

17855571

:

VB
324
.638
R46
1957

V.2

GAO
LAW LIBRARY

REPORT OF THE BOARD
TO PREPARE AND SUBMIT TO THE SECRETARY OF THE NAVY
RECOMMENDATIONS FOR THE
REVISION OF POLICIES, PROCEDURES AND DIRECTIVES
DEALING WITH HOMOSEXUALS

PART II

- Volume A. Copies of directives, instructions and pertinent memoranda.
- Volume B. Copies of references and articles dealing with homosexuals.
- Volume C. Copies of verbatim testimony.



DEPARTMENT OF THE NAVY
Office of the Secretary
Washington 25, D. C.

SECNAV 5430.13A
Op-921D
Ser 3819P92
10 August 1954

SECNAV INSTRUCTION 5430.13A

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

Subj: Naval Intelligence investigative jurisdiction and responsibilities

Ref: (a) Executive memorandum of 26 Jun 1939 relating to the investigation of espionage, counterespionage, and sabotage
(b) Delimitation Agreement of 23 Feb 1949

1. Purpose. This Instruction defines and delimits the investigative jurisdiction and responsibilities of the Office of Naval Intelligence and field components thereof.

2. Cancellation. SECNAV Instruction 5430.13 of 18 July 1953 is hereby canceled.

3. Discussion. SECNAV Instruction 5430.13 permitted the use of the investigative facilities of Naval Intelligence in any matter in which there was a naval interest and which was not within the exclusive investigative jurisdiction of another Government department or agency. However, this Instruction, a restatement only of a SECNAV letter of 1 November 1945, was couched in broad general terms and lacked a statement of specific policy concerning the types of investigations in which it is desirable to utilize Naval Intelligence facilities. The responsibilities of Naval Intelligence have so altered since 1945 as to require such a statement of policy, including a delineation of the types of investigations which Naval Intelligence may be called upon to undertake. This delimitation is necessary in order to confine the investigative effort of Naval Intelligence to those matters requiring the application of professional investigative techniques and to eliminate those susceptible of administrative solution within a command.

4. Mission. The mission of the Office of Naval Intelligence includes the administration, operation, and maintenance of an investigative service for the Naval Establishment in order to accomplish the purposes set forth in references (a) and (b) and in this Instruction.

a. Reference (a), implemented by reference (b), conferred an exclusive investigative jurisdiction upon the Office of Naval Intelligence, the Federal Bureau of Investigation of the Department of Justice, the A. C. of S., G-2, General Staff, Department of the Army,

S 000666

SECNAVINST 5430.13A
10 August 1954

OFFICE OF THE SECRETARY

and the Office of Special Investigations, United States Air Force, in the following categories of cases:

- (1) Actual or potential espionage.
- (2) Actual or potential sabotage.
- (3) Actual or suspected subversive activities.

5. Policy. In addition to the above-mentioned categories of cases, the facilities of Naval Intelligence shall be utilized in and limited to the following types of investigations:

a. Matters pertaining to fraud against the Government, including irregularities in connection with the procurement or disposition of naval property and such matters or activities which may be related or incidental thereto, provided that the matter involves naval personnel, civilians under naval control, or is a matter under naval administrative control, and the investigative jurisdiction is not placed specifically and exclusively under another Government department or agency.

b. Major violations of the Uniform Code of Military Justice, such as murder, manslaughter, rape, larceny, robbery, forgery, mayhem, sodomy, arson, mutiny, sedition, extortion, burglary, perjury, and certain conduct punishable under articles 133 and 134 of this code, such as smuggling, trafficking in narcotics, black-market activities, and violations of customs, postal, and currency regulations.

c. Personnel background investigations within the jurisdiction of the Naval Establishment, including those required by Executive Order 10450 and by existing Department of Defense and Department of the Navy Instructions.

d. Security investigations, including those involving the compromise, leakage, or unauthorized disclosure of classified information.

e. Special investigations as required by the Naval Establishment, comprising those cases containing unusual circumstances or aspects of sensitivity which may require unusual techniques and the exercise of a high degree of discretion.

6. Instruction. Any of the above listed offenses, violations, or matters requiring investigative effort will be referred, without delay, by the command concerned to the Office of Naval Intelligence or to a field component thereof, whenever and wherever such facilities are available, for appropriate action. Such action may consist in either investigation by Naval Intelligence, or in the referral by Naval In-

10 August 1954

telligence, where appropriate, to another Government department or agency having sole or concurrent investigative jurisdiction.

a. In cases where immediate referral to Naval Intelligence is not possible or practicable, as for example, in the case of suspected sabotage in a ship at sea, the commanding officer should conduct such investigation as the circumstances indicate or as higher operational authority may direct. However, if the investigation conducted by the commanding officer is a preliminary to a later full investigation to be conducted by Naval Intelligence, he should take appropriate measures to insure the preservation of all possible evidence and avoid any action which might tend to jeopardize or compromise investigative possibilities. The Director of Naval Intelligence, or his field representative, may decline any case where, in his judgment, premature action has materially compromised the situation.

7. Liaison With Other Federal Agencies. Matters which may be of investigative interest to other Federal agencies, such as the Federal Bureau of Investigation, enforcement agencies of the Treasury Department, the Office of Special Investigations of the Air Force, or the Counter-Intelligence Corps of the United States Army, and which come to the attention of a commanding officer, shall be referred to the Director of Naval Intelligence or his field representative as the established liaison between the Naval Establishment and such agencies. Commanding officers will instruct their personnel to follow this procedure except in emergencies or where special arrangements have been made with the approval of Naval Intelligence.

8. Delimitation. Minor offenses shall be handled by personnel attached to the command without recourse to the facilities of Naval Intelligence. Naval Intelligence facilities will not be utilized in minor or petty matters and they are not normally required in connection with offenses such as desertion or unauthorized absence where the facts are usually readily ascertainable, nor should they be required for routine administrative investigations within a command, or with thefts or loss of personal property. The facilities of Naval Intelligence are to be reserved, except under unusual circumstances, for the investigation of matters or situations of gravity which also require the application of professional and technical investigative methods.

a. Questions regarding the priority of, availability of facilities for, or the propriety of conducting, any specific investigation requested shall be referred to the Director of Naval Intelligence or to his delegated representatives for decision.

SECNAVINST 5430.13A
10 August 1954

OFFICE OF THE SECRETARY

9. Other Naval Investigative Facilities. Except as noted in SECNAV Instruction 5840.1 of 26 June 1953 nothing herein is to be construed as infringing upon, conflicting with, or restricting the investigative functions of the Naval Inspector General, the United States Navy Shore Patrol, courts of inquiry, and investigations and courts-martial conducted pursuant to the Uniform Code of Military Justice and regulations promulgated thereunder. Attention is directed, however, to the fact that the facilities of Naval Intelligence may be made available, when appropriate, to assist these activities in their official duties, provided such assistance is within the policy expressed by this instruction.

10. Credentials. Naval Intelligence representatives carry credentials accrediting them to conduct investigations of official concern to the Naval Establishment. These credentials are to be accorded full recognition when presented to naval commands and activities for access to naval installations.

11. Area of Operations. Naval Intelligence investigative facilities are available in all continental naval districts, in the river commands, in the extracontinental naval districts, and in COMNAV-MARIANAS, COMNAVPHIL, COMNAVFE, and CINCNELM. Naval Intelligence investigative facilities shall be extended to other areas only where an extraordinary situation makes such use absolutely essential. Requests for investigative personnel in such instances shall be addressed to the Director of Naval Intelligence.

THOMAS S. GATES, Jr.
Under Secretary of the Navy

DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
WASHINGTON 25, D. C.

ONI INST 5520.15B
Op-921D
15 Oct 1956

FOR OFFICIAL USE ONLY

ONI INSTRUCTION 5520.15B

From: Director of Naval Intelligence
To: Distribution List

Subj: Sexual Misconduct; Investigation of

Ref: (a) SECNAV INSTRUCTION 1620.1

1. Purpose. To outline the proper investigative procedures to be followed in the investigation of subject cases.
2. Cancellation. ONI INSTRUCTION 05520.15A of 5 April 1955 is hereby cancelled and superseded.
3. Background. This Instruction relates both to homosexuality and other types of sexual misconduct. It provides policy relating to investigations, interrogation methods and the modified use of the 6-J code symbol in subject cases.
4. Importance of Subject Investigations. In the past, numerous investigations of homosexuals among service personnel have been conducted successfully by Naval Intelligence. It was considered that such persons constituted a cumulative danger to both security and morale in the Navy. Consequently, from a security viewpoint, it was necessary to separate them from the naval service whenever possible.
5. Proper Authorization Required for Each Investigation. It is necessary that a valid request for investigation be received by Naval Intelligence to cover each individual investigated. Therefore, where a request has been received concerning a suspected homosexual, and when a statement is obtained from that person implicating other service personnel, investigation of the newly named suspects will not be made on the basis of the request covering the original suspect. Any efforts to use an authorized request on one individual as a "springboard" to conduct investigations on others named by him is inconsistent with approved investigative practices. When the objective of the initial investigation has been achieved and the subject thereof either cleared or sufficient evidence accumulated to constitute a prima-facie general court martial case, the investigation should be closed. Derogatory information concerning other service personnel which has been obtained during the course of the investigation should be brought to the attention of the proper naval authorities. It is then entirely within the province of

S 000671

FOR OFFICIAL USE ONLY
ONI INST 5520.15B
(10-15-56)

such authorities to evaluate such information and either request that an investigation be conducted or to take any other action which to them may seem appropriate. In the absence of a request to investigate, no investigative action shall be taken other than such routine steps which may be necessary to completely identify such persons.

6. Reporting of Subject Investigations. Results of subject investigations should be reported as soon as practicable and should contain all the information developed, i.e., statements, exhibits, etc., and full identifying data, as is immediately available on all the individuals named or suspected. When an investigation results in information involving several persons in a criminal act, there should be prepared a master report, using one of the persons as a subject - usually the principal subject. The master report will be complete with details and all information developed, including statements, etc. One page reports may then be prepared on the other individuals, referencing the master report, and including as an enclosure a copy of the statement in which the subject of the subsidiary report implicates himself. This method of reporting subject type investigations enables those who must take action on individuals other than the principal suspect to do so without wading through a lengthy master report. Such procedure will affect only those individuals who come under the investigative jurisdiction of the IO/DIO handling the investigation. No leads will be disseminated to other districts on the other individuals named in the report unless this additional information is needed for purposes of a court martial or corroboration. If it is determined locally that the other individuals involved in the investigation are presently attached to a command under the jurisdiction of another IO/DIO, copies of the pertinent investigation report(s) should be made available to that district or area for information; this information should not be disseminated as an undeveloped lead except as noted above. (Note: See paragraph 10 for dissemination of information concerning Army and Air Force personnel).

7. Blanket Authorization NOT Granted. It must be distinctly understood that investigations of homosexuals are in no manner basically different from other investigations. Authorization, preferably written, must be obtained for the investigation of each subject. SECNAV INSTRUCTION 1620.1 of 5 June 1953 entitled "Procedure for the disposition of cases of homosexuality involving naval personnel" is, as its title indicates, a method of procedure. It is not a blanket authorization or designation of a mission to Naval Intelligence to investigate such persons.

8. Evidence Must be Obtained Prior to Interview of a Suspect. An interview of a suspected homosexual should not be conducted prematurely. In almost every case sufficient evidence to establish a prima-facie case in the event the suspect denies his guilt and elects to stand trial should be first obtained in order to enable the Bureau of Naval Personnel or other naval disciplinary authorities to take proper action. In this connection, investigating officers or agents should not yield to impatient demands of commanding officers that a suspect's case be expedited in this manner because of an impending transfer or other reasons.

9. Content of Signed Statement. In investigations of naval personnel who are alleged to be engaged in homosexual activities, it is suggested that any signed statements obtained contain only such information as the person making the statement actually knows and concerning which he is competent to testify. The names of persons suspected or merely thought to be perverts should not be included in such statements, but may be recorded locally as information of possible future interest.

In taking a statement from a subject or a witness in a homosexual case, care should be exercised that all factual material is set out in explicit terms. Any acts or tendencies should be fully described in layman's language, and definitions included for any unusual words or phraseology employed, or where required to resolve any ambiguity. In this regard the terms "active" or "passive" participation or other such terms which the Subject may later claim to have a different meaning are to be guarded against, unless followed by an explanation, in his own words, signifying what the words mean to him. In any event it must be insured that the Subject does, in fact, understand the meaning and import of any such words used by him as well as those used by the agent in questioning him. Notation that such understanding did exist should be included in the investigation report with supporting details. As in all other criminal type investigations the agent must be aware of the elements constituting the offense under investigation and direct his efforts toward securing evidence, both in the form of the confession, as well as independent of it, specifically supporting - or negating - each and every one of these elements. In regard to Class III homosexual cases, as defined in SECNAV INSTRUCTION 1620.1, where prosecutive action is unlikely, the investigative effort should be directed toward obtaining as much detail as practicable to fulfill administrative requirements for the appropriate disposition of the case against the Subject.

10. Interested Commands to be Notified. If, during investigations of Naval personnel, Army or Air Force personnel are named as homosexual, such information if factual, should be furnished to local Army or Air Force authorities.

11. Routine "Backgrounds" not Necessary. It has been noted that the practice is followed in some districts of conducting extensive background investigations of naval personnel allegedly engaged in homosexual activities, including numerous interviews with friends, neighbors, business associates, and references. Experience has shown that such inquiries seldom develop any pertinent information except in rare cases when the subject has been extremely promiscuous and indiscreet. This type of investigation might also prove very embarrassing to Naval Intelligence and do an injustice in those cases where improper conduct on the part of subject is not established.

12. Proper Technique in Homosexual Cases. It is suggested, therefore, that investigations be directed toward ascertaining whether the subject

FOR OFFICIAL USE ONLY
O.I INST 5520.15B
(10-15-56)

currently associates or corresponds with known homosexuals and the reason for and the nature of his association with such persons. If information obtained by surveillance or other means discloses circumstances strongly indicating an unnatural relationship between subject and such persons, it has been found that interviews with these latter persons will often result in the building up of a case against the subject. An interrogation of subject at that point will usually result in a confession.

13. False Admissions. It should also be borne in mind that in some instances naval personnel have attempted to obtain their release from the service by making untrue admissions of homosexual activity and naming numerous individuals with whom they claim to have had such relations.

14. Limitations on Homosexual Investigations. These investigations must be confined to cases where definite allegations have been made and PROPER AUTHORITY HAS REQUESTED THE INVESTIGATION. Any activity which might be interpreted as "witch hunting" or "finger pointing" should be carefully avoided.

15. Disposition of Class II Cases. Reference (a) sets forth in detail the procedure for disposition of naval personnel who are homosexuals. This reference directs that in Class II cases the accused shall be confronted with charges and specifications for trial by General Court Martial.

16. Resignation or Agreement to Accept an Undesirable Discharge Erroneously Taken. It has been noted that in the investigation of some Class II cases where the subject has made a written statement admitting his activities, the investigator has taken subject's resignation or agreement to accept an undesirable discharge. It is considered desirable by the Bureau of Naval Personnel that reference (a) be followed literally in the matter of confronting accused homosexuals with charges and specifications. Such a procedure is an administrative function and, therefore, not within the province of Naval Intelligence. When competent naval authorities have expressly requested the assistance of Naval Intelligence in such cases, its participation shall be limited to the gathering of pertinent evidence, which may include the obtaining of a signed statement from the subject. Its activities shall not include the preparation of or confronting the accused with charges and specifications, or obtaining his tender of resignation, or agreement to accept an undesirable discharge.

17. Dissemination of Investigation Report. A report of the investigation, together with any statements obtained, shall be furnished promptly to the proper authorities in order that any administrative action required may be taken. All reports are furnished on a loan basis and must

FOR OFFICIAL USE ONLY

4

S 000674

be returned to the DIO's for filing. Copies of signed statements by military personnel, however, may be delivered to cognizant commands for use in evidence during the course of disciplinary proceedings.

18. Use of the 6-J Code Symbol. The practice of placing the 6-J code symbol on reports, letters and memoranda pertaining to sexual perversion will be discontinued. This procedure was established in order to restrict the handling and to facilitate the indexing and filing of such correspondence in the Office of Naval Intelligence, and has been found to be confusing and ineffective. In the future investigation reports, investigation requests (152s and Notices of Case Pending), letters, memoranda, and correspondence involving or relating to sexual perversion or sexual misconduct, in which the descriptive or graphic material dictates special handling, will be forwarded between Naval Intelligence offices in double envelopes with the inner envelope stamped with the "6-J" code symbol. The "6-J" code symbol will not be affixed to the contents of the envelope.

19. 6-J Code Symbol not to be used outside of Naval Intelligence Offices. In mailing or transmitting investigation reports, letters or memoranda relating to sexual perversion or sexual misconduct to commands, offices and bureaus outside Naval Intelligence, the 6-J code symbol will not be used. However, it is suggested that the inner envelopes containing this data be appropriately marked to ensure restricted handling, for example, "TO BE OPENED BY THE COMMANDING OFFICER ONLY OR BY THE EXECUTIVE OFFICER". Commands, offices and bureaus outside Naval Intelligence should be instructed to return the material, or future correspondence related thereto, to the IO/DIO marked to ensure restricted handling, for example, "TO BE OPENED BY THE IO/DIO ONLY". This of course will be accomplished by the use of the double envelope with the inner envelope marked appropriately. All inner envelopes containing data in the sexual perversion and sexual misconduct field forwarded to the Office of Naval Intelligence shall be marked "TO BE OPENED BY OP-921D ONLY".

20. Reports covering a Phase of an Investigation Involving Sexual Perversion or Sexual Misconduct, to be forwarded in an Envelope Stamped 6-J. Reports, letters and memoranda covering a phase of an investigation involving sexual misconduct shall be forwarded between Naval Intelligence offices in a double envelope with the inner envelope stamped 6-J even though no material contained therein is actually obscene, since such reports become part of a single file which does contain such information.

21. Use of the Teletype in Subject Cases. Where the use of teletype is considered necessary in investigation of this nature it is considered desirable to eliminate therefrom any use of the word "homosexual", and variation or synonym thereof, and any details of alleged acts or circumstances of the case. Identification of such cases in teletype messages shall be made by use of the code symbol "6-J". All detailed information

FOR OFFICIAL USE ONLY
OPI INST. 5520.15B
(10-15-56)

and investigative leads in such cases should be disseminated on either Investigative Request Form 152 or Investigative Report Form 119 rather than by teletype.

22. Index and Cross Reference Cards required in Subject Cases. The following procedure will be followed in the future in all cases of investigation reports involving sexual misconduct:

a. A 3 x 5 card in triplicate will be submitted with the investigation report on subject of said report. Only one card is required on individuals mentioned, involved or named therein as an admitted or accused pervert, or who is listed therein as a suspect.

b. Each card will carry appropriate identification data such as service number, occupation, date and place of birth or place of residence, as appropriate or available. A minimum of such identification is appropriate where it is unique to the individual such as is the case of the service number.

c. A card concerning the subject of the investigation shall reference the investigation report. Cards on other individuals involved in the investigation shall also reference the investigation report and the subject of the investigation report by name. Each card shall list the individual thereon in one of three categories:

- I. Admitted
- II. Accused
- III. Suspected

d. Any indication of activity in the fields of subversion, or narcotics by Class I, II or III individuals as outlined in c above shall carry the additional identification Subversive, or Narcotics as applicable.

e. Sample Case and Carding thereof:

IO-PRNC 119 of 1 Oct 1955, Subj: JACKTAR, Earl Paul,

JACKTAR, Earl Paul, born 5 April 1919, Chicago, Illinois, an admitted homosexual names DOE, John Edgar, YNSN, OOO CO OO, USN and ROE, Richard Alex, SK3, COO OO OO, USN as two enlisted men with whom he had engaged in homosexual acts. DOE admits acts and makes statement confirming his admission. In addition, he states that he knows ROE attended Communist meetings in 1948 when they were stationed together in Boston. Also saw ROE smoking marijuana on one occasion. ROE could not be located in the Potomac River Naval Command for questioning. Lead sent to ONI.

FOR OFFICIAL USE ONLY
ONI INST 5520.15B
(10-15-56)

JACKTAR, Earl Paul
DOR: 5 Apr 1919, Chicago, Ill.

Ref: IO-PRNC 119 of 1 Oct 1955, same subj

I

DOE, John Edgar, YNSN, COC 00 00, USN

Ref: IO-PRNC 119 of 1 Oct 1955, subj:
JACKTAR, Earl Paul

I

ROE, Richard Alex, SK3, OOO 00 00, USN

Ref: IO-PRNC 119 of 1 Oct 1955, subj:
JACKTAR, Earl Paul

II (reported to use narcotics)
(reported to attend Communist meetings)

J. R. Bromley
J. R. BROMLEY
By direction

Distribution
SFDL F-28 (10)
IO's (10)
COMNAVPHIL
COMNAVPHIL
COMNAVPHIL
COMNAVPHIL

APP
20 |

S000678

OIR, AstSecNavPers

10 January 1957

COVER SHEET 683

Attached are pages to NCPI 29, CHARGES, REMOVALS, AND OTHER ACTIONS UNDER THE SECURITY PROGRAM, which should be substituted as shown on the table on the reverse side of this sheet.

REASONS FOR CHANGES

NCPI 29.4-2c. - - Revised to reflect the discontinuance of USCSC FORM INV 198 and to provide new instructions concerning processing of memorandum reports.

NCPI 29.6-4b. - - Revised to conform with appointing authority provisions.

NCPI 29.6-5c through f. - - Revised to reflect redesignation of USCSC transmittal forms 205 and 206 and to amend action report procedures to conform with latest CSC requirements.

NCPI 29.7-6. - - Revised to clarify procedures in security investigations for sensitive-critical positions, particularly with respect to the use of Standard Forms 74 and 72.

NCPI 29.7-11. - - Revised to conform with the break-in-service provisions of DOD Directive 5210.8 of 29 June 1955 and Chapter 15, United States Navy Security Manual for Classified Matter.

NCPI 29.7-12. - - Revised to eliminate the three-year time limit for validity of prior investigations and to conform with the break-in-service provisions of NCPI 29.7-11, as revised.

NCPI 29.8-Encl. 9(CHART). - - Revised to reflect amendments to investigative requirements of NCPI 29.7-11 and NCPI 29.7-12.

NCPI 29.8-Encl. 11. - - Revised to emphasize the necessity of complete activity designation and address, and complete name of employee or prospective employee on Standard Form 85.

NCPI 29.8-Encl. 12. - - Revised for the same reasons set forth above for revised NCPI 29.8-Encl. 11.

NCPI 29.8-Encl. 13. - - Revised to clarify and amend procedures in the use of OPNAV Form 5520.1 and Standard Forms 79, 74, 72, and ~~87~~⁸⁶ in investigations for sensitive-critical positions.

Additional amendments to NCPI 29 pursuant to the U. S. Supreme Court decision in the Cole v. Young case, decided 11 June 1956, are being withheld pending prospective release of an Executive Order to supersede Executive Order 10450.

PEN CHANGES

On page 11, NCPI 29.2-9c(5), line 3, change "NCPI 29.6-4" to "NCPI 29.8-Encl. 4."

On page 28, NCPI 29.4-12l(3), last line, change "NCPI 29.6-7" to "NCPI 29.8-Encl. 7."

On page 30, NCPI 29.4-13c(5), line 2, change "NCPI 29.6-8" to "NCPI 29.8-Encl. 8."

E. H. Schantz

E. H. SCHANTZ
Acting Chief of Industrial Relations

DISTRIBUTION:
OIR Special Lists #25, 25c and 25f

5000679

TABLE FOR COVER SHEET 683
(NCPI 29)

REMOVE		INSERT
PAGE	EDITION DATE	PAGE
21 - 22	13 September 1955	21 - 22.01
37 thru 50	13 September 1955	37 thru 50
67 thru 72	13 September 1955	67 thru 72
79 thru 81	13 September 1955	79 thru 82

S 000680

AstSecNavPers

23 April 1956

COVER SHEET 642

Attached are pages to NCPI 29, CHARGES, REMOVALS, AND OTHER ACTIONS UNDER THE SECURITY PROGRAM, which should be substituted as shown on the table on the reverse side of this sheet.

REASON FOR CHANGE

Revised to reflect a consolidated list dated November 1, 1955 of organizations designated under Executive Order No. 10450.

ORDERING FORM

Activities should requisition the November 1955 edition of CSC Form 385 in accordance with SecNav Instruction 5600.7 of 18 October 1955. All previous editions of CSC Form 385 are to be destroyed. Activities should order this form based on a 60- to 90-day period, rather than for a longer period.

By direction of Assistant Secretary of the Navy (Personnel and Reserve Forces):



GEO. A. HOLDERNESS, JR.
Chief of Industrial Relations

DISTRIBUTION:
OIR Special Lists #25, 25c and 25f

460 460

5000681

**TABLE FOR COVER SHEET 642
(NCPI 29)**

REMOVE		INSERT
PAGE	EDITION DATE	PAGE
57	13 September 1955	57
58	13 September 1955	58
59	13 September 1955	59
60	13 September 1955	60

461

S 000682

AstSecNavPers

13 September 1955

COVER SHEET 595

Attached is a revision of NCPI 29, CHARGES, REMOVALS, AND OTHER ACTIONS UNDER THE SECURITY PROGRAM. The present NCPI 29 should be removed from the NCPI volume and the attached inserted in its place.

REASONS FOR CHANGES

NCPI 29.2-6.--Rewritten to show the purpose of position of Executive Secretary of the security hearing board and to provide for periodical review by the Secretary of the Navy of the qualifications of persons selected for the position.

NCPI 29.2-7g.--Added to provide for periodical review by the Secretary of the Navy of qualifications of persons made available by the Department of the Navy for service on security hearing boards.

NCPI 29.2-8.--Rewritten to reflect redesignation of "Navy Department Security Appeal Board" to "Navy Department Security Review Board," to show composition of the Board, and to give instructions for selecting Board members, Executive Secretary, and Legal Counsel.

NCPI 29.2-9a.--Subparagraphs (9), (10) and (11) added to show additional responsibilities of the Office of Industrial Relations.

NCPI 29.2-9c(4).--Rewritten to provide for Departmental review of proposed charges prior to suspension except in emergency situations.

NCPI 29.2-9g.--Rewritten to reflect responsibilities of Navy Department Security Review Board.

NCPI 29.2-9h.--Subparagraphs (1), (4) and (5) added to show additional responsibilities of Secretary of the Navy with regard to security procedures. Subparagraphs (1) and (2) renumbered to (2) and (3).

NCPI 29.2-9i.--Amended to prescribe that legal counsel shall be provided to assist Security Screening and Security Hearing Boards and that such counsel shall protect the interests of the Government and the rights of the individual.

NCPI 29.2-10b.--Amended to emphasize that the names of individuals separated under the employee security program shall not be released publicly by anyone employed by the Department of the Navy.

NCPI 29.4-2a.--Amended to reflect the requirements of Executive Order 10550.

NCPI 29.4-3e.--Amended to indicate that the interrogatory should not be used as a substitute for an interview.

NCPI 29.4-3h.--Amended for clarification.

NCPI 29.4-4a.--Amended to prohibit a determination favorable to the individual based on a premise that continuance of his employment will be of value to the national defense despite existing security factors surrounding his case.

462

S000683

NCPI 29.4-4c. --Amended to require that the letter of decision shall specify the sensitivity of the position involved.

NCPI 29.4-4g. --Added to instruct activities to report all violations of law, as disclosed in the investigations and proceedings under the security program, to the Office of the Judge Advocate General of the Navy, with information copy to OIR Code 110.

NCPI 29.4-10a. --Amended to specify material to be submitted to the Department along with copies of proposed charges submitted for pre-audit.

NCPI 29.4-10a(4). --Amended for clarification.

NCPI 29.4-131. --Added to instruct hearing boards to report all violations of law, as disclosed in the investigations and proceedings under the security program, to the Office of the Judge Advocate General of the Navy, with information copy to OIR Code 110.

NCPI 29.4-14b(4). --Last two sentences re-written to expand requirement to cover decisions favorable and unfavorable to the individual.

NCPI 29.4-16. --Paragraphs b and c added to show proceedings of Navy Department Security Review Board and to instruct the Board to report all violations of law, as disclosed in the investigations and proceedings under the security program, to the Office of the Judge Advocate General of the Navy.

NCPI 29.7. --This section, "Security Requirements," consolidates the procedures presently in NCPI's 10, 160, 180, and 235, and includes the procedures recently established by the Civil Service Commission, for initiating and processing security investigations required by E. O. 10450 incident to appointments and other personnel actions. (These procedures will be deleted from NCPI's 10, 160, 180, and 235).

NCPI 29.8-Encl. 4. --Amended to include CSC Form 385, to indicate latest list of organizations designated by the Attorney General.

NCPI 29.8-Encl. 11. --Added to give procedural instructions for National Agency Checks and Written Inquiries for non-sensitive positions.

NCPI 29.8-Encl. 12. --Added to give procedural instructions for National Agency Checks and Written Inquiries for Sensitive-Noncritical positions.

NCPI 29.8-Encl. 13. --Added to give procedural instructions for Background Investigations for Sensitive-Critical positions.



ALBERT PRATT
Assistant Secretary of the Navy
(Personnel and Reserve Forces)

DISTRIBUTION:
OIR Special Lists #25, 25c and 25f

INSTRUCTION 29

CHARGES, REMOVALS, AND OTHER ACTIONS UNDER THE SECURITY PROGRAM

Section 1. References	Establishing Security Screening Board of the activity	2-5
2. General provisions	Establishing Office of the Executive Secretary of the Security Hearing Board of the activity	2-6
3. Standard and criteria	Establishing the Security Hearing Board of the activity	2-7
4. Processing of cases	Establishing the Navy Department Security Review Board	2-8
5. Procedure in cases of separation, withdrawal of application, or transfer, and reimbursement of employees	Responsibilities	2-9
6. Character and suitability	Release of information	2-10
★ 7. Security requirements ★	Designation and rights of counsel	2-11
8. Enclosures		

SECTION 1, REFERENCES

	Paragraph No.
References	1-1

- 1-1. The following are references in connection with this Instruction:
- a. Public Law 733, 81st Congress, of 26 Aug 1950, 64 Stat. 476, 5 USC 22-1 (Removals and suspensions in the interest of national security).
 - b. U. S. Navy Regulations, 1948, Chapter 15.
 - c. Executive Order 10450 of 27 Apr 1953, as amended, SECURITY REQUIREMENTS FOR GOVERNMENT EMPLOYMENT.
 - d. Memorandum of the Attorney General dated 29 April 1953.
 - e. Section 9A of the Hatch Act of 2 Aug 1939 (Public Law 252, 76th Congress; 53 Stat. 1148, 5 USC 118).
 - f. Public Law 623, 80th Congress, of 10 Jun 1948 (62 Stat. 354; 5 USC 652).
 - g. Public Law 600, 79th Congress, of 2 Aug 1946 (60 Stat. 806, 5 USC 22a).

SECTION 2, GENERAL PROVISIONS

	Paragraph No.
Purpose	2-1
Authority	2-2
Definitions	2-3
Policy	2-4

2-1. PURPOSE. This Instruction prescribes the standard, criteria, and administrative procedures governing the disposition of all security cases involving civilian employees of the Naval Establishment, and applicants for employment by the Naval Establishment. ★It also provides security requirements for all types of personnel actions. ★

2-2. AUTHORITY. This Instruction is issued under authority of:

- a. Act of 26 August 1950 (Public Law 733, 81st Congress, 64 Stat. 476, 5 USC 22-1) regarding removals and suspension in the interest of national security.
- b. Executive Order 10450 of 27 April 1953, as amended, SECURITY REQUIREMENTS FOR GOVERNMENT EMPLOYMENT.

2-3. DEFINITIONS.

- a. Applicant.--A person who has applied for a position in the competitive or excepted service but has not entered on duty.
- b. Appointee.--A person who has been appointed to a position in the competitive or excepted service and has not completed twelve months of current continuous Federal employment.
- c. Complete file.--All reports of investigation or other inquiry, all charges

and interrogatories, all transcripts of interviews, all transcripts of hearings and exhibits, all rationales analyzing the evidence or setting forth conclusions, findings, recommendations, determinations, decisions, or other actions in cases, and all affidavits, supporting documents, correspondence or memoranda in connection with the investigation, determination, decision and closing of any case or cases.

d. Incumbent employee.--An employee who has completed twelve months of current continuous Federal employment in the competitive or excepted service.

e. National security.--As used herein, the term "national security" relates to the protection and preservation of the military, economic, and productive strength of the United States, including the security of the government in domestic and foreign affairs, against or from espionage, sabotage, and subversion, and any and all other illegal acts designed to weaken or destroy the United States.

f. Navy Department Security Review Board.--A board appointed by the Secretary of the Navy to review security cases of employees suspended under Public Law 733 and E.O. 10450, and to make such advisory recommendations to the Secretary of the Navy with respect thereto as the Board shall duly approve.

g. Security Hearing Board.--A board convened in a Naval activity to hear the security case of an employee of that activity, the members of such board being persons assigned to or employed by activities of the Federal government other than those of the Department of the Navy.

h. Security Screening Board.--A board appointed by the head of an activity from the military and civilian complement of the activity to screen security cases received and recommend to him appropriate action in the matter.

i. Sensitive position.--A "sensitive position" is any position, the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security. Such positions will include the following:

- (1) Any position, the duties or responsibilities of which require access to Top Secret, Secret, or

Confidential security information or material and any other position so designated by authority of the Secretary of Defense or of the Secretary of the Navy or by the head of the activity.

- (2) Any position which involves responsibility for the development or approval of war plans, plans or particulars of future major or special operations of war, or critical and extremely important items of war, or policies and programs which affect the over-all operations of any of the components of the Department of Defense. This will include positions at GS-14 and above; positions at GS-12 and 13 if the employee will have access to Top Secret security information; and employment under personal service contract if the employee will have access to Top Secret security information. Additional positions may be designated by the head of the activity as meeting the requirements of the foregoing definition provided that the designation is certified to OIR Code 110 by the activity head.

