, Boston, Bonneville, Butte, Camas, Canyon, Boise, Caribou, Cassai, Clark, Custer, Elmore, Franklin, Fremont, Gem, Gooding, Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Owyhee, Payette, Power, Teton, Twin Falls, Valley and Washington.

s. OSI Dist 21 - Headquarters at Langley AFB, Hampton, Virginia.
Territorial area comprising the states of North Carolina, South Carolina and the State of Virginia, less the counties of Arlington, Fairfax and Prince William, which are assigned to OSI Dist 4. This District also maintains Resident Agencies at Kindley Air Force Base, St. George, Bermuda; and Lajes Field in the Azores.

t. OSI Dist 22 - Headquarters at Griffis AFB, Rome, New York.
Territorial area comprising the State of New York, with the exception of the following counties: Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, and Westchester, which are assigned to OSI Dist 2. OSI Dist 22 provides on call service for the City of Montreal, Province of Quebec, Canada, and the following adjacent counties in Quebec: St Jean, Huntingdon, Chateaugay, Napierville, Beauharnois, Laprarie, Chambly, Vaudreuil, Soulanges, Deux-Montagnes, Terrebonne, Laval, Jacques Cartier, L'Assomption, Veraches, and Argenteuil. OSI Dist 22 also provides on call service for Air Force activities in the Ottawa and Ontario, Canada, areas.

u. OSI Dist 24 - Headquarters at 529 S. LaSalle Street, Chicago, Illinois.
Territorial area comprising the States of Minnesota and Wisconsin and the following counties in the State of Illinois: Cook, DuPage, Kane, Kendall, Lake McHenry, and Will; and Lake County in the State of Indiana.

v. OSI Dist 27 - Headquarters at Ramey AFB, Aguadilla, Puerto Rico.
The area of investigative jurisdiction of OSI Dist 27 comprises the Commonwealth of Puerto Rico, Dominican Republic, and the Islands of Lesser Antilles. Included in this area is the Air Force Missile Test Center Down Range Station located at Mayaguez Missile Guidance Annex.

w. OSI Dist 28 - Headquarters at Goose AB, Goose Bay Labrador.
The area of investigative jurisdiction of OSI Dist 28 comprises the Canadian Provinces of Newfoundland, Prince Edward, New Brunswick, Nova Scotia, and Quebec with the exception of the City of Montreal and the following counties in Quebec: St. Jean, Huntingdon, Chateaugay, Napierville, Beauharnois, Laprarie, Chambly, Vaudreuil, Soulanges, Deux-Montagnes, Terrebonne, Laval, Jacques Cartier, L'Assomption, Vercheres, and Argenteuil, which are assigned to OSI Dist 22; that portion of the Northwest Territories of Canada lying East and North of 60° N. 92° 00' 38" W; and the Danish Government Island of Greenland. On call service is provided by OSI Dist 28 to the Department of Defense units and includes concurrent or reciprocal investigations required by the Office of the United States Consul, units of the Canadian Defense Forces, Royal Canadian Mounted Police, the Danish Government and Danish Defense Forces.

x. OSI Dist 29 - Headquarters at Keflavik Airport, Keflavik, Iceland.
The area of investigative jurisdiction of OSI Dist 29 comprises the Country of Iceland.

ELIGIBILITY OF ENLISTED PERSONNEL FOR NEC 9592

Note: Because of the critical need for their services in the specialties for which trained, the Bureau of Naval Personnel has indicated that personnel in the following rating groups will no longer be assigned the NEC 9592 designator: RD, SO, FT, ET, RM, CT, MA, TD, AT, AQ, PR, AM, AO, AC, HM, and DT. Accordingly, screening boards should not be convened in the cases of applicants from these rates. This information will be reflected in a revision to OPNAV Instruction 1221.3 when published.

LEGAL NOTES

1. Usury. ONI is called upon from time to time to investigate illicit money lending activities on the part of Navy and Marine Corps personnel. These investigations are usually categorized under "Usury", which the dictionary defines as "the lending of money at a rate of interest higher than the lawful rate". The Court of Military Appeals in a recent decision, *US v. Day*, 11 CMA 549, 29 CMR 365, an Army case, has held that specifications alleging usury under Article 134 did not allege an offense punishable under military law.

