



**DEPARTMENT OF THE NAVY**  
FLEET AVIATION SPECIALIZED OPERATIONAL  
TRAINING GROUP PACIFIC FLEET

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FASOTRAGRUPACINST 58

NO1J

**JUL 26 2000**

FASOTRAGRUPAC NSTRUCTION 5811.1

Subj: DUTIES OF PRELIMINARY INQUIRY OFFICERS

- (a) Rule for Courts-Martial 303, Manual for Courts-Martial, 1998
- (b) Uniform Code of Military Justice
- (c) SECNAVINST 5520.3B

- 1) Instructions for Preliminary Inquiry Officers (PIO)
- 2) Investigator's report
- 3) Witness' statement
- 4) Suspect's Rights Acknowledgement/Statement

1. Purpose. To promulgate instructions pertaining to the duties of preliminary inquiry officers.

2. Cancellation: FASOTRAGRUPACINST 5830.1E s hereby canceled

Information:

a. Reference (a) requires the Commanding Officer, upon receipt of charges or information indicating that a member of the command has committed an offense punishable under reference (b), to cause to be made a preliminary inquiry into the case sufficient to permit an intelligent disposition of the matter. This may consist only of an examination of the charges and a summary of the expected evidence which accompanies them, while in other cases it may involve a more extensive investigation.

b. An informative preliminary inquiry report is of utmost importance to the proper administration of military justice. The report is utilized initially by the Commanding Officer in determining the proper disposition of the case. Options include dismissal of the charge(s), imposition of nonpunitive measures, nonjudicial punishment, referral to trial by court-martial and referral to a formal pretrial investigation. If the Commanding Officer determines non judicial punishment to be appropriate, the preliminary inquiry report will be of

assistance in determining the accused's guilt or innocence and the amount of punishment to be imposed. In the event of an appeal from nonjudicial punishment, the report will assist the appellate authority in deciding whether relief is warranted. If the case is referred to trial by court-martial or to a formal pretrial investigation, the report will assist the summary court-martial officer, counsel for both sides, or a pretrial investigating officer in preparing to discharge their duties.

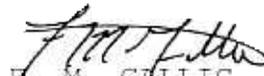
c. This instruction will assist Preliminary Inquiry Officers in performing all required procedures and collecting all necessary evidence.

Action

a. The Executive Officer, upon receipt of information indicating an offense has been committed by a member of this command, shall determine who should investigate the case. The Executive Officer shall be guided by reference (c) in making this determination. It may be expedient for more than one case to be assigned to the same person for concurrent investigation where the cases are closely related.

b. Preliminary Inquiry Officers will proceed in accordance with enclosure (1).

c. In each case, the Executive Officer will review the report of the Preliminary Inquiry Officer and may remand the report for further investigation where appropriate.

  
F. M. GALLIE

Distribution:  
FASOTRAGRUPACINST 5216.3A  
Lists A & B

INSTRUCTIONS FOR PRELIMINARY INQUIRY OFFICERS PIC

1. The PIO will conduct an investigation by executing the following steps in the order presented below. The report investigation will consist of the following:

- a. NAVPERS 1626/ , Report and spos of Offense(s);
- b. Enclosure (2), Investigator's Report provides chronological checklist for conducting the preliminary inquiry;
  - Statement(s) or summaries of nterviews with all witnesses
  - (sworn statements wi be obtained if practicable
- d. Stateme of he accused supervisor(s), sworn practicable;
  - Originals or copies f documen ary evidence;
- f. If the accused waives all rights, a signed sworn statement by the accused; or a summary of interrogation of the accused, signed and sworn to by the accused; or both; and
- g. Any additional omments by the investigator as desired.

OBJECTIVES

a. The primary objective of the PIO is to collect all available evidence pertaining to the alleged offense(s). As a first step, the PIO should be familiar with those paragraphs of the Manual of Courts-Martial, 1998, describing the offense(s). Each of the common offenses are described in Part IV, MCM. Within each paragraph is a section entitled "elements," which lists the elements of proof for that offense. The PIO must be careful to focus on the correct variation. The elements of proof should be copied down to guide the PIO in searching for the relevant evidence. The PIO is to consider everything which tends to prove or disprove an element of proof.

b. The secondary objective of the PIO is to collect information about the accused which will aid the Commanding Officer in making a proper disposition of the case and, in the event nonjudicial punishment is to be imposed, what the appropriate punishment, if any, should be. Items of interest the Commanding Officer include: the accused's currently assigned duties, evaluation of performance,

attitude and ability to get along with others and particular personal difficulties or hardships which the accused is willing to discuss. Information of this sort is best reflected in the statements of the accused's supervisors, peers, and the accused himself.