2-4. POLICY.

a. No civilian will be employed for, assigned to, or retained in any position in the Naval Establishment if such employment, assignment or retention is not clearly consistent with the interests of the national security.

b. Established national policies, founded upon statutes of the United States and Executive Orders of the President, require exclusion and removal from Federal employment of individuals who are unfit for employment for security reasons. Public Law 733, 81st Congress, authorizes the Secretary of the Navy to suspend summarily without pay any civilian officer or employee when he deems such suspension necessary in the interest of national security, and to terminate the employment of such officer or employee if he determines such termination is necessary or advisable in the interest of national security. Section 9A of the Hatch Act makes it unlawful for any employee whose compensation is paid from

funds authorized or appropriated by Congress to have membership in any political party or organization which advocates the overthrow of our constitutional form of government in the United States. That section also provides that any person violating its provisions shall be removed immediately from the position or office held by him, and thereafter no part of the funds appropriated by any act of Congress for such position shall be used to pay the compensation of such person. The current appropriation act applicable to the Navy prohibits payment of funds appropriated by Congress to any employee who advocates or who is a member of an organization that advocates overthrow of the Government of the United States by force or violence. Executive Order 10450, as amended, states that the interests of the national security require that all persons privileged to be employed in the Navy shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States. That Order requires an effective program to insure that the employment or retention in employment of any civilian officer or employee is clearly consistent with the interests of the national security. It also provides that any person whose employment is suspended or terminated under the authority granted to heads of departments and agencies by or in accordance with the Act of 26 August 1950, or pursuant to Executive Order No. 9835 or any other security or loyalty program relating to officers or employees of the Government, shall not be reinstated or restored to duty or reemployed in the same department or agency and shall not be reemployed in any other department or agency, unless the head of the department or agency concerned finds that such reinstatement, restoration, or reemployment is clearly consistent with the interests of the national security, which findings shall be made a part of the records of such department or agency; and that no person whose employment has been terminated under such authority thereafter may be employed by any other department or agency except after a determination by the Civil

Service Commission that such person is eligible for such employment.

c. While the Navy will assume, unless information to the contrary is received, that all its employees are loyal and that none will act against the security interests of the United States, the vital role of the Navy in national defense necessitates vigorous application of policies designed to insure that no civilian is employed or retained in employment who would take action inimical to the interests of the national security. At the same time, every possible safeguard will be provided to insure that no incumbent employee of the Navy is removed from his employment without an opportunity for a full and fair hearing and a review of the record by the Security Review Board and the Secretary of the Navy.

d. Security determinations will be made pursuant to the Standard and Criteria set forth in NCPI 29.3. Such determinations cannot be made in the abstract. They must be consistently directed to the fitness of the individual on security grounds to hold a specific position. In making the security determination, consideration must be given to the loyalty, habits, activities, attitudes, associations, trustworthiness, reliability, and discretion of the individual involved, and their bearing on the question of whether, because of his access to Navy installations, information or material by virtue of his employment in the position involved, he might either intentionally or inadvertently disclose to unauthorized persons security information or other information the disclosure of which is prohibited by law, or otherwise act against the security interests of the United States. In every case, consideration must be given to the regularly assigned or official position involved (as distinguished from any position to which an employee may have been temporarily detailed as an interim security measure), and the opportunity afforded to the occupant of such position to have access (authorized or otherwise) to security information, or to act to the detriment of the national security.

e. The suspension and removal procedures provided for in this instruction are based on the authority granted by Public

13 September 1955

C. S. 595

466

5000687

Law 733, 81st Congress, and their use will be limited to cases in which the interests of national security are involved. The authority to suspend employees under this act is delegated to heads of activities ★ subject to the restrictions in NCPI 29.2-9c(4); ★ the authority to separate or restore employees under this act is reserved to the Secretary of the Navy. These procedures will be used to supplement, not to substitute for, normal civil service removal procedures. Maximum use will be made of normal civil service removal procedures where national security is not a consideration and such procedures are adequate and appropriate.

2-5. ESTABLISHING SECURITY SCREENING BOARD OF THE ACTIVITY.

a. Established by Chiefs of Bureaus and offices, the Commandant of the Marine Corps, and heads of field activities. -- Each official named will establish an activity security screening board, each of which will be composed of not less than three impartial persons (preferably one military officer and two civilians) employed by or assigned to the appointing activity, whose duties are to screen security cases involving incumbents, appointees, and applicants, and to recommend to the head of the activity appropriate action in each such security case. The head of the activity should name the chairman of the board. An employee shall not be designated as a member of the security screening board if he is serving as Executive Secretary of the activity's security hearing board, unless there is no other qualified employee on board at the activity. Assignment of employees to dual roles on both the screening and hearing boards has an adverse effect on public relations, no matter how outstanding the individual may be, since it is difficult for the public to see how a hearing may be completely impartial when the Executive Secretary of the hearing board has previously been exposed to the case while performing his duties as a screening board member.

b. Title. This board will be known as the (activity) security screening board, and any reference to "the board" in this section means such (activity) security screening board.

c. Required qualifications for membership. -- Persons, both civilian and military, appointed to the board must meet the following requirements:

- (1) Possess the highest degree of integrity, ability, and good judgment.
- (2) Have been the subject of a background investigation (Article 1502.3 and Article 1510.2, Chapter 15, U. S. NAVY SECURITY MANUAL FOR CLASSIFIED MATTER, OPNAV INSTRUCTION 5510.1A) or its equivalent, completed with satisfactory results.

d. Board must be disinterested. -- It is possible that security cases may be presented to security screening boards composed of members who are closely associated with the individual involved in the security case being screened. In such situations board members will disqualify themselves from the board screening the case and someone will be substituted who is not personally and intimately acquainted with the individual and who does not have any preconceived opinion as to his relative security risk. The personal relationship may be avoided by the head of the activity designating alternates to serve on the security screening board or by creating a special board to screen a case when such action is warranted.

e. Same membership on board throughout case. -- Except in exceptional circumstances the three members who screen a security case must be present during all the proceedings and continue to serve on the case until they render the board's recommendation.

f. Modification of military-civilian ratio. -- In small activities, the membership of security screening boards may be modified to consist of two military members and one civilian member.

g. One board for geographical area. -- Where several small activities occupy the same geographical area, such activities may, by mutual agreement, establish one security screening board to serve all activities concerned.

h. Board optional in very small activities. -- In very small activities where the volume of work on the security program

is such that the head of the activity may personally screen cases, and he elects to do so, he is not required to establish a security screening board.

2-6. ESTABLISHING OFFICE OF THE EXECUTIVE SECRETARY OF THE SECURITY HEARING BOARD OF THE ACTIVITY.

★a. Purpose. Operation of a security hearing board convened to hear the case of a Navy employee will be under the administrative jurisdiction and control of the head of the Naval activity employing the subject of the hearing, regardless of the composition of the board or the command jurisdiction of the board members (NCPI 29.2-9f(4)). In order to provide for this central control, the head of each Naval activity should select a civilian employee of his activity to serve as the permanent Executive Secretary for the security hearing board for the activity (the Board membership will vary from case to case (see NCPI 29.2-7) but the Executive Secretary will be permanently assigned). The person named must have been the subject of a full field investigation or background investigation (as defined in Chapter 15 of the Navy Security Manual for Classified Matter) completed with satisfactory results, and his selection must have been determined to be clearly consistent with the interest of the national security. If possible, the person selected should be someone previously associated with the Navy Department Loyalty-Security Program.

b. Review by Secretary of the Navy of the qualifications of persons designated as Executive Secretary. In order to assure the high caliber of Executive Secretary of the security hearing board, the Secretary of the Navy shall periodically review the qualifications of persons selected for the position. All naval activities, departmental and field, selecting persons for position of Executive Secretary shall furnish to the Department (OIR Code 110), for review by the Secretary of the Navy, a report concerning the person appointed. The information furnished shall include: the person's name, his grade or rating, rank (if military) official title, a brief description of his regular duties, office, telephone

number, and a statement as to whether he meets the character and investigative requirements of NCPI 29.2-6a. Commands shall inform the Department (OIR Code 110) of changes in this assignment by referencing the original report submitted and indicating the changes. This report has been assigned the symbol EXOS-12029-3.★

2-7. ESTABLISHING THE SECURITY HEARING BOARD OF THE ACTIVITY.

a. Navy departmental and field activities located in the District of Columbia, Montgomery and Prince Georges counties Maryland, and the city of Alexandria and Arlington and Fairfax counties, Virginia. -- The Department of Defense establishes and maintains its own security hearing roster for the Washington, D. C., area. This roster is composed of the names of persons nominated for this purpose by the three military departments and the Office, Secretary of Defense. The official roster is kept by the Director of Personnel, Office of the Secretary of Defense, and security hearing boards will be selected from this roster and established as follows. The Executive Secretary (see NCPI 29.2-9e) of the activity Security Hearing Board will request the Chief of Industrial Relations to establish a board to adjudicate any security case in the defined metropolitan area of Washington, D. C. in which the employee has been issued charges and thereafter requests a hearing. The Executive Secretary may make his request by telephone call to Code 131, Extension 76015, but must confirm the request in writing addressed to the Chief of Industrial Relations (OIR Code 110a). The executive Secretary in his request will specify the location in the Washington, D. C. area at which the Board will sit, the number of persons needed to constitute the board, and whether he desires that any of the members be military officers. In the absence of some special circumstance justifying five members, the Board will be composed of three members.

b. All Naval activities in the continental United States (except the metropolitan area of Washington, D. C.) and in Alaska, Hawaii, Panama Canal Zone, Puerto Rico, and the Virgin Islands

(except those activities in these five specified overseas areas and the continental United States which are geographically isolated from activities of other Federal departments and agencies). --The U. S. Civil Service Commission maintains in its regional offices security hearing rosters for activities of the Federal government located in areas under jurisdiction of the regional offices. These rosters are composed of the names of persons designated for this purpose by the field activities of the Federal government. The Civil Service Commission requested that each field activity or installation having 500 or more full-time employees designate persons possessing the highest degree of integrity, ability, and good judgment, to be available for service as members of security hearing boards of other departments and agencies. It is desirable that military officers designated to the roster be of the rank of Major (USMC) or Lieutenant Commander (USN) or above, and that civilians designated be of grade GS-12 or higher grade. Activities of this class in the Navy are responsible for submitting names of qualified persons (exclude security officers and investigators) to the regional office of the Civil Service Commission having jurisdiction in the area of the activity submitting the names. The list of designees is submitted in duplicate to the regional office. ★ ★ The list must contain the following information: the name of each person designated; his place of employment (activity, street, city, and state); the telephone number of the office through which arrangements can be made for his services on the security hearing board; and a statement by the submitting officer that each person named on the list has been the subject of a full field investigation completed with satisfactory results and that his designation has been determined to be clearly consistent with the interest of the national security. In the case of military officer designees the letter must state that officer personnel will serve only on boards of activities of the other military departments. The Board hearing the case of a Navy employee must be composed of persons other than those assigned to or employed by activities of the Department of the Navy. It is

desirable that persons selected from the roster by activities be assigned to or employed by activities of the other military departments; if this cannot be done, persons selected may be employees of other Federal agencies. It is generally desired that Boards be comprised of one military officer and two civilians. Heads of activities employing 500 or more civilians are urged to enter into voluntary arrangements with heads of nearby Army and Air Force installations of like size to supply on a reciprocal basis a complete security hearing board of at least three members when a hearing is necessary. Where installations of all three military departments are located in approximately the same area a mutual agreement between all the installations should be possible. The arrangement must be coordinated with the Director of the regional office of the Civil Service Commission, since that office will have the roster of persons available for such service, and selection must be made from that roster by the Executive Secretary, subject to the approval of the head of the activity. Activities of the class specified, under such an arrangement, must assure that sufficient personnel have been designated by them to the Civil Service region roster to form a complete security hearing board.

c. Services of Board limited to one case except where otherwise approved by Chief of Industrial Relations.

- (1) The Board selected in accordance with NCPI 29.2-7a and b will serve for one case only, except as provided in (2) below. This is required to avoid working undue hardship on the board member or his employer through too frequent or too lengthy absences from assigned duties. The rosters will contain sufficient names to permit rotation of board duty.
- (2) In some instances a Naval activity may have a series of security cases scheduled for hearing at approximately the same time. Because of the special circumstances involved it might be more advantageous and more economical to assign the several cases in sequence to the Board then sitting at the Naval activity, than to convene a

series of boards. When this is the case, the head of the Naval activity should request authority from the Chief of Industrial Relations (OIR Code 110) to continue the Board in session until the several cases are heard. The request should contain the name, rank or grade, position and parent organization of each Board member, so that OIR may secure approval of the appropriate departmental headquarters to continue the detail of its personnel to the Naval activity. The request should state also the number of cases to be heard so that the approximate time of service involved may be estimated. Conversely, Naval activities detailing personnel to other agencies of the Federal government should accord the same procedure in similar circumstances. Such other agencies must obtain approval of the Chief of Industrial Relations (OIR Code 110) to hold Naval personnel for the period necessary to hear their series of cases. The agency desiring to hold the Board member should address its request to the Chief of Industrial Relations (OIR Code 110) via the head of the Naval activity employing the board member. The agency should fully identify the board member, and state the number of cases for which he is to sit. The head of the Naval activity, in forwarding the request to OIR, should state his approval of or objections to such extended service.

d. All Naval activities in overseas areas other than in Alaska, Hawaii, Panama Canal Zone, Puerto Rico, and the Virgin Islands. --Heads of such activities will convene security hearing boards, when required, composed of persons assigned to or employed by the activity employing the subject of the hearing. The persons selected must possess the highest degree of integrity, ability, and good judgment. The head of the activity, in the order convening the board, must state that the persons selected have been the subject of a full field investigation or background investigation (as defined in Chapter 15 of the U. S. Navy Security

Manual for Classified Matter) completed with satisfactory results, and that the selection has been determined to be clearly consistent with the interest of the national security.

e. All Naval activities in isolated areas, anywhere. --Heads of such activities will convene security hearing boards, when required, composed of persons from their own military and civilian rolls to hear cases on their employees. The persons selected must be of the high caliber stated above, and the head of the activity must state in his order convening the Board that the persons selected have been the subject of a full field investigation or background investigation (as defined in Chapter 15 of the Navy Security Manual for Classified Material) completed with satisfactory results, and that the selection has been determined to be clearly consistent with the interest of the national security. Further, the head of the activity must state: that the Board is so constituted because the isolated location of the activity makes it impracticable to seek members from other agencies of the Federal government; and, that the persons selected to serve on the Board do not know the person who is the subject of the hearing.

f. Availability of activity designers for service on Security Hearing Boards. -- It is recognized that many of the individuals named by the naval activities to the Security Hearing Board roster are occupying responsible positions which require close attention to pressing business, and that the urgency of their regular duties causes them to be reluctant at times to serve as members of Hearing Boards. However, unavailability for service for other than the most compelling reasons can seriously delay and impair the effectiveness of the security program. Roster members shall be released from their obligation to serve on Security Hearing Boards only when justified by compelling reasons which have been approved by the head of the activity. The need for prompt adjudication of security cases is self evident. Activities concerned are relied on to furnish strong support to this end by seeing to it that their roster members are adequate in numbers and serve when

called. Each activity shall maintain a continuing review of the number of individuals designated for the Security Hearing Board Roster and insure that the maximum number possible have been designated and are available for assignment to Security Hearing Boards. Further, each activity shall make known to the persons designated to the Roster that they shall serve on Security Hearing Boards when selected, unless they are excused for compelling reasons approved by the head of the activity. Naval activities encountering difficulty in assembling Security Hearing Boards should request the appropriate Naval District Headquarters to confer with equivalent functions of the Army and Air Force in the area with a view to overcoming the difficulty. If a satisfactory resolution of the difficulty cannot be made in the area the matter should be referred to the Chief of Industrial Relations (OIR Code 110), to be taken up with officials of the Department of the Army and Department of the Air Force.

★g. Review by Secretary of the Navy of the qualifications of persons made available by the Department of the Navy for service on security hearing boards. In order to assure the high caliber of security hearing boards, the Secretary of the Navy shall periodically review the qualifications of persons made available by the Department of the Navy for service on security hearing boards. All naval activities, departmental and field, designating persons for service on security hearing boards shall furnish to the Department (OIR Code 110), for review by the Secretary of the Navy, a complete list of the persons designated. The information furnished shall include each person's name, his grade or rating, rank (if Military), official title, a brief description of his regular duties, and a statement as to whether he meets the character and investigative requirements of NCPI 29.2-7. Commands shall inform the Department (OIR Code 110) of changes to the list submitted in accordance with these instructions by referencing the original list submitted and indicating the changes. This report has been assigned the symbol EXOS-12029-4. ★

2-8. ★ESTABLISHING THE NAVY DEPARTMENT SECURITY REVIEW BOARD.

a. **Title.**--Pursuant to the provisions of Public Law 733 (81st Congress) and Executive Order 10450, the Navy Department Security Review Board is hereby established. The Navy Department Security Appeal Board, previously known as the Navy Department Loyalty and Security Appeal Board and the Navy Department Loyalty Appeal Board, is hereby disestablished.

b. **Composition of Board.**

(1) **Members.** Board personnel must possess the highest degree of integrity, ability and good judgment, and must have been the subject of a background investigation completed with satisfactory results (Article 1502.3 and Article 1510.2, Chapter 15, U.S. Navy Security Manual for Classified Matter, OpNav Instruction 5510.1A), or its equivalent. Board members shall be appointed by the Secretary of the Navy. The Board shall consist of a permanent civilian Chairman, nominated by the Chief of Industrial Relations; of a permanent military member, a flag officer of the U. S. Navy, nominated by the Chief of Naval Operations; and of civilian members, one of whom shall be nominated from employees under his cognizance by the Chief of each Bureau, Office and Service of the Navy Department with the exception of the Office of the Chief of Naval Operations, by the Commandant of the Marine Corps, and, when assigned to the Navy, by the Commandant of the Coast Guard. The permanent civilian Chairman, the permanent military member, and a third member representing the Bureau, Office, Service, or Headquarters having cognizance over the employee whose case is under consideration, shall constitute a quorum in each case involving an employee suspended under the security program, except

13 September 1955

C. S. 595

8

5000692

that when the case involves an employee of an activity under the cognizance of the Chief of Naval Operations, such third member will be designated by the Chief of Naval Operations from among the other civilian members with the concurrence of the Chief of the Bureau, Office, Service, or Commandant who nominated the designated member. The Chairman and one other member of the Board may constitute a quorum for review of security determinations not involving employees suspended. An alternate or alternates for any member of the Board may be nominated and appointed as heretofore provided for principal members. Vacancies will be filled by nomination and appointment as heretofore provided for original appointment.

- (2) Executive Secretary. The Executive Secretary shall be nominated by the Chief of Industrial Relations and appointed by the Secretary of the Navy. He shall meet the general qualifications prescribed above for board members. He will perform all of the duties customarily performed by an executive secretary, will have immediate charge of all the administrative duties of the Board under the direction of the Chairman, and will have general responsibility for advising and assisting the Board members and exercising executive direction over the staff.
- (3) Legal Counsel. The Judge Advocate General of the Navy will designate legal counsel to advise the Board during the course of a review and to furnish such other assistance of a legal nature as may be required. ★

2-9. RESPONSIBILITIES.

a. Office of Industrial Relations. --The Office of Industrial Relations has the following responsibilities in the operation of the security program:

- (1) To prepare instructions deemed necessary to implement statutes and executive orders relating to security matters involving civilian

employees of the Naval Establishment.

- (2) To advise activities of the Naval Establishment on all problems relating to employee security.
- (3) To disseminate information pertinent to the employee security program.
- (4) To make reports and to submit recommendations to the Civil Service Commission regarding the security program.
- (5) To maintain a complete record of all security cases under Executive Order 10450, as amended, in such fashion that such records can be made available to representatives of the Civil Service Commission for inspection and review in connection with the work of the Commission.
- (6) When cases are closed, to maintain the complete files in all cases adjudicated under Executive Order 10450, as amended, in such fashion that these files can be made available to the representatives of the Civil Service Commission for inspection and review in connection with the work of the Commission.
- (7) To receive from the Civil Service Commission security cases and transmit them to employing activities, ★ ★ with instructions for processing such cases.
- (8) To review the cases of all civilian officers and employees with respect to whom there has been conducted a full field investigation under Executive Order No. 9835 of 21 March 1947, and after such further investigation as may be appropriate, will cause to be re-adjudicated, in accordance with Public Law 733, 81st Congress, such of those cases as have not been adjudicated under a security standard commensurate with that established under Executive Order 10450, as amended.
- ★ (9) To review security cases, other than those of employees suspended under Executive Order 10450, as required by Executive Order 10450.
- (10) To pre-audit proposed charges developed by employing activities in security cases.

- (11) To post-audit files on security cases and to remand for further action those which do not fully meet the security and procedural requirements of the security program. ★

b. Office of Naval Intelligence and District Intelligence Office.

- (1) Liaison with other investigative agencies. --The Office of Naval Intelligence and its District Intelligence Offices are responsible for liaison with other investigative agencies of the Federal Government, such as Military Intelligence and the Federal Bureau of Investigation, and for making, or for having made by the Federal Bureau of Investigation, security investigations as requested by Naval activities. The FBI will conduct all security investigations of Navy employees except where the FBI, by special agreement with ONI, makes other arrangements. Accordingly, when an investigative report in the custody of another agency is needed, or when a security investigation on an employee is required for the purposes of this Instruction, heads of Naval field activities will make their requests of appropriate District Intelligence Offices, and Departmental activities will make their requests of the District Intelligence Office, Potomac River Naval Command.
- (2) Clearance of individual cases with Office of Naval Intelligence. --Since the Office of Naval Intelligence has certain responsibilities for security, it is necessary that heads of activities, before initiating removal action against an employee, determine whether or not removal action would be prejudicial to investigation under way or planned. The appropriate Intelligence Office will advise as soon as possible whether or not the initiation of removal procedures would be premature. Should any questions arise between Naval activities and Naval Intelligence concerning such cases, they should be referred immediately to OIR Code 110.
- (3) Advisory capacity. --The Office of Naval Intelligence and its field activities stand ready to advise heads of activities and members of security screening boards and security hearing boards with respect to the character and nature of subversive and disloyal groups and organizations and their methods and techniques of operation. It is recommended that conferences with appropriate Intelligence Offices for this purpose be arranged. In addition, it is advisable to have members of Security Boards consult with appropriate Naval Intelligence Officers as to the reliability of information contained in confidential reports and the methods employed in securing such information (insofar as security considerations permit), to the end that Boards may form their own opinion as to the propriety of taking action. The Office of Naval Intelligence is a fact-finding body only. It does not draw conclusions for administrative officials, nor does it recommend action to be taken.
- (4) Access of Civil Service Commission representatives to investigative reports. --Whenever Civil Service Commission representatives request access to confidential reports used as the basis for removing an employee, such representatives will be instructed to make their requests of the appropriate Naval Intelligence Officers. These Intelligence Officers will provide the Commission representatives with access to complete security files.
- (5) Additional investigations and credibility of information. --Whenever information in a particular case is inconclusive or further development of information is desired, a request should be made of the appropriate Naval Intelligence Office, stating the precise information needed.
- (6) Furnishing resume of present information in files of FBI: sensitive position. It is the policy of the FBI to furnish the appropriate

Naval Intelligence Office with a "resume of present information in the files of the FBI" when the FBI initiates an investigation under the security program for a sensitive position and does have information on file. The appropriate Naval Intelligence Office is responsible for making this resume available to employing activities, upon request, for immediate information in advance of the completed investigation. If the resume exists, but is not furnished the appropriate Naval Intelligence Office, the Naval Intelligence Office is responsible for securing the resume from the FBI and furnishing it to the employing activity, upon request.

c. Chiefs of Bureaus and Offices, the Commandant of the Marine Corps, and heads of field activities. --Chiefs of Bureaus and Offices, the Commandant of the Marine Corps, and heads of field activities are responsible for the following:

- (1) Initiating action looking toward the removal or clearance of employees under their command in accordance with this Instruction when derogatory information of a security nature is received.
- (2) Requesting through appropriate Naval Intelligence Office, security investigations of employees, upon receipt of any information which raises a question as to the security risk involved in their continued employment.
- (3) Nominating for appointment to, or appointing, as appropriate, employees as members of Security Boards in accordance with the provisions of NCPI 29.2-5, -6 and -7.
- (4) ★ Forwarding to the Secretary of the Navy (OIR Code 110) for pre-audit, proposed charges against employees under the security program. The head of the activity may, in extreme cases which require immediate suspension of the employee, suspend him without submitting proposed charges to the Department for pre-audit. In such instances, the

Secretary of the Navy (OIR Code 110) shall be immediately notified of the name of the employee, the employee's rating or grade, the salary, the sensitivity of position, and the facts which required the employee's immediate suspension. Other than in cases of emergency suspension, the head of the activity shall not suspend employees under the security program until he has received information that the Secretary of the Navy has approved the charges submitted to the Department for pre-audit. Upon receipt of such information, the head of the activity shall immediately furnish the employee with the charges and suspend him from employment. The head of the activity must suspend an employee under authority of Public Law 733 at the time he issues charges to the employee under that authority. The head of an activity should not suspend an employee prior to issuance of charges except in cases where the circumstances are such that the retention of the employee in an active duty status may be detrimental to the interests of the Government. In such exceptional cases the employee may be temporarily assigned to duties in which this condition would not exist, or placed on annual leave, provided he has sufficient leave to his credit to cover the required period, placed on leave without pay with his consent, or suspended under Public Law 733 provided that charges are issued within thirty days of the effective date of suspension. No employee will be removed under authority of Public Law 733 and Executive Order 10450, as amended, until the Secretary of the Navy makes his determination on the case. ★

- (5) Having the Attorney General's list of organizations, CSC Form 385 (see NCPI 29.2-4) placed on official bulletin boards. A supply of the printed list is available for this purpose at District Publications and Printing Offices. Activities should

- requisition therefrom sufficient copies for posting on official bulletin boards. The Attorney General's list is amended from time to time; such amendments should be requisitioned and posted whenever activities are informed by amendment to NCPI 29 that the list has been amended.
- (6) Placing in the employee's official personnel folder (on the permanent side) a signed statement as follows: "Processed under Executive Order 10450, as amended, on (date)," when such action has been completed on his security case. Further, the official personnel folder of an employee upon whom an FBI full field investigation has been received under the security program should contain (on the temporary side) a directive to the personnel officer or the industrial relations officer to notify OIR Code 110 if at any time thereafter the employee is separated for any reason. The notification should state the reason and effective date of such separation.
- (7) Notifying OIR Code 110, Navy Department, Washington 25, D. C., immediately of the following action when taken (Report Symbol EXOS-12029-1):
- (a) ★ When an employee has been suspended following approval of proposed charges in the Department. The employee concerned must be identified by name, rating or grade, salary, and sensitivity of position. ★
 - (b) Of cases pending in excess of 60 days, with justification for delay in processing.
 - (c) Anticipated separation for other reasons (RIF, resignation, etc.) of any employee whose case is pending final decision of the Secretary of the Navy on adverse security recommendation of the activity. This information should be given as far in advance of the effective date as possible.
 - (d) The date and reason for separation of an employee upon whom an FBI full field investigation has been received and who is thereafter at any time separated for any reason.
- (8) Compliance with the appropriate provisions of NCPI 29.
 - (9) Disposing of files in accordance with the provisions of this Instruction.
 - (10) Maintaining relationship with the Office of Naval Intelligence in accordance with NCPI 29.2-9b.
 - (11) Keeping the activity Security Officer informed of all determinations made by the Security Hearing Board and by the activity Commanding Officer, regarding any employee of the activity.
 - (12) The Civil Service Commission will furnish to employing activities a notice that the FBI has initiated investigation on sensitive positions. The notice, at times, will state that the FBI will furnish a "resume of present information in the file of the FBI" in such sensitive cases, upon request. The head of the activity should request this resume, if required, from the appropriate Naval Intelligence Office (see NCPI 29.2-9b(6)).
 - (13) Warning employees to recheck the list published by the Attorney General pursuant to Executive Order 10450 (NCPI 29.8-Encl. 4) to make sure they are not associated with any of the organizations cited, and if they are, to discontinue such associations; cautioning employees to check their insurance policies to assure no connection with the above designated list.
 - (14) Giving proper counsel to their employees concerning the various means by which they may unwittingly expose themselves to unfavorable or suspicious appraisal. Counsel, when given, should be along the line indicated in NCPI 29.8-Encl. 10.
 - (15) The warning and counseling provisions indicated in 2-9c(13) and (14) will be made a part of the indoctrination training curriculum for all new employees. (See NCPI 230.15-2.)

d. Security Screening Board. --This Board will have the authority and responsibility to evaluate security cases and make recommendations to the head of the activity as to procedure appropriate in each case. The Board may not issue charges or conduct hearings, but it may, in connection with its evaluation of cases, issue interrogatories, conduct interviews, and prepare proposed charges to be issued by the head of the activity. The Board's recommendations will be signed by all board members, supported by a rationale, and be included in the complete file of the case.

e. Executive Secretary of the Security Hearing Board. --The Executive Secretary is required:

- (1) To maintain liaison on security hearing board matters with the Civil Service regional office having jurisdiction in the geographical area of the Naval activity, or with the Office of Industrial Relations in the metropolitan area of Washington, D. C. (NCPI 29.2-7a).
- (2) If the Naval activity is one previously requested by OIR to designate officers and employees to security hearing board rosters (see NCPI 29.2-7b) to make a check once every three months of personnel at the activity who have been named to the security hearing board roster to ascertain their availability for hearing board service during the ensuing three months period and to notify the appropriate Civil Service regional office appropriately.
- (3) Subject to the introductory condition above, and to the approval of the head of the activity, to obtain replacements from the activity for the security hearing board roster of the Civil Service regional office. Designations of replacements are to be sent directly to the Civil Service regional office, with an information copy to OIR Code 110. Designations will specify that the person named has been the subject of a full field investigation (or a background investigation under Department of the Navy directives) completed with satisfactory results, that the head of the activity per-

sonally vouches for his character, ability, discretion and integrity, and that the designation has been determined to be clearly consistent with the interests of national security.

- (4) To receive and maintain controls on cases received from the head of the activity for hearing (NCPI 29.2-9f(4)).
- (5) To make contact with the Civil Service regional office to obtain members for the security hearing board to hear individual cases, except for those geographic areas stipulated in NCPI 29.2-7. This will involve contact with installations and persons on the roster to ascertain availability and to make arrangements for their participation. It is generally desired that the board be comprised of one military officer and two civilians. Selections should be made so as to minimize travel. Any unusual difficulties in obtaining persons to serve should be reported to the Chief of Industrial Relations (OIR Code 110), informing of the steps which were taken to secure their services.
- (6) To complete final negotiations with personnel who are to serve on the security hearing board and to request the employers of each of the board members to issue any necessary travel orders. In so doing, the employers of the board members will be advised of the place where the hearing is to be held and the dates upon which service will be required. Board members should be informed that it is generally necessary for the board to meet in executive session on the day before the hearing and immediately following the hearing, probably on the day after the hearing. The name of the employee whose case is to be heard should not be included in the travel orders so that the orders will not have to be classified.
- (7) To assure that all members of the hearing board panel have an opportunity to review the entire case file prior to the hearing.

- (8) To transmit invitations to qualified witnesses in accordance with NCPI 29.4-12f as far in advance of the hearing as possible.
- (9) To notify the employee of the time and place of the hearing.
- (10) To make all physical arrangements for the hearing at the activity. This action will include at least the following: a hearing room; a witness room (two, if Government witnesses are to appear); stenographic and clerical assistance for the hearing; a mechanical recording device with a qualified operator if necessary; and any other details necessary for the hearing.
- (11) If requested by the board, to obtain and make available to the board stenographic and clerical assistance in the preparation of the board's findings and determination.
- (12) To assure that the case file is returned promptly from the security hearing board and when received to review to ascertain that all documents are present and that the board's findings have been signed by all board members. The completed case will be transmitted to the head of the activity (NCPI 29.2-9f(4)).
- (13) To supply members of the board with statements covering periods of service as a board member.
- (14) To take any other action considered necessary in the development of the case and presentation of a complete record to the board.

f. Security Hearing Board of the activity. --A security hearing board is established when needed by the head of the activity in the name of the Secretary of the Navy to conduct hearings, and to act in an advisory capacity to the Secretary of the Navy in making its findings and recommendations. The prime function of a security hearing board in each individual case is (1) to insure that individuals privileged to be employed in the Federal service are reliable, trustworthy, of good conduct, and of complete and unswerving loyalty to the United States; and (2) to afford to the individual being heard fair, impartial, and equitable

treatment. Subject to the administrative control of the head of the activity (see (4) below), the responsibilities of a security hearing board in the performance of its duties include the following:

(1) Obtaining information.

- (a) The employing activity will make available to the board a complete record of the case. Each board member will familiarize himself with all details in the case.
- (b) The board will give every reasonable opportunity to the employee to be heard and to present evidence.
- (c) The board, by means of pointed questions, will thoroughly explore all matters at issue and inform the employee of the derogatory information, as fully as security considerations permit, in order that he may clarify, explain, or refute that information.

(2) Safeguarding security.

- (a) All board members will be constantly alert to avoid any unauthorized or improper disclosure of information affecting the national security. Board members should be familiar with and abide by the security regulations of the Department of the Navy.
- (b) All members of hearing boards, particularly the chairman, are cautioned not to permit disclosure of confidential sources of information or investigative methods, or a line of questioning tending to identify such sources or methods.
- (c) Generally, the charges to the employee will indicate the information which may be divulged to him without compromising confidential sources. Boards may elaborate or clarify details of the information, but under no circumstances is the identification of confidential sources permitted.

(3) Fairness and impartiality.

- (a) The board will take whatever action is necessary to insure the employee full and fair consideration of his case at the hearing, as well as in the preparation of the findings and recommendations.
- (b) The board members will avoid the attitude of a prosecutor but nevertheless will make sure that all relevant and procurable evidence is adduced for the record.
- (c) The board, in making its determination, will take into consideration the inability of the employee to meet charges of which he has not been advised specifically in detail, because of security reasons, or to attack the credibility of witnesses who do not appear.