In the Naval service, however, a provision exists in US Navy Regulations, Article 1260(1) as follows:

"No person in the Naval service, on active service, shall for profit or benefit of any kind, lend money to any other person in the armed services, except by permission of his commanding officer; nor, having made a loan to another person in the armed services, shall he take or receive, in payment therefor, then or later, directly or indirectly, without the approval of the commanding officer, a sum of money or, any other thing or service, of a greater amount or value than the sum of money loaned".

It will be noted that the prohibition in the article is directed against lending money for profit "except by permission of the commanding officer". Presumably, therefore, under the article, lending money even at an unconscionably high interest rate would not be unlawful in cases where the permission of the commanding officer for the transaction had been obtained. Conversely, without such permission, it is an offense even if the interest charged were minimal. The charge would be laid under Article 92, Violation of a Lawful General Order.

From an investigative standpoint, therefore, the essential element of non-permission should always be established in conducting the investigation in one of these cases. The case classification 6(1) Criminal Investigation - Other Offenses (Usury), may still properly be used since this classification relates merely to the ONI administrative case control system and need not necessarily reflect the precise offense involved in a technical, legal sense.

2. Right to Counsel of Suspect Under Interrogation. A recent Board of Review decision reversed a general court-martial finding of guilty in a case of negligent homicide on grounds that the accused was deprived of counsel at the time he was interrogated by an ONI agent. Because of this, what amounted to denial of due process, reversal was necessary.

The facts of the case indicate that the accused was placed in solitary confinement in the brig a few hours after the fatal shooting occurred. The day following, he requested in writing, via appropriate channels, that he be furnished with legal counsel. After a lapse of several days, still in solitary confinement, he was at last permitted to consult with a qualified attorney. In the meantime, however, the suspect had been interrogated on three successive days after the alleged offense by an ONI agent. The agent was aware of the prior request of the accused for counsel although he testified that at no time did the accused request him for counsel. Neither did the agent mention counsel to the accused. The accused gave written statements to the agent after each interrogation. He did not see counsel until after the statements were made.

The following extracts from the opinion of the Board of Review are pertinent and are quoted for future guidance:

"As a general proposition, the fact that an individual has been denied the advice and assistance of counsel prior to or during an interrogation which results in an incriminating statement does not in and of itself render the statement involuntary. Such denial, however, is certainly a circumstance to be considered in determining the factual issue of voluntariness. Moreover, it is possible for the denial of the right to counsel to be so flagrant that it will amount to a denial of accused's substantial rights, completely apart from the law of confessions for the reason that due process demands such a result.

"The right to consult with counsel before or during a criminal investigation is a substantial right, and, accordingly, when the accused requests advice of counsel at such time, it is a violation of due process to deny him that right. Ordinarily, the accused must request counsel at the time of the interrogation, there being no duty on the part of the interrogator to volunteer such information.

"All cases, however, must be determined on their own particular facts and whether or not accused has been denied effective assistance of counsel depends upon the circumstances as they existed at the time. We find as a fact that a request for counsel known by the interrogator and all concerned, which was in effect denied to him during the time he was most in need thereof, taken together with the solitary confinement and the fact that there were counsel available, under the facts of this case, amounted to denial of counsel. Further, although Agent _____ knew accused had requested counsel, he never advised him as to his right thereto.

"We feel that under the circumstances of this case, after accused had submitted his written request for counsel, the interrogation should have been suspended until he received such advice or at the very least Agent _____, in view of accused's request, should have asked him if he desired counsel before commencing his interrogation. To our mind that is the only sensible interpretation of right to counsel. If an accused's request can be held up or processing thereof delayed until after he has been interrogated and incriminated, then right to counsel is indeed a right without substance."

From the foregoing it would appear that where an agent prior to interrogation knows as a fact that the accused has requested an opportunity to consult with counsel, which opportunity has not been afforded him, a positive duty rests with the agent to ascertain from the accused his wishes with regard to counsel before proceeding with the interrogation.