INTERROGATE THE WITNESSES FIRST NOT THE ACCUSED)

a. In most cases, a significant amount of the information must be obtained from witnesses. The person initiating the report and the persons listed as witnesses are starting points. Other persons having relevant information may be discovered during the course of the investigation.

b. The PIO should not begin by interrogating the accused. The accused is the person with the greatest motive for lying or otherwise distorting the truth, if in fact he/she is guilty. Before encountering such a person, the investigator should be thoroughly prepared. Therefore, meeting with the accused should be left until last. Even when the accused confesses guilt, the PIO should, nevertheless, collect independent evidence corroborating the confession.

c. Witnesses who have relevant information to offer should be requested to make a sworn statement. Where a witness is interviewed by telephone and is unavailable to execute a sworn statement, the PIO must summarize the interview and certify it to be true.

d. In interviewing a witness, the PIO should seek to elicit all relevant information. One method is to start with a general survey question, asking for an account or everything known about the subject of inquiry, and then following up with specific questions. After conversing with the witness, the PIO should assist in writing out a statement that is thorough, relevant, orderly and clear. The substance of the PIO must be limited to helping the witness express himself/herself accurately and effectively in a written form. The witness may write his/her statement utilizing enclosure (3).

4. COLLECT THE DOCUMENTARY EVIDENCE. Documentary evidence such as Shore Patrol Reports, log entries, watchbills, service record entries, local instructions, or organization manuals should be obtained. The original or a certified copy of relevant document(s) should be attached to the report. As an appointed investigator, the PIO has the authority to certify copies to be true by subscribing the words "CERTIFIED TO BE A TRUE COPY" with his/her signature.

5. COLLECT THE REAL EVIDENCE. Real evidence is a physical object, such as the knife in an assault case or the stolen camera in a theft case, etc. Before the PIO seeks out the real evidence, if any, he/she must be completely familiar with the Military Rules of Evidence concerning searches and seizures. If the item is too big to bring to a nonjudicial punishment hearing or into a courtroom (for instance, the wrecked government bus in a damaging government property case), a photograph of it should be taken. If real evidence is already in the custody of a law enforcement agency, it should be left there unless otherwise directed. The PIO should inspect it personally.

6 ADVISE THE ACCUSED OF HIS/HER RIGHTS BEFORE INTERROGATION

a. Enclosure (4), Suspect's Rights Acknowledgement/Statement has been provided to assure that the PIO correctly advises the accused of his/her rights before asking any questions. Filling in that page must be the first order of business when meeting with the accused. Only one witness is necessary, and that witness may be the PIO.

INTERROGATE THE ACCUSE

a. The accused may be questioned only if he/she has knowingly and intelligently waived all constitutional and statutory rights. Such waiver, if made, should be recorded on Suspect's Rights Acknowledgement/Statement, appended to this instruction as enclosure (4). If the accused asks questions regarding the waiver of these rights, the PIO must decline to answer or give any advice on that question. The decision must be left to the accused. Other than advising the accused of the rights as stated in paragraph 6a above, the PIO should never give any other form of legal advice to the accused. If the accused desires a lawyer, notify the Legal Office and an appointment will be made for the accused.

b. If the accused has waived all rights, the PIO may commence questioning. The PIO should begin in a low keyed manner so as not to disquiet the accused. Once he/she have spoken their piece, the PIO may probe with pointed questions and confront the accused with inconsistencies in the story or contradictions with other evidence. The PIO should, with respect to his own conduct, keep in mind that if a confession is not voluntary, it cannot be used as evidence. To be admissible, a confession or admission which was obtained through the use of coercion, unlawful influence, or unlawful inducement is not voluntary. The presence of an impartial witness during the interrogation of the accused is recommended, but not mandatory.

Some instances of coercion, unlawful influence, and an unlawful inducement in obtaining a confession or admission are:

- Infliction of bodily harm, including questioning accompanied by deprivation of the necessities of life, such as food, sleep, or adequate clothing;

- Imposition or threats of confinement, or deprivation of privileges or necessities;

- Promises of immunity or clemency as to any offense allegedly committed by the accused; and

- Promises of reward or benefit, or threats of disadvantage, likely to induce the accused to make the confession or admission.

d. If the accused is willing to make a written statement, ensure the accused has acknowledged and waived all rights. While the PIO may help the accused draft the statement, he/she must be meticulous in refraining from putting words in the accused's mouth or from tricking the accused into saying something unintended. If the draft is typed, the accused should read it over carefully and be permitted to make any desired changes. All changes should be initialed by the accused and witnessed by the PIO.

e. Oral statements, even though not reduced to writing, are admissible into evidence against a suspect. If the accused does not wish to reduce his/her statement to writing, the PIO must attach a certified summary of the interrogation to the report. Where the accused has reduced less than all of the statement to writing, but has made a written statement, the PIO must add a certified summary of matters omitted from the accused written statement.

f. If the accused initially waives all rights, but during the interview indicates a desire to consult with counsel or to stop the interview, the PIO will scrupulously adhere to such request and terminate the interview. The interview may not resume unless the accused approaches the PIO and indicates a desire to once again waive all rights and submit to questioning

INVESTIGATOR'S REPORT

Investigator's Report in the case of

- 1 Read paragraphs in MCM concerning offenses/ charged Yes:
- 2 Witnesses interviewed (not the accused).