(4) Security Hearing Boards under the administrative control of the head of the Naval activity and subject to security regulations of the Department of the Navy. -- The Security Hearing Board will carry out its assigned duties in accordance with the security regulations of the Department of the Navy and will at all times be under the administrative control of the head of the Naval activity convening the Security Hearing Board. In the event of any conflict between the security regulations of the Department of the Navy and the provisions of Civil Service Handbook 203, GUIDES FOR MEMBERS OF SECURITY HEARING BOARDS UNDER EXECUTIVE ORDER 10450, the security regulations of the Department of the Navy will govern. The Security Hearing Board will submit its letter of decision and memorandum of reasons therefor to the Secretary of the Navy via the head of the Naval activity. Under no circumstances will a copy of the Security Hearing Board's decision or memorandum of reasons therefor be made available to the employee, his counsel or his

representative. Copies of transcripts or of any correspondence shall be forwarded to the employee, his counsel or representative only via and with the approval of the head of the Naval activity.

g. Navy Department Security ★ Review ★ Board. -- ★ The Navy Department Security Review Board shall review for the Secretary of the Navy all cases, including cases now pending before the Navy Department Security Appeal Board, previously known as the Navy Department Loyalty and Security Appeal Board and the Navy Department Loyalty Appeal Board, of employees suspended under the provisions of Public Law 733 (81st Congress) and Executive Order 10450, in such a manner that maximum protection will be afforded the Navy against employment or retention in employment of civilian personnel whose employment or retention in employment is not clearly consistent with the interests of the national security, while assuring that employees are accorded fair and impartial treatment by the Government. ★ The Board will have the authority and responsibility:

- (1) To review cases involving security and to make such advisory recommendations with respect thereto to the Secretary of the Navy as the Board will duly approve.
- (2) ★ The Board will not review any case until the appropriate administrative procedures have been complied with.
- (3) No review will be made by the Board of material or representations submitted in rebuttal to notification that an adverse decision has been made by the Security Hearing Board or that an adverse recommendation is contemplated by the Security Review Board unless the rebuttal is filed with the Board within twenty calendar days (within 30 calendar days in the case of persons living outside the continental limits of the United States) after the employee has been advised by the Review Board of the adverse decision or the contemplated adverse recommendation.
- (4) The employee must have submitted all his evidence in hearings below, and a decision must be had thereon before this Board will consider any

- rebuttal submitted by the employee. Cases on review will be considered upon the complete file and on briefs submitted by, or on behalf of, the employee. ★
- (6) If the Board, either before, during or after considering a case is of the opinion that further evidence should be taken or amplification of the record should be made below, it may remand the case for reconsideration and for the taking of such further evidence as it may direct.
- h. Secretary of the Navy.
- ★ (1) Secretarial approval of charges prior to suspension. -- Except in extreme emergencies requiring immediate suspension, no employee will be suspended until the charges upon which the suspension will be predicated have been pre-audited in the Department and approved by the Secretary of the Navy.
- (2) Unfavorable determinations on security. -- The authority contained in Public Law 733 to remove an employee in the interest of national security may not be exercised by officials below the Secretarial level. No employee will be removed on security grounds until so directed by an official at the Secretarial level.
- (3) Favorable decision at activity following suspension of the employee. -- Employees suspended by heads of activities under Public Law 733, 81st Congress, will be restored to duty only at the direction of the Secretary of the Navy, despite the fact that the activity may have made a favorable decision following suspension.
- (4) Secretarial review of Hearing Board Rosters. -- The Secretary of the Navy periodically reviews the list of persons made available by the Department of the Navy for service on security hearing boards (NCPI 29.2-7g) and for service as Executive Secretary of security hearing board (NCPI 29.2-6b) in order to assure the high caliber of these boards.
- (5) Consultation with other agencies. -- Whenever the Secretary of the Navy proposes to make an adverse security decision with respect to a person who has been cleared previously in another agency, prompt consultation with the head of that agency will be made to make certain that all relevant information has been given consideration and that the security standard has been properly applied. ★
- i. Legal Counsel. -- ★ Legal counsel, either military or civilian, shall be provided by the Commanding Officer or by the Commandant of the District or River Command (or equivalent command) to assist Security Screening Boards and Security Hearing Boards. ★ It is advisable that such legal counsel be responsible for advising the security screening boards on procedures and for assisting them in drafting charges and official notices. Upon request of Security Hearing Boards, counsel shall be responsible for presenting evidence and arguments on behalf of the Naval activity in security hearings, for examining and cross-examining employees and witnesses, for pointing up the issues involved, and for otherwise advising and assisting the Security Hearing Boards. ★ The legal counsel is also responsible for advising the employee on procedures and of his rights under Public Law 733 (81st Congress) and Executive Order No. 10450, as amended, and the pertinent regulations, where the employee is not represented by counsel. Hearings will not be conducted in a manner similar to criminal prosecutions and it is not required that they be conducted in accordance with judicial processes. Nevertheless, counsel shall use his utmost efforts to protect the interests of the government and the rights of the individual. ★ Legal counsel must meet the same security qualifications for assignment to Security Boards as that prescribed in 29.2-5c for screening board members.
- j. Judge Advocate General. -- Upon request of the Chairman, Navy Department Security Review Board, the Judge Advocate General will designate one civilian attorney and one alternative civilian attorney in his office to act as legal counsel for the Navy Department Security Review Board. It will be the responsibility of

such legal counsel to advise the Board during the consideration of an appeal or the course of a review and to give such technical assistance to the Board as may be required.

2-10. RELEASE OF INFORMATION.

a. Progress of program. --No publicity on the progress of the security program may emanate from any source other than the Office of the Secretary of the Navy.

b. Privacy of all security matters. -- From the inception of the security program, it has been the purpose and intention of the Department to retain, so far as possible, privacy in all security hearings, and to carry out all security proceedings fairly and impartially and wholly upon the record as made under the program. At times various unauthorized persons have sought opportunity to discuss matters concerning the security status of some particular employee then under inquiry. All persons engaged in the security program are directed to advise any such inquiring unauthorized person or persons seeking to discuss pending cases, that under the rules of the Navy Department, all such conversations or conferences with such persons with reference to any pending security case or security proceeding are specifically forbidden. ★ The names of individuals separated under the employee security program shall not be released publicly. However, it is recognized that an individual who is separated under the program has the right to volunteer the release of his own name. ★

c. Information with regard to security matters. --Inquiries from persons, other than those of the Executive Branch entitled to information by reason of their official duties, regarding pending or favorably closed security cases will be referred to the Secretary of the Navy (OIR 110). If an employee has been separated as a security risk, replies to requests from outside the Executive Branch for information about that individual may be made by activities but replies must state only that he was separated for reasons relating to suitability for employment in the Department of the Navy. No exceptions may be made except as authorized by the Secretary of the Navy.

d. Confidential status of security cases. --In a memorandum in the Federal Register of 16 March 1948 (Federal Personnel Manual, Z1-181) the President directed that employee loyalty records kept confidential. The same requirement applies to security records. Accordingly when any subpoena or demand or request for information, reports, records or files relative to employees (including investigative reports), is received from sources other than persons of the Executive Branch entitled to such material by reason of their official duties, such subpoena or demand or request shall be declined, and OIR Code 110 immediately notified of such action. This does not alter the provision of NCPI 29.4-13, which requires that one copy of the transcript of hearing be given to the employee or his representative upon request.

e. Confidential status of reports. In order to protect the sources of confidential information, it is imperative that such reports as are provided by Naval Intelligence and other investigative agencies be kept strictly confidential. Therefore great care must be exercised in preparing a security case to avoid the disclosure of a report of sources of information. No case may reports be disclosed to unauthorized persons or copies made in field or departmental activities (except Naval Intelligence Offices). In all cases those officials and members of security boards requiring confidential reports for the purposes of effectuating this instruction will return them directly to the authorized custodians when they have served their purpose.

2-11. DESIGNATION AND RIGHT OF COUNSEL.

a. Any employee who is entitled and desires to exercise his right to hearing before a Security Hearing Board shall be afforded the right to be represented by counsel or representative of his choice.

b. Any employee desiring to exercise his right to such representation shall submit to the Commanding Officer of his activity, in writing, the name and address of his counsel or representative and a statement that the individual so named is authorized to act for him.

5000701

c. The individual named by the employee as counsel or representative shall be entitled to all notices and documents to which, under NCPI 29, the employee may be entitled.

SECTION 3, STANDARD AND CRITERIA

	Paragraph No.
Standard	3-1
Criteria for application of	
Standard	3-2

3-1. STANDARD.--The standard for the refusal of employment or the removal from employment in the interests of the national security shall be that, based on all the available information, it is determined that employment or retention in employment of the person concerned is not clearly consistent with the interests of the national security.

3-2. CRITERIA FOR APPLICATION OF STANDARD.

a. Information regarding an applicant for employment, or an employee, which may preclude a finding that his employment or retention is clearly consistent with the interests of the national security, shall relate, but shall not be limited, to the following:

- (1) Depending on the relation of the employment to the national security:
 - (a) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.
 - (b) Any deliberate misrepresentations, falsifications, or omission of material facts.
 - (c) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.
 - (d) Any illness, including any mental condition, of a nature which in the opinion of competent medical authority may cause significant defect in the judgment or reliability of the employee, with due regard

to the transient or continuing effect of the illness and the medical findings in such case.

- (e) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of the national security.
- (2) Commission of any act of sabotage, espionage, treason, or sedition, or attempts thereof or preparation thereof, or conspiring with, or aiding or abetting, another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.
 - (3) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the government of the United States or the alteration of the form of government of the United States by unconstitutional means.
 - (4) Advocacy of use of force or violence to overthrow the government of the United States, or of the alteration of the form of government of the United States by unconstitutional means.
 - (5) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, Fascist, Communist, or subversive, or which has adopted, or shows, a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or which seeks to alter the form of government of the United States by unconstitutional means.

- (6) Intentional, unauthorized disclosure to any person of security information, or of other information disclosure of which is prohibited by law.
- (7) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.
- (8) Participation in the activities of an organization established as a front for an organization referred to in subparagraph 5 above when his personal views were sympathetic to the subversive purposes of such organization.
- (9) Participation in the activities of an organization with knowledge that it had been infiltrated by members of subversive groups under circumstances indicating that the individual was a part of or sympathetic to the infiltrating element or sympathetic to its purposes.
- (10) Participation in the activities of an organization, referred to in subparagraph 5 above, in a capacity where he should reasonably have had knowledge of the subversive aims or purposes of the organization.
- (11) Sympathetic interest in totalitarian, Fascist, Communist, or similar subversive movements.
- (12) Sympathetic association with a member or members of an organization referred to in subparagraph 5 above. (Ordinarily this will not include chance or occasional meetings, nor contacts limited to normal business or official relations.)
- (13) Currently maintaining a close continuing association with a person who has engaged in activities or associations of the type referred to in subparagraphs 2 through 11 above. A close continuing association may be deemed to exist if the individual lives at the same premises as, frequently visits, or frequently communicates with such person.
- (14) Close continuing association of the type described in subparagraph 13 above, even though later separated by distance, if the circumstances indicate that renewal of the association is probable.
- (15) The presence of a spouse, parent, brother, sister or offspring in a nation whose interests may be inimical to the interests of the United States or in satellites or occupied areas of such a nation, under circumstances permitting coercion or pressure to be brought on the individual through such relatives.
- (16) Willful violation or disregard of security regulations.
- (17) Acts of a reckless, irresponsible or wanton nature which indicate such poor judgment and instability as to suggest that the individual might disclose security information to unauthorized persons or otherwise assist such persons, whether deliberately or inadvertently, in activities inimical to the security of the United States.
- (18) Refusal by the individual, upon the ground of constitutional privilege against self-incrimination, to testify before a congressional committee regarding charges of his alleged disloyalty or other misconduct.
- b. In the Naval Establishment, refusal of any civilian officer or employee, upon the ground of constitutional privilege against self-incrimination, to testify before a congressional committee regarding charges of his alleged disloyalty or other misconduct, shall be prima facie evidence that the continued employment of such person is not consistent with the interests of national security. Such person shall be immediately suspended from employment under authority of Public Law 733, 81st Congress (see NCPI 29.8-Encl. 5). Subsequent to such suspension, procedures provided in NCPI 29.4-9 through -16 shall be followed.
- c. The activities and associations listed in a above are of varying degrees of seriousness. Therefore, the ultimate determination of whether employment or retention in employment is clearly consistent with the interests of national security must be an over-all common-sense one based on all available information.

SECTION 4, PROCESSING OF CASES

	Paragraph No.
Initial consideration	4-1
Responsibility for consideration	4-2
Securing additional information	4-3
Initial consideration; determination without hearing	4-4
Action in cases of applicants where initial consideration indicates that a finding of refusal of employment on security grounds may be warranted	4-5
Action in cases of appointees where initial consideration indicates that a finding of removal on security grounds may be warranted	4-6
Action in cases of employees where initial consideration indicates a favorable finding on security may be warranted but action on suitability grounds is indicated	4-7
Action in cases of incumbents where initial consideration indicates that temporary reassignment or detail may be desirable	4-8
Action in cases where initial consideration indicates that security is not a paramount consideration but action under other more appropriate authority is indicated	4-9
Action in cases of incumbents where initial consideration indicates that a finding of removal on security grounds may be warranted	4-10
Determination of case after suspension and charges	4-11
Hearing before Security Hearing Board of the activity	4-12
Conduct of hearings	4-13
Determination after hearing	4-14
Security Hearing Board findings and subsequent action thereon	4-15
Action by Navy Department Security Review Board	4-16

Action by Secretary of the Navy	4-17
Notification to individual	4-18

4-1. INITIAL CONSIDERATION.--
 Security cases will be considered initially at the activity employing the subject of a security case. The first step is the screening of the case by the Security Screening Board of the activity to recommend, on the basis of review of the material received and the Civil Service status of the person concerned, the appropriate action to be taken in the case. The head of the activity will make a decision on the recommendation as to subsequent action.

4-2. RESPONSIBILITY FOR CONSIDERATION.

a. All cases of incumbents, appointees and applicants in which an FBI full field investigation report is received will be referred for consideration to the activity Security Screening Board, which will take appropriate action. Action will be taken on every case, whether or not it is deemed sufficiently derogatory to warrant adjudicative action. The Board will make a recommendation to the head of the activity, who will make the decision in every case. ★ Executive Order 10550 amended Section 14 of Executive Order 10450 (NCPI 29.8-Encl. 1) to the effect that each department and agency shall, as soon as possible and in no event later than ninety days after receipt of the final investigative report on a civilian officer or employee subject to full field investigation under the provisions of Executive Order 10450, advise the Civil Service Commission as to the action taken with respect to such officer or employee. The Chief of Industrial Relations is responsible for making such reports to the Civil Service Commission. So that this may be done, it is essential that activities adjudicate full field investigation reports on employees within sixty days of receipt of the reports and forward the complete file to the Chief of Industrial Relations (OIR Code 110) in accordance with the requirements of this section. If for any reason adjudication cannot be made within sixty days activities shall comply with NCPI 29.2-9c(7)(b).★

b. In cases in which the Federal Bureau of Investigation when forwarding reports of investigation points out that there is a report outstanding which has been scheduled at a particular place and that such report of investigation will be transmitted upon completion, no adjudicative action should be taken until such report is received or until the FBI advises that such investigation cannot be conducted for stated reasons. However, if the activity should receive a case of this type in which the facts at hand and the position involved clearly indicate that prompt adjudicative action should be taken, the head of the activity should inform the Chief, Investigations Division, U. S. Civil Service Commission, Washington 25, D. C., via Naval Intelligence, in order that steps may be taken to expedite the outstanding report. In exceptional cases, the Security Screening Board may proceed with adjudication without benefit of the outstanding report if such action is considered necessary.

c. ★ Frequently, the Civil Service Commission furnishes only an FBI memorandum report (or information in lieu thereof), which is transmitted by USCSC Form DI 209. This type of report is based on an FBI check and may or may not include investigation reports. In either case, it is not to be considered identical with the results of a national agency check or a full field investigation. The memorandum report (or information in lieu thereof) will be processed as follows:★

- (1) Transmittal of FBI Memorandum Report, USCSC Form ★ DI 209 on Incumbent. --This form is self-explanatory, and the actions required by it are the responsibility of the employing activity.★ If the head of the activity decides, either upon the recommendation of his security screening board or his own review of the FBI memorandum report, that a full field investigation is required in the case, he should submit a request to the FBI, via the District Intelligence Officer, stating as precisely as possible why he believes that a full field investigation is necessary. He may defer further action pending

receipt of the full field investigation, or, if the memorandum contains particularly derogatory information, proceed immediately as outlined in b above. If the head of the activity decides that the FBI memorandum report is not seriously derogatory, and that a full field investigation is not required, he should place a signed statement in the employee's official personnel folder (on the permanent side) as follows: "Processed under Executive Order 10450, as amended, on (date)." Any of the above actions taken should be reported to OIR Code 110 and investigative material transmitted by OIR should be returned to OIR.★ The report of action will indicate whether a full field investigation is required.★ If the subject of the FBI memorandum report is no longer employed at the time the report is received, it should be returned to OIR Code 110 with a statement as to the date and reason for separation of the employee.

- (2) Transmittal of FBI Memorandum Report, ★ USCSC Form DI 209 on Applicant or Appointee. --If the applicant is appointed or the appointee is retained, the case should be processed in accordance with NCPI 29.8-Encl. 11 or 12, as appropriate. If a full field investigation is required, the head of the activity should address his request for such investigation to the Chief, Investigations Division, U. S. Civil Service Commission, Washington 25, D. C., via the District Intelligence Officer, stating as precisely as possible why he believes that a full field investigation is necessary. Any action taken, as outlined above, should be reported to OIR Code 110 with return of the investigative material transmitted by OIR. The report of action will indicate whether or not a full field investigation is required. If, upon receipt of the memorandum report, the applicant is no longer being considered for employment or the appointee has been separated from

the rolls, the memorandum report should be returned to OIR Code 11C with, in the case of the separated appointee, the reason for the separation and the effective date. ★

d. When a supplemental report is received in a case that was decided under the former loyalty-security standard, the complete file must be reviewed in the light of the current security standard, as well as the information contained in the supplemental report of investigation. The head of the activity will borrow from the District Intelligence Office the complete previous file. The original record will be carefully examined by the Security Screening Board in order to evaluate properly the relevance and materiality of the additional facts in the supplemental reports. The Board will make its recommendation to the head of the activity after a careful examination of the augmented record in the light of the current security standard. The head of the activity will make a decision in the case.

e. In view of the responsibility of the Navy Department to maintain a continuous vigilance in the administration of the security program under Executive Order 10450 it is necessary to review cases based on full field investigations formerly adjudicated under the standard of Executive Order 9835 when the person concerned receives a new appointment in the Naval Establishment. In these cases, Security Screening Boards will carefully review the complete file in the light of the current security standard and consider the cases anew in accordance with this Instruction.

f. It is advisable that the head of the activity provide for the board a representative of the activity (a legal officer, if practicable), who, subject to the direction of the Board, will assist in the preparation of charges when warranted.

4-3. SECURING ADDITIONAL INFORMATION.

a. The Security Screening Board will examine the report of investigation and may request further investigation if such action appears to be necessary. Whenever practicable, such request will be specific as to the additional information

required. Security Screening Board members should, when required, be informed in the techniques and activities of the Communist Party and of each Communist, subversive, or totalitarian group or organization which may be involved in the case being considered. Board members should consult for this purpose with the appropriate Naval Intelligence Office in accordance with NCPI 29.2-9b(3).

b. If, in connection with the consideration of the report of the Federal Bureau of Investigation, the Security Screening Board deems it necessary to seek further corroboration or amplification with respect to confidential evidence submitted, the Board is authorized to communicate with the Federal Bureau of Investigation via the District Intelligence Office, identifying the particular case and the particular evidence involved, and indicating as specifically as possible the points of corroboration or amplification which the Board deems necessary for the proper determination of the case. Upon receipt of such a request, the Federal Bureau of Investigation will give immediate and proper consideration and will report thereon to the Security Screening Board.

c. The Attorney General has advised that where it is necessary to designate sources of information as confidential, the Federal Bureau of Investigation will evaluate or furnish the basis for the evaluation of such sources. Officials of the Federal Bureau of Investigation will be available to advise Security Screening Boards as to the reliability of confidential informants. Special Agents of the Federal Bureau of Investigation will testify before Security Screening Boards where they are in a position to furnish competent evidence. They will not, however, participate otherwise in the proceeding, nor will they be available merely to interpret information appearing in their investigation reports.

d. Security Screening Boards must contact the FBI only through the District Intelligence Office for all purposes above indicated.

e. If the Security Screening Board deems it advisable or necessary to obtain information or clarification of certain

matters from an individual whose case is before the Board, prior to reaching a recommendation as to whether the case should be closed favorably, whether charges should be made, or further investigation should be requested from the Federal Bureau of Investigation, the individual may be given the opportunity, if he so desires, to answer questions by written interrogatories issued by the

Board. Replies to such interrogatories must be signed and notarized. The procedure outlined in NCPI 29.4-10a(6) may also be used in issuing interrogatories. This instruction provides for Security Screening Boards to secure from employees additional information by means of interrogatories prior to reaching a conclusion. The limited use of interrogatories provides a method whereby

a Board may clarify minor matters. ★ However, the interrogatory should not be used as a substitute for an interview. ★ This instruction does not contemplate the use of interrogatories as a means of confronting an individual with information seriously derogatory ★, nor shall the interrogatory be used for this purpose. ★ This instruction provides for issuing charges in cases in which a finding clearly favorable is not warranted.

f. The names of non-confidential witnesses or informants disclosed in Federal Bureau of Investigation reports of investigation are not to be included in notices of charges or interrogatories served on the employee. Confidential sources of information and the identity of confidential witnesses referred to in the reports will not be disclosed to any person not officially connected with the adjudication of the case.

g. An interrogatory concerning association with alleged Communists should not be made unless the Security Screening Board has been first furnished with sufficient factual information, both with respect to the claimed association and the allegation that the persons with whom the employee is charged with association are Communists, so that the Board may intelligently reach a fair conclusion thereon. Boards should take care that the surrounding factual data relating to assertions with respect to employee relations and actions are sufficiently developed in the record, prior to the issuance of interrogatories, so as clearly to assist the Board in reaching a fully considered recommendation.

h. Security Screening Boards are authorized to interview anyone in the personnel complement of the activity including the subject of a security case. In such cases the Board should request that the employee testify under oath, although it must be understood that he is within his rights if he refuses to testify at all or is willing to give only unsworn testimony. The chairman of the Security Screening Board is authorized to administer the oath for this purpose. It should also be understood that the interview is an informal, investigative procedure, not a hearing. Interviews should be conducted in a manner designed to insure the security of

confidential information and sources of information. It is advisable to consider beforehand the objectives of the proposed interview to be sure it will accomplish its purposes. The interview should not be used in place of the interrogatory unless circumstances indicate that an interview would be more effective. ★ However, an interview may be extremely useful in resolving questions of fact and intent, and is preferred to an interrogatory in such instances. ★ A verbatim record should be made of every interview conducted by a security screening board and a copy of the interview must be made a part of the complete administrative file of the case.

4-4. INITIAL CONSIDERATION; TERMINATION WITHOUT HEARING.

a. The Security Screening Board will consider the reports of investigation in the light of the security standard and criteria (NCPI 29.3). The Board will determine whether such reports warrant a recommendation clearly favorable to the individual or appear to call for further processing of the case with a view to possible removal action (or denial of employment). ★ A determination favorable to the individual shall not be based on a premise that continuance of his employment will be of value to the national defense despite existing security factors surrounding his case. ★

b. If the Security Screening Board reaches a clearly favorable conclusion, it shall state: "based on all the available information, it is recommended that the (head of the activity) find that (employment or retention in employment) of the person concerned is clearly consistent with the interests of the national security." The recommendation must be in five copies and all copies must be signed by all board members. Each copy of the recommendation must have attached a rationale, signed by all board members, setting forth the reasons for the recommendation. All copies of the rationale and the recommendation will be submitted to the head of the activity. The Interrogatory (if used) and the reply thereto and the verbatim transcript of the interview (if used) must accompany these papers and also be in five copies. The

FBI reports and any allied papers furnished the activity by OIR to be adjudicated by the activity under the security program will be forwarded to the head of the activity with the recommendation, but only in the number of copies furnished by OIR. These reports may not be reproduced by any activity of the Naval Establishment except Naval Intelligence activities.

c. The head of the activity will make a decision on the recommendation. ★ The decision will specify in each case the sensitivity of the position involved. If the head of the activity concurs with the board's recommendation his decision will be: ★ "based on all the available information, it is my decision that (employment or retention in employment) of the person concerned is clearly consistent with the interests of the national security." The decision must be in five copies and all copies must be signed by the head of the activity. The head of the activity will then forward the original copy and one carbon copy of each administrative action taken to OIR, attention OIR Code 110, and return therewith the FBI reports and allied papers originally furnished by OIR. The three remaining carbon copies of each administrative action taken by the activity will be disposed of as follows: One set to ONI (Op 921D), Navy Department, Washington 25, D. C., one set to the appropriate District Intelligence Office; and, one set to the confidential file of the activity.

d. If the Board recommends adversely to the person concerned but the head of the activity does not accept the recommendation the head of the activity will proceed in accordance with c above. However, he must incorporate into the administrative file his rationale of reasons for not accepting the board's adverse recommendation.

e. If the Security Screening Board recommends favorably to the person concerned but the head of the activity does not accept the recommendation he should proceed in accordance with NCPI 29.4-5, -6, -7, -9, or -10 below, as appropriate.

f. If the Security Screening Board recommends and the head of the activity decides that the reports do not warrant a finding clearly favorable to the person

concerned the procedures of NCPI 29.4-5, -6, -7, -8, or -9, as appropriate, will be followed.

★ g. All violations of law, as disclosed in the investigations and proceedings under the security program, shall be reported immediately to the Office of the Judge Advocate General of the Navy, with information copy to OIR Code 110. ★

4-5. ACTION IN CASES OF APPLICANTS WHERE INITIAL CONSIDERATION INDICATES THAT A FINDING OF REFUSAL OF EMPLOYMENT ON SECURITY GROUNDS MAY BE WARRANTED.

a. The Security Screening Board will consider the reports of investigation in the light of the security standard and criteria (NCPI 29.3). If the applicant does not meet the requirements the Board will recommend to the head of the activity that the applicant not be employed. The head of the activity, if he accepts the recommendation, will refuse employment to the applicant and the case will be considered closed. The complete file will be disposed of in accordance with NCPI 29.4-4c.

4-6. ACTION IN CASES OF APPOINTEES WHERE INITIAL CONSIDERATION INDICATES THAT A FINDING OF REMOVAL ON SECURITY GROUNDS MAY BE WARRANTED.

a. The Security Screening Board will consider the reports of investigation in the light of the Standard and Criteria, and if the appointee does not meet the requirements, will recommend to the head of the activity that the appointee be removed. If the head of the activity approves the recommendation he will separate the appointee administratively. (See NCPI 45 and NCPI 210.) The complete file will be disposed of in accordance with NCPI 29.4-4c.

4-7. ACTION IN CASES OF EMPLOYEES WHERE INITIAL CONSIDERATION INDICATES A FAVORABLE FINDING ON SECURITY MAY BE WARRANTED BUT ACTION ON SUITABILITY GROUNDS IS INDICATED.

a. The Security Screening Board may recommend favorably on security grounds, but suggest action on suitability grounds

under other authority more appropriate to the case than Public Law 733 and Executive Order 10450. The head of the activity will make a decision in the case on the recommendation, and when final action is taken dispose of the complete file in accordance with NCPI 29.4-4c.

4-8. ACTION IN CASES OF INCUMBENTS WHERE INITIAL CONSIDERATION INDICATES THAT TEMPORARY RE-ASSIGNMENT OR DETAIL MAY BE DESIRABLE.

a. Upon approval of the Commanding Officer, an employee holding a sensitive position may be reassigned or detailed temporarily, pending completion of investigation or pending a determination that his suspension under E. O. 10450 is required, to a non-sensitive position in which the interests of the national security cannot be adversely affected by the employee, provided that ameliorating circumstances are present and the derogatory information disclosed is not of the character set forth in sub-divisions 2 through 8 of subsection (a) of Section 8 of E. O. 10450 (NCPI 29.7-Enclosure (1)). Commands will advise the Secretary of the Navy (OIR Code 110) by letter of the circumstances surrounding each temporary reassignment or detail made in accordance with the foregoing instructions. This information, when received in the Department, will be reviewed to insure that the temporary reassignment or detail is clearly consistent with the interests of the national security.

4-9. ACTION IN CASES WHERE INITIAL CONSIDERATION INDICATES THAT SECURITY IS NOT A PARAMOUNT CONSIDERATION BUT ACTION UNDER OTHER MORE APPROPRIATE AUTHORITY IS INDICATED.

a. The Security Screening Board may recommend that the case does not warrant processing under security procedures but that other more appropriate procedures apply in the case. The head of the activity will make a decision in the case on the recommendation and when final action is taken in accordance with his decision, he will dispose of the complete file in accordance with NCPI 29.4-4c.

4-10. ACTION IN CASES OF INCUMBENTS WHERE INITIAL CONSIDERATION INDICATES THAT A FINDING OF REMOVAL ON SECURITY GROUNDS MAY BE WARRANTED.

a. In all incumbent cases in which the evidence indicates that removal on security grounds may be warranted, the Security Screening Board will so recommend, and furnish the head of the activity with proposed charges. It is conceivable that some cases may contain not only derogatory information of subversive nature but also derogatory information which would call into question suitability or justify disciplinary action. It is desirable in such circumstances that where an employee is charged with a series of charges under this section, no charges be included which may be appropriate for handling as a disciplinary or suitability matter, if in the opinion of the command exclusion of such charges will not compromise the security case against the individual. Exclusion of charges which are of a disciplinary or suitability character from security charges will permit later action by command, if desired, under the procedure of NCPI 45 (see NCPI 29.6) in the event the Secretary of the Navy makes a finding on the security charges favorable to the employee. The names of non-confidential witnesses or informants disclosed in Federal Bureau of Investigation reports of investigation are not to be included in the charges. Confidential sources of information and the identity of confidential witnesses referred to in the reports will not be disclosed to any person not officially connected with the adjudication of the case. If the head of the activity accepts the adverse recommendation of the Security Screening Board he will have charges against the employee prepared. The proposed charges shall be immediately forwarded to the Secretary of the Navy (OIR Code 110) for audit prior to issuance of charges to the employee, except in those instances where the circumstances are such as to make immediate issuance of the charges essential to the best interests of the national security. ★ The proposed charges shall be accompanied by the complete report

the security screening board, including the rationale of the members, interrogatories issued and replies received, transcripts of personal interviews, investigative reports, and such comments as the head of the activity may desire to make. To insure the adequacy of review of proposed charges in the Department, the proposed charges shall be reviewed in the Office of Industrial Relations, in the Office of the Judge Advocate General of the Navy, and in the Office of the Secretary of the Navy. ★ This Instruction is not to be construed as curtailing Command's prerogatives to immediately suspend an employee whose continued employment is not considered to be clearly consistent with the interests of the national security, but rather as a means of furnishing commands with proper guidance to insure that Navy's obligations under the security program are effectively discharged. The Instruction in 29.2-9c(4) must be observed when circumstances require that charges be issued without preaudit in the Department. The statement of charges should be in six copies: the original for the employee, the balance to the complete administrative file. The charges will give the employee the following information:

- (1) The charges against him in detail, setting forth with particularity the facts and circumstances relating to the charges so far as security considerations will permit, in order to enable the employee to submit his answer, defense or explanation. Each charge will be preceded by and directly related to one or more of the specific criteria set forth in NCPI 29.3-2.
- (2) His right to answer the charges in writing, under oath or affirmation, and to submit affidavits, within thirty full calendar days of his receipt of the notice of charges (plus an additional thirty days if the charges are amended).
- (3) His right to have an administrative hearing on the charges before the Security Hearing Board, upon his request.
- (4) His right to appear before such Security Hearing Board personally,

to be represented by counsel or representative of his own choosing, and to present evidence in his behalf, provided, however, that the attorney or representative shall not be an attorney or employee of the general counsel's office or legal division of the activity. As a part of item (4) the employee will be advised as follows:

"IMPORTANT NOTICE TO THE EMPLOYEE"

"Any and all evidence which you desire to submit in connection with the matter under consideration should be submitted at the hearing before the Security Hearing Board. No additional testimony may ★, as of right, ★ be introduced into the record for any subsequent review, ★ unless it is ★ in the form of a notarized affidavit. ★ Acceptance of the additional testimony will be subject to the ★ discretion of the Navy Department Security Review Board. It is essential, therefore, that you take care to present all of your evidence, including your own testimony, at the hearing before the Security Review Board if you wish the same to be thereafter considered in the event of an appeal."

- (5) The effective date of his suspension.
- (6) The fact that removal action will not become effective until directed by the Secretary of the Navy.
- (7) The authority or authorities (Executive Order 10450, as amended, and Public Law 733, plus any applicable statutes, such as Section 9A of the Hatch Act, under which the notice is being sent.
- (8) The activity may adopt the practice of furnishing a copy of the Attorney General's list whenever an employee is given charges, and of asking a question designed to elicit information as to the individual's membership or affiliation with any organization appearing on such list. If the activity decides to follow

this procedure, it is suggested that there be inserted in the letter of charges, probably as the last point, the following: "Attached hereto is the list of organizations which have been designated to date by the Attorney General of the United States as totalitarian, fascist, communist, or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny others their rights under the Constitution of the United States, or as seeking to alter the form of Government of the United States by unconstitutional means.

"Are you now or have you ever been a member of, or in any manner affiliated with the Communist Party, U.S.A. ? YES OR NO.

"Are you now or have you ever been a member of or in any manner affiliated with any of the other organizations on the attached list? YES OR NO.

"If either answer is "YES" give complete details of your membership in or affiliation with each organization including (1) the name and location of each such organization, (2) the nature and extent of your activities therein, (3) the approximate dates of your membership or affiliation (4) the titles of any positions or offices held by you in each such organization and (5) such other information as you may consider necessary."

- (9) A statement advising the individual that deliberate misrepresentations, falsifications or omission of material facts may constitute sufficient basis for removal.
- (10) That a copy of NCPI 29 will be made available to him or his counsel or representative, upon request, to prepare his defense.
- (11) A statement advising the employee of the following information:
"The Navy is conscious of its dual responsibility in security matters, both as guardian of classified in-

formation essential to the nation's security and as the employer of one of the nation's largest groups of devoted and loyal public servants. It is to the Government's interest as well as your own that your case be presented properly and fully and not be handicapped because of lack of legal counsel. The full development of all the facts is essential to a final decision in your case. This provides protection for the individual's rights as well as those of the Government and carefully preserves our traditions and basic rights of our citizens. In keeping with this premise, the American Bar Association has made its services available to any employee who has been issued charges under the security program. Should you so desire you may contact the local office of the American Bar Association in an effort to obtain competent counsel. You are further advised that in the event you produce evidence to the Bar Association which indicates that you cannot afford the necessary counsel fees, the Bar Association may, in its discretion, make available to you cost-free counsel. The provisions concerning designation and rights of counsel contained in NCPI 29.2-11 will be applicable in the event counsel is selected by you through the medium of the American Bar Association."

b. After an employee has been suspended under Public Law 733, he may be permitted, if he so requests, to use annual leave to his credit at the date of suspension in lieu of remaining in a leave without pay status, with the then understanding that, if he subsequently is reinstated, the annual leave so used will be restored to his credit in lieu of the payment of compensation for the period involved. (Comp. Gen. Decision B-106914 of 11 December 1952.) Granting such leave is optional with the head of the activity. It should not be granted, however, if the case appears to fall within the purview of Section 9A of the Hatch Act.

4-11. DETERMINATION OF CASE AFTER SUSPENSION AND CHARGES.-- After giving an employee charges, the activity will proceed as follows:

a. If the employee does not reply within the time specified by the activity, the head of the activity will consider the case on the complete file, and make a decision in terms of the standard and forward the complete file in accordance with NCPI 29.4-4c. However, no inference or presumption should be assumed because of the failure or refusal of an employee to reply to an interrogatory or notice of charges.

b. If the employee does not reply but if he or his counsel or representative requests a hearing before the Security Hearing Board, he shall be granted such, in accordance with d below.

c. If the employee answers in writing but does not request a hearing, the head of the activity will consider the case on the complete file (including such answer), make a decision in terms of the standard and forward the complete file in accordance with NCPI 29.4-4c. Before making the decision, however, the head of the activity at his discretion may, if a hearing is deemed necessary, request the employee to appear for a hearing, but he cannot require him to appear, and no inference or presumption should be assumed because of the failure or refusal of an employee to appear for a hearing.

d. If the employee requests a hearing before the Security Hearing Board, the head of the activity will refer the entire case to the Executive Secretary of the Security Hearing Board of the activity for action in accordance with the responsibilities of the Executive Secretary (NCPI 29.2-9c). The head of the activity will issue orders establishing the Security Hearing Board, in accordance with NCPI 29.2-7, and he shall in his order name the chairman of the board.

4-12. HEARING BEFORE SECURITY HEARING BOARD OF THE ACTIVITY.

a. Scheduling a hearing. --If the employee requests a hearing before the Security Hearing Board, a time and place for such hearing will be set by the Executive Secretary as convenient to him as circumstances permit, and he will be

allowed a reasonable time to assemble his witnesses and prepare his defense. The employee will be advised in writing of the scheduled hearing; the letter to the employee will contain the quoted material cited in NCPI 29.4-10a(4).

b. Convening the Security Hearing Board. --Operations of a security hearing board convened to hear the case of a Navy employee will be under the administrative jurisdiction and control of the head of the Naval activity employing the subject of the hearing, regardless of the composition of the board or the command jurisdiction of the board members. The Board will be subject to the regulations of NCPI 29 (NCPI 29.2-9[(4))). The head of the activity will issue appropriate orders naming and convening the security hearing board for each case in which the employee concerned has requested a hearing upon receipt of charges. The orders will specify clearly that the board is a duly constituted agency authority convened by order of the Secretary of the Navy under authority of Public Law 733, 81st Congress, and Executive Order 10450. This instruction will serve as notification of delegation of the foregoing authority to heads of activities to name and convene the security hearing board in the name of the Secretary of the Navy. The orders will name one of the board members as Chairman of the Board for each case. Security hearing boards will be composed of not less than three persons (preferably one military officer and two civilians) of activities of the Federal Government other than activities of the Navy Department, selected by the activity for which the hearing is to be held.