3. Article 31b Warnings. Notwithstanding the volume of material published on this subject, cases continue to be received which appear to indicate a basic lack of understanding of the requirements of Article 31, particularly the warning provisions of subparagraph (b). One phenomenon which is frequently encountered is the tendency to over-warn. The necessity for an Article 31b warning arises only in the case of the interrogation of persons subject to the UCMJ who are suspected or accused of an offense. Thus, it certainly does not apply when taking a statement from the civilian female complainant in a

rape case, as has happened. Nor is it to be administered willy-nilly to all witnesses questioned in a criminal offense, even though subject to the Code, unless some reasonable suspicion of involvement in an offense attaches to the person questioned. Utilizing the warning procedure in the case of witnesses, not themselves suspects or accused, is not only unnecessary but in certain situations represents a misstatement of fact that could impede investigative effort. Not only has a military witness no right to withhold information non-incriminating to himself, but he has in fact a positive duty under Article 1216, U.S. Navy Regulations to furnish information concerning offenses committed by other persons in the Naval service. If a witness should heed the warning literally and decline to answer any questions or give any statement it could seriously frustrate an investigation.

It should not be inferred from the foregoing that anyone, witness or not, can be compelled to incriminate himself. If there is any indication that the witness being interviewed is possibly involved in the principal offense or in some related misconduct, a warning is appropriate either at the outset of the interview if the suspicion exists then, or later during the interview if information developed during the course of the interview so indicates.

4. Form of Warning. Again, despite the wealth of instructional material available, cases continue to be received in which a variety of phraseology has been employed in administering the warning. Close adherence to the actual language of the three elements of Article 31(b) without any embellishments is best. No court is likely to find fault with the form of the warning if it is convinced that the suspect was (1) informed of the nature of the investigation (2) advised that he did not have to make any statement regarding the offense of which he was accused or suspected, and (3) that any statement made by him could be used against him in a trial by court-martial.

The following language from a recent Board of Review decision illustrates the scrutiny which the warning procedure receives at the court-martial review level. We might say, however, (with a pious sigh of relief) that the interrogator at fault in this case was not an ONI Agent:

"_____ police petty officer, testified that he 'read him (the accused) Article 31' and that the accused acknowledged Article 31 by signing the page. He also stated that he had 'warned' the accused that he did not have to 'incriminate' himself.

"Other testimony clearly indicates accused was suspect at time of questioning.

"Warnings" alluded to by the Police Petty Officer -- do not at all conform to the unequivocal language of Article 31 of the Code, which article expressly provides, inter alia, that the accused be advised that he need make no statement whatsoever regarding the offense of which he was suspected. The 'warning' administered (in this case) merely advised that he need make no self-incriminating statement.

"We are convinced that the differences between the advice actually given the accused in this case and that made mandatory by Article 31 are much more than a matter of mere form. It should be obvious that what answers may be incriminating and what answers innocent oftentimes become matters beyond the intellectual capacity of the person subjected to police questioning."

EXHIBITS FOR DISPLAY AT ONI

Attention is again invited to ONI INSTRUCTION 5722.1 of 17 October 1960 as the above captioned subject. It had been hoped to acquire enough material to establish a modest display at ONI, but the contributions to date have been disappointing. Some examples of the types of material sought, as given in the Instruction, are: weapons used in offenses, forged or otherwise questioned documents, casts of footprints or tire tracks, explosive or incendiary devices used in sabotage or arson, membership cards and literature of subversive organizations, and so forth.

LETTER OF COMMENDATION

It is a pleasure to reproduce a letter of commendation forwarded by the Director of Naval Intelligence to Special Agent Kenneth A. SEAL, District Intelligence Office, SIXTH Naval District:

DEPARTMENT OF THE NAVY
Office of the Chief of Naval Operations
Washington 25, D. C.

OP-921D:mk
Ser 29109P92
11 October 1961

"From: Director of Naval Intelligence
To: Special Agent Kenneth A. SEAL
Via: Officer in Charge, District Intelligence Office,
SIXTH Naval District

Subj: COMMENDATION

1. It has come to the attention of the Director of Naval Intelligence that the Resident Agent Office, Charlotte, N.C., on 1 August 1961 became the first field component of the District Intelligence Office, SIXTH Naval District, to become current in its workload under established criteria. The geographical area covered is one of the largest in the District staffed by a single agent and requires the performance of extensive travel. Notwithstanding these factors, it is noted that you have maintained the highest standards of production, averaging 1.43 reports for each day worked, with no sacrifice of quality.
2. This highly creditable performance of duty is especially significant at a time when the nationwide backlog of investigative cases continues to grow. It is believed therefore that your achievement will serve as an inspiration to all other agents throughout Naval Intelligence. You are hereby commended for your outstanding accomplishment.
3. A copy of this letter has been made a part of your permanent file.

/s/V. L. Lowrance
V. L. LOWRANCE

Keep up the good work!