NAME	PHONE	SIGNED STATEMENT ATTACHED	SUMMARY OF INTERVIEW ATTACHED
_____	_____		OR
			OR
			OR
			OR
Accused' supervisor(s) interviewed			
			OR
			OR

Documentary evidence

DESCRIPTION	ORIG COPY ATTACHED	LOCATION
_____	_____	
_____	_____	
_____	_____	_____
_____	_____	_____

Real evidence

DESCRIPTION	NAME OF CUSTODIAN	CUSTODIAN'S PHONE
_____	_____	
_____	_____	

- Permit the accused to inspect report chit. Yes    No
- Accused initialed second page of charges (if any). N/A Yes    No
- Accused signed acknowledgement line on report chit Yes
- Investigator signed witness line on report chit. Yes    No
- 10 Accused waived rights. Yes    No
- Accused made statement (only when #10 is Yes), and

Accused's signed statement attached.

Summary of interview attached

Enclosure (2)

Accused asked that he allow persons speak Mas on his/her behalf:

NAME	PHONE WHERE	BE FOUND
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13. Show accused all portions of investigation except inter command recommendations and NCIS reports which forbid disclosure. If he/she copies, contact the Legal Officer.

14 Investigator' recommendation

Captain's Mast

Courts-Martial

No disciplinary action

Other

15 Investigator' opinion and comments:

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Investigator Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Print name \_\_\_\_\_ Rank/Rate \_\_\_\_\_ Phone \_\_\_\_\_

WITNESS' STATEMENT

Name: \_\_\_\_\_ Rank/Rate \_\_\_\_\_ SSN: \_\_\_\_\_

Command: \_\_\_\_\_ Division: \_\_\_\_\_

TAD from 0 \_\_\_\_\_ until \_\_\_\_\_

Whereabouts for next 30 days \_\_\_\_\_ Phone: \_\_\_\_\_

I, \_\_\_\_\_, hereby make the following statement to \_\_\_\_\_, who has been identified to me as a Preliminary Inquiry Officer (PIO) for the Fleet Aviation Specialized Operational Training Group, Pacific Fleet, San Diego, California.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

use additional pages if necessary

I swear (or affirm) that the information in the statement above (and on the \_\_\_\_\_ attached page(s), all of which are signed by me) is true to my knowledge or belief.

\_\_\_\_\_  
(Witness' Signature) \_\_\_\_\_ (Date) \_\_\_\_\_ (Time)

Sworn to before me this date.

\_\_\_\_\_  
(PIO's Signature) \_\_\_\_\_ (Date) \_\_\_\_\_ me

**SUSPECT'S RIGHTS ACKNOWLEDGEMENT/STATEMENT (See JAGMAN 0170)**

FULL NAME (ACCUSED/SUSPECT)	SSN	RATE/RANK	SERVICE (BRANCH)
ACTIVITY/UNIT			DATE OF BIRTH
NAME (INTERVIEWER)	SSN	RATE/RANK	SERVICE (BRANCH)
ORGANIZATION		BILLET	
LOCATION OF INTERVIEW		TIME	DATE

**RIGHTS**

I certify and acknowledge by my signature and initials set forth below that, before the interviewer requested a statement from me, he warned me that:

(1) I am suspected of having committed the following offense(s): \_\_\_\_\_

(2) I have the right to remain silent

(3) Any statement I do make may be used as evidence against me in trial by court-martial,

(4) I have the right to consult with lawyer counsel prior to any questioning. This lawyer counsel may be a civilian lawyer retained by me at my own expense, a military lawyer appointed to act as my counsel without cost to me, or both; and -----

(5) I have the right to have such retained civilian lawyer and/or appointed military lawyer present during this interview. -----

**WAIVER OF RIGHTS**

I further certify and acknowledge that I have read the above statement of my rights and fully understand them, and that, -----

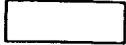
(1) I expressly desire to waive my right to remain silent; -----

(2) I expressly desire to make a statement; -----

(3) I expressly do not desire to consult with either a civilian lawyer retained by me or a military lawyer appointed as my counsel without cost to me prior to any questioning; -----

(4) I expressly do not desire to have such lawyer present with me during this interview; and

(5) This acknowledgment and waiver of rights is made freely and voluntarily by, and without any promises or threats having been made to me or pressure or coercion of any kind having been used against me.-----



SIGNATURE (ACCUSED/SUSPECT)	TIME	DATE
SIGNATURE (INTERVIEWER)	TIME	DATE
SIGNATURE (WITNESS)	TIME	DATE

The statement which appears on this page (and the following \_\_\_\_ page(s), all of which are signed by me), is made freely and voluntarily by me, and without any promises or threats having been made to me or pressure or coercion of any kind having been used against me.

\_\_\_\_\_  
SIGNATURE (ACCUSED/SUSPECT)

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