- (1) Members of hearing boards will be selected by the activity for which the hearing is to be held in the manner stated in NCPI 29.2-7.
- (2) No officer or employee of the Naval Establishment shall serve as a member of a hearing board in the Naval Establishment except as specified in NCPI 29.2-7.
- (3) The head of the activity for which the hearing is to be held will issue the necessary orders convening a board. A sample order appears in NCPI ~~29.2-7~~ 29.2-7.

- (4) A board member shall disqualify himself in any case in which he is acquainted with the employee.
- (5) One member of the board will be designated as chairman by the head of the activity. The chairman will be in full charge of the proceedings and will be responsible for the efficient conduct of the hearing.
- (6) The activity that establishes the board may not reimburse the agencies that employ the board members for their salaries, travel, or other expenses. The Comptroller General, in decision B-115113 of 26 May 1953 ruled that the cost of furnishing members of hearing boards "is a necessary expense of the agencies furnishing the employees."
- c. Pre-hearing Procedure; availability of case file.
- (1) The case file will be made available to security hearing board members by the Executive Secretary of the activity concerned in advance of the hearing.
- (2) Board members are responsible for safeguarding each file made available to them.
- (3) Unauthorized persons must not be permitted to have access to the file, and its contents must not be discussed with such persons.
- d. Study of case file.
- (1) Each board member will make a careful study of the case file prior to the hearing.
- (2) Board members must be informed in the techniques and activities of the Communist Party and of each Communist, subversive, or totalitarian group or organization which may be involved in the case to be heard. See NCPI 29.2-9(3). If a board member is not satisfied with the information available concerning any such organization as contained in the file, he will request the Executive Secretary to obtain necessary additional information.
- e. Study of Navy security regulations. Board members will familiarize themselves with the security regulations of the Department of the Navy (NCPI 29.2-9(4)). They will also study the provisions of the act of 26 August 1950 and Executive Order 10450, as amended.
- f. Inviting witnesses.
- (1) Generally, the Executive Secretary will have invited the witnesses.
- (2) In addition, the security hearing board, in its discretion, may invite any person to appear at the hearing and testify.
- (3) Special Agents of the Federal Bureau of Investigation may be invited, and will be made available, to testify whenever they are in a position to furnish competent evidence. Special Agents will not, however, participate otherwise in the proceedings, nor will they be made available merely to interpret information appearing in their investigative reports.
- (4) All invitations will be extended, if possible, a reasonable time in advance of the hearing to afford witnesses a reasonable opportunity to attend.
- (5) Invitations will state the time and place of the hearing and will state that the board cannot pay witness fees or reimbursement for travel or other expenses.
- (6) Invitations by letter, duly posted, will be sufficient.
- g. Rights of the employee.
- (1) It is the responsibility of the board to make sure, within a reasonable time prior to the hearing, that the employee has been informed of his right (1) to participate in the hearing, (2) to be represented by counsel of his choice, and (3) to present witnesses and offer other evidence in his own behalf and in refutation of the charges brought against him.
- 4-13. CONDUCT OF HEARINGS.**
- a. General.
- (1) Hearings before Security Hearing Boards will be conducted in an orderly manner, and in a serious, business-like atmosphere of dignity and decorum, and will be expedited as much as possible.
- (2) Not less than three members will be present at all stages of the hearing.

- (3) The conduct of the board members will be characterized by fairness and impartiality.
- (4) The board chairman will be in full charge of the proceedings and is charged with the responsibility for the efficient conduct of the hearing.
- (5) Whenever the employing agency is represented by an attorney-advisor, he may assist the board by questioning witnesses.
- (6) All persons connected with the hearing, particularly the Chairman, are cautioned against permitting reading from the investigative report, to the employee or his counsel, or quoting in any other manner passages from the report to the employee or his counsel.
- b. Privacy of hearings.
- (1) All hearings will be private.
- (2) Only the following will be present:
- Members of the Board.
 - The employee and his counsel.
 - Agency employees concerned.
 - The stenographer or stenographers.
- (3) A witness will be present only when he is actually testifying.
- c. Manner of opening hearings.
- (1) Hearings will be opened by the reading of the letter setting forth the charges against the employee, and the statements and affidavits made by the employee in answer to such charges. All of these will be included in the transcript.
- (2) The employee will be informed by the board of his right (1) to participate in the hearing, (2) to be represented by counsel of his choice, (3) to present witnesses and to offer other evidence in his behalf and in refutation of the charges brought against him, and (4) to cross-examine any witnesses offered in support of the charges.
- (3) The introductory statement will include a statement to the effect that the transcript of the hearing will not include all material in the file of the case, in that it will not include reports of investigation, which are confidential; also, that it will not contain information concerning the identity of confidential informants or information which would reveal the source of confidential evidence; and that it will contain only the evidence and testimony actually taken at the hearing.
- (4) The employee or his counsel or representative will be entitled to inspect the transcript and, upon request, will be furnished with a copy of the transcript, subject to restriction of paragraph (3) above, and NCPI 29.2-9f(4).
- (5) A sample opening statement is attached as NCPI 29.4-7.
- d. The stenographic record.
- (1) A complete verbatim stenographic transcript will be made of the hearing by a qualified reporter, and the transcript will constitute a permanent part of the record.
- (2) The Board will exercise precaution to insure that the transcript is a true and accurate record of the proceedings.
- (3) An exception will be made when a witness who testifies before the Board is not willing to testify in the presence of the employee and his counsel. In this event, such testimony will not appear in the transcript, but will be a part of the complete record of the case.
- e. Administering the oath.
- (1) Testimony will be given under oath or affirmation. The Executive Secretary of the Security Hearing Board, or person designated by command to act for the Secretary in his absence, is hereby authorized to administer oaths for this purpose, in accordance with the provisions of 5 USC 16a.
- f. Avoiding improper matters.
- (1) Strict legal rules of evidence will not be binding on the Board, but reasonable restrictions will be imposed as to the relevancy, competency, and materiality of matters considered.
- (2) All possible care will be used not to inject into charges, hearings, or any other phase of a security proceeding, matters relating to the individual whose case is under

consideration which are improper or incompetent, or which are not relevant to the determination of the individual's status with regard to the national security.

- (3) As an example of matters that must be avoided to comply with provisions of law and basic rules of the Civil Service Commission, discrimination shall not be exercised because of an employee's religious opinions or affiliations, or because of his marital status or his race, or, except as may be required by law, because of his political opinions or affiliations.
- (4) In view of these fundamental requirements, the board will make sure that any material prepared, and questions asked at hearings, are free from any reference that might be construed as improper.
- (5) Throughout the proceedings and subject to the security restrictions necessarily imposed, every effort will be made to aid the individual to secure a full and fair consideration of the matter under consideration.
- (6) Boards are not empowered to pass upon so-called legal or constitutional objections to the procedure under the security program. The board will in no case permit lengthy argument or diverse motions relative to the legality or propriety of the hearing and other procedures of the board with resulting loss of time and delay caused by the consideration given to such motions. Submission of such motions before the board will be confined to the filing of written motions or objections to be made part of the file. No oral arguments on them will be permitted, nor will the board undertake to consider or decide any such motion or contention.

g. Testimony and cross-examination.

- (1) While hearing boards may invite any person to appear at the hearing and testify, they will not be bound by the testimony of such witnesses by reason of having called them. The board will have full right to cross-examine them.

- (2) If a person who has made charges against the employer and who is not a confidential informant is called as a witness but does not appear, his failure to appear will be considered by the board in evaluating such charges, as well as the fact that there can be no payment by the Government for travel of witnesses.
- (3) Both the Government and the employee may introduce such evidence as the board deems proper in the particular case.
- (4) The employee or his counsel will have the right to control the sequence of such witnesses as shall be offered by or on behalf of the employee; the board, in its discretion, will control the sequence of other witnesses.
- (5) Reasonable cross-examination by the employee or his counsel will be permitted.
- (6) The hearing board will give due consideration to documentary evidence developed by investigation, including party membership cards, petitions bearing the employee's signature, books, treatises or articles written by the employee, and testimony by the employee before duly constituted authorities. The fact that such evidence has been considered will be made a part of the transcript of the hearing.

h. Security standards. -- See NCPI 29.3.

i. Types of information and its evaluation. -- The information to be considered by the security hearing boards can be grouped into three categories: Documentary, testimony of witnesses and informants, and testimony of the employee.

(1) Documentary.

- (a) Examples of documentary information are party membership cards, petitions bearing the individual's signature, books, treatises or articles written by the employee, voting registration, official correspondence, announcements of sponsored meetings, and police and court records.

- (b) For the purpose of this program, documentary information includes not only the actual papers, books, lists and other written instruments and photostatic copies of such written instruments but also, when circumstances prevent obtaining such written instruments, statements from entirely reliable sources that such instruments were in existence and had been examined.
- (c) Documentary information properly authenticated will be accepted as being reliable unless the employee can furnish clear and affirmative proof to the contrary. His mere denial of such information will not be sufficient to warrant questioning the information. Such denial on his part may give rise to a question of his credibility.
- (2) Testimony of witnesses and informants.
- (a) In evaluating information furnished by witnesses, including those appearing at the hearing, the board will consider how well the individual furnishing the information knew the employee, the nature of their relationship, the period involved, or, in other words, whether or not the witness has been in a position to know or has had an opportunity to learn the facts concerning the employee. Likewise, the identity of the witness and his motivation, if any, may be significant.
- (b) Confidential informants who furnish derogatory information usually will be characterized by the investigative agency as to their reliability. An informant will be described as "reliable" when information obtained from this source has in the past proved to be accurate. The designation of the informant as being of "unknown reliability" will signify only that the source has not been previously tested.
- (c) Hearing boards in evaluating the testimony of confidential informants, as in the case of other witnesses, will consider how well the informant knew the employee, the nature of their relationship, etc., and will give due weight to the fact that an independent agency characterized the informants as either reliable or of unknown reliability.
- (3) Testimony of employee.
- (a) In evaluating the testimony furnished by the employee at the hearing, his demeanor and attitude may be significant. Lack of cooperativeness or evasiveness are factors that should be given consideration.
- (b) Of importance in determining an individual's credibility will be his statements at the hearing as compared with replies he gave to the charges or with statements in his application for Federal employment or in other documents. When the information furnished by the employee reflects false statements, misrepresentations, or concealment of material information, a conclusion that the charges are correct may be warranted.
- (c) Under the standards of Executive Order 10450, any deliberate misrepresentations, falsifications, or omission of material facts, in themselves, and depending upon the relation of the Government employment to the national security, may

preclude a finding that retention in employment is clearly consistent with the interests of national security.

j. Evaluating membership and affiliation or sympathetic association with organizations.

(1) Under Executive Order 10450, the Attorney General furnishes to agencies the names of organizations, associations, movements, groups or combinations of persons, which he has designated as totalitarian, Fascist, Communist or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny others their rights under the Constitution of the United States, or as seeking to alter the form of government of the United States by unconstitutional means.

(2) In his memorandum of 29 April 1953, designating such organizations, the Attorney General stated, in part:

"Membership in, affiliation with or sympathetic association with, any organization designated pursuant to this Executive Order is but one of the factors by which a department or agency shall reach its determination and, as provided in Section 8, is one of the matters concerning which information shall be developed as to whether the employment or retention in employment in the Federal service of the person being investigated is clearly consistent with the interests of the national security."

(3) Organizations not designated by the Attorney General may be considered as relevant to security consideration provided that the organizations have been cited by some duly constituted governmental agency, federal, state or municipal, and that the hearing board possesses sufficient information on the subversive nature of the organizations to permit evaluation of the significance of

the memberships, affiliations or associations.

(4) In evaluating memberships, affiliations, or associations the security hearing board will give consideration to the employee's statement of his reason for joining and his knowledge of the purposes of the organization. In all cases where membership, affiliation, or sympathetic association is an issue, the "Memorandum of Reasons" will set out the conclusion of the board as to these questions.

k. Need for additional information.

(1) If the results of a hearing show that additional information is necessary before the hearing board can reach a decision in the case, the board will return the case to the Executive Secretary with a request for such additional information. Any such request will be specific as to the additional information required and will be limited to material matters that are essential to reaching a just determination.

★ 1. Violations of law. All violations of law, as disclosed in the investigations and proceedings under the security program, shall be reported immediately to the Office of the Judge Advocate General of the Navy, with an information copy to OIR Code 110, unless the violations have already been reported by the activity. ★

4-14. DETERMINATION AFTER HEARING.

a. Matters to be considered.

(1) The investigation is conducted and the hearing held to determine whether the retention in employment in the Federal service of a particular individual is clearly consistent with the interests of the national security. Each case will be decided upon the facts in that particular case. Each decision will be based upon the merits of the specific case and not upon unfounded assumptions or distorted viewpoints. A board member's judgment must not be affected by bias or prejudice.

- (2) The Attorney General has advised the United States Civil Service Commission that a security hearing board "in making its recommendations should take into consideration whether the employee is a security risk in his particular position in view of all of the derogatory information relating to him." In other words, the Board will consider the nature of the position occupied by the employee and in the light of the derogatory information.
- (3) There can be no substitute for good judgment. A fair decision will be reached only after all the facts, favorable and unfavorable, have been analyzed impartially and have been given due weight in their proper perspective.
- (4) In reaching its decision, the members of the board must remember that "the interests of the national security require that all persons privileged to be employed in the departments and agencies of the Government shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States" (Executive Order 10450).
- (5) In weighing individual items of derogatory information and in arriving at a decision, the interests of national security require that reasonable doubts be resolved in favor of the Government.
- (6) The decision of the security hearing board (in five copies) must be in writing and signed by all members; two copies of the decision must be sent to the Secretary of the Navy (OIR Code 110), one copy to Director of Naval Intelligence (Op 921D), one copy to the District Intelligence Office, and one copy to the files of the employing activity, each via the head of the employing activity (NCPI 29.2-9f(4)). Under no circumstances will the head of an activity furnish the decision of the Security Hearing Board to the employee, his counsel, or his representative. (NCPI 29.4-13c
- (9)). The decision itself will not contain the reasons why the board reached its conclusion. A separate "Memorandum of Reasons" will be prepared for that purpose.
- b. The Memorandum of Reasons.
- (1) The Memorandum of Reasons will be in writing (in five copies) and all copies signed by all members of the board. Its purpose is to set out the board's reasoning in reaching its advisory decision. A copy of this memorandum will not be made available to the employee (NCPI 29.2-9f(4)).
- (2) It is suggested that the Memorandum of Reasons bear that heading, and that for ready identification the first paragraph identify the subject of the case by his full name, the title of his position, location of employment, name of the activity and any employment history which may be considered desirable or necessary. It is essential that it be stated whether or not the employee's position is a sensitive position, as defined in NCPI 29.2-3i.
- (3) The next paragraph might set out when and where the hearing was held, whether the individual was represented by counsel, whether he testified and produced witnesses, whether the Government produced witnesses, and the names of the board members with identifying information as to each member's position and his agency.
- (4) Thereafter, the board will clearly state the basis for its determination. Since this document is to be made a part of the file in the case and is for the use of the Secretary of the Navy in making the final decision, it should be prepared with that in mind. The amount of detail necessary will depend upon the facts and the complexity of the case. ★ In most instances it will be necessary or desirable to explain the board's reasoning and conclusion concerning each charge, whether the decision is favorable or unfavorable to the individual. ★

- (5) When there is a dissent from the majority decision, the dissenting member or members will prepare and sign a Memorandum of Reasons showing wherein he or they differ from the majority.
- (6) The signature of each member will bear the date of his signing.
- c. The decision.
- (1) The board's decision will be in the form of a letter (in five copies) addressed to the Secretary of the Navy (OIR Code 110) via the head of the activity. (NCPI 29.2-9f(4)).
- (2) The subject of the case will be clearly identified in the first paragraph, or in a heading. This identification will include name, position, place of employment, and date of suspension.
- (3) The authority for the hearing, namely, the act of August 26, 1950 (64 Stat. 476, 5 USC 22-1 et. seq.), Executive Order 10450, as amended, and NCPI 29 will be clearly set out in the decision.
- (4) The date and place of the hearing will be set out in the decision.
- (5) All decisions, favorable or unfavorable, will be in the language of the Security Standard provided by Executive Order 10450. Suggested language for the decision is: "It is the decision of this Security Hearing Board that the employment of (Mr., Miss, or Mrs. -- full name of individual) is (or, is not) clearly consistent with the interests of national security."
- (6) The final paragraph of the decision will state:
- "A memorandum setting forth the board's reasoning in reaching this conclusion is attached."
(See NCPI 29.2-9f(4)).
- (7) Each board member will sign all copies of the decision. He will also note the date after his signature. The signature of the chairman will be followed by the title "Chairman," and the signature of the other members by the title "Member."
- (8) If there is a dissent from the decision, the dissenting member will merely indicate before his signature the phrase "I dissent."
- (9) Under no circumstances will the head of an activity furnish the decision or memorandum of reasons prepared by a Security Hearing Board to the employee, his counsel or his representative. When the complete case file has been forwarded to the Secretary of the Navy (OIR Code 110) as provided in NCPI 29.4-15, the head of the activity shall inform the employee and his counsel or representative that his case has been forwarded to the Secretary, without advising him of either the Security Hearing Board's decision or his own comments thereon. The employee will remain in suspended status pending final decision by the Secretary of the Navy, and all further correspondence relative to his case shall be directed to the Secretary of the Navy (OIR Code 110).

4-15. SECURITY HEARING BOARD FINDINGS AND SUBSEQUENT ACTION THEREON.

a. The findings of the security hearing board will be addressed to the Secretary of the Navy via the head of the employing activity (NCPI 29.2-9f(4)). The complete file will be forwarded to the head of the activity by the Executive Secretary. The head of the activity will make any comment he considers warranted and forward the case to the Secretary of the Navy (OIR Code 110) in the manner outlined in NCPI 29.4-4c.

b. The head of the activity will continue the suspension of the employee pending decision of the Secretary of the Navy, whether the Security Hearing Board finds favorably or unfavorably in the case.

c. If a decision of the Security Hearing Board or recommendation of the Security Review Board is adverse to the employee, the Security Review Board will advise the employee by letter that he has 20 days (30 days if outside continental United States) in which to submit for Review Board and Secretarial

S 000720⁵13 September 1955
C. S. 595

consideration any affidavits he may wish to make in rebuttal thereto. The employee will be further advised that if he does not submit such affidavits within the time limits stated above, the case will be adjudicated on the record as it stands. Material submitted in rebuttal should be addressed to the Secretary of the Navy (OIR Code 110), via the head of the activity. ★

4-16. ACTION BY NAVY DEPARTMENT SECURITY REVIEW BOARD.

- a. When the complete file is received in OIR it will be referred to the Navy Department Security Review Board.
- ★ b. The Board will meet at the call of the Chairman and will establish its own internal procedures to facilitate consideration of and recommendations regarding security review matters. The Board may, in its discretion, conduct a personal hearing when the facts essential to a determination cannot be obtained in any other manner. The Board may initiate such further investigation and secure such additional evidence as it deems necessary to provide the Secretary of the Navy with sufficient information upon which to base a decision. The Board is empowered to call upon military or civilian personnel of the Navy Department and its activities to furnish pertinent records, materials and testimony. Upon receipt of a security case, the Board will advise the employee concerned of any adverse findings made by the Security Hearing Board and of his right to submit material or representations in rebuttal thereto for consideration by the Security Review Board. He will also be advised of any contemplated adverse recommendation of the Security Review Board and be given an opportunity to submit a rebuttal thereto for consideration by the Secretary of the Navy. The Board will prepare a brief on each security case requiring decision of the Secretary of the Navy, summarizing the pertinent points in the case. The brief will include formal recommendations signed by each Board Member, supported by individual comments and votes. ★
- ★ c. All violations of law, as disclosed in the investigations and proceedings under the security program, shall be reported immediately to the Office of

the Judge Advocate General of the Navy unless this has been done by officials previously considering the case. ★

4-17. ACTION BY SECRETARY OF THE NAVY.--The Secretary of the Navy will make a decision in the case, and notify the activity of final action to be taken in the case. The Secretary of the Navy, at the same time, will inform the individual concerned, via the head of the activity, of the final decision in the case.

4-18. NOTIFICATION TO INDIVIDUAL.

- a. Security decision.--In every case in which an interview has been held with the subject of the case or an interrogatory or charges has been issued, the individual concerned must be informed of the final security decision. In any case in which an interview has not been held or an interrogatory or charges has not been issued, the head of the activity may, in his discretion, or upon the request of the employee, inform the individual concerned of the security decision.
- b. Personnel actions.--When the Secretary of the Navy orders the suspension, removal, or restoration of an employee, the personnel action form will cite under "Remarks" the letter from the Secretary of the Navy, the authority cited therein, and NCPI 29. Two copies of such personnel actions will be forwarded to OIR Code 110.

SECTION 5, PROCEDURE IN CASES OF SEPARATION, WITHDRAWAL OF APPLICATION, OR TRANSFER, AND REIMBURSEMENT OF EMPLOYEES

	Paragraph No.
Procedure in cases of separation, withdrawal of application, or transfer	5-1
Reimbursement of employees restored	5-2

5-1. PROCEDURE IN CASES OF SEPARATION, WITHDRAWAL OF APPLICATION, OR TRANSFER.--The complete files of all employees who are separated for any reason from the Federal

service before a final decision is reached shall be sent forthwith by registered mail to OIR Code 110, with a copy of the Standard Form 50 effecting the action. This procedure should be followed in cases of separation during continuous service to allow transfer to another agency. A copy of the transmittal letter will be forwarded directly to the Director of Naval Intelligence, Department of the Navy, Washington 25, D. C., and a copy to the District Intelligence Office, for record purposes.

5-2. REIMBURSEMENT OF EMPLOYEES RESTORED.--In case the Secretary of the Navy orders restoration of an employee who was suspended or removed under Public Law 733, he will cite that law as authority for the restoration. Public Law 733 requires that any employee (permanent or indefinite) having completed a probationary or trial period, who is suspended or removed under the provisions of that Act and subsequently restored to duty shall be allowed compensation for all or any part of the period of such suspension or removal in an amount not to exceed the difference between the amount such person would normally have earned during the period of such suspension or removal, at the rate he was receiving on the date of suspension or removal, and the interim net earnings of such employee. The back-pay provision of Public Law 733 does not deny accumulation of leave during the period of suspension or removal. Therefore, employees restored under this authority will be credited with annual and sick leave for the period for which compensation is allowed (31 Comp. Gen. 58; B-105001 of 30 August 1951).

SECTION 6, CHARACTER AND SUITABILITY

	Paragraph No.
General statement	6-1
Procedure to be followed	6-2
Disclosure of reason for adverse action against trial and probationary period employees	6-3

Failure to be cleared for "sensitive" duties	6-4
Arrest records (FBI Form 1-4) from the Civil Service Commission	6-5

6-1. GENERAL STATEMENT.--During personnel investigation, information may be uncovered which reflects adversely upon the general character, conduct, suitability, and reliability of an employee. The adverse reflection upon the employee's character may be grave enough to call into question the employee's suitability for retention in his position, or for continued Navy employment. When the employee cannot be retained in his position, he should be reassigned or demoted to a position in which his character deficiencies are not a bar to employment. When such action is not possible due to the gravity and nature of the derogatory information or the nature of the work tasks in the employing activity, it may be necessary to separate the employee. The nature of the action will be either Separation-Disqualification (NCPI 210.7), or Removal (NCPI 45), as appropriate.

6-2. PROCEDURE TO BE FOLLOWED.--NCPI 210.7 or NCPI 45 shall be used appropriately as determined by the employee's status. Compliance with these procedures must be observed, except as noted below, if adverse action is taken due to unsuitability or on the basis of other derogatory information. Derogatory information of a subversive nature as outlined in NCPI 29.3 shall not be considered in removal actions under Procedure "B" of NCPI 45 but shall be considered under the provisions of NCPI 29.4. It is conceivable that such cases may contain not only derogatory information of a subversive nature but also derogatory information which would call into question suitability or justify disciplinary action. It is desirable in such circumstances where an employee is charged with a series of charges under NCPI 29.4-9, no charges be included which may be appropriate for handling as a disciplinary or suitability matter, if in the opinion of the command exclusion of such charges will not compromise the

security case against the individual. Exclusion of charges which are of a disciplinary or suitability character from security charges will permit later action by command, if desired, under the procedures of NCPI 45 in the event the Secretary of the Navy makes a finding on the security charges favorable to the employee.

6-3. DISCLOSURE OF REASON FOR ADVERSE ACTION AGAINST TRIAL AND PROBATIONARY PERIOD EMPLOYEES.--

The provisions of NCPI 210.7 and procedure "A" of NCPI 45.5-2 must be satisfied except as modified below. The employee must be informed during the informal discussion that the adverse action is being taken as he has been found unsuitable for the position he occupies, because of confidential information which has been disclosed to the commanding officer. Further, the employee should be informed of the specific information contained in the investigative report which constitutes the reasons for the determination that he is unsuitable (providing the sources of such information are protected) and be permitted to reply thereto. On the other hand, if specific information contained in the investigative report is of such nature that its disclosure would be prejudicial to security, it will not be disclosed or discussed with the employee.

6-4. FAILURE TO BE CLEARED FOR "SENSITIVE" DUTIES.--When an employee cannot be cleared for "sensitive" duties, it may be necessary to reassign, demote, or separate him from employment. Should it be necessary to demote or separate the employee because he cannot be cleared for "sensitive" duties, the provisions of this section must be observed. Procedure "A" or "R" of NCPI 45.5 must be used as appropriate.

a. Employees covered by Procedure "A".--In cases involving Procedure "A", the employee must be informed during the informal discussion that the adverse action is being taken because he cannot be cleared for "sensitive" duties. Further, the employee should be informed of the specific information contained in the investigative report which constitutes

the reasons for the determination that he cannot be cleared for "sensitive" duties (providing the sources of such information are protected) and permitted to reply thereto. On the other hand, if specific information contained in the investigative report is of such nature that its disclosure would be prejudicial to security, it will not be disclosed or discussed with the employee. In all cases the following remark should appear on the Personnel Action Form: "Failure to be cleared for 'sensitive duties.'"

b. Employees covered by Procedure "B".--Employees covered by Procedure "B" of NCPI 45.5 must be accorded the full protection of that procedure. The charges must set forth specifically and in detail the reasons why the employee cannot be cleared for sensitive duties. When this information can be taken from classified reports without divulging the source of information and without violating security regulations, independent investigation may not be required. When this information cannot be taken from classified reports without divulging the source or compromising the national security, the evidence shall be developed through separate inquiry or investigation. This requirement must be observed in order that the employee can be confronted with the specific reasons and bases for the adverse action. If separate inquiry or investigation cannot be developed, action shall be taken in accordance with NCPI 29.4. In some instances, decision of the Secretary of the Navy under security procedures may require that an employee suspended under authority of Public Law 733, 81st Congress, and Executive Order 10450 be restored to employment but to a continuing non-sensitive position of equal rank and pay as the sensitive position from which he was suspended. In exceptional cases, where a continuing position of equal rank and pay does not exist at the employing activity, ★ ★ reassignment of the employee to a position for which he has requisite qualifications may necessitate a change to lower grade. An employee covered by Procedure "B" of NCPI 45.5 must be accorded the full protection of that procedure when action to effect the change to lower grade is initiated. The

employee shall be advised in the advance notice required by Procedure "B" that the change to lower grade is necessary because reassignment to a continuing non-sensitive position of equal rank and pay could not be effected because there was no such position within the ★employing activity★ and the only continuing non-sensitive position for which the employee has requisite qualifications and to which he can be reassigned is a position of lower grade than the one he occupied.

6-5. ARREST RECORDS (FBI FORM 1-4) FROM THE CIVIL SERVICE COMMISSION.

a. Sources and categories of arrest records.--The Federal Bureau of Investigation furnishes the Civil Service Commission with arrest records on employees in the Federal service. The Civil Service Commission furnishes the arrest records to the appropriate agency or department of the Federal government for information and consideration in accordance with Section 5 of Executive Order 10450 (NCPI 29.8-Encl. 1). The Office of Industrial Relations transmits reports of arrest records, Form 1-4, on employees of the Naval Establishment to naval activities concerned for information, consideration, and appropriate action. The arrest records fall into three general categories: FBI Form 1-4 in a pending investigation by the Commission under Executive Order 10450; FBI Form 1-4 bearing a name which is the same as, or similar to, that of a person employed by a naval activity but in whose case the Commission is not conducting an investigation; and, FBI Form 1-4 stemming from either of the above two categories but considered separately because the arrest record contains charges implying sexual perversion.

b. Authority under which action is to be taken on arrest records.--NCPI 29.2-4e states that maximum use will be made of normal civil service removal procedures where national security is not a consideration and such procedures are adequate and appropriate. Action on arrest records is particularly subject to this policy in that adequate disciplinary and removal procedures exist under

normal civil service procedures to act on arrest records. Activities should make maximum use of the procedures of NCPI 45 and 210 in taking action on arrest records. The security procedures of NCPI 29.4 shall be used only in those instances where normal civil service procedures are inadequate and inappropriate and the individual's arrest record contains charges indicating character defects which may cause him, of his own volition or by coercion, to act contrary to the interest of the national security.

c. Action to be taken on arrest records on employees transferred to other naval activities or Federal agencies.--In the event that the employee concerned has transferred to another naval activity or Federal agency prior to receipt of the arrest record, the activity shall forward the arrest record directly to the gaining activity for appropriate action. Advice of such forwarding of arrest records is not required by the Civil Service Commission. A copy of the forwarding letter should be furnished to the Chief of Industrial Relations (OIP Code 110) only if the arrest record involves sexual perversion (NCPI 29.6-5g).

d. Consideration of arrest records and appropriate action.--The Office of Industrial Relations will forward arrest records to the activity by stamped endorsement on CSC transmittal Forms DI 205 and DI 206, except those involving sexual perversion, which are forwarded by OIR form letter. Upon receipt of the arrest record the activity shall inquire into the circumstances involved. Information as to the disposition of the charges, if not indicated in the arrest record, or other clarifying data should be requested from the appropriate Civil Service Regional Office or District Intelligence Office. Requests for such information or data in cases of applicants or appointees who are the subject of pending investigation under Executive Order 10450 (NCPI 29.6-5e) will be made to the appropriate Civil Service Regional Office. Otherwise the requests will be made to the appropriate District Intelligence Office. After evaluation of the arrest record the activity head shall take such action, in accordance with

NCPI 29.6-5b, as is considered warranted.

e. FBI FORM 1-4 in a pending investigation under Executive Order 10450. -- The Office of Industrial Relations will forward the arrest record to the activity, along with the CSC transmittal Form DI 205, in duplicate. If the employee is retained on the rolls, no report of the action to the Civil Service Commission is required, and the arrest record should be filed in the activity files. If the employee is to be or has been separated (except by transfer to another naval activity or Federal agency), the separation action will be reported by the completion of the lower half of Form DI 205, which will be mailed, along with the arrest record, directly to the U. S. Civil Service Commission Office shown in the lower half of Form DI 205. No report of the action taken will be made to the Office of Industrial Relations, except as provided by NCPI 29.6-5g.

f. FBI FORM 1-4 not pending investigation under Executive Order 10450. -- The Office of Industrial Relations will forward the arrest record to the activity, along with CSC Form DI 206, in duplicate. No report of the action taken is required by the Civil Service Commission. If separation is or has been effected the submission to the Commission of Standard Form 50 will suffice for the Commission's records. No report of the action taken will be made to the Office of Industrial Relations except as provided in NCPI 29.6-5g.

g. FBI FORM 1-4 which contains charges of sexual perversion. -- The Office of Industrial Relations will retain on file CSC Forms DI 205 or 206 and will forward the arrest records to the activity by form letter. The head of the activity shall report the action taken in every case to the Chief of Industrial Relations (OIR Code 110). In those cases in which the head of the activity determines that removal or separation is not warranted the report shall explain the basis for the decision to retain the employee. Whether the subject of the arrest record is retained or separated (except by transfer to another naval activity or Federal agency) the arrest record should be filed in the activity security files.★

SECTION 7, SECURITY REQUIREMENTS

	Paragraph No.
Legal basis	7-1
Definitions	7-2
General provisions	7-3
Security investigations for persons appointed to non-sensitive positions	7-4
Security investigations of applicants for sensitive-noncritical positions	7-5
Security investigations for persons appointed to sensitive-critical positions	7-6
Additional clearances	7-7
Security investigations for employment in per diem, intermittent, temporary, or seasonal status for period of six months or less of United States citizens or aliens in United States, its territories and possessions	7-8
Security investigations of aliens employed outside the United States, its territories and possessions in temporary or seasonal status not in excess of three months	7-9
Security investigations of aliens employed outside the United States, its territories and possessions for extended periods	7-10
Security investigations for persons employed after break in service	7-11
Security investigations for employees who: (1) are appointed without a break in service; (2) transfer from another government agency; (3) change their headquarters; or (4) change their posts of duty	7-12
Security investigations for employees who are promoted, reassigned, or changed to lower grade	7-13

7-1. **LEGAL BASIS.**--Executive Order 10450 of 27 April 1953 (see NCPI 29.8-Encl. 1) provides security requirements for Government employment. Policies, standards, and instructions to be followed are based on agreements between the Department of Justice, the Department of Defense, and the Civil Service Commission, implementing the provisions of Executive Order 10450.

7-2. **DEFINITIONS.**--The terms listed below will have the meanings indicated when used in this section:

a. **Appointing officer.**--That official authorized by the provisions of NCPI 135.2-3 to effect personnel actions.

b. **Appropriate office of the Civil Service Commission.**--The office of the Civil Service Commission having jurisdiction over the area in which the appointing officer is located. The Bureau of Departmental Operations, Investigations Division, Civil Service Commission, Washington 25, D. C., is the appropriate office of the Commission for appointments in the Washington metropolitan area.

c. **Appropriate office of Naval Intelligence.**--The Naval Intelligence office having jurisdiction over the naval district or river command in which the appointing officer is located. The appropriate office for all others is the Chief of Naval Operations (Director of Naval Intelligence).

d. **Background Investigation.**--A Background Investigation is a thorough and complete investigation, conducted by Naval Intelligence, in which pertinent facts having bearing on the loyalty, integrity, and reputation of the subject are developed. The essential elements of a Background Investigation are set forth in Article 1502, U. S. Navy Security Manual for Classified Matter.

e. **Full Field Investigation.**--An investigation by the Federal Bureau of Investigation or the Civil Service Commission conducted personally to obtain full facts regarding the background and activities of the individual upon which a determination can be made as to whether his employment by the Government is consistent with the interest of national security.

f. **Incumbent.**--An incumbent is an employee who was on the rolls of the

Department of the Navy on 27 May 1953 and has been continuously employed by the Department of the Navy.

g. **National Agency Check.**--A national agency check consists of the investigation of records and files of the agencies named in paragraph 2, Article 1502, Chapter 15, U. S. Navy Security Manual.

h. **Non-sensitive position.**--Any position which does not involve duties and responsibilities described in position defined as "Sensitive-Critical" or "Sensitive-Noncritical."

i. **Security Officer.**--The Security Officer is that individual who has responsibility for processing clearances for access to classified matter.

j. **Sensitive-Critical position.**--A "sensitive-critical position" is any position, the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security. Such positions will include: Any position which involves responsibility for the development or approval of war plans, plans or particulars of future major or special operations of war, or critical and extremely important items of war, or policies and programs which affect the over-all operations of any of the components of the Department of Defense. This will include positions at GS-14 and above; positions at GS-12 and 13, if the employee will have access to TOP SECRET security information; and employment under personal service contract if the employee will have access to TOP SECRET security information. Additional positions may be designated by the head of the activity as meeting the requirements of the foregoing definition provided that the designation is certified to OIR Code 110 by the activity head.

k. **Sensitive-Noncritical position.**--A "sensitive-noncritical position" is any position other than those in the Sensitive-Critical category, the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security. Such positions will include: Any position, the duties or responsibilities of which require access to TOP SECRET, SECRET, OR CONFIDENTIAL security information or material

and any other position so designated by authority of the Secretary of Defense or of the Secretary of the Navy or by the head of the activity.

