

OFFICE OF THE SECRETARY
Office of the Secretary
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SECNAV INSTRUCTION 5820.2

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

Subj: Investigation and prosecution of crimes which violate both military and Federal criminal law; regulations for

Ref: (a) UCMJ
(b) MCM, 1951
(c) NS, MCM, 1951
(d) SECNAVINST 5430.13A of 10 Aug 1954
(e) OPNAVINST 5520.7 of 9 Nov 1954 (NOTAL)

1. Purpose. The purpose of this Instruction is to implement a memorandum of understanding between the Department of Justice and the Department of Defense relating to investigation and prosecution of crimes over which the two Departments have concurrent jurisdiction. This Instruction, in accordance with the understanding between the two Departments, sets forth procedures to be followed with respect to investigation and prosecution of offenses which violate both military and Federal criminal law.

2. Modification. SECNAV Instruction 5820.1 of 26 June 1953 is hereby modified insofar as it relates to the Federal Bureau of Investigation.

3. Policy. The Secretary of Defense and the Attorney General recognize that the administration and discipline of the armed services require that certain offenses committed by military personnel be investigated by the armed services and prosecuted before military tribunals; and that other offenses committed by military personnel should be investigated by Federal authorities and prosecuted before Federal civil tribunals. While it is obvious that inflexible rules are not feasible for determining the exact responsibility of military and Federal civil authorities where there is concurrent jurisdiction, the procedures set forth herein are intended to make the investigation and prosecution of crimes more expeditious and efficient, meanwhile giving appropriate effect to the requirements of the Armed Forces and the policies of civil government. This Instruction does not apply to investigation and prosecution of purely military offenses, violations of State, Territorial, or municipal law, or investigations for administrative or security purposes. These procedures are intended to assist, rather than restrict, commanding officers in maintaining discipline within their commands. Nothing contained herein shall

100-4400000 5020.2
20 October 1955

OFFICE OF THE SECRETARY

relieve a commanding officer of his continuing responsibility for the safety, well-being, and efficiency of his command.

4. Investigations. Whenever information is brought to the attention of a commanding officer indicating that a major crime as defined in reference (d) has been committed on a naval installation or a major crime involving naval personnel has been committed outside a naval installation, the commanding officer shall immediately furnish the District Intelligence Officer with this information and advise the officer exercising general court-martial jurisdiction. Whenever a District Intelligence Officer is not immediately available, as for example, in the case of an isolated command ashore or a ship at sea, the commanding officer shall conduct a preliminary investigation, preserving all the evidence, and will notify a District Intelligence Officer as soon as practicable. It shall be the responsibility of the Commandant (District Intelligence Officer), to determine whether investigation shall be referred to the Federal Bureau of Investigation or should be conducted by the Navy Department as set forth below:

a. Crimes Committed on Naval Installations

(1) When it appears that all suspects are subject to the Uniform Code of Military Justice and that all victims are subject to the Uniform Code of Military Justice or are bona fide dependents or members of the household of military or civilian personnel residing on the installation, Naval Intelligence shall conduct the investigation or refer the matter to other appropriate naval authorities.

(2) When it appears that one or more suspects are not subject to the Uniform Code of Military Justice or that one or more of the victims are not subject to the Uniform Code of Military Justice or are not bona fide dependents or members of the household of military or civilian personnel residing on the installation, the case shall be referred to the Federal Bureau of Investigation and the command concerned shall be so advised.

(3) When it appears that the crime involves fraud against the Government, misappropriation, robbery, or larceny of Government property or funds, Naval Intelligence shall immediately advise the Federal Bureau of Investigation but shall conduct the investigation or refer it to other appropriate naval authorities unless promptly notified by the Federal Bureau of Investigation that they desire to assume investigative jurisdiction.

b. Crimes Committed Outside of Naval Installations

(1) When it appears that a major offense, involving naval personnel as suspects, has occurred outside of a naval installation

SECNAVINST 5820.2
20 October 1955

and falls within the investigative jurisdiction of the Federal Bureau of Investigation, the District Intelligence Officer shall promptly contact the Special Agent in Charge of the nearest Federal Bureau of Investigation office and ascertain whether that Bureau will assume investigative jurisdiction. If the Federal Bureau of Investigation does not assume jurisdiction, Naval Intelligence will conduct the investigation or refer it to other appropriate naval authorities.

(2) When it appears that naval personnel involved in an offense committed outside a naval installation were engaged in scheduled military activities the provisions of subparagraph a above shall apply.

c. Crimes Involving Special Naval Interest

(1) When the Commandant (District Intelligence Officer) is informed that a case which would normally be referred to the Federal Bureau of Investigation involves special factors relating to the administration and discipline of the Naval Establishment he shall promptly advise the Federal Bureau of Investigation of this interest. Naval Intelligence shall conduct the investigation or refer it to other appropriate naval authorities if the Federal Bureau of Investigation agrees on the local level. If agreement cannot be reached on the local level, the matter shall be referred to the Secretary of the Navy (Judge Advocate General) for disposition as a matter of policy.

5. Prosecutions

a. Whenever investigation of a crime is referred to the Federal Bureau of Investigation, any resulting prosecution will normally be conducted by the Department of Justice and no procedure relating to prosecution for the crime being investigated shall be initiated by the command or by the person exercising general court-martial jurisdiction unless the command is advised that the United States Attorney having jurisdiction has declined prosecution. If the Federal authorities decline prosecution, the commanding officer, or when deemed appropriate, the person exercising general court-martial jurisdiction, shall review the case and take appropriate action.

b. If, while investigation by the Federal Bureau of Investigation is pending, existing conditions require immediate prosecution by naval authorities, the officer exercising general court-martial jurisdiction will contact the cognizant United States Attorney to obtain approval for trial by court-martial. If agreement cannot be reached on the local level, the matter shall be referred to the Secretary of the Navy (Judge Advocate General) for disposition as a matter of policy.

SECONAVINST 5820.2
20 October 1955

OFFICE OF THE SECRETARY

c. Where it appears that naval personnel have committed several offenses, some of which are triable under the Federal Criminal Code, and some of which are serious but purely military offenses triable only by court-martial, naval authorities will conduct the necessary investigation of all the suspected military offenses and of such of the other offenses as is practicable, and will retain the accused for prosecution. When action is taken under this provision immediate report of the material facts will be made, via the officer exercising general court-martial jurisdiction over the command and the appropriate District Commandant, to the Secretary of the Navy (Judge Advocate General). When urgent circumstances exist, use telephonic and telegraphic facilities for advance notice to the Judge Advocate General (Litigation Branch, Civil Law Division).

6. Interrogation and Delivery. Requests by the Federal Bureau of Investigation to interrogate persons in the naval service who are suspected or accused of crimes will be promptly honored. Should delivery of such persons be requested, commanding officers shall comply with the provisions of the Naval Supplement to the Manual for Courts-Martial, 1951.

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Under Secretary of the Navy