1. Supplemental (limited personal) investigation.--An investigation conducted personally but limited to obtaining facts concerning derogatory information which was developed during a national agency check and inquiry and might be disqualifying.

m. Written inquiries.--Requests in writing (forms) for pertinent information from law enforcement agencies, former employers and supervisors, references and schools.

7-3. GENERAL PROVISIONS.

a. Special agreement between Department of Defense and Civil Service Commission concerning investigations under Executive Order 10450. There is a special agreement, in accordance with subsections 8(b) and 8(c) of Executive Order 10450, between the Department of Defense and the Civil Service Commission regarding investigations conducted under the Order. This section of NCPI 29 outlines the terms of the agreement and the procedures implementing it insofar as the Department of the Navy is concerned. For investigative purposes there are three general classifications of positions in the Department of the Navy: Sensitive-Critical positions (NCPI 29.7-2j); Sensitive-Noncritical positions (NCPI 29.7-2k); and Non-sensitive positions (NCPI 29.7-2h). Types of investigations required, investigative agencies responsible for conducting the investigations, and time for conducting the investigations (pre-appointment, post-appointment, etc.) are determined by the general classification of the position and by the Civil Service status (excepted or competitive applicant, appointee or incumbent employee) of the person concerned.

b. Application of Executive Order 10450 (as implemented by agreement described in NCPI 29.7-3a). Executive Order 10450 requires that investigations be conducted: of appointees in Sensitive-Critical, Sensitive-Noncritical, and Non-sensitive positions; of incumbent employees

who were appointed after 30 September 1947, but prior to 28 May 1953, and who occupy Sensitive-Noncritical positions, if they have not been cleared under the provisions of Executive Order 9835, as amended, based upon satisfactory completion of at least a Civil Service Commission record check and inquiry; of incumbent employees who were appointed on or before 30 September 1947, who occupy Sensitive-Noncritical positions, if they have not, subsequent to 30 September 1947, been the subject of a National Agency Check completed with satisfactory results in connection with clearance for access to matter classified CONFIDENTIAL or above; of incumbent employees who occupy Sensitive-Critical positions, who have not been the subject of a Background Investigation (or its equivalent) completed with satisfactory results at any time subsequent to employment by the Navy; and, incumbent employees who occupy Nonsensitive positions, who have not been either cleared under Executive Order 9835, as amended, or the subject of a National Agency Check and Written Inquiry conducted under Executive Order 10450 (one or the other is acceptable, both are not required) completed with satisfactory results. (See also NCPI 29.7-8, 9 and 10)

c. Responsibility for investigation of applicants and appointees.

- (1) Sensitive-critical positions.--Background Investigation, including National Agency Check, conducted by appropriate office of Naval Intelligence. In an emergency situation, the Civil Service Commission will conduct a priority National Agency Check, but Background Investigation, less National Agency Check, will be conducted by appropriate office of Naval Intelligence.
- (2) Sensitive-Noncritical positions and Nonsensitive positions.--The Civil Service Commission will conduct National Agency Checks and Written Inquiries for both competitive and excepted positions and any further limited investigation necessary to make a security decision in cases involving positions in the competitive service. The

appropriate office of Naval Intelligence will conduct any further limited investigation which may be required in excepted positions.

d. Responsibility for investigation of incumbent employees. --The appropriate office of Naval Intelligence will conduct any additional investigations regarding incumbents in all three classes of positions.

7-4. SECURITY INVESTIGATIONS FOR PERSONS APPOINTED TO NON-SENSITIVE POSITIONS.

a. Investigative requirements. --Whenever an appointee enters on duty in a non-sensitive position (NCPI 29.7-2h), except as provided in NCPI 29.7-1c, the activity shall initiate an investigation as required by section 3(a) of Executive Order 10450 (NCPI 29.8-Encl. 1). This investigation will include not less than a National Agency Check and Written Inquiries as defined in NCPI 29.7-2g and NCPI 29.7-2m. National Agency Checks and Written Inquiries will be made by the Civil Service Commission of persons appointed to non-sensitive positions.

b. Procedural instructions. --Procedural instructions to activities for initiating a National Agency Check and Written Inquiries to be conducted by the Commission are given in NCPI 29.8-Encl. 11.

c. Supplemental investigation. --If the National Agency Check and Written Inquiries develop information of the type referred to under Section 8(a)(1) of Executive Order 10450, in the case of an appointee in a non-sensitive position in the competitive service, the Commission will make such further investigation as shall be sufficient to enable the activity concerned to determine whether retention of such person is clearly consistent with the interests of the national security. Ordinarily this will not be the equivalent of a full field investigation but will be limited to covering by personal investigation the adverse information developed in the National Agency Check and Written Inquiries. The employing activity shall request the appropriate office of Naval Intelligence to conduct any further investigation necessary with regard to excepted positions.

d. Action upon receipt of results of National Agency Check and Written Inquiries. --The Commission will furnish a report of the National Agency Check, the replies to Written Inquiries, and a report of limited personal investigations (see NCPI 29.7-21) if conducted, providing separation is not ordered by the Commission, to the activity official designated in the case papers to receive the report. (The Commission will dispatch Written Inquiries to the sources named in section 3(a) of Executive Order 10450. Whatever replies are received from these sources will be included in any report furnished the activity without further attempt on the part of the Commission to obtain information from those sources which failed to reply.) The activity shall process report, and dispose of the results of National Agency Check and Written Inquiries in accordance with NCPI 29.8-Encl. 11.

e. Cases in which investigation by Federal Bureau of Investigation is warranted. --If the National Agency Check and Written Inquiries develop information of the type referred to in Section 8(d) of Executive Order 10450, the Commission will refer the case to the Federal Bureau of Investigation for a full field investigation. A report of the full field investigation will be furnished to the Office of Industrial Relations for referral to the employing activity for appropriate action.

7-5. SECURITY INVESTIGATIONS OF APPLICANTS FOR SENSITIVE-NONCRITICAL POSITIONS.

a. Investigative requirements. --Applicants for sensitive-noncritical positions (NCPI 29.7-2k) must have an investigation consisting of not less than a National Agency Check, completed with satisfactory results prior to appointment, and Written Inquiries. The Civil Service Commission conducts a preappointment National Agency Check on a priority basis and simultaneously mails Written Inquiries. An advance report of the National Agency Check is made by the Commission's central office to the requesting naval activity. The naval activity may at this point appoint the applicant to the sensitive-noncritical position provided the advance report of

National Agency Check is clearly favorable to the applicant. The complete results of the National Agency Check and Written Inquiries are furnished subsequently by the appropriate Civil Service regional office (or Central Office for the Washington, D. C., metropolitan area) unless the case is discontinued or the Commission takes adverse rating action. An applicant may be appointed to a sensitive-noncritical position following the completion of a National Agency Check with satisfactory results, but the Written Inquiries must, when received from the Civil Service Commission, be evaluated by the appointing officer and the security officer, and appropriate action taken before the investigative requirements may be considered as fully met. In case of emergency, such position may be filled pending completion of the National Agency Check if the head of activity concerned finds that such action is necessary in the interests of national defense, which finding will be made a part of the records of the activity. This exception is permitted only when a request has been made for the National Agency Check and Written Inquiries. Further, within two calendar weeks the head of the activity shall report in writing the exceptions made and the basis therefor to the District Commandant or appropriate River Command (DIO).

b. Procedural instructions.--Procedural instructions to activities for initiating a National Agency Check and Written Inquiries to be conducted by the Commission are given in NCPI 29.8-Encl. 12.

c. Supplemental investigation.--See NCPI 29.7-4c.

d. Action upon receipt of results of National Agency Check and Written Inquiries.--Instructions given in NCPI 29.8-Encl. 12.

e. Cases in which investigation by Federal Bureau of Investigation is warranted.--See NCPI 29.7-4e.

7-6. SECURITY INVESTIGATIONS FOR PERSONS APPOINTED TO SENSITIVE-CRITICAL POSITIONS.

a. Investigative requirements.

(1) Incumbent employees.--Incumbent employees who occupy sensitive-

critical positions ★(NCPI 29.7-2j) ★ must receive a Background Investigation as defined in Chapter 15 of the United States Navy Security Manual for Classified Matter, unless a Background Investigation or its equivalent (full field investigation) has already been completed with satisfactory results at any time subsequent to employment by the Navy. In such cases the following notation, signed by the the Appointing Officer, must be placed in the employee's personnel folder: "No further investigation under E. O. 10450 is required in view of Background Investigation or its equivalent completed with satisfactory results on (date)." Questions as to the adequacy of investigations in terms of the above standard shall be referred to the appropriate office of Naval Intelligence for determination. Incumbent employees who occupy sensitive-critical positions who have not been the subject of a Background Investigation or its equivalent must be investigated in the manner outlined in NCPI 29.8-Encl. 13. The request for Background Investigation shall clearly state: "THIS IS A REQUEST FOR A BACKGROUND INVESTIGATION ON AN INCUMBENT EMPLOYEE ★IN A SENSITIVE-CRITICAL POSITION ★AS REQUIRED BY E. O. 10450." The incumbent employee may continue to occupy his position, pending completion of the Background Investigation, unless derogatory information developed during the course of the investigation clearly indicates that the retention of the employee in an active duty status may be detrimental to the interests of the government. In such cases the provisions of NCPI 29.2-9c(4) shall be applied. The activity shall also inform the appropriate office of Naval Intelligence of the situation, so that steps may be taken to expedite completion of the Background Investigation. In exceptional cases the activity may,

after consulting with the appropriate office of Naval Intelligence, proceed with adjudication in accordance with NCPI 29.4 or 29.6 as appropriate, if such action is considered necessary, in advance of completion of the Background Investigation. ★ When the investigative reports are forwarded to the activity for adjudication, the appropriate office of Naval Intelligence will prepare SF 74, in quadruplicate, and will forward three copies to the Chief of Industrial Relations (OIR Code 110) and the fourth copy to the activity for the activity's files. Upon adjudication, the activity head will forward his decision on SF 72, in duplicate, to the Chief of Industrial Relations (OIR Code 110). The SF 74 and SF 72 are required only for background investigations under E. O. 10450 on incumbents in sensitive-critical positions, or on persons appointed, reassigned, transferred, promoted, etc., to a sensitive-critical position under the emergency provisions set forth in NCPI 29.7-6a(2) below. The SF 74 and SF 72 are not required on background investigations in connection with contemplated personnel actions involving sensitive-critical positions unless the subject of the investigation is actually filling the position. They are not required, either, for background investigations conducted for clearance or other purposes.

- (2) Applicants and emergency appointments. --No civilian shall be appointed or assigned to a sensitive-critical position prior to completion with satisfactory results of a Background Investigation as defined in Chapter 15, United States Navy Security Manual for Classified Matter. In case of emergency, such position may be filled pending completion of Background Investigation if the head of the activity concerned finds such action is necessary in the interests of national defense, which finding will be made a part of the records of

the activity. This exception is permitted only when a National Agency Check (see NCPI 29.8-Encl. 13, Item III) with results satisfactory to the Commanding Officer has first been completed and a request has been made for a Background Investigation. The request for a Background Investigation shall clearly state **THIS IS A REQUEST FOR A BACKGROUND INVESTIGATION FOR EMERGENCY APPOINTMENT TO A SENSITIVE-CRITICAL POSITION.** Within two calendar weeks, the head of the activity shall report in writing the exceptions made above and the basis therefor to the Chief of Naval Operations (Director of Naval Intelligence) via the District Commandant or appropriate River Commander (District Intelligence Officer), with copy to Chief of Industrial Relations (OIR Code 110). When the results of the Background Investigation on the appointee are forwarded to the activity for adjudication, the appropriate office of Naval Intelligence will prepare SF 74 in quadruplicate and will forward three copies to the Chief of Industrial Relations (OIR Code 110) and the fourth copy to the activity for the activity's files. Upon adjudication the activity head will forward his decision on SF 72, in duplicate, to the Chief of Industrial Relations (OIR Code 110). The SF 74 and SF 72 are required only for background investigations under the provisions of E. O. 10450 on emergency appointees to sensitive-critical positions. They are not required for background investigations under E. O. 10450 on applicants who are not appointed under the emergency provisions set forth above or for background investigations conducted for clearance or other purposes.★

b. Procedural instructions. --Procedural instructions to activities for initiating a Background Investigation to be conducted by appropriate office of Naval Intelligence are given in NCPI 29.8-Encl. 13, Item 1.

c. Supplemental investigation ★ or reinvestigation.--When it is determined by the employing activity that supplemental investigation or reinvestigation is required to resolve an issue in a case of an employee reported previously to the Chief of Industrial Relations (OIR Code 110) on Standard Form 74, the activity will forward to the Chief of Industrial Relations its file copy of the original Standard Form 74, submitted by the District Intelligence Office, prominently noted to show that the case has been submitted to the appropriate office of Naval Intelligence for reinvestigation. When a supplemental investigation or reinvestigation on an employee has been forwarded to the activity for adjudication, the appropriate office of Naval Intelligence will forward Standard Form 74, in triplicate, to the Chief of Industrial Relations (OIR Code 110) and a fourth copy to the activity for the activity's files.★

d. Action upon receipt of Background Investigation.--Activities shall follow the instructions given in NCPI 29.8-Encl. 13, Item II, in processing, reporting, and disposing of Background Investigations.

e. Prompt adjudicative action required by Executive Order 10550, --Executive Order 10550 amended Section 14 of Executive Order 10450 (NCPI 29.8-Encl. 1) to the effect that each department and agency shall, as soon as possible and in no event later than ninety days after receipt of the final investigative report on a civilian officer or employee subject to full field investigation under the provisions of Executive Order 10450, advise the Civil Service Commission as to the action taken with respect to such officer or employee. The Chief of Industrial Relations is responsible for making such reports to the Civil Service Commission. So that this may be done, it is essential that activities adjudicate Background Investigation reports on employees ★, including appointees who have been appointed under the exception provisions of NCPI 29.7-6a(2),★ within sixty days of the date the completed Background Investigations are forwarded to activities by offices of Naval Intelligence, and report the decision to the Chief of Industrial Relations (OIR Code 110) in accordance with NCPI 29.8-Encl. 13, Item II,

paragraph 3. If for any reason adjudication cannot be made within sixty days activities shall comply with NCPI 29.2-9c(7)(b).

7-7. ADDITIONAL CLEARANCES.

a. Clearance for handling TOP SECRET information.--When an employee, for whom a National Agency Check has been completed with satisfactory results, is assigned to a sensitive-noncritical position in which he will have access to TOP SECRET information, the requirements of Chapter 15, U. S. Navy Security Manual for Classified Matter, shall be followed. An immediate request will be initiated for the appropriate final clearance for handling TOP SECRET information.

b. Specific permission to employ foreign nationals on Navy Classified Matter.--Permission to utilize foreign nationals on Navy classified matter within the Naval Establishment must be authorized by the Chief of Naval Operations (Director of Naval Intelligence) prior to assignment. The authority will be granted only in cases of absolute necessity and for specific tasks and projects and will be conditional upon the completion of a Background Investigation or such investigation as in the opinion of the Chief of Naval Operations (Director of Naval Intelligence) is sufficiently complete and reliable to form a basis for determining whether utilization of the foreign national is clearly consistent with the interest of National Security.

7-8. SECURITY INVESTIGATIONS FOR EMPLOYMENT IN PER DIEM, INTERMITTENT, TEMPORARY, OR SEASONAL STATUS FOR PERIOD OF SIX MONTHS OR LESS OF UNITED STATES CITIZENS OR ALIENS IN UNITED STATES, ITS TERRITORIES AND POSSESSIONS. Persons so employed are subject to the following security investigations completed with satisfactory results:

a. Non-sensitive positions.--Appropriate investigation as determined by the head of the activity. The investigation normally will not be more than a check of references and local agencies.

b. Sensitive-noncritical positions.--Procedures stipulated in NCPI

29.8-Enclosure 12, apply. With regard to aliens, the provisions of NCPI 29.7-7b also apply.

c. Sensitive-critical positions.--Procedures stipulated in NCPI 29.8-Enclosure 13, apply. With regard to aliens, the provisions of NCPI 29.7-7b also apply.

7-9. SECURITY INVESTIGATIONS OF ALIENS EMPLOYED OUTSIDE THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS IN TEMPORARY OR SEASONAL STATUS NOT IN EXCESS OF THREE MONTHS.--Persons so employed are subject to the following security investigations completed with satisfactory results:

a. Non-sensitive positions.--Appropriate investigation as determined by the head of the activity. The investigation normally will be not more than a check of references and local agencies.

b. Sensitive-noncritical positions.--Appropriate investigation as determined by the head of the activity. The investigation normally will be not more than a check of references and local agencies. The provisions of NCPI 29.7-7b must be observed, where applicable.

c. Sensitive-critical positions.--Procedures stipulated in NCPI 29.8-Enclosure 13, apply, as do the provisions of NCPI 29.7-7b.

7-10. SECURITY INVESTIGATIONS OF ALIENS EMPLOYED OUTSIDE THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS FOR EXTENDED PERIODS. Persons so employed are subject to the following security investigations completed with satisfactory results:

a. Non-sensitive positions.--A review of as many of the following sources as feasible:

- (1) Check of the foreign government national agencies.
- (2) Check of local law enforcement agencies where individual resides or resided during the previous five years.
- (3) Check of references, former employers and supervisors.
- (4) Check of schools attended.

b. Sensitive-noncritical positions.--The same review of sources cited in a above plus meeting the requirements of NCPI 29.7-7b, where applicable.

c. Sensitive-critical positions.--Procedures stipulated in NCPI 29.8-Enclosure 13, apply, as do the provisions of NCPI 29.7-7b.

7-11. SECURITY INVESTIGATIONS FOR PERSONS EMPLOYED AFTER BREAK IN SERVICE. Under Executive Order 10450 all former Federal employees who are reemployed in the Naval Establishment are subject to investigation as follows:

a. Sensitive-critical positions.--A sensitive-critical position, as defined in NCPI 29.7-2j, may be filled by the reemployment of a former Federal employee who has had a break in his service, under the following conditions: If the break in service has not been in excess of 90 days and the investigative requirements for this category of position have been met by prior investigation, no further investigation is required. However, in filling such sensitive-critical position, the provisions of NCPI 29.7-6 and NCPI 29.7-7 will apply. In the event there has been a break in service since the prior investigation in excess of 90 days, supplemental investigation will be conducted to bring the prior investigation up to date. When required, reemployment may be made on the same emergency basis as that provided for applicants and appointees under NCPI 29.7-6a(2).★

b. Sensitive-noncritical positions.--A sensitive-noncritical position, as defined in NCPI 29.7-2k, may be filled by the reemployment of a former Federal employee who has had a break in his service, under the following conditions: If the break in service has not been in excess of 90 days and the investigative requirements for this category of position have been met by prior investigation, no further investigation is required. However, in filling such sensitive-noncritical position, the provisions of NCPI 29.7-5 and NCPI 29.7-7 will apply. In the event there has been a break in service since the prior investigation in excess of 90 days, an up-to-date National Agency Check and Written Inquiries must be completed. When required, reemployment may be made on the same emergency basis as that provided for applicants under NCPI 29.7-5a.★

c. Non-sensitive positions.--In the case of reemployment when the current

appointment is to a non-sensitive position, as defined in NCPI 29.7-2h, and the appointee has had no break in service in excess of one year since his last employment in the Government, submission of Standard Forms 85 and 87 and allied papers may be deferred until the official personnel folder has been obtained. The gaining activity shall review the official personnel folder to determine whether required checks, under Executive Order 9835 or Executive Order 10450, have been completed. If this cannot be determined from review of the personnel folder, inquiry shall be made of the activity previously employing the appointee which shall furnish other evidence of completion of such checks, if they have been made, for inclusion in the records of the gaining activity. Thereafter, if it is determined that the required checks made under Executive Order 9835 or Executive Order 10450 have been completed no reinvestigation is required and the activity need not prepare and submit Standard Forms 85 and 87 and allied papers on the appointee. If there is no evidence in the official personnel folder that the required checks have been completed *or if there has been a break in service in excess of one year, the gaining activity shall prepare and submit the forms for initiating such check. NCPI 29.8-Encl. 11 sets forth procedures for initiating and processing National Agency Checks and Written Inquiries for non-sensitive positions under the requirements of Executive Order 10450. * If the appointee's break in service has been in excess of one year, the required forms must be submitted within 3 days of entrance on duty.

7-12. SECURITY INVESTIGATIONS FOR EMPLOYEES WHO: (1) ARE APPOINTED WITHOUT A BREAK IN SERVICE; (2) TRANSFER FROM ANOTHER GOVERNMENT AGENCY; (3) CHANGE THEIR HEADQUARTERS; OR (4) CHANGE THEIR POSTS OF DUTY. Under Executive Order 10450 employees who are moved in employment in any of the above specified ways are subject to investigation as stated in a and b below.

a. Sensitive positions. -- This paragraph (7-12) is designed to insure the

completion of an adequate investigation before moving an employee from a non-sensitive position to a sensitive-noncritical position (NCPI 29.7-2k) or to a sensitive-critical position (NCPI 29.7-2j), or from a sensitive-noncritical position to a sensitive-critical position. * The requirements stated herein in no way relieve the Commanding Officer of his responsibility or his authority with respect to the granting of clearances for access to classified matter as specified in Chapter 15 of the United States Navy Security Manual for Classified Matter. No investigative requirements are set forth for moving an employee from a position of a given category of sensitivity to a position of the same category of sensitivity, since the previous investigation which led to the employee's assignment to the sensitive position is considered to be adequate for moving an employee to a position in the same category of sensitivity as the one he occupies. However, in the event a break in service in excess of 90 days has occurred since the previous investigation, additional or supplemental investigation as outlined in (1) and (2) below must be completed. *

- (1) An employee may be moved from a non-sensitive position to a sensitive-noncritical position by effecting any of the personnel actions listed above, provided that a previous favorable check under either Executive Order 9835 or Executive Order 10450 has been completed *and there has been no break in service in excess of 90 days since the previous check * and provided further that the results of the previous check are reviewed by the Security Officer of the activity. For the purpose of this Instruction, the Security Officer is that individual who has responsibility for processing clearances for access to classified matter. * If there has been a break in service in excess of 90 days since the previous check, a current National Agency Check must be completed, with satisfactory results. Exception to the requirements of a preassignment NAC may be taken only as authorized by NCPI 29.7-5a. *

Determination as to whether or not the assignment of the employee to the position in question is clearly consistent with the interests of the national security will be made by the Commanding Officer, after receiving advice from the Industrial Relations Officer and the Security Officer. The Remarks section of the personnel folder copy of the Standard Form 50 effecting the personnel action will be stamped "Processed under E. O. 10450", dated and initialed by the person delegated such authority under NCPI 135.2-3a or c, as appropriate.

- (2) An employee may be moved from a non-sensitive position, or from a sensitive-noncritical position to a sensitive-critical position by effecting any of the personnel actions listed above, provided that a ★ previous ★ Background Investigation as defined in Chapter 15, United States Navy Security Manual for Classified Matter, or its equivalent, has been completed with satisfactory results ★ and there has been no break in service in excess of 90 days since the completion of the previous investigation, and provided the results of the previous investigation are reviewed by the Security Officer of the activity. Determination as to whether the assignment of the employee to the position on the basis of a previous Background Investigation or its equivalent is clearly consistent with the interest of the national security will be made by the Commanding Officer, after receiving advice from the Industrial Relations Officer and the Security Officer. Questions as to whether an existing investigation meets the requirements of a Background Investigation as defined in Chapter 15, United States Navy Security Manual for Classified Matter, will be referred to the appropriate District Intelligence Officer for determination. If a previous investigation is found to meet these requirements, the

Remarks section of the personnel folder copy of the Standard Form 50 effecting the action will be stamped "Processed under E. O. 10450," dated and initialed by the person delegated such authority under NCPI 135.2-3a or c, as appropriate. If the previous investigation does not meet the requirements, a Background Investigation must be completed under the provisions of NCPI 29.7-6a(1). If the previous investigation meets the requirements of a Background Investigation as defined in Chapter 15, United States Navy Security Manual for Classified Matter, but there has been an intervening break in service in excess of 90 days, additional or supplemental investigation must be completed to bring the previous investigation up to date. Exception to the requirements of a preassignment Background Investigation may be taken only as authorized by NCPI 29.7-6a(2). No exception to the requirement of a preassignment National Agency Check may be taken.★

- (3) If a National Agency Check or Background Investigation is required under (1) or (2) above, request therefor will be submitted to the appropriate District Intelligence Officer on OPNAV Form 5520-1, Request for Investigation for Personnel Security Clearance. The request should clearly state that this is a request for a pre-appointment investigation required under E. O. 10450. ★(See NCPI 29.8-Encl. 12 and Encl. 13 for processing of National Agency Checks).★

b. Non-sensitive positions.--An employee may be moved into a non-sensitive position by effecting any of the personnel actions listed above, provided that there has been a previous favorable check under ★Executive Order 9835 (Part I or Part VI check, or both) or under Executive Order 10450 and there has not been a break in service in excess of one year. If there

has been no previous check under E. O. 9835 or E. O. 10450, or if there has been a break in service in excess of one year, the provisions of NCPI 29.8-Encl. 11 for processing of National Agency Checks will be followed.★

7-13. SECURITY INVESTIGATIONS FOR EMPLOYEES WHO ARE PROMOTED, REASSIGNED, OR CHANGED TO LOWER GRADE.

a. Authority.--Under Executive Order 10450 employees who are promoted, reassigned or changed to lower grade are subject to investigation as stated below.

b. Investigative requirements.--The investigative requirements for filling positions by promotions, reassignment, or change to lower grade shall be the same as that set forth in NCPI 29.7-12a or b, as appropriate, except as provided in c below.

c. Special investigative requirements.--When a promotion, reassignment or change to lower grade is the result of a reclassification as defined in NCPI 156.2-1aa, and it is determined that the incumbent is the employee who should be affected by the position change, the employee should be considered, for security purposes, as an incumbent of the position to which promotion, reassignment or change to lower grade is contemplated. In such instances, the investigative requirements set forth in NCPI 29.7-12 shall apply, except that the employee so affected may continue to occupy the position while any necessary investigation is being processed.

SECTION 8, ENCLOSURES

8-1. Executive Order 10450.

8-2. Executive Order 10491.

8-3. Extract of Section 9A of the Hatch Act.

8-4. List of organizations designated by the Attorney General pursuant to Executive Order No. 10450.

8-5. Public Law, 733, 81st Congress.

8-6. Suggested form of invitation to witnesses.

8-7. Sample order convening a security hearing board.

8-8. Sample opening statement.

8-9. Investigative requirements under Executive Order 10450.

8-10. Suggested Counsel to Employees under the Provisions of NCPI 29.2-9c(14).

8-11. Procedural Instructions - National Agency Check and Written Inquiries for Non-sensitive Positions.

8-12. Procedural Instructions - National Agency Check and Written Inquiries for Sensitive-noncritical Positions.

8-13. Procedural Instructions - Background Investigations Conducted by Naval Intelligence for Sensitive-critical Positions.

File No. - OIR 110

EXECUTIVE ORDER 10450

SECURITY REQUIREMENTS FOR GOVERNMENT EMPLOYMENT

WHEREAS the interests of the national security require that all persons privileged to be employed in the departments and agencies of the Government, shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States; and

WHEREAS the American tradition that all persons should receive fair, impartial, and equitable treatment at the hands of the Government requires that all persons seeking the privilege of employment or privileged to be employed in the departments and agencies of the Government be adjudged by mutually consistent and no less than minimum standards and procedures among the departments and agencies governing the employment and retention in employment of persons in the Federal service:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including section 1753 of the Revised Statutes of the United States (5 U. S. C. 631); the Civil Service Act of 1883 (22 Stat. 403; 5 U. S. C. 632, et seq.); section 9A of the act of August 2, 1939, 53 Stat. 1148 (5 U. S. C. 118 j); and the act of August 26, 1950, 64 Stat. 476 (5 U. S. C. 22-1, et seq.), and as President of the United States, and deeming such action necessary in the best interests of the national security, it is hereby ordered as follows:

SECTION 1. In addition to the departments and agencies specified in the said act of August 26, 1950, and Executive Order No. 10237 of April 26, 1951, the provisions of that act shall apply to all other departments and agencies of the Government.

SEC. 2. The head of each department and agency of the Government shall be responsible for establishing and maintaining within his department or agency an effective program to insure that the employment and retention in employment of any civilian officer or employee within the department or agency is clearly consistent with the interests of the national security.

SEC. 3. (a) The appointment of each civilian officer or employee in any department or agency of the Government shall be made subject to investigation. The scope of the investigation shall be determined in the first instance according to the degree of adverse effect the occupant of the position sought to be filled could bring about, by virtue of the nature of the position, on the national security, but in no event shall the investigation include less than a national agency check (including a check of the fingerprint files of the Federal Bureau of Investigation), and written inquiries to appropriate local law-enforcement agencies, former employers and supervisors, references, and schools attended by the person under investigation: Provided, that upon request of the head of the department or agency concerned, the Civil Service Commission may, in its discretion, authorize such less investigation as may meet the requirements of the national security with respect to per-diem, intermittent, temporary, or seasonal employees, or aliens employed outside the United States. Should there develop at any stage of investigation information indicating that the employment of any such person may not be clearly consistent with the interests of the national security, there shall be conducted with respect to such person a full field investigation, or such less investigation as shall be sufficient to enable the head of the department or agency concerned to determine whether retention of such person is clearly consistent with the interests of the national security.

(b) The head of any department or agency shall designate; or cause to be designated, any position within his department or agency the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security as a sensitive position. Any position so designated shall be filled or occupied only by a person with respect to whom a full field investigation has been conducted: Provided, that a person occupying a sensitive position at the time it is designated as such may

continue to occupy such position pending the completion of a full field investigation, subject to the other provisions of this order: And provided further, that in case of emergency a sensitive position may be filled for a limited period by a person with respect to whom a full field pre-appointment investigation has not been completed if the head of the department or agency concerned finds that such action is necessary in the national interest, which finding shall be made a part of the records of such department or agency.

SEC. 4. The head of each department and agency shall review, or cause to be reviewed, the cases of all civilian officers and employees with respect to whom there has been conducted a full field investigation under Executive Order No. 9835 of March 21, 1947, and, after such further investigation as may be appropriate, shall re-adjudicate, or cause to be re-adjudicated, in accordance with the said act of August 26, 1950, such of those cases as have not been adjudicated under a security standard commensurate with that established under this order.

SEC. 5. Whenever there is developed or received by any department or agency information indicating that the retention in employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, such information shall be forwarded to the head of the employing department or agency or his representative, who, after such investigation as may be appropriate, shall review, or cause to be reviewed, and, where necessary, re-adjudicate, or cause to be re-adjudicated, in accordance with the said act of August 26, 1950, the case of such officer or employee.

SEC. 6. Should there develop at any stage of investigation information indicating that the employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, the head of the department or agency concerned or his representative shall immediately suspend the employment of the person involved if he deems such suspension necessary in the interests of the national security and, following such investigation and review as he deems necessary, the head of the department or agency concerned shall terminate the employment of such suspended officer or employee whenever he shall determine such termination necessary or advisable in the interests of the national security, in accordance with the said act of August 26, 1950.

SEC. 7. Any person whose employment is suspended or terminated under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950, or pursuant to the said Executive Order No. 9835 or any other security or loyalty program relating to officers or employees of the Government, shall not be reinstated or restored to duty or reemployed in the same department or agency and shall not be reemployed in any other department or agency, unless the head of the department or agency concerned finds that such reinstatement, restoration, or reemployment is clearly consistent with the interests of the national security, which finding shall be made a part of the records of such department or agency: Provided, that no person whose employment has been terminated under such authority thereafter may be employed by any other department or agency except after a determination by the Civil Service Commission that such person is eligible for such employment.

SEC. 8. (a) The investigations conducted pursuant to this order shall be designed to develop information as to whether the employment or retention in employment in the Federal service of the person being investigated is clearly consistent with the interests of the national security. Such information shall relate, but shall not be limited, to the following:

- (1) Depending on the relation of the Government employment to the national security:
- (i) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.
- (ii) Any deliberate misrepresentations, falsifications, or omissions of material facts.

(iii) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.

(iv) Any illness, including any mental condition, of a nature which in the opinion of competent medical authority may cause significant defect in the judgment or reliability of the employee, with due regard to the transient or continuing effect of the illness and the medical findings in such case.

(v) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of the national security.

(2) Commission of any act of sabotage, espionage, treason, or sedition, or attempts thereat or preparation therefor, or conspiring with, or aiding or abetting, another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(3) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(4) Advocacy of use of force or violence to overthrow the government of the United States, or of the alteration of the form of government of the United States by unconstitutional means.

(5) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, Fascist, Communist, or subversive, or which has adopted, or shows, a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or which seeks to alter the form of government of the United States by unconstitutional means.

(6) Intentional, unauthorized disclosure to any person of security information, or of other information disclosure of which is prohibited by law, or willful violation or disregard of security regulations.

(7) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

(8) Refusal by the individual, upon the ground of constitutional privilege against self-incrimination, to testify before a congressional committee regarding charges of his alleged disloyalty or other misconduct.

(b) The investigation of persons entering or employed in the competitive service shall primarily be the responsibility of the Civil Service Commission, except in cases in which the head of a department or agency assumes that responsibility pursuant to law or by agreement with the Commission. The Commission shall furnish a full investigative report to the department or agency concerned.

(c) The investigation of persons (including consultants, however employed), entering employment of, or employed by, the Government other than in the competitive service shall primarily be the responsibility of the employing department or agency. Departments and agencies without investigative facilities may use the investigative facilities of the Civil Service Commission, and other departments and agencies may use such facilities under agreement with the Commission.

(d) There shall be referred promptly to the Federal Bureau of Investigation all investigations being conducted by any other agencies which develop information indicating that an individual may have been subjected to coercion, influence, or pressure to act contrary to the interests of the national security, or information relating to any of the matters described in subdivisions (2) through (8) of subsection (a) of this section. In cases so referred to it, the Federal Bureau of Investigation shall make a full field investigation.

SEC. 9. (a) There shall be established and maintained in the Civil Service Commission a security-investigations index covering all persons as to whom security investigations have been conducted by any department or agency of the Government under this order. The central index established and maintained by the Commission under Executive Order No. 9835 of March 21, 1947, shall be made a part of the security-investigations index. The security-investigations index shall contain the name of each person investigated, adequate identifying information concerning each such person, and a reference to each department and agency which has conducted an investigation concerning the person involved or has suspended or terminated the employment of such person under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950.

(b) The heads of all departments and agencies shall furnish promptly to the Civil Service Commission information appropriate for the establishment and maintenance of the security-investigations index.

(c) The reports and other investigative material and information developed by investigations conducted pursuant to any statute, order, or program described in section 7 of this order shall remain the property of the investigative agencies conducting the investigations, but may, subject to considerations of the national security, be retained by the department or agency concerned. Such reports and other investigative material and information shall be maintained in confidence, and no access shall be given thereto except, with the consent of the investigative agency concerned, to other departments and agencies conducting security programs under the authority granted by or in accordance with the said act of August 26, 1950, as may be required for the efficient conduct of Government business.

SEC. 10. Nothing in this order shall be construed as eliminating or modifying in any way the requirement for any investigation or any determination as to security which may be required by law.

SEC. 11. On and after the effective date of this order the Loyalty Review Board established by Executive Order No. 9835 of March 21, 1947, shall not accept agency findings for review, upon appeal or otherwise. Appeals pending before the Loyalty Review Board on such date shall be heard to final determination in accordance with the provisions of the said Executive Order No. 9835, as amended. Agency determinations favorable to the officer or employee concerned pending before the Loyalty Review Board on such date shall be acted upon by such Board, and whenever the Board is not in agreement with such favorable determination the case shall be remanded to the department or agency concerned for determination in accordance with the standards and procedures established pursuant to this order. Cases pending before the regional loyalty boards of the Civil Service Commission on which hearings have not been initiated on such date shall be referred to the department or agency concerned. Cases being heard by regional loyalty boards on such date shall be heard to conclusion, and the determination of the board shall be forwarded to the head of the department or agency concerned: Provided, that if no specific department or agency is involved, the case shall be dismissed without prejudice to the applicant. Investigations pending in the Federal Bureau of Investigation or the Civil Service Commission on such date shall be completed, and the reports thereon shall be made to the appropriate department or agency.

SEC. 12. Executive Order No. 9835 of March 21, 1947, as amended, is hereby revoked. For the purposes described in section 11 hereof the Loyalty Review Board and the regional loyalty boards of the Civil Service Commission shall continue to exist and function for a period of one hundred and twenty days from the effective date of this order, and the Department of Justice shall continue to furnish the information described in paragraph 3 of Part III of the said Executive Order No. 9835, but directly to the head of each department and agency.

SEC. 13. The Attorney General is requested to render to the heads of departments and agencies such advice as may be requisite to enable them to establish and maintain an appropriate employee-security program.

SEC. 14. (a) The Civil Service Commission, with the continuing advice and collaboration of representatives of such departments and agencies as the National Security Council may designate, shall make a continuing study of the manner in which this order is being implemented by the departments and agencies of the Government for the purpose of determining:

(1) Deficiencies in the department and agency security programs established under this order which are inconsistent with the interests of, or directly or indirectly weaken, the national security.

(2) Tendencies in such programs to deny to individual employees fair, impartial, and equitable treatment at the hands of the Government, or rights under the Constitution and laws of the United States or this order.

Information affecting any department or agency developed or received during the course of such continuing study shall be furnished immediately to the head of the department or agency concerned. The Civil Service Commission shall report to the National Security Council, at least semiannually, on the results of such study, shall recommend means to correct any such deficiencies or tendencies, and shall inform the National Security Council immediately of any deficiency which is deemed to be of major importance.

(b) All departments and agencies of the Government are directed to cooperate with the Civil Service Commission to facilitate the accomplishment of the responsibilities assigned to it by subsection (a) of this section.

(c) To assist the Civil Service Commission in discharging its responsibilities under this order, the head of each department and agency shall, as soon as possible and in no event later than ninety days after receipt of the final investigative report on a civilian officer or employee subject to a full field investigation under the provisions of this order, advise the Commission as to the action taken with respect to such officer or employee. The information furnished by the heads of departments and agencies pursuant to this section shall be included in the reports which the Civil Service Commission is required to submit to the National Security Council in accordance with subsection (a) of this section. Such reports shall set forth any deficiencies on the part of the heads of departments and agencies in taking timely action under this order, and shall mention specifically any instances of noncompliance with this subsection.

SEC. 15. This order shall become effective thirty days after the date hereof.

DWIGHT D. EISENHOWER

THE WHITE HOUSE
April 27, 1953.

EXECUTIVE ORDER 10491

AMENDMENT OF EXECUTIVE ORDER NO. 10450 OF APRIL 27, 1953,
RELATING TO SECURITY REQUIREMENTS FOR GOVERNMENT EMPLOYMENT

By virtue of the authority vested in me by the Constitution and statutes of the United States, including section 1753 of the Revised Statutes of the United States (5 U. S. C. 631); the Civil Service Act of 1883 (22 Stat. 403; 5 U. S. C. 632, et seq.); section 9A of the act of August 2, 1939, 53 Stat. 1148 (5 U. S. C. 118j); and the act of August 26, 1950, 64 Stat. 476 (5 U. S. C. 22-1, et seq.), and as President of the United States, and finding such action necessary in the best interests of the national security, it is hereby ordered as follows:

Subsection (a) of section 8 of Executive Order No. 10450 of April 27, 1953, relating to security requirements for Government employment, is hereby amended by adding thereto at the end thereof paragraph (8) as follows:

"(8) Refusal by the individual, upon the ground of constitutional privilege against self-incrimination, to testify before a congressional committee regarding charges of his alleged disloyalty or other misconduct."

DWIGHT D. EISENHOWER

THE WHITE HOUSE
October 13, 1953.

EXTRACT OF SECTION 9A OF THE HATCH ACT

**THE HATCH ACT
(Public--No. 252--76th Congress)**

AN ACT

"To prevent pernicious political activities, approved August 2, 1939.....

"Sec. 9A. (1) It shall be unlawful for any person employed in any capacity by any agency of the Federal Government, whose compensation, or any part thereof, is paid from funds authorized or appropriated by any Act of Congress, to have membership in any political party or organization which advocates the overthrow of our constitutional form of government in the United States.

"(2) Any person violating the provisions of this section shall be immediately removed from the position or office held by him, and thereafter no part of the funds appropriated by any Act of Congress for such position or office shall be used to pay the compensation of such person."

S 000743

<p>Hollywood Writers Mobilization for Defense Hungarian-American Council for Democracy Hungarian Brotherhood Isho Pension Union Independent Party (Seattle, Washington) (See Independent People's Party) Independent People's Party (See Independent Party) Independent Socialist League Industrial Workers of the World International Labor Defense International Workers Order, its subdivisions, subsidiaries and affiliates Japanese Association of America Japanese Overseas Control Society (Kaigi Doko Chu Kai) Japanese Overseas Committee, Tokyo, Japan, 1940 Japanese Protective Association (Retiring Organization) Jefferson School of Social Science, New York City Jewish Culture Society Jewish People's Committee Jewish People's Fraternal Order Jiyuho Inkaei (The Committee for the Crisis) Johnson-Forest Group Johannesites (See Johnson-Forest Group) Joint Anti-Fascist Refugee Committee Joint Council of Progressive Italian-Americans, Inc. Joseph Weydenmeyer School of Social Science, St. Louis, Missouri Kabur Senzo Kai (Association of U. S. Citizens of Japanese Ancestry who have returned to America after studying in Japan) Knights of the White Camellia Ku Klux Klan Kyllhaeuser, also known as Kyllhaeuser League (Kyllhaeuser Band). Kyllhaeuser Fellowship (Kyllhaeuser Kameradschaft) Kyllhaeuser War Relief (Kyllhaeuser Kriegshilfswerk) Labor Council for Negro Rights Labor Research Association, Inc. Labor Youth League League for Common Sense League of American Writers Lector Society (Italian Black Shirts) Marxist-American People's League Marzo Migrants Circle Maritime Labor Committee to Defend Al Lannon Maryland Congress Against Discrimination (See Committee to Abolish Discrimination in Maryland) Massachusetts Committee for the Bill of Rights Massachusetts Minute Women for Peace (not connected with the Minute Women of the U. S. A., Inc.) Massive Braverman Defense Committee Michigan Civil Rights Federation Michigan Council for Peace Michigan School of Social Science Nankai Teikoku Gungudan (Imperial Military Friends Group or Southern California War Veterans) National Association of Mexican Americans (also known as Association Nacional Mexco-Americana) National Blue Star Mothers of America (not to be confused with the Blue Star Mothers of America organized in February 1942) National Committee for Freedom of the Press National Committee for the Defense of Political Prisoners National Committee to Win Amnesty for Smith Act Victims National Committee to Win the Peace National Conference on American Policy in China and the Far East (a Conference called by the Committee for a Democratic Far Eastern Policy) National Council of Americans of Croatian Descent National Council of American Soviet Friendship National Federation for Constitutional Liberties National Labor Conference for Peace National Negro Congress National Negro Labor Council Nationalist Action League Nationalist Party of Puerto Rico Native Friends of America (since 1935) Negro Labor Victory Committee New Committee for Publications Nichitzu Kogyo Kaisha (The Great East Theatre) North American Committee to Aid Spanish Democracy North Philadelphia Forum Northwest Japanese Association Ohio School of Social Sciences Oklahoma Committee to Defend Political Prisoners Oklahoma League for Political Education (see Communist Political Association) Original Southern Klan, Incorporated Pacific Northwest Labor School, Seattle, Washington Palo Alto Peace Club Partido del Pueblo of Panama (operating in the Canal Zone) Peace Information Center Peace Movement of Ethiopia</p>	<p>People's Drama, Inc. People's Educational and Press Association of Texas (see Communist Political Association) People's Educational Association (Incorporated under name Los Angeles Educational Association, Inc.), also known as People's Educational Center, People's University, People's School People's Institute of Applied Religion People's Program (Seattle, Washington) People's Radio Foundation, Inc. People's Rights Party Philadelphia Labor Committee for Negro Rights Philadelphia School of Social Science and Art Photo League (New York City) Pittsburgh Art Club Political Prisoners' Writers Committee Polonia Society of the IWO Progressive German-Americans, also known as Progressive German-Americans of Chicago Proletarian Party of America Proletarian War Veterans of the United States, Inc. Provisional Committee of Citizens for Peace, Southwestern Area Provisional Committee on Latin American Affairs Provisional Committee to Abolish Discrimination in the State of Maryland (See Committee to Abolish Discrimination in Maryland) Puerto Rican Center Pro Liberty Civils (CLC) (See Comité Pro Derechos Civiles) PuertoRiquenos Unidos (Puerto Ricans United) Quad City Committee for Peace Queensbridge Tenants League Revolutionary Workers League Romanian-American Fraternal Society Russian American Society, Inc. Saburo Kai (Patriotic Society or Chrysy Association—composed of veterans of Russo Japanese War) Samuel Adams School, Boston, Massachusetts Santa Barbara Peace Forum Schappes Defense Committee Schneiderman-Dacey Defense Committee School of Jewish Studies, New York City Seattle Labor School, Seattle, Washington Serbian-American Fraternal Society Serbian Vidovdan Council Shomo Temples (limited to State Shomo abolished in 1943) Silver Shirt Legion of America Slave Council of Southern California Slovak Workers Society Slovak-American National Council Socialist Workers Party, including American Committee for European Workers' Relief Socialist Youth League (see Workers Party) Sokoku Kai (Fatherland Society) Southern Negro Youth Congress Sushin Sho (Reserve Officers Association Los Angeles) Sylvan Women for Peace Tom Paine School of Social Science, Philadelphia, Pennsylvania Tom Paine School of Workers, New York Trade Union Committee for Peace (See Trade Unions for Peace) Trade Unions for Peace (See Trade Union Committee for Peace) Tri-State Negro Trade Union Council Ukrainian American Fraternal Union Union of American Citizens Union of New York Veterans United American Spanish Aid Committee United Committee of Jewish Surfers and Landsmannshaf Federations, also known as Coordination Committee of Jewish Landsmannshafers and Fraternal Organizations United Committee of South Slavic American United Defense Council of Southern California United Eastern Tenants and Consumers Organization United May Day Committee United Negro and Allied Veterans of America Veterans Against Discrimination of Civil Rights Congress of New York (see Civil Rights Congress) Veterans of the Abraham Lincoln Brigade Virginia League for People's Education (see Communist Political Association) Voice of Freedom Committee Wall Whisman School of Social Science, Newark, New Jersey Washington Bookshop Association Washington Committee for Democratic Action Washington Committee to Defend the Bill of Rights Washington Communist-Fraternal Federation Washington Pension Union Washington Conference on Social Legislation Workers Alliance (until April 1936) Workers Party, including Socialist Youth League Yiddisher Kultur Farband Young Communist League Yugoslav-American Committee Home, Inc. Yugoslav Women's Club, Inc.</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

S-000745

PUBLIC LAW 733--81st CONGRESS

AN ACT

To protect the national security of the United States by permitting the suspension of employment of civilian officers and employees of various departments and agencies of the Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 6 of the Act of August 24, 1912 (37 Stat. 555), as amended (5 U.S.C. 652), or the provisions of any other law, the Secretary of State; Secretary of Commerce; Attorney General; the Secretary of Defense; the Secretary of the Army; the Secretary of the Navy; the Secretary of the Air Force; the Secretary of the Treasury; Atomic Energy Commission; the Chairman, National Security Resources Board; or the Director, National Advisory Committee for Aeronautics, may, in his absolute discretion and when deemed necessary in the interest of national security, suspend, without pay, any civilian officer or employee of the Department of State (including the Foreign Service of the United States), Department of Commerce, Department of Justice, Department of Defense, Department of the Army, Department of the Navy, Department of the Air Force, Coast Guard, Atomic Energy Commission, National Security Resources Board, or National Advisory Committee for Aeronautics, respectively, or of their several field services: Provided, that to the extent that such agency head determines that the interests of the national security permit, the employee concerned shall be notified of the reasons for his suspension and within thirty days after such notification any such person shall have an opportunity to submit any statements or affidavits to the official designated by the head of the agency concerned to show why he should be reinstated or restored to duty. The agency head concerned may, following such investigation and review as he deems necessary, terminate the employment of such suspended civilian officer or employee whenever he shall determine such termination necessary or advisable in the interest of the national security of the United States, and such determination by the agency head concerned shall be conclusive and final: Provided further, That any employee having a permanent or indefinite appointment, and having completed his probationary or trial period, who is a citizen of the United States whose employment is suspended under the authority of this Act, shall be given after his suspension and before his employment is terminated under the authority of this Act, (1) a written statement within thirty days after his suspension of the charges against him, which shall be subject to amendment within thirty days thereafter and which shall be stated as specifically as security considerations permit; (2) an opportunity within thirty days thereafter (plus an additional thirty days if the charges are amended) to answer such charges and to submit affidavits; (3) a hearing, at the employee's request, by a duly constituted agency authority for this purpose; (4) a review of his case by the agency head, or some official designated by him, before a decision adverse to the employee is made final; and (5) a written statement of the decision of the agency head: Provided further, That any person whose employment is so suspended or terminated under the authority of this Act may, in the discretion of the agency head concerned, be reinstated or restored to duty, and if so reinstated or restored shall be allowed compensation for all or any part of the period of such suspension or termination in an amount not to exceed the difference between the amount such person would normally have earned during the period of such suspension or termination, at the rate he was receiving on the date of suspension or termination, as appropriate, and the interim net earnings of such person: Provided further, That the termination of employment herein provided shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government: Provided further, That the head of any department or agency considering the appointment of any person whose employment has been terminated under the provisions of this Act may make such appointment only after consultation with the Civil Service Commission, which agency shall have

the authority at the written request of either the head of such agency or such employee to determine whether any such person is eligible for employment by any other agency or department of the Government.

SEC. 2. Nothing herein contained shall impair the powers vested in the Atomic Energy Commission by the Atomic Energy Act of 1946 or the requirements of section 12 of that Act that adequate provision be made for administrative review of any determination to dismiss any employee of said Commission.

SEC. 3. The provisions of this Act shall apply to such other departments and agencies of the Government as the President may, from time to time, deem necessary in the best interests of national security. If any departments or agencies are included by the President, he shall so report to the Committees on the Armed Services of the Congress.

SEC. 4. Section 3 of the Act of December 17, 1942 (56 Stat. 1053), and section 104 of the Act of July 20, 1949 (Public Law 179, Eighty-first Congress), and section 630 of the Act of October 29, 1949 (Public Law 434, Eighty-first Congress), are hereby repealed.

Approved August 26, 1950

S.00.0747

SUGGESTED FORM OF INVITATION TO WITNESSES

_____ (Date)
 Re: (Employee's Name)

My dear Sir:

You have given information with respect to the above-named employee and have not indicated that your identity was to be kept confidential or that you are unwilling to testify at the hearing at which the above-named employee will be examined. The hearing will be held at the above address, before this Board, on the ____ day of _____ at _____ o'clock. You are hereby invited to appear at the time and place above named and testify before this Board in the presence of the employee and his counsel. If you should be unwilling to testify in the presence of the employee or his counsel, you are hereby invited to testify before this Board in private.

If you are willing to testify but cannot do so on the date fixed, please indicate below a day or days on which you will be able to testify. The Board will try to meet your convenience.

Your appearance, in any event, must be to perform a public service, since our Board cannot pay witness fees or reimburse you for travel or other expenses.

Will you, therefore, kindly indicate what course you are willing to take in this matter? Will you please reply by checking or writing in your answers to the points below and return this at an early date.

Sincerely yours,

 Security Hearing Board

Check here:

1. I will come to the hearing and testify in the presence of the employee and his counsel, if any.
2. I will testify before the Board in private.
3. I will not testify.
4. I cannot testify on the date fixed but am willing to come on _____ or _____.
5. If I do not appear at the hearing, I am willing for the Board to read my statement and disclose my name to the employee at that time.
6. If I do not appear at the hearing, I am willing for the Board to read my statement to the employee, but my name is not to be disclosed.
7. I desire to make the following comments in answer to this letter:

 (Signature of Witness)

SAMPLE ORDER CONVENING A SECURITY HEARING BOARD

CONFIDENTIAL

SECURITY INFORMATION

(WHEN FILLED IN)

DEPARTMENT OF THE NAVY

(EMPLOYING NAVAL ACTIVITY)

1. It is hereby ordered that a Security Hearing Board for the (employing Naval activity) be convened at (employing Naval activity, city and state) for the purpose of conducting a hearing, as prescribed by the act of 28 August 1950 (64 Stat. 476, 5 USC 22-1 et seq.), Executive Order 10450, and Navy Civilian Personnel Instructions 29, in the case of (name of employee who is the subject of the hearing).
2. Mr. _____ of the (department or agency and activity thereof) is hereby designated Chairman of said Board. Mr. _____ of the (department or agency and activity thereof) and Major _____ of the (department and activity thereof) are hereby designated members of said board.
3. The Board will convene at 9:30 A. M. on 22 June 1953 in Room _____, Building _____, of the (employing Naval activity) for the purpose of conducting this hearing. Findings and recommendations will be submitted to me as soon thereafter as possible to be transmitted to the Secretary of the Navy, in accordance with security instructions of the Department of the Navy.
4. All officers and employees of this activity are hereby directed to make available to this Board such aid and assistance as it may require for the expeditious conduct of this assignment. Mr. _____, Executive Secretary of the Security Hearing Board for the (employing activity), is designated to provide necessary liaison.
5. The Security Hearing Board convened hereunder is dismissed when its adjudication of the assigned case has been completed.

BY DIRECTION OF THE SECRETARY OF THE NAVY:

(Signature and title of the head of the
employing Naval activity)

**CONFIDENTIAL
SECURITY INFORMATION
(WHEN FILLED IN)**

5000749

SAMPLE OPENING STATEMENT

1. The Chairman opens the hearing with a statement somewhat as follows:
The Board will come to order: This Security Hearing Board has been constituted under the provisions of the security regulations of the Department of the Navy promulgated pursuant to the authority conferred by Executive Order 10450 and the Act of 26 August 1950. This Board has been convened in the name of the Secretary of the Navy by order of (the head of the Naval activity employing the subject of the hearing) dated _____. A copy of that order is available for your inspection but will not be read if there is no objection. The members of this Board are, myself (full name) an employee of (department or agency), and (names and agencies of other Board members).
2. Other persons in the room are identified and their connection with the case or their authority for being present is explained in very brief terms.
3. The Chairman then announces the case in hearing.
4. The Chairman announces that all testimony in the hearing is required to be given under oath or affirmation. The employee whose case is being heard is then asked to identify himself and is sworn.
5. The Chairman then continues with his opening statement along the following lines:
Investigation has disclosed information upon which (the head of the Naval activity employing the subject of the hearing) has determined that your removal from employment pursuant to the provisions of Executive Order 10450 and the Act of 26 August 1950 may be necessary. This information and your written reply to the charges issued to you on _____ constitute the issues in your case. You have asked that you be given a hearing before this Board in person in order to support your reply. This is not a court of law and strict rules of evidence and court procedure are not followed. All information which is relevant or material to the issues in your case will be admitted and given such value as the Board shall decide. This is an administrative hearing held for the purpose of affording you an opportunity to be heard and to permit the Board to inquire more fully into matters related to your case.

The Board desires to elicit all available information in connection with the issues which have been raised. The Board will give full consideration to the fact that it may not have been possible to acquaint you with certain confidential information which the investigation has revealed nor the sources of such information. The members of this Board sincerely desire that employment not be denied to persons whose employment would be clearly consistent with the interests of the national security. We also sincerely desire that all employees be afforded full protection against unfounded accusations.

You have the right (1) to participate in this hearing, (2) to be represented by counsel of your own choice, (3) to present witnesses and to offer other evidence in your behalf and in refutation of the charges brought against you, and (4) to cross-examine any witnesses offered in support of the charges. You can assist the Board in arriving at a fair and just determination in your case by full and frank answers to questions the Board may have and by confining your attention to what is directly related to your case. Questions as to the legality or constitutionality of these proceedings are not in issue and cannot be decided by this Board. You are also warned that deliberate misrepresentations, false statements, or concealment of material facts in this hearing may preclude this Board's finding that your employment is clearly consistent with the interests of national security. The transcript of this

hearing will not include all material in the file of your case, in that it will not include reports of investigation, which are confidential. The transcript will not contain information concerning the identity of confidential informants or information which would reveal the source of confidential evidence. The transcript will contain only the evidence and the testimony actually taken at this hearing.

6. The letter setting forth the charges and the statements and affidavits by the employee in answer to such charges are then read.
7. Witnesses are sworn as they are called to testify. Generally, the Government witnesses will be called first, questioned by the Board and cross-examined by the employee or his counsel.
8. Then the employee presents his case. He and his witnesses are usually questioned first by the employee's counsel and then by the Board.

S000751

REQUIREMENTS UNDER E.O. 10450

Access to Secret Information	<u>Sensitive-Critical Positions</u> (Positions which involve responsibility for development or approval of war plans or items, and policy positions affecting over-all operations of Navy. Normally this will include all positions GS-14 and above; GS-12 and 13 positions with access to Top Secret; additional positions if designated by CO and certified to OIR Code 110.)	<u>Non-sensitive Positions</u> (All other positions)
	**Pre-appointment Background.	Post-appointment NAC (requested within 3 work days) and written inquiries.
AC and access to com-	Prior Background if no break in service occurred in excess of 90 days since prior Background. **Pre-Reemployment Background or prior Background brought up to date if above condition has not been met.	Prior record check and inquiry under E.O. 9835 or NAC and written inquiries under E.O. 10450 if no break in service occurred in excess of 1 year. Post-assignment NAC and written inquiries if above condition has not been met.
AC and service not met.	Prior Background if no break in service occurred in excess of 90 days since prior Background. **Pre-assignment Background or prior Background brought up to date if above condition has not been met.	Prior check under E.O. 9835 (includes Part VI check) or 10450 if no break in service occurred in excess of 1 year. Post-assignment NAC if above condition has not been met.
AC and service not met. 156.2-1gg) ring	Prior Background if no break in service occurred in excess of 90 days since prior Background. **Pre-assignment Background or prior Background brought up to date if above condition has not been met.	Prior check under E.O. 9835 (includes Part VI check) or 10450 if no break in service occurred in excess of 1 year. Post-assignment NAC if above condition has not been met.
based after as to	Background unless Background completed any time after employment by Navy. Background unless Background completed any time after employment by Navy.	No investigation required unless information of a security or suitability nature is received which warrants inquiry or investigation.

- Remarks:
1. Absence on military furlough is not considered a break in service.
 2. No investigation is required for moving an employee from a position of a given category of sensitivity to one of the same category of sensitivity unless there has been a break in service in excess of 90 days since the prior investigation for assignment to the sensitive position.
 3. Results of checks and investigations must be reviewed by Security Officer. Security Officer is that individual responsible for processing clearances for access to classified matter. ★

INVESTIGATION



Type of Personnel Action

Sensitive-Noncritical Positions (Duties requiring access to classified matter or positions designated by SecDef or CO.)

NOTE: The investigative requirements noted below in addition to clearance requirements set forth in Chapter 15 of the U. S. Navy Security Manual.

APPOINTMENT (New)

*Preappointment NAC and written inquiries.

REEMPLOYMENT (After break in service)
(See Remark no. 1)

Prior record check and inquiry under E.O. 9835 or NAC and written inquiries under 10450 if no break in service occurred in excess of 90 days since prior check.
*Pre-Reemployment NAC and written inquiries if above condition has not been met.

APPOINTMENT (Without break in service))
TRANSFER from other Agency)
CHANGE OF HEADQUARTERS)
CHANGE OF POST OF DUTY)
(See Remark no. 2)

Prior record check and inquiry under E.O. 9835 or NAC and written inquiries under E.O. 10450 if no break in service occurred in excess of 90 days since prior check.
*Preassignment NAC if above condition has not been met.

PROMOTION)
REASSIGNMENT)
CHANGE TO LOWER GRADE)
(See Remark no. 2)

Prior record check and inquiry under E.O. 9835 or NAC and written inquiries under E.O. 10450 if no break in service occurred in excess of 90 days since prior check.
*Preassignment NAC if above condition has not been met.
NOTE: If action results from reclassification (NCP) incumbent may continue to occupy position pending investigation.

INCUMBENTS***
(No personnel action involved.)
- If appointed from 1 Oct 1947 to 27 May 1953, incl.
- If appointed on or before 30 Sep 1947

No investigation required if cleared under E.O. 9835 on CSC record check and inquiry.
NAC unless record check and inquiry or NAC made 30 Sep 1947 in connection with clearance for access to classified matter.

Legend: *Exception under 29.7-5g permitted if request for NAC made.
**Exception under 29.7-6g permitted if NAC completed and request for background investigation.
***Incumbents (appointed prior to 28 May 1953) may continue to occupy positions pending completion of investigation unless derogatory information is developed.

**SUGGESTED COUNSEL TO EMPLOYEES UNDER THE PROVISIONS OF
NCPI 29.2-9c(14)**

A number of our citizens unwittingly expose themselves to unfavorable or suspicious appraisal which they can and should avoid. This may take the form of an indiscreet remark; an unwise selection of friends or associates; membership in an organization whose true objectives are concealed behind a popular and innocuous title; attendance at and participation in the meetings and functions of such organizations even though not an official member; or any or numerous other clever means designed to attract support under false colors or serving to impress an individual with his own importance.

It is advisable to study and seek wise and mature counsel prior to association with persons or organizations of any political or civic nature, no matter what their apparent motives may be, in order to determine the true motives and purposes of the organization in question. The simple principles of good citizenship require that all enthusiasm for well-sounding functions be tempered with the wisdom of full knowledge of the real forces and aims behind them, so that well-meaning citizens will not be unwittingly led into aiding and promoting forces which are contrary to their own basic beliefs.

You may be assured that the rights and liberties which devolve upon citizens of our country under a constitutional form of Government cannot arbitrarily be suspended or removed. The existence of these very same rights should encourage and inspire each one of us to so conduct ourselves that there cannot be the least concern on the part of our associates as to our adherence to the principles of this Government, or as to our reliability in furthering its defense against enemies within or without. This counsel is prompted by the Commanding Officer's sincere interest in the continued well-being of all employees of the activity.

PROCEDURAL INSTRUCTIONS

NATIONAL AGENCY CHECK AND WRITTEN
INQUIRIES FOR NON-SENSITIVE POSITIONS**I. Initiating a national agency check and written inquiries for a non-sensitive position.**

1. Prepare in quadruplicate Standard Form 85 (Security Investigations Data for Non-Sensitive Positions). The Civil Service Commission requests the following additional information be shown on Standard Form 85: after "Title of Position" (Item 12) enter the grade or salary of the employee or the prospective employee; and, on all appointments to the competitive service insure that the Civil Service regulation number is entered in the box "Civil Service or other legal authority" (Item 15) (for example, for appointments made pending establishment of a register, show "CSR 2.302(a)"). ★ The Standard Form 85 must clearly identify the name and address of the activity and the full first and middle names of the employee or prospective employee. In cases where the individual has no middle name, the designation (NMN) should be shown on the form. In rare instances where individuals have initials only for their first and middle names, the form should show (no given or middle name).★

2. Prepare Standard Form 87 (Fingerprint Chart).

3. Submit to the appropriate office of the Civil Service Commission within three days after the appointee enters on duty,¹ the following:

a. First three carbons of Standard Form 85 (applicant is to sign original as well as the first carbon; original to be retained by the employing activity).²

b. Standard Form 87

c. The original application form on which the appointment was made.³

II. Processing results of national agency check and written inquiries for a non-sensitive position returned by the appropriate office of the Civil Service Commission.

1. The appropriate office of the Civil Service Commission will furnish to the employing activity (as designated in item 18 of Standard Form 85), the results of the national agency check and written inquiries.

2. The appointing officer shall review the results of the national agency check and written inquiries and determine whether the continued employment of the appointee is or is not clearly consistent with the interests of the national security.

3. If the decision is favorable to the appointee, the appointing officer shall note the application form "Processed under E. O. 10450" and initial and date the notation. The application form shall then be filed in the Official Personnel Folder; the results of national agency check and written inquiries furnished by the Commission shall be filed in the Security Office of the activity, there to be retained so long as the subject remains on the rolls of the activity.

4. If the decision is adverse to the appointee the appointing officer shall proceed in accordance with NCPI 29.6 or NCPI 29.4, whichever is appropriate. The application form shall be filed in the Official Personnel Folder without notation. The action taken in the case will be reflected in the Official Personnel Folder by copy of the Personnel Action Form, Standard Form 50, issued as a result of the action taken pursuant to NCPI 29.6 or NCPI 29.4. If the appointee is retained on the rolls of the activity, the results of national agency check and written inquiries shall be filed in the Security Office of the activity. If the appointee is separated from the rolls, the results of national agency check and written inquiries shall be disposed of in accordance with Section IV, below.

III. Reporting action taken after review of results of national agency check and written inquiries.

1. The receipt of and action taken on the results of national agency checks and written inquiries shall be reported, with the exception noted in paragraph 2 below, by employing activities on the Quarterly Report of Agency Actions Under Executive Order 10450, Standard Form 77, which is submitted to the Chief of Industrial Relations (OIR Code 630).

2. It is the policy of the Civil Service Commission, if the results of the national agency checks and written inquiries are clearly favorable, not to furnish the investigative material to the employing activity unless specifically requested to do so. The Department of Defense has requested the Civil Service Commission to furnish to employing activities the results of all national agency checks and written inquiries, including those which are clearly favorable. The employing activity has the responsibility of assessing such clear cases under the security program, but the receipt of and action taken on such cases will not be reported by employing activities on Standard Form 77.

IV. Disposing of results of national agency checks and written inquiries when subjects thereof are separated from the rolls.

1. The results of national agency check and written inquiries shall be maintained by the employing activity as long as the person investigated is on its rolls. If the person is separated for any reason, except transfer to another Naval activity, the investigative file shall be returned by the employing activity to the U. S. Civil Service Commission, Bureau of Departmental Operations, Investigations Division, Attention: Security Operating Section, Washington 25, D. C., noted to show that the person has been separated. The investigative file returned to the Commission shall include only that investigative material which was furnished by the Commission. It will not include such items as copies of Standard Form 77 application forms, or reports of investigation or voucher inquiries conducted by the employing activity or other activities of the Department of the Navy. Nor will it include reports of arrest record not furnished as part of an investigative file.

2. In cases of transfer to other Naval activities, the losing Naval activity shall forward the investigative file to the gaining Naval activity.

¹In the case of a reappointment, if it appears that the case may have previously received the required checks, submission of the forms may be deferred until the Official Personnel Folder has been obtained. However, if the break in service has been in excess of one year the required forms must be submitted within the 3-day deadline.

²The instructions on Standard Form 85, June 1953 edition, requires a signature on the original copy only. However, until the form is revised the appointee shall be instructed to sign the original and first copy. The signed original is needed for the activity file in the event prosecution is necessary. When the form is revised the instructions will require a signature on the original and first copy.

³The original application will be returned to the activity for inclusion in the appointee's Official Personnel Folder. Activities may, at their discretion, remove and retain in their files any examination papers attached to applications since they are not required in conducting investigations.

PROCEDURAL INSTRUCTIONS

NATIONAL AGENCY CHECK AND WRITTEN
INQUIRIES FOR SENSITIVE-NONCRITICAL POSITIONS**I. Initiating National Agency Check and written inquiries on applicants for sensitive-noncritical positions.**

1. Prepare in quadruplicate Standard Form 85 (Security Investigations Data for Non-Sensitive Positions) adding across the top of S. F. 85 the following statement: "REQUEST FOR AN NACI FOR A SENSITIVE-NONCRITICAL POSITION WITH AN ADVANCE REPORT OF THE NAC." The Civil Service Commission requests the following additional information be shown on Standard Form 85: after "Title of Position" (Item 12) enter the grade or salary of the prospective employee; and, on all prospective appointments to the competitive service, insure that the Civil Service regulation number is entered in the box "Civil Service or other legal authority" (Item 15) (for example, for appointments made pending establishment of a register, show "CSR 2.302(a)"). ★ The Standard Form 85 must clearly identify the name and address of the activity and the full first and middle names of the prospective employee. In cases where the individual has no middle name, the designation (NMN) should be shown on the form. In rare instances where individuals have initials only for their first and middle names, the form should show (no given or middle name). ★
2. Prepare Standard Form 87 (Fingerprint Chart).
3. Submit to the appropriate Civil Service Commission regional office (or, if the naval activity is located in the Washington, D. C., metropolitan area, to U. S. Civil Service Commission, Investigations Division, Attention: Security Investigations Section, Washington 25, D. C.) the following:
 - a. First three carbons of Standard Form 85. (Applicant is to sign original and first carbon. Original copy is to be retained by activity.)
 - b. Standard Form 87
 - c. ★ Original of ★ Standard Form 57

II. Processing results of National Agency Check and written inquiries on applicants for sensitive-noncritical positions when returned by Civil Service Commission.

1. The Civil Service Commission Central Office Investigation Division will conduct a priority National Agency Check and report the results to the submitting activity on DI Form 372A, Advance Report of National Agency Check for Noncritical-Sensitive Position, to which a reply is required in some cases (see paragraph 4 below). The appropriate office of the Commission will initiate written inquiries on the case at the time the central office of the Commission initiates its priority National Agency Check. This action is prompted by receipt of the material specified in Item I above. The naval activity is no longer required to make a request for written inquiries in addition to the request for National Agency Check.
2. The Civil Service Commission will complete its priority National Agency Check before the written inquiries are completed. The Commission will furnish the results of the priority National Agency Check to the naval activity in advance of furnishing the results of the written inquiries. If the results of the National Agency Check are satisfactory to the appointing officer, and the security officer concurs in the decision of the appointing officer, the appointing officer may appoint the applicant to the position. The appointing officer and the security officer are cautioned, however, that the results of the National Agency Check represent but half of the required investigation. The results of the written inquiries represent the other half of the investigation. Therefore, when the results of the written inquiries are received, the appointing officer and the security officer must review them also and determine if the appointee is to be retained in employment.
3. It is necessary in every instance that the security officer concur in the decision of the appointing officer. If agreement cannot be reached, the matter should be referred to the head of the activity for decision.

4. The following may occur during the process of conducting National Agency Checks and written inquiries. The completion and submission of the required forms cited are the responsibility of the appointing officer. The information to be entered on the forms should stem from the joint decision of the appointing officer and the security officer, wherever appropriate.

- a. Advance report of clearly favorable NAC. If the results of the NAC are clearly favorable (Item 1 on DI Form 372A), no reply to DI Form 372A is required. If the Civil Service Commission finds that the written inquiries disclose derogatory suitability information warranting conversion to limited security investigation (NCPI 29.7-21) in a competitive case, the Commission will send CSC Form 337A, Notice that Further Inquiry is necessary in a case involving a Noncritical-Sensitive Position, to the naval activity and suspend further action in the case until the naval activity replies to the form. The appointing officer must reply to the form within 5 days of receipt.
- b. Advance report of derogatory suitability information disclosed in NAC. If the NAC discloses derogatory or questionable suitability information (Item 2 of DI Form 372A), the Commission will furnish a summary of this information to the naval activity with the advance report on DI Form 372A and suspend further action pending receipt of reply to the Form. The appointing officer and the security officer shall review the summary and determine whether or not the applicant will be appointed. The appointing officer shall appropriately complete the reverse side of the DI Form 372A and submit it immediately to the appropriate office of the Commission in accordance with instructions printed on the Form.

If there is a very lengthy file in the Commission, no summary of this file will be furnished but a notice (DI Form 453, RECORD INFORMATION IN UNITED STATES CIVIL SERVICE COMMISSION INVESTIGATIVE FILES) will be attached to the advanced report (together with any information disclosed in other checks) that the file will be available for review at the Commission's central office. The naval activity shall proceed in accordance with NCPI 29.2-9b(1) and request the appropriate office of Naval Intelligence to inspect the files of the Investigations Division, U. S. Civil Service Commission, Washington 25, D. C., with regard to the material referred to in the Form DI 453, and furnish the naval activity with a summary of the findings. The appointing officer and the security officer shall review the summary and their decision on the matter shall be reported by the appointing officer by completing the Form DI 372A and submitting it in accordance with printed instructions thereon.

- c. Advance report of referral to FBI as result of NAC. If the NAC discloses information warranting investigation by FBI under Section 8(d) of Executive Order 10450, the Commission will check Item 3 on the Form DI 372A sent to the naval activity. No further information will be furnished the naval activity at that time. The appointing officer must reply to the appropriate Commission office within 5 days by appropriately completing the Form DI 372A and submitting it in accordance with printed instructions on the Form.
- d. Report of referral to FBI as result of written inquiries. If the Commission determines from results of the written inquiries that the case should be referred to the FBI for investigation under Section 8(d) of Executive Order 10450 the Commission will submit CSC Form 337A to the naval activity. The appointing officer must reply to the Form within 5 days of receipt.

- e. Unclassifiable fingerprints.** Provision has been made on DI Form 372A for returning unclassifiable fingerprints (with CSC Form 289, Request for Refingerprinting with Instructions, attached) to the naval activity. Instructions on this form provide for resubmission of the new fingerprint chart to the appropriate office of the Commission, unless the case has been discontinued. If the case has been discontinued, the appointing officer shall so notify the appropriate office of the Commission.
- 5. Naval activities shall complete records on subject cases as follows.**
- a. Clearly favorable cases.** When the information in both the results of the NAC and the replies to written inquiries is clearly favorable, the appropriate office of the Commission will close out these cases to the naval activity by mailing the complete results with CSC Form 355, Results of National Agency Checks and Written Inquiries under E. O. 10450 for Noncritical-Sensitive Position. The Commission will stamp the application form in each such case "Processed under Section 3(a), E. O. 10450." No reply by the naval activity to the advance Form DI 372A is required in these cases. If the appointing officer, with the concurrence of the security officer, determines, after review of the results of National Agency Check and written inquiries, that the employment, or retention in employment, of the person is clearly consistent with the interests of the national security, the appointing officer shall note the application form "Processed under E. O. 10450" and initial and date the notation. The application form shall be filed in the employee's Official Personnel Folder; the results of National Agency Check and written inquiries shall be filed in the security office of the naval activity, there to be retained so long as the subject remains on the rolls of the activity.
- b. Cases with clearly favorable NAC but with minor derogatory suitability information in replies to written inquiries.** These are cases in which the results of the NAC are clearly favorable but the replies to the written inquiries contain derogatory information that does not warrant conversion to a limited security case for further investigation. The appropriate office of the Commission will close out these cases to the naval activity by mailing the complete results with CSC Form 355. The Commission will stamp the application form in each such case "Results of Investigation Under Section 3(a) E. O. 10450 Furnished Requesting Agency." No reply by the activity to the advance report Form DI 372A is required in these cases. If the appointing officer and the security officer agree that the person is to be appointed or retained, the application form will be noted, initialed, dated, and filed in the same manner as in "a" above. If the appointing officer, with the concurrence of the security officer, determines after view of the National Agency Check and written inquiries that the continued employment of the appointee is not clearly consistent with the interests of national security the appointing officer shall proceed in accordance with NCPI 29.6 or NCPI 29.4, as appropriate. The application form shall be filed in the Official Personnel Folder without notation. The action taken in the case will be reflected in the Official Personnel Folder by copy of the Personnel Action Form, Standard Form 50, issued as a result of the action taken pursuant to NCPI 29.6 or NCPI 29.4.
- c. Cases in which any derogatory suitability information was disclosed in the NAC, or seriously derogatory suitability information was disclosed in the replies to written inquiries.** When any derogatory information is reported to the naval activity with the advance report of the NAC, the appointing officer of the naval activity is required to reply to the DI Form 372A. The Commission will take no further action in the case

until the reply is received. If the NAC results were clearly favorable, but seriously derogatory information warranting conversion to a limited security case for further investigation is received by the Commission in the replies to written inquiries, the Commission so informs the naval activity by CSC Form 337A, to which the appointing officer must reply. The Commission will take no further action in the case until the reply is received.

- (1) Reply that the person is dropped from consideration. If the appointing officer of the naval activity replies to the appropriate office of the Commission that the person is no longer being considered for appointment (Reply Item 1 of the Form), the Commission will close the NACI case as discontinued. The Commission will use CSC Form 473, RETURN OF APPLICATIONS AFTER NACI INVESTIGATIONS IN CASES OF PERSONS DROPPED FROM CONSIDERATION OR SEPARATED, to return the application unstamped to the naval activity. The Commission will attach to the application the unstamped copy of Standard Form 85 and the results of any preappointment investigation furnished by the activity. The appointing officer of the naval activity shall not stamp the application form. The appointing officer shall dispose of the application form in accordance with instructions given on the CSC Form 473.

In some such cases requiring special processing by the Commission, the Commission will retain the application form as a part of the files of that agency. The Commission will send CSC Form 474 (with unstamped copy of S. F. 85 and the results of any preappointment investigation furnished by the naval activity) to the naval activity for each case of this type. Provision is made at the bottom of CSC Form 474 for a reply from the appointing officer of the naval activity if the application in the case was received with a certificate of eligibles. The appointing officer shall furnish to the appropriate office of the Commission the name of the certifying office and the certificate number. The appointing officer shall return with his reply the Standard Form 85.

- (2) Reply that the person was separated. If the appointing officer replies to the appropriate office of the Commission that the person was separated (Reply Item 2) the Commission will close out the case as discontinued. The Commission will return the application to the activity by CSC Form 473 and attach thereto the unstamped copy of the S. F. 85 together with the results of any preappointment investigation furnished by the naval activity. The appointing officer of the naval activity shall not stamp the application form. The appointing officer shall dispose of the application form in accordance with instructions given on the CSC Form 473.

In some such cases requiring special processing by the Commission, the Commission will retain the application form as a part of the files of that agency. The Commission will send CSC Form 475, NOTICE OF DISCONTINUANCE OF NACI INVESTIGATION AND RETENTION OF APPLICATION REGARDING AN EMPLOYEE, (with the unstamped copy of S. F. 85 and the results of any preappointment investigation conducted by the naval activity, attached) to the naval activity for each such case. The appointing officer shall verify that the person has actually been separated. If the person has not been separated, the appointing officer shall notify the Commission as soon as possible of that fact so that investigation will be resumed. If the person has actually been separated, the appointing officer shall file the CSC Form 475 in the person's official personnel folder in lieu of the application.

- (3) Reply that the person is still being considered or was appointed. If the appointing officer of the naval activity replies to the appropriate office of the Commission that the person is still being considered for appointment (Reply Item 3) or was appointed (Reply Item 4), further action by the Commission will depend on whether the position is in the excepted or competitive service, and whether or not the information disclosed appears to be disqualifying under the Commission's suitability standards.
- (a) If the information in the file does not appear to be disqualifying under the Commission's suitability standards, the appropriate office of the Commission will furnish to the naval activity the complete results of the NACI with CSC Form 355 in cases involving both competitive and excepted positions. The Commission will stamp the application "Results of Investigation Under Section 3(a), E. O. 10450, Furnished Requesting Agency."
- (b) The appointing officer and the security officer of the naval activity shall review the results of the investigation. If they determine that the employment, or retention in employment, of the person is clearly consistent with the interests of the national security, the appointing officer shall note the application form "Processed under E. O. 10450" and initial and date the notation. The application form shall be filed in the employee's official personnel folder; the investigative material shall be filed in the security office of the naval activity, there to be retained so long as the subject remains on the rolls of the activity. If the appointing officer and the security officer find adversely to the person, the appointing officer shall proceed in accordance with NCPI 29.6 or NCPI 29.4, as appropriate. The application form shall be filed in the official personnel folder without notation. The action taken in the case will be reflected in the official personnel folder by copy of the Personnel Action Form, Standard Form 50, issued as a result of the action taken pursuant to NCPI 29.6 or NCPI 29.4.
- (c) If the information in the file is seriously derogatory but an excepted position is involved, the Commission will furnish the complete results to the naval activity on CSC Form 355 transmitted by CSC Form 354, RESULTS OF NATIONAL AGENCY CHECKS AND WRITTEN INQUIRIES IN A CASE INVOLVING AN EXCEPTED POSITION IN AGENCY WITH INVESTIGATIVE FACILITIES. The Commission will stamp the application "Results of Investigation Under Section 3(a), E. O. 10450, Furnished Requesting Agency." The appointing officer and security officer shall proceed in accordance with paragraph (b) above. If these officials cannot make a determination on the basis of the material provided by the Commission, the head of the activity shall request the appropriate office of Naval Intelligence to conduct whatever additional investigation is required to make a determination. The appointing officer and the security officer shall proceed in accordance with paragraph (b) above, after reviewing the results of the additional investigation.
- (d) If the information in the file appears to the Commission to be disqualifying in a case involving a competitive position, the Commission will convert the case to a limited security case. The Commission will conduct further investigation in the case, if necessary. If the Commission's ultimate rating decision is favorable in an applicant case, the appropriate office of the Commission will furnish the complete results to the naval activity with CSC Form 355. The Commission will note the application "accept

application" to indicate favorable Commission rating and, in addition, the regular closing action notation "Results of Investigation Under Section 3(a), E. O. 10450, Furnished Requesting Agency." The appointing officer and the security officer shall proceed in accordance with paragraph (b) above. On the other hand, if the Commission's rating action is adverse in an applicant case, the Commission will notify the individual of the ineligible rating. The Commission will note the application "Ineligible" and retain it as part of the investigative file of the Commission. The Commission will send a letter to the naval activity explaining that the Commission has rated the applicant ineligible and retained the application. The appointing officer of the naval activity shall notify the certifying office of the Commission of this action if the application was received with a certificate of eligibles.

III. Initiating national agency check and written inquiries on appointees to sensitive-noncritical positions.

1. In some cases, an emergency appointment is made to sensitive-noncritical position without prior investigation (NCPI 29.7-5a) and naval activities request the appropriate regional offices of the Commission (or Central Office Investigations Division, Civil Service Commission, Washington 25, D. C., for the Washington, D. C. metropolitan area) for a postappointment National Agency Check and Written Inquiries. The appointing officer shall initiate such investigation in exactly the same manner as set forth in Section I above except that the statement given there to be added across the top of S. F. 85 will not be used. In its stead, the following statement shall be added across the top of the S. F. 85: "REQUEST FOR A POSTAPPOINTMENT NACI FOR A SENSITIVE-NONCRITICAL POSITION."

IV. Processing results of national agency check and written inquiries on appointees to sensitive-noncritical positions when returned by Civil Service Commission.

1. No advance report of the national agency check will be made by the Commission in these cases. The advance report will be made only where the appointment is being held up pending receipt of the report of the NAC. If an appointment is shown in the case papers, none of the special instructions in Section II above for applicant cases involving sensitive-noncritical positions will apply.

2. The appropriate office of the Commission will furnish the naval activity the complete results of the NACI with CSC Form 355. The complete results will be furnished even in clearly favorable cases rather than only the stamped application (with copy of S. F. 85 attached).

3. The appointing officer and the security officer of the naval activity shall review the results of the National Agency Check and written inquiries. If they determine that the retention in employment of the appointee is clearly consistent with the interests of the national security, the appointing officer shall note the application form "Processed under E. O. 10450" and initial and date the notation. The application form shall be filed in the employees official personnel folder; the investigative material shall be filed in the security office of the naval activity there to be retained so long as the employee remains on the rolls of the activity. If the appointing officer and the security officer find adversely to the employee, the appointing officer shall proceed in accordance with NCPI 29.6 or NCPI 29.4, as appropriate. The application form shall be filed in the official personnel folder without notation by the appointing officer. The action taken in the case will be reflected in the official personnel folder by copy of the Personnel Action Form, Standard Form 50, issued as a result of the action taken pursuant to NCPI 29.6 or NCPI 29.4.

4. When the complete results are furnished by the Commission in clearly favorable cases, the application will be stamped "Processed Under Section 3(a), E. O. 10450." This is a Commission notation and is not to be considered synonymous with that referred to in paragraph 3 above. The requirements of paragraph 3 pertain whether the results of the National Agency Check and written inquiries are clearly favorable or not.

5. If the naval activity notifies the appropriate office of the Commission before completion of the investigation that the employee has been separated, the Commission will discontinue the case and return to the naval activity the application, the unstamped copy of Standard Form 85 and the results of any preappointment investigation furnished by the naval activity. The Commission will transmit this material by CSC Form 473 unless the Commission anticipates further action in the case for its own purposes. The Commission will stamp the application form appropriately to reflect the stage of investigation at the time it was discontinued. The appointing officer shall make no notation on the application form, but shall file the application form in the official personnel folder. If the Commission anticipates further action in a case for its own purposes, the Commission will retain the application form and use CSC Form 475 to transmit to the naval activity the unstamped copy of Standard Form 85 and the results of any preappointment investigation furnished by the naval activity. The appointing officer of the naval activity shall place the CSC Form 475 in the official personnel folder in lieu of the application form.

V. Reporting action taken after review of results of National Agency Check and written inquiries. Same procedure as Section III, NCPI 29.8-Encl. 11.

VI. Disposing of results of National Agency Checks and written inquiries when subjects thereof are separated from the rolls. Same procedure as Section IV, NCPI 29.8-Encl. 11.

¹See Footnote 2, NCPI 29.8-Encl. 11.

PROCEDURAL INSTRUCTIONS

BACKGROUND INVESTIGATIONS CONDUCTED BY NAVAL
INTELLIGENCE FOR SENSITIVE-CRITICAL POSITIONSI. Initiating a Background Investigation for a sensitive-critical position.

1. Background Investigations for sensitive-critical positions shall be made by Naval Intelligence. Activities within a naval district or river command shall submit requests for Background Investigations to the naval district or river command Intelligence Officer. All other activities shall submit requests to the Chief of Naval Operations (Director of Naval Intelligence).

2. Requests for such investigations shall be initiated by the activity submitting to the appropriate office of Naval Intelligence the following:

- a. A properly executed Request for Investigation for Personnel Security Clearance, OPNAV Form 5520-1, indicating clearly thereon that "THIS IS A REQUEST FOR A BACKGROUND INVESTIGATION FOR APPOINTMENT ★ (CR EMERGENCY APPOINTMENT) TO A SENSITIVE-CRITICAL POSITION AS REQUIRED BY E. O. 10450" or "THIS IS A REQUEST FOR A BACKGROUND INVESTIGATION UNDER E. O. 10450 FOR PROMOTION, REASSIGNMENT, TRANSFER, ETC. (OR EMERGENCY PROMOTION, REASSIGNMENT, TRANSFER, ETC. UNDER THE EMERGENCY PROVISIONS OF NCPI 29.7-6a(2)) TO A SENSITIVE-CRITICAL POSITION." ★ Parts 3 and 4 of the completed form shall be placed in the subject's personnel jacket to prevent duplication of investigative work in the event of transfer of the individual.
- b. A properly executed Statement of Personal History, DD Form 398, in quadruplicate.
- c. An Agency Check Request, OPNAV Form 5510-397.
- d. Fingerprint Card, OPNAV Form 5510-2.

Incomplete or improperly executed forms will not be processed and will be returned to the originator for resubmission. In this connection it is pointed out that fingerprints should be taken by qualified personnel.

3. Upon receipt of the request from the activity, the appropriate office of Naval Intelligence will submit to the Civil Service Commission Standard Form 79, Notice of Security Investigation, in duplicate, informing the Commission that a Background Investigation has been initiated. This will be done whether the subject of the investigation is an applicant or an employee. ★ The Standard Form 79 will be submitted in single copy only, and clearly marked "single copy only," if either a request has been or will be made to the Commission for a National Agency Check, or an experience brief has been or will be submitted to the Commission for a search of its files. Otherwise, the Standard Form 79 will be submitted in duplicate. When the Background Investigation is completed the appropriate office of Naval Intelligence will furnish the results to the activity for security adjudication. In those cases in which the subject of the investigation is an incumbent employee, or an appointee to a sensitive-critical position under emergency conditions as defined in NCPI 29.7-6a(2), the appropriate office of Naval Intelligence will forward to the Chief of Industrial Relations (OIR Code 110) Standard Form 74, Notice of Transmittal of Investigative Reports for Security Determination, in triplicate, at the time the final results of the Background Investigations are forwarded to employing activities for adjudication under Executive Order 10450. Similarly, the Standard Form 74 will be submitted in cases of Background Investigation in connection with promotion, reassignment, transfer, etc., to sensitive-critical positions effected under the emergency provisions of NCPI 29.7-6a(2), prior to a security determination on the basis of the Background Investigation. Standard Form 74 will not be submitted in those cases in which the subject of the investigation forwarded to the activity is an applicant for employment, or a candidate for contemplated promotion, reassignment, transfer, etc., unless the personnel action is effected under the emergency provisions of NCPI 29.7-6a(2).

4. Submission of Standard Forms 79 and 74 is required only in cases of Background Investigation under Executive Order 10450 in connection with the personnel actions described in subparagraph 3 above. Standard Forms 79 and 74 should not be submitted for Background Investigations conducted for clearance requirements for access to classified matter as set forth in Chapter 15, U. S. Navy Security Manual for Classified Matter or other purposes.*

II. Processing results of Background Investigations. ★(See also NCP: 29.7-6)★

1. The results of the Background Investigation will be furnished directly to the employing activity. The employing activity shall process the case in one of the following ways, depending upon whether the subject of investigation is an applicant or an employee.

2. If the subject of investigation is an applicant, the appointing officer and the Security Officer shall review the file and determine whether or not the applicant is to be employed. If the appointing officer and the Security Officer determine that the applicant's employment is clearly consistent with the interest of national security the appointing officer shall effect the appointment, note the application form "Processed under E. O. 10450," initial and date the notation, and file the application form in the subject's Official Personnel Folder. If, on the other hand, the decision of the appointing officer and the Security Officer is adverse to the applicant, the appointment will not be effected. The Background Investigation material will be disposed of in accordance with instructions provided by the appropriate office of Naval Intelligence which furnished the file.

3. If the subject of investigation is an employee, the appointing officer and the Security Officer shall review the file and determine whether or not the employee's assignment to the sensitive-critical position is clearly consistent with the interest of the national security. If the appointing officer and the Security Officer concur in a decision favorable to the employee, the appointing officer will enter, initial and date the following notation in the employee's Official Personnel Folder: "The Background Investigation of (name) who holds (or is being assigned to) a sensitive-critical position has been completed with satisfactory results." The appointing officer shall complete Standard Form 72, Report of Action after Agency Full Field Investigation, and promptly forward the form, in ★duplicate★, to the Chief of Industrial Relations (OIR Code 110). If, on the other hand, the decision of the appointing officer and/or the Security Officer is adverse to the employee, the entire case shall be referred to the Commanding Officer for decision. If the decision of command is adverse to the employee, the entire case shall be processed in accordance with NCPI 29.4 or 29.6, as appropriate. Following such processing, the responsible official shall complete Standard Form 72, and promptly forward the form in ★duplicate★ to the Chief of Industrial Relations (OIR Code 110). The Official Personnel Folder shall be noted to reflect the outcome of the processing. The Background Investigation file shall be disposed of in accordance with instructions of the office of Naval Intelligence which furnished the file.

★ 4. Submission of Standard Form 72, as described in subparagraph 3 above and NCPI 29.7-6, is required only in connection with Background Investigations under E. O. 10450 and then only if the subject of the investigation is actually filling the sensitive-critical position by incumbency, or by appointment, promotion, reassignment, transfer, etc., under the emergency provisions of NCPI 29.7-6a(2). The Standard Form 72 will not be submitted when the personnel actions involving the sensitive-critical positions have not been effected by emergency action prior to a security determination on the basis of the Background Investigation. The Standard Form 72 will not be submitted, either, when the Background Investigation has been conducted for clearance for access to classified matter as required by Chapter 15, U. S. Navy Security Manual for Classified Matter or other purposes.*

III. Securing Pre-appointment National Agency Check in emergency situation.

1. In an emergency situation, request may be forwarded to the U. S. Civil Service Commission, Investigations Division, Attention: Control Unit, Washington 25, D. C., for a pre-appointment National Agency Check, as follows:

a. Prepare in quadruplicate Standard Form 86 (Security Investigations data for Sensitive Position), adding across the top of S. F. 86 the following statement: "THIS IS A REQUEST FOR A PRE-APPOINTMENT NATIONAL AGENCY CHECK FOR A PERSON BEING CONSIDERED FOR APPOINTMENT TO A SENSITIVE-CRITICAL POSITION IN AN EMERGENCY SITUATION." A statement justifying the emergency situation must be appended to each such request. The Civil Service Commission requests the following additional information be shown on Standard Form 86: after "Title of Position" enter the grade or salary of the employee or the prospective employee; and on all appointments to the competitive service insure that the Civil Service regulation number is entered in the box "Civil Service or other legal authority" (for example, for appointments made pending establishment of a register, show "CSR 2.302(a)"). ★The Standard Form 86 must clearly identify the name and address of the activity and the full first and middle names of the employee or prospective employee. In cases where the individual has no middle name, the designation (NMN) should be shown on the form. In rare instances where individuals have initials only for their first and middle names, the form should show (no given or middle name).★

b. Prepare Standard Form 87 (Fingerprint Chart).

c. Submit to the U. S. Civil Service Commission, Investigations Division, Attention: Control Unit, Washington 25, D. C., the following:

- (1) First three carbons of Standard Form 86 (Applicant is to sign original and first carbon (see Footnote 2 of NCPI 29.8-Encl. 11); original is to be retained by the activity.
- (2) Standard Form 87

2. The results of the National Agency Check will be furnished the activity on CSC Form DI 372 (two copies will be received).

a. If the appointing officer, with the concurrence of the Security Officer, determines that the person is to be employed:

- (1) The appointing officer shall complete the Form DI 372 by filling in Section A-1 of the reverse side of the Form.
- (2) Return one copy of the Form DI 372 to the Civil Service Commission.
- (3) If the head of the activity approves an exception as provided in NCPI 29.7-6a(2), an immediate request shall be made for the Background Investigation under the procedures provided in Section 1, above, forwarding therewith the remainder of the file received from the Civil Service Commission. NOTE: The Agency Check Request, OPNAV Form 5510-397 and the Fingerprint Card, OPNAV Form 5510-2, shall not be forwarded to the Naval Intelligence office in this situation. The activity shall inform the Naval Intelligence office in the letter forwarding OPNAV Form 5520-1 and DD Form 398 to the Naval Intelligence office that OPNAV Form 5510-397 and OPNAV Form 5510-2 are not being submitted because that element of the investigation has been completed by the Civil Service Commission and that the results of that National Agency Check are enclosed. This will save the District Intelligence Office repeating the National Agency Check already conducted and supplied by the Civil Service Commission.

b. If the appointing officer, with the concurrence of the Security Officer, determines that the person is not to be appointed:

- (1) Check the appropriate block under Section D on the reverse side of the Form DI 372.

(2) Return both copies of the Form DI 372 and attached investigative material (if any) to the Civil Service Commission.

c. If agreement cannot be reached between the appointing officer and the Security Officer as to whether the person is to be employed, the case will be referred to the Commanding Officer for decision. If decision of command is adverse to the employee, the case will be processed in accordance with b. above.

INSTRUCTION 210

SEPARATIONS

- Section 1. References
- 2. General provisions
- 3. Separation transfer, and Separation to accept ★ indefinite appointment ★ in another agency
- 4. Separation - Military
- 5. Resignation
- 6. Termination
- 7. Separation - Disqualification
- 8. Separation - Inefficiency
- 9. Separation - Disability
- 10. Separation - ★ Displacement ★
- 11. Abandonment of position
- 12. Death
- 13. Separation - Unable to accompany activity.

Note: The following types of separations are covered by other Instructions:

- Removal NCPI 29 and 45
- Reduction in force NCPI 170
- Retirement NCPI 185

SECTION 1, REFERENCES

	Paragraph No.
References	1-1

- 1-1. The following are references in connection with separation actions:
 - a. Civil Service Act (Act of 16 Jan 1883, 22 Stat. 403 as amended; 5 USC 632).
 - b. Section 6 of the Act of 24 Aug 1912 (37 Stat. 555; 5 USC 652) as amended by the Act of 10 Jun 1948 (Public Law 623, 80th Congress).
 - c. Performance Rating Act of 1950, Public Law 873, 81st Congress, approved 30 Sep 1950, effective 29 Dec 1950; 64 Stat. 1098; (5 USC 2001).
 - d. Section 181 of the Revised Statutes (5 USC 22)
 - e. Section 420 of the Revised Statutes

(5 USC 430)

- f. Veterans' Preference Act of 1944, as amended, 58 Stat. 387; 5 USC 851).
- g. ★ The Universal Military Training and Service Act, as amended (Public Law 51, 82nd Congress, 65 Stat. 1333; 5 USC 451).★
- h. ★ Federal Personnel Manual.★

SECTION 2, GENERAL PROVISIONS

	Paragraph No.
Scope	2-1
General definition	2-2
Fixing the effective date of separation	2-3
Amending separation actions	2-4
Effect of failure to notify employee	2-5
Effect of unjustified or unwarranted separation	2-6
Commission investigation of failure to follow procedures	2-7
Clearance for reinstatement purposes	2-8

2-1. SCOPE.--The provisions of this Instruction govern all types of separation of employees of the competitive and excepted services other than removal (NCPI 29 and 45), reduction in force (NCPI 170), and retirement (NCPI 185), from the Naval and Marine Corps departmental and field services.

2-2. GENERAL DEFINITION.--Separations are personnel actions which result in the loss of employees from the Naval Establishment. This category does not include leave without pay, suspension, or furlough, as those actions do not involve absolute separation.

2-3. FIXING THE EFFECTIVE DATE OF SEPARATION.--In fixing the effective date, sufficient time ★ must ★ be allowed for proper action by the person possessing the appointing power and proper notice

of such action to the employee. It must be so fixed as to comply with requirements for advance notice required by law or regulation, such as the requirements imposed under the Veterans' Preference Act of 1944. Special conditions which apply to only one type of separation are stated in the section of this instruction pertaining to that type. See also NCPI 105 and NCPI 185. The effective date of separation may be a non-work day; such action may be beneficial to the employee where rights depend on the completion of a specified period of service (25 Comp. Gen. 273, B-52231 of 17 September 1945). See also NCPI 210.2-5 regarding failure to notify employee.

2-4. AMENDING SEPARATION ACTIONS.

a. Rescission.--As a general rule, when an authorized separation of an employee, by resignation or otherwise, becomes an accomplished fact, it cannot thereafter be rescinded or set aside by administrative action, even though the officer having authority to take it acted on misinformation or under erroneous assumption (21 Comp. Gen. 403, B-20822 of 3 November 1941). However, the separation of an employee does not become effective unless and until he receives proper notice thereof (22 Comp. Gen. 291, B-28964 of 30 September 1942). A separation action may be rescinded by the appointing power at any time before it is consummated, and, therefore, may be rescinded at any time before the employee receives proper notice of it. Rescission by a subordinate officer is ineffective unless it is confirmed, before consummation of the separation, by the person possessing the appointing power (26 Comp. Gen. 310, 24 October 1919). ★ Correction may be made to change the effective date of an accomplished separation to avoid an unintentional break in service made through administrative error in effecting a movement between agencies (Comp. Gen. decision B-112802 of 2 Feb. 1953, unpublished. FPM R1-30.02). ★

b. Cancellation.--Under the provisions of Public Law 325, 58 Stat. 387, 5 USC 651 of 4 August 1949 and Public

Law 741, 62 Stat. 575, 5 USC 868 of 22 June 1948, amending Sections 14 and 19 of the Veterans' Preference Act of 1944 the Commission, in an appeal under Sec. 14 thereof, may recommend restoration retroactive to date of separation. The employing activity may appeal but it is mandatory that it take the action if the Commission finally recommends restoration. ★ In this case the restoration cancels the separation action. (See NCPI 135).

c. Amending nature of action.--The nature of a separation action may be amended after the action has become effective if subsequent review or investigation results in a positive finding that the nature of separation was in error or unjustified, and provided further that all required procedures have been complied with. (See also NCPI 210.5-3 as to acceptance of resignation.) If new evidence is uncovered after the action has become effective that would have altered the original decision in the case, or if the reasons or circumstances surrounding the separation should be amended in order to enable the Commission to determine rights to separation benefits under the retirement acts and eligibility for reemployment, an amendment may be effected to change the material included under "Remarks" and/or "Nature of Action" on the personnel action form. See also NCPI 135.7.

2-5. EFFECT OF FAILURE TO NOTIFY EMPLOYEE.--An employee who is not notified of separation action by the appointing officer until after the proposed effective date of separation, and therefore continues to work beyond that date, is entitled to compensation for services actually rendered until he receives the proper notice (22 Comp. Gen. 291, B-28964 of 30 September 1942).

2-6. EFFECT OF UNJUSTIFIED OR UNWARRANTED SEPARATION.--An employee entitled to the benefits provided by Public Law 623, 80th Congress, which amended Section 6 of the Act of 24 August 1912, whose separation after 10 June 1948 is found to be unjustified or unwarranted, and who is reinstated or restored on the ground that such separation was unjustified or unwarranted, is

entitled to payment of compensation for the period of separation and shall for all purposes except the accumulation of leave be deemed to have rendered services during such period. This is applicable regardless of the fact that through force of circumstances the reinstatement may be to a different naval activity. See NCPI 45.6★ for corrective action, and procedure when restoration is made because of procedural defects.★

2-7. COMMISSION INVESTIGATION OF FAILURE TO FOLLOW PROCEDURES. -- The Commission may investigate the separation of an employee when he establishes a prima facie case that the procedures under Regulation 9.102(a)(1) or Regulation 22 have not been followed.

a. Filing of request. --★ Request for the investigation must be received by the Commission within 10 days from the effective date of separation. This time limit may be extended in the discretion of the Commission only upon a showing by the employee that circumstances beyond his control prevented him from filing a request for an investigation within the prescribed 10 days.★

b. Where to file request. -- Employees of field activities should submit request for investigation to the appropriate regional office of the Commission. Requests of employees of the Departmental Service and overseas activities shall be submitted to the Central Office of the Commission, Washington, D. C.

c. Contents of request. -- The request shall be made in a full and detailed statement. The Commission will determine whether the procedures have been followed and may request statements under oath, and supporting evidence.

d. Commission's decision. -- When the Commission reaches a decision favorable to the person who requested investigation of his separation under the procedures of Regulation 9, it will recommend that the activity restore him to duty, and whenever possible the recommendation should be followed. When it is alleged that the

procedural requirements of Section 14 of the Veterans Preference Act, on which Regulation 22 is based, have not been followed, the Commission may investigate not only the procedural requirements but also the merits of the adverse decision. In the case of persons entitled to appeal under Section 14, the corrective action recommended by the Commission is mandatory, and unless the activity appeals from the decision of the Commission, the provisions of the law become immediately operative. In Section 14 cases it is within the discretion of the Commission to include in its recommendation a provision that restoration be retroactively effective to the date of separation, and it is mandatory that the recommendation be followed.

2-8. CLEARANCE FOR REINSTATEMENT PURPOSES. --★ A former employee of the competitive service who has completed the probationary period and who was removed on charges, or resigned upon learning that the employing activity planned to prefer charges against him, or while charges, other than loyalty, are pending is not necessarily for that reason ineligible for further employment in the Government service. In those cases where the charges toward removal are sufficiently serious to require prior approval of the Commission for reentry into the service (see NCPI 180) he may submit a sworn statement to the appropriate office of the Commission, setting forth fully and in detail the facts surrounding his separation. The Commission may within its discretion make an investigation to determine his eligibility for further employment in the competitive service insofar as suitability and fitness are concerned. Where appropriate, it may refer the case to the Federal Bureau of Investigation. Such statement must be submitted within six months from the date of the separation, or 60 days after the date of the last adverse decision as a result of an appeal under CSC Regulation 22. The Commission will inform the individual of its decision.★
★ ★

**SECTION 3, SEPARATION -
TRANSFER AND SEPARATION -
TO ACCEPT INDEFINITE APPOINTMENT
IN ANOTHER AGENCY**

	Paragraph No.
General	3-1
Definitions	3-2
Civil Service Regulations	3-3
Procedures	3-4
Effective date	3-5

3-1. GENERAL.--The term "Separation-transfer," which was discontinued as a type of personnel action by Civil Service Commission instruction of 13 November 1950, was again brought into official use for inter-agency actions, effective 11 February 1952.

3-2. DEFINITIONS.

a. Separation-transfer.--Separation-transfer is separation, by noncompetitive movement without break in service of one work day, of a career or career-conditional employee to another government agency on a permanent basis.

b. Separation - to accept indefinite appointment in another agency.--Separation - to accept indefinite appointment in another agency is the action which may be taken to separate an indefinite employee who accepts an indefinite appointment but does not resign.

3-3. CIVIL SERVICE REGULATIONS.--Separation-transfer is applicable to the movement of an employee between the Naval Establishment and other government agencies under the provisions of C. S. Regulations 2.501 and 10.101. See NCPI 235.2. *

3-4. PROCEDURES.--An employee is not required to resign, and should not resign, in the effecting of a transfer. The separation will be effected by the issuance of a personnel action in accordance with the provisions of NCPI 135.7. In the event an employee leaves to accept an indefinite appointment in another government agency he may resign or be separated. If he does not resign, his

separation can be accomplished by the issuance of a personnel action indicating the "nature of action" as "Separation - to accept indefinite appointment in _____."

3-5. EFFECTIVE DATE.--The effective date of a separation by transfer action will be the calendar day preceding the date of entrance on duty in the other agency. The personnel action shall not be issued until it is known that the employee has entered on duty. In the case of an employee who resigns, or in lieu thereof is separated to accept indefinite appointment in another agency, it is preferable that the date of separation be fixed without break in service as in transfer cases. * See NCPI 210.2-4 for correction of separation action in event of error as to date of separation for transfer. *

**SECTION 4, SEPARATION-
MILITARY**

	Paragraph No.
Definition	4-1
Provision for separation	4-2
Policy	4-3
Activity action at time employee leaves	4-4

4-1. DEFINITION.--Separation - Military is separation by administrative action upon the employee's entrance on active duty in the U. S. Military Service, or other similar organizations designated by law or regulation, and regardless of type of appointment under which serving.

4-2. PROVISION FOR SEPARATION.

a. General.--* Civil Service Regulation 35 provides that each career or career-conditional employee entering the armed forces of the United States will be furloughed or separated at the option of the employing agency. Employees of Naval activities will be separated, and at the time of return to duty will be considered as having been on military

furlough during the period of absence. See NCPI 120.★

b. Manner of separation.--Separation may be by administrative action or by resignation. Resignation may not be requested of an employee but he may be informed that separation may be by either action, and that if eligible for restoration his rights would be the same. Employees absent for periods of training duty shall not be separated from the rolls for that purpose; the leave regulations in NCPI 105 provide for such absences.

4-3. POLICY.--It is the policy of the Navy Department that employees shall be separated instead of being furloughed upon leaving a civilian position in a naval activity to perform active duty other than training (including refresher course) in the armed forces, or other similar organization designated by law or regulation. See NCPI 120.

4-4. ACTIVITY ACTION AT TIME EMPLOYEE LEAVES.

a. Initiating separation.--A personnel action request form will be prepared initiating the separation for military service except in those cases where an employee voluntarily submits his resignation for that purpose. In order that the employee may return to duty if he fails to pass the examination required for entry on active duty in the military service, the separation action will not be effected until it is known that he has entered upon active duty. An employee who resigns should be cautioned that his resignation should not be made effective until he has been accepted for military service and enters upon active duty. For convenience, an employee may be furnished an appropriate form and franked envelope for informing the activity as to whether or not he passed the examination and the active duty date. He should be informed that in event he is rejected for military service he must return to duty immediately, allowing for travel time when necessary, unless he secures approval of a leave of absence beyond the time he could return to duty. (See NCPI 120.2 for restoration in case an employee becomes

separated before acceptability is determined.

b. Effective date.--The effective date of separation by administrative action will be the day prior to the date of entry on active duty. Resignations also should be effective as of that date.

SECTION 5, RESIGNATION

	Paragraph No.
Definition	5-1
Policy	5-2
Acceptance and withdrawal of resignation	5-3
Exit interviews	5-4
Method of effecting	5-5

5-1. DEFINITION.

a. Resignation is separation at the employee's request whether or not supported by a formal resignation. A written resignation is preferred and is particularly valuable in case of appeal or question as to the effective date. It should be secured whenever possible. In the following examples it is particularly important that not only the written resignation be on record but that the confirmation thereof show the reason for resignation when submitted:

- (1) Upon entry on active duty in the armed forces,
- (2) After receipt of notice of separation in reduction-in-force action,
- (3) After offer of reassignment or demotion in lieu of separation for reduction in force,
- (4) When unable to follow position to another geographic locality, or upon transfer of function.

5-2. POLICY.

a. Advance notice.--When they wish to resign, Navy employees are expected to submit written resignations at least two weeks in advance of their last day of duty. It is recognized that this may not always be possible and failure to do so does not make a resignation ineffective. Neither would it ordinarily be regarded by the Civil Service Commission as a basis for barring the employee from further employment in the Federal Service. A resignation should always indicate the

effective date.★

b. Resignation not to be requested or advised.--A resignation is a voluntary action on the part of the employee to effect his own separation. No employee will be requested or advised to submit a resignation. Neither may he be denied the right to resign although action may be pending to separate him for any reason.★ This is true even though the date of resignation may be the date scheduled for separation.★

c. Conditional resignation.--Conditional resignations are not acceptable. If an employee sets forth conditions under which he will resign, he should be advised that the acceptance of the resignation will be acceptance only of the fact of the resignation and will not constitute an agreement to the specified conditions. In such a case he may be allowed to withdraw the conditional resignation and, if he desires, resubmit an unconditional resignation.

d. Resignation form.--The reverse side of Standard Form 52, REQUEST FOR PERSONNEL ACTION, which provides space for "Resignation" should be used whenever practicable.★ A copy of the resignation should be retained by the employee.★

5-3. ACCEPTANCE AND WITHDRAWAL OF RESIGNATION.--Since a resignation is a voluntary act on the part of the employee and since the Navy has no right to reject it, the submission of a resignation whether formal or informal is regarded as a completed act on the employee's part. He may not withdraw his resignation unless the withdrawal is agreed to by the appointing authority or his designated representative. Under some circumstances, especially where the resignation has been informal or where steps must be taken to replace the resigning individual, it is advisable to confirm the fact of the resignation by some formal response. However, such response is not essential to the final consummation of the resignation. No action may be taken to require an employee to remain beyond the date specified by him in his resignation. See NCPI 210.4-4 in cases of

resignation to enter military service.

5-4. EXIT INTERVIEWS.--It is considered desirable to determine the reasons why civilian employees voluntarily separate themselves from naval employment, and to give corrective attention to those reasons which can be remedied. Whether or not interviews are held is a matter for local determination.

5-5. METHOD OF EFFECTING.--No civil service or other authority need be shown on the personnel action form in case of resignation.

a. Effective date.--Official actions taken in case of resignation are confirmatory, and may be retroactively effective (see NCPI 135.2-4). The effective date of a resignation will ordinarily be the last day the employee was actually present for work, except as provided in NCPI 105.

b. When resignation is considered "involuntary."--An employee who resigns from his position under certain conditions may be considered for retirement purposes as involuntarily separated from the service. See FPM R5-38 and NCPI 185.

★ ★

c. Information to be shown on personnel action form.--See NCPI 135.7.

SECTION 6, TERMINATION

	Paragraph No.
Definition	6-1
Termination of limited time appointments	6-2

6-1.★ DEFINITION.--"Termination" is separation from temporary or excepted appointment at the expiration of the employee's appointment, or for a reason for which one of the separation terms listed in NCPI 135.7 Encl. 4 is not appropriate. However, this term is not to be used if the employee is serving in other than temporary appointment in an excepted position under Schedule B and has competitive status, or to other employees in the excepted service who were given job protection as announced by the Civil Service Commission in Departmental

Circular No. 789 of 24 January 1955. ★

6-2. TERMINATION OF LIMITED TIME APPOINTMENTS.

a. General.--Whenever the term of employment of a temporary or excepted employee serving under an appointment limited to a specified period of time nears expiration, the employing office will determine whether or not the period of employment should be extended and the employee will be notified of the decision. (The period specified in an employment agreement for overseas appointment does not limit appointment to that period).

b. Abandonment of position.--★ When a temporary employee appears to have abandoned his position, his appointment may be terminated, either with or without recourse to the procedure provided in NCPI 210.11 for separation because of unauthorized absence.★

c. Termination in reduction in force.--If termination actions are taken as part of a reduction-in-force program, the employees to be terminated will be ★ listed and selected as indicated in★ NCPI 170.6-3 and 170.6-5.

d. Notice.--Whenever possible, employees serving under appointments limited to a period of one year or less should be given notice of termination in writing, at least 15 days before separation.

e. Effective date.--The effective date of termination usually will be the date determined by the appointing officer to be the last day the employee's services will be required. However, in the case of persons terminated under a reduction-in-force program, see NCPI 170.7-2. Termination actions may not be retroactively effective.

f. Personnel action forms and reports.--See NCPI 135.7.

SECTION 7, SEPARATION DISQUALIFICATION

	Paragraph No.
Definition	7-1
Responsibility for enforcing conditions attached to appointment	7-2
Procedural steps and effective date	7-3

7-1. DEFINITION.--"Separation - Disqualification" is an action to separate an employee for failure to meet the conditions specified at the time of appointment, (such as failure to qualify in investigation, failure to qualify ★ by conduct or capacity★ during probationary period, etc.,) or because of information which, if known, would have disqualified the employee for the appointment.

7-2. RESPONSIBILITY FOR ENFORCING CONDITIONS ATTACHED TO APPOINTMENT.--It is the responsibility of the appointing officer to see that the probationary or trial period is utilized as fully as possible to determine the fitness of each employee, and to terminate his services during such period if he fails to demonstrate fully his qualifications for continued Federal employment (see NCPI 74.6). He shall be given a full and fair working trial before steps toward separation are taken.

7-3. PROCEDURAL STEPS AND EFFECTIVE DATE.--The procedural steps provided in NCPI 45.5-2 will be followed in separating employees for disqualification, ★ except that during a probationary or trial period the informal hearing may be conducted by the Industrial Relations staff.★ See NCPI 210.2-3 regarding the fixing of the effective date. This date may not be retroactive.

SECTION 8, SEPARATION - INEFFICIENCY

	Paragraph No.
Definition	8-1
Policy	8-2
Procedural steps and effective date	8-3

8-1. DEFINITION.--"Separation - Inefficiency" is the action taken to effect the separation of an employee because of unsatisfactory performance of duties not resulting from a physical or mental condition.

a. If the unsatisfactory service results in separation during the probationary period this term is not to be used. The employee should be separated for "Disqualification," NCPI 210.7. If it

involves willful negligence or dereliction of duty, removal action should be effected, as provided in NCPI 45. If it is the result of a physical or mental condition, disability retirement or separation for disability should be considered as provided in NCPI 210.9 and NCPI 185.★

8-2. POLICY.--Individuals who do not measure up to minimum requirements should be advised of their shortcomings and a program of help and assistance worked out to improve their performance. When that has been done and the individual is still incapable of performing satisfactorily, he should not be permitted to remain in his position. There are some situations where an employee is in a job beyond his actual capacity. In such instances reassignment★ under the procedures of NCPI 160★ to duties commensurate with his skill is desirable, but if reassignment is not practicable he may be separated.

8-3. PROCEDURAL STEPS AND EFFECTIVE DATE.--The procedural steps provided in NCPI 45.5 will be followed in separating employees for inefficiency. See NCPI 210.2-3 regarding the fixing of the effective date.

SECTION 9, SEPARATION - DISABILITY

	Paragraph No.
Definition.....	9-1
Policy,	9-2
★When separation for disability may be effected	9-3★
Procedures	9-4
Effective date	9-5

★ 9-1. DEFINITION.--"Separation - Disability" is the action taken to effect the separation of an employee whose physical or mental condition renders him incapable of performing the duties of his position and who is ineligible for disability retirement, or who, after being advised by the employing activity that he is eligible to apply for disability retirement, refuses to do so. This type of separation includes separation because of legal incompetence.

9-2. POLICY.

a. Reassignment consideration.--It is the policy of the Navy Department that when an employee no longer can perform the duties of his position because of partial disability, thorough consideration will be given to his reassignment to another position the duties of which he can perform without being a hazard to himself or others. Reassignment will be without reduction in grade or pay if possible.

b. Legal incompetence.--It is the policy of the Navy Department that no employee will be separated for disability on the basis of legal incompetence until authoritative evidence is received which warrants such action. (See also NCPI 210.9-4c.)

c. Retirement eligibles.--An employee whose creditable service under the Civil Service Retirement Act aggregates 5 years or more, and whose mental or physical impairments apparently disable him for useful and efficient service, will be given opportunity to file application for disability retirement and to have the Civil Service Commission determine whether or not he is eligible for Disability Retirement benefits before any action is taken to separate him because of disability.

9-3. WHEN SEPARATION FOR DISABILITY MAY BE EFFECTED.

a. Conditions.--An activity may take action toward separation because of disability under the following circumstances when an employee cannot be reassigned:

- (1) When an employee is not eligible for disability retirement because of insufficient service, and he is an employment hazard to himself or others, or he no longer can perform the duties of his position because of his physical or mental condition;
- (2) When an employee who has sufficient service for disability retirement (NCPI 185) refuses to apply for such retirement, after having been advised that he is eligible to do so (or his legal representative refuses to file application for him);

(3) When an employee with sufficient service for disability retirement, has filed application and the Civil Service Commission determines him ineligible for the benefits of disability retirement, and he is still considered to be an employment hazard to himself or others;

(4) When an employee with sufficient service for disability retirement has filed application, and the Civil Service Commission determines him to be ineligible for the benefits of disability retirement, but he no longer can perform the duties of his position satisfactorily because of his physical or mental condition.

b. Notifying eligibles of continued right to apply.--An employee with sufficient service for disability retirement who has refused to apply for disability retirement benefits (or his legal representative) will be informed in the separation notice, or by letter if he resigns, of his right to apply for disability retirement, and of the time limit for filing application. A copy of such notice will be filed in his personnel folder.

c. Reporting medical findings to the Civil Service Commission.--In the event an activity learns that an employee with sufficient service for disability retirement has filed application direct with the Civil Service Commission, it will forward to the Commission, for its use in making a determination in his case, such medical findings as it may have. This will apply even though the employee has already been separated.

9-4. PROCEDURES.

a. Determining fitness for duty.--Whenever it is observed that an employee has become physically or mentally incapable of performing the duties of his position, a written statement of the fact and circumstances shall be prepared. In referring the employee to a medical officer for medical examination, the procedures outlined in NPCI 88.3-9 should be followed. Determination may be based on statement of the employee's personal physician. See NCPI 105.9

for mandatory period of absence in non-pay status before an employee in receipt of injury compensation may be involuntarily separated by this action.

b. Notice.--The requirements of Civil Service Regulations 9 and 22 as to notice of proposed action are applicable and, in addition to the procedures of NCPI 88.3-9 for determining the employee's physical fitness for duty, the appropriate procedural steps of NCPI 45.5 will be followed in separating employees for disability. When the proposed separation is based on legal incompetence at least 15 days should be allowed for reply by the employee, or his legal representative.

c. Record of court order.--A transcript of the Court Order adjudging an employee mentally incompetent shall be filed in his personnel folder and, in addition to data required by NCPI 135, the following information shall be shown under "remarks" on the personnel action form:

- (1) The date the court action was taken and the name of the person designated as guardian.
- (2) A statement that the employee is, or is not eligible for retirement.

9-5. EFFECTIVE DATE.

a. "Separation - Disability" will be effective on the date determined by the appointing officer after consideration of the following:

- (1) Where there remains unused sick leave to the employee's credit, or annual leave for which the employee cannot be paid in a lump sum; the effective date will be extended to permit use of such leave as provided in NCPI 105.
- (2) Separations for disability may not be effected retroactively or prior to the date of expiration of any required notice period.
- (3) In the case of an employee who is receiving injury compensation, separation for disability may not be effected prior to the expiration of the period of absence in a non-pay status provided in NCPI 105.9.*

S 000776

20 July 1955
C. 2. 959

***SECTION 10, SEPARATION - DISPLACEMENT**

	Paragraph No.
Definition.....	10-1
Employees subject to displacement	10-2
Authority for displacement, and notice period	10-3
Procedures	10-4

10-1. DEFINITION.--Separation - Displacement is separation of a temporary or indefinite employee in order to create a vacancy for a separated career or career-conditional employee.

10-2. EMPLOYEES SUBJECT TO DISPLACEMENT.--This type of separation will be used to effect the separation of:

- (1) Temporary or indefinite employees (classified in retention Group III under C. S. Regulation 20.4) in response to a specific displacement order by the Civil Service Commission; or
- (2) Indefinite employees (classified in retention Group III under C. S. Regulation 20.4) voluntarily by a naval activity in accordance with C. S. Regulation 9.105(b) in order to create vacancies for separated career or career-conditional employees who have received notice of separation by reduction in force within the preceding year.

10-3. AUTHORITY FOR DISPLACEMENT, AND NOTICE PERIOD.--The authority for displacement is C. S. Regulation 9.105(b). In displacement action under this authority retention Group III employees are not subject to the requirements of Regulation 9, 20, or 22 for the reason that their separation is considered as being made on order of the Commission. However, these employees will be given 30 days notice, and in a work or leave status whenever possible.

10-4. PROCEDURES.--See NCPI 210.9-4. *

SECTION 11, ABANDONMENT OF POSITION

	Paragraph No.
Definition	11-1
Policy.....	11-2

11-1. DEFINITION.--Abandonment of position by an employee is quitting his post of duty, failing to return to duty at the expiration of an authorized period of leave, or failing to return from furlough (other than furlough which is a part of a notice period in reduction in force) when called. * This term is not used when an agency elects to use regular removal procedures. *

11-2. POLICY.--It is the policy of the Department to consider action toward separation of an employee who appears to have abandoned his position only on the basis of unauthorized absence, as provided in NCPI 45. The action "Separation - Abandonment of Position" will not be used. Receipt of a statement from an employee that he does not intend to return to duty may be considered as a resignation, and be so accepted. See NCPI 210.5.

SECTION 12, DEATH

	Paragraph No.
Definition.....	12-1
Policy.....	12-2
Notifying next of kin	12-3
Completing records	12-4

12-1. DEFINITION.--The personnel action "Death" is removal of an employee's name from the rolls upon his death.

12-2. POLICY.--No action will be taken to record separation of an employee because of death until authoritative information is received which substantiates proof of death. However, in those unusual cases in which death appears to be a certainty but there is no actual proof, the employee's name may be cleared from the rolls by recording as "Death - presumed."

S000727

12-3. NOTIFYING NEXT OF KIN.--

When practicable a representative of the employing activity should personally inform the next of kin when death of an employee occurs while in a duty status, or when otherwise appropriate. When distance prevents this action the activity should furnish the information by appropriate means of communication. In either case offer of such assistance as the circumstances warrant should be made.

12-4. COMPLETING RECORDS.--

No civil service or other authority need be shown on the personnel action form to effect the recording of separation because of death.

a. Effective date. -- The effective date of separation because of death will be the date of the employee's death, but where date cannot be established it should be shown as presumed to have occurred on or about a certain date.

b. Death benefits.--The activity shall inform the proper persons as to death benefits, leave and salary payments, or other benefits, and initiate the filing of applications for such benefits. See NCPI's 90, 105, and 185.

c. Information to be shown on the personnel action form.--See NCPI 135. In the event an employee's name is removed from the roles as "Death - presumed" there should be included in the notations under "Remarks" on the personnel action form the circumstances under which death was presumed to have occurred. The source of information should be shown, with names of witnesses, if any. Copy of newspaper account should be attached, if available. Copies of the personnel action should be given the usual distribution for action or record purposes, with one copy to the person designated as next of kin. In all cases of death the words "This is to notify you of the following action affecting your employment" should be deleted from the form.

**SECTION 13, SEPARATION -
UNABLE TO ACCOMPANY ACTIVITY**

	Paragraph No.
Definition	13-1
Procedure	13-2
Reassignment* and priority certification*	13-3

13-1. DEFINITION.--"Separation - Unable to Accompany Activity" is a separation, other than by resignation, of an employee who is unable because of family or other personal reasons to accompany his position when it is moved to a new location. See NCPI 210.5-5 when employee resigns for the same reason.

13-2. PROCEDURE.

a. General.--When the location of an office or unit is to be changed to a new location because of decentralization, or because of the transfer of the functions of an organizational unit to another naval activity, or to another government agency an employee who is unable because of family or other personal reasons to accompany his position, and does not resign, will be separated under the above term if separation is necessary. See also NCPI 170.7-9 regarding the rights of employees in transfer of functions, and NCPI 210.5 regarding resignation when unable to accompany position.

b. Applicable regulations.--The notice and other requirements of Regulations 9.102(a)(1) and of Regulation 22 are applicable in effecting this type of separation, and the procedural steps of NCPI 45.5 will be followed.

c. Notice provision.--The notice of proposed action should show as the "cause" and reasons for the separation the facts of the decentralization or transfer of the functions, and the inability of the employee to accompany the activity or the organizational unit.

d. Voluntary or involuntary determination.--The separation (or resignation)

5000778

will be effected as either voluntary, or involuntary. In the latter case the employee may be eligible for retirement benefits. See FPM R5-38 for determination factors.

e. Information to be shown on personnel action form. -- See NCPI 135.

13-3. REASSIGNMENT AND PRIORITY CERTIFICATION. -- * Employees who are separated under this type of action,

either voluntarily or involuntarily, do not have a placement right as in reduction in force. However, every effort shall be made to reassign them locally. See also NCPI 170.9-5 for priority certification of retention Group I and II employees by the Civil Service Commission under the Separated Career Employee Program. *

File No. - OIR 240

S 000779

COVER SHEET 529

Attached is a revision to NCPI 45, **DISCIPLINARY ACTIONS, REMOVALS AND PROHIBITIONS**. The present NCPI 45 should be removed from the NCPI volume and the attached revision inserted in its place.

REASONS FOR REVISION

This revision has been made to clarify and supplement former instructions, delete material which has served its purpose, and to incorporate certain changes which were previously issued by OIR Notices.

NCPI 45.2-3.--Material added to introductory paragraph.

NCPI 45.2-3d(5).--Clarified.

NCPI 45.2-3d(6).--Added to reflect that concurrent penalties are prohibited.

NCPI 45.3-1.--Amended to exclude applicability of Standard Schedule to civilian Marine personnel of MSTIS; requirements for reproducing Standard Schedule deleted since Schedule will be available at District Publications and Printing Offices.

NCPI 45.3-3b, c and e.--Amended for clarification.

NCPI 45.3-3g and h.--Added to explain use of charges.

NCPI 45.4-1b.--Changed to simplify.

NCPI 45.5-1.--Changed to explain purpose of procedure.

NCPI 45.5-2.--Rewritten to simplify.

NCPI 45.5-3.--Rewritten to combine Procedure B and C of previous editions. Emergency suspension material and material on appeals and records, formerly in other paragraphs, has been incorporated.

The former NCPI 45.5-7.--Hearings. Changed to simplify and renumber to NCPI 45.6-4.

NCPI 45.6-2.--Rewritten to simplify and provide that employees otherwise eligible are entitled to back pay when appropriate reviewing authority (including commanding officers of field activities) rules on the action.

NCPI 45.7-3.--Rewritten to simplify.

NCPI 45.7-4.--Changed to refer to NCPI 105 for questions concerning leave.

NCPI 45.7-5.--Changed to simplify and add reference to FPM concerning appeal procedures in Section 14 cases.

NCPI 45.8-4.--Changed to simplify the material on appeals from actions directed by the Civil Service Commission.

5000780

NCPI COVER SHEET

NAVY CIVILIAN PERSONNEL INSTRUCTIONS

NCPI 45.9.--Revised to eliminate material on character and suitability and confine material to procedure for processing arrest records. (Former section 45.9-1 has been combined with 45.2-3; Sections 45.9-2 and 3 have been eliminated because the material is covered by procedure in Section 45.5; Section 45.9-4 has been eliminated from NCPI 45 and this material will be treated in NCPI 210; Section 45.9-5 renumbered to NCPI 45.9.)

NCPI 45.10.--Title changed.

NCPI 45.10-1c.--Changed to include material from SecDef Memo of 28 January 1953.

The former NCPI 45.10-3.--Eliminated.

NCPI 45.10-4.--Changed to reflect revised policy on employee indebtedness. Part on loans to employees removed and renumbered NCPI 45.10-3.

NCPI 45.10-7.--Material on loss or damage to Government tools expanded.

NCPI 45.11-Encl. 1.--Revised. Provision made for central printing and distribution to field.

The former NCPI 45.11-Encl. 2.--Deferred suspension notification eliminated.

The former NCPI 45.11-Encl. 3.--Eliminated.


NCPI 45.11-Encl. 4.--Changed to reflect new indebtedness policy.

The former NCPI 45.11-Encl. 5.--Changed and renumbered to 45.11-Encl. 2.

The former NCPI 45.11-Encl. 6.--Note on usage added and renumbered to 45.11-Encl. 5.

NCPI 45.11-Encl. 7.--Revised and renumbered to 45.11-Encl. 3.

By direction of Assistant Secretary of the Navy for Air:



GEO. A. HOLDERNESS, JR.
Chief of Industrial Relations

DISTRIBUTION:
OIR Special Lists #25, 25c and 25f

5000781

INSTRUCTION 45

DISCIPLINARY ACTIONS, REMOVALS, AND PROHIBITIONS

- Section 1. References
- 2. General provisions
- 3. Standard Schedule of Disciplinary Offenses and Penalties
- 4. Responsibility for administration of discipline
- 5. Procedure
- 6. Corrective Action under Public Law 623
- 7. Section 14 Rights, Veterans' Preference Act
- 8. Removal or separation at the request of the Civil Service Commission
- ★ 9. Arrest records from the Commission
- 10. Conduct of employees; general problems which may require disciplinary action; and miscellaneous prohibitions★
- 11. Enclosures

Amending the Executive Order of January 17, 1973, to Permit Employees of the Federal Government to Hold Certain Positions in the Schools and Universities of Any State, Territory, or Municipality."

★ f. SecNav Instruction 11101.5 of 11 Aug 1953, "Work Performed by Civilian Federal Employees in the Maintenance of Public Quarters."★

SECTION 2, GENERAL PROVISIONS

	Paragraph No.
Scope	2-1
Legal basis	2-2
General principles	2-3
Irresponsible charges by employees	2-4
★ Veterans entitled to the benefits of Section 14, Veterans' Preference Act	2-5★

2-1. SCOPE. --The provisions of this Instruction apply to all American citizen civilian employees of the Navy and Marine Corps departmental and field services★ except civilian Marine personnel of the Military Sea Transportation Service. CMPI 45 governs civilian Marine personnel and makes cross reference to this Instruction for applicable portions.★ The principles prescribed herein shall be adapted for use in administering alien and native employees, consistent with local laws, regulations and customs.

2-2. LEGAL BASIS.

a. Statutory provisions. --Section 6 of the Act of 24 August 1912, as amended by Public Law 623, 80th Congress, constitutes the basic law governing removal, demotion and suspension of civilian employees.

b. Civil Service Regulations. --The Civil Service Regulations as set forth in Chapter 2-1 of the Federal Personnel Manual, particularly Regulations 9 and 22, provide the minimum procedural requirements and the authority for effecting removals, demotions and suspensions. The Department, in developing this

SECTION 1, REFERENCES

	Paragraph No.
References	1-1

1-1. The following are references in connection with disciplinary actions, removals, and prohibitions:

- a. The Act of 24 Aug 1912, as amended by Public Law 623, 80th Congress (62 Stat. 354; 5 USC 652).
- b. Federal Personnel Manual, Chapter S1 and Parts 9 and 22 of Chapter Z1.
- c. Section 14, Veterans' Preference Act of 1944 (Public Law 359, 78th Congress), as amended by Public Law 325, 80th Congress (58 Stat. 390; 61 Stat. 723; 5 USC 863).
- d. Section 161, as amended, Revised Statutes (5 USC 22).
- e. Executive Order 8390 of 11 Apr 1940, entitled "Executive Order 8390,

Instruction, has not only complied with requirements of Regulations 9 and 22 but has supplemented them with procedures designed to achieve effective administration.

2-3. GENERAL PRINCIPLES. --★ Most disciplinary actions are occasioned by the employee's failure to comply with a rule or custom governing social conduct, work procedure, safety practice, etc. The offenses listed in the standard schedule (see NCPI 45.11-Encl. 1) include many situations of this nature. Other offenses based on violation of Civil Service Regulations or statutes are listed in the Table of Miscellaneous Offenses and Penalties (see NCPI 45.11-Encl. 5). Even though a specific regulation or custom concerning employment has not been violated, information may be brought to the attention of management which reflects adversely upon the suitability and general fitness of an employee. Such information may come to management from a variety of sources such as reports of arrest records and reports from investigation of an employee's previous employment and background. On the basis of such information disciplinary action looking to removal may be initiated if warranted. The general charge of conduct unbecoming to a government employee may be used if appropriate. Otherwise the specific reasons which indicate the employee is undesirable should be used as the reasons for initiating action. Any of the above bases may be considered sufficient to initiate disciplinary action. When such action is initiated the following principles shall be observed:★

a. Purpose. --Disciplinary action shall be taken solely for the purpose of correcting offending employees and maintaining discipline and morale among other employees. Where this aim can be accomplished through orally admonishing the offenders, formal disciplinary action should not be taken.

b. Timing of the action. --Necessary disciplinary action should be initiated promptly after management learns of the offense.

c. Determining the facts.

(1) The primary function of discipli-

nary procedure prior to decision is to determine the facts, not to provide a means for prosecuting the employee.

- (2) Employees will be considered innocent until contrary evidence is produced.
 - (3) A prima facie case against the employee must exist before disciplinary action is initiated. A prima facie case is one established by sufficient evidence to justify a presumption of guilt.
 - (4) The employee must be confronted with all the evidence that influences management's consideration of the case and must be permitted to defend himself against such evidence prior to decision regarding the action to be taken.★ When disciplinary action (including removal, suspension or demotion) is contemplated by management on the basis of classified information, the facts warranting such action must be developed in unclassified form, by separate investigation if necessary, so that the employee can be confronted with the reasons for the adverse disciplinary action.★
 - (5) It is management's responsibility to ascertain all pertinent facts prior to making a final decision and to uncover and attach due weight to factors supporting the employee's position whether or not the employee offers such factors in his own defense.
- d. Determining the penalty.**
- (1) The penalty imposed or assigned shall be the minimum which may reasonably be expected to correct the employee and maintain general discipline and morale.
 - (2) The employee's work history, character, and potential should be considered in determining the severity of the penalty.
 - (3) The cost of removing the employee and recruiting and training another person should be weighed in terms of the cost of intensive re-orientation of the employee before removal action is taken.
 - (4) The denial of charges which are later established will not be the basis for

increasing the penalty nor for additional charges.

- (5) Past delinquency or misconduct may be used in determining the penalty provided the employee is notified in advance that the contemplated penalty is based partly on his past record and provided he is given opportunity to comment upon, or explain such record. In such instances, it is not intended that a rehearing be held on the specific issues for which appellant was previously disciplined, but rather that he be advised that those offenses will be considered in determining the appropriate penalty for the current offense, and be given opportunity, through noting the dates, times and circumstances of the offenses, to comment upon the past delinquency or past record.

- (6) The assignment of concurrent penalties is prohibited. ★

e. Imposing the penalty. --At the time the penalty is imposed, the employee should be fully advised of the facts which support the action. He should be advised why, in view of the facts, disciplinary action in his case is necessary (i.e., to impress him with the importance of observing the rules of correct employee conduct and/or to maintain general discipline and morale). Where action other than removal is taken, he should be assured that everything possible will be done to assure his future success on the job.

f. Responsibility of supervisors.

- (1) The immediate supervisor is responsible for maintaining discipline and morale among the employees he supervises and for initiating appropriate disciplinary action where the facts warrant such action.
- (2) Supervisors must thoroughly understand the purposes of disciplinary action and must be trained for such responsibilities.

2-4. IRRESPONSIBLE CHARGES BY EMPLOYEES. --If in the course of disciplinary proceedings an employee makes false or unfounded charges or statements which slander or defame other employees, supervisors or officials or which reflect unfavor-

ably on their honesty, integrity, motives, or efficiency, the proceedings will be stopped while the hearing official or board considers the matter. In view of the impropriety of taking any action which might be construed as unreasonably hampering the employee in presenting his case, determination will be made as to whether or not the objectionable statements are false or unfounded which slander or defame, and in a real sense attack the honesty, integrity, motives or efficiency of others. A distinction must be made between the employee's statements made to explain his actions or conduct and statements made for the purpose of discrediting and attacking other persons. If necessary, the hearing official or board may seek the advice of the commanding officer. If after due consideration the statements are considered to be of a nature warranting disciplinary action, the employee shall be advised that he will be held responsible for such statements. However, he shall be allowed to make a timely retraction of such statements in order to minimize, in so far as possible, the damage caused or to eliminate the need for the additional disciplinary action.

2-5. ★VETERANS ENTITLED TO THE BENEFITS OF SECTION 14, VETERANS' PREFERENCE ACT. --Veterans entitled to the benefits of the provisions of Section 14 of the Veterans' Preference Act of 1944 include ★persons who are permanent or indefinite preference employees, as listed in NCPI 245.4-1, who have completed a probationary or trial period in a position under the Civil Service Regulations or who have completed one year of current continuous employment in positions excepted from the competitive service of the Federal Government or the Government of the District of Columbia. The following are not included: Employees appointed for a period not to exceed one year, and "peacetime veterans" who have not established the present existence of a service-connected disability or who are not receiving compensation, disability retirement benefits, or pension by reason of Public Laws administered by the Veterans Administration, Department of the Army or the Navy Department.

**SECTION 3,
STANDARD SCHEDULE OF DISCIPLINARY
OFFENSES AND PENALTIES**

	Paragraph No.
General statement	3-1
Purposes	3-2
Application	3-3

3-1. GENERAL STATEMENT.--The standard schedule of disciplinary offenses and penalties (NCPI 45.11-Encl. 1) is provided as a guide to heads of activities in the administration of discipline.★ It applies to all employees of the Department of the Navy and the Marine Corps, departmental and field, except civilian Marine personnel of the Military Sea Transportation Service. Since the schedule is of the utmost concern to all employees, posting conspicuously throughout naval activities is required. The schedule will be printed centrally and stocked in District Publications and Printing Offices for distribution to field activities and the departmental service. The schedule provides a uniform code of penalties for a reasonably complete list of offenses.★ The wide range of penalties is provided to give heads of activities flexibility in dealing with particular situations. In general, after consideration of all circumstances, the penalty assessed should be the minimum which may reasonably be expected to correct the employee and maintain discipline and morale among other employees.

3-2. PURPOSES.--The purposes of the schedule of offenses and penalties are:

a. To insure that like penalties will be imposed for like offenses when disciplinary actions are taken.

b. To develop on the part of employees generally a clearer understanding of what constitutes reasonable cause for disciplinary action.

c. To provide activities with a standard and uniform basis for disciplinary offenses and penalties, and to support management in its administration of disciplinary matters.

3-3. APPLICATION.--In applying these standard penalties, the following guides and instructions are provided:

a. **Combination of offenses.**--The schedule provides for disciplinary action in the case of a combination of any of the offenses listed. However, the preferment of more than one charge for a single offense (Example: "sleeping" and "loafing") is prohibited. In such cases, the more appropriate offense should be used and the proper penalty assessed. Where the infraction covers a combination of two or more normally unrelated offenses (Example: "intoxication" and "insubordination"), charges covering each offense should be preferred and a heavier penalty than that prescribed for any one such offense may be assessed.

b. **Deferred suspensions.**--★When a suspension is determined to be appropriate as a penalty, it may be invoked at once or deferred. If deferred, it is held in abeyance during the reckoning period contingent upon satisfactory conduct by the employee. If a subsequent offense of any kind is committed during the reckoning period, the suspension may be invoked or considered in adjudging a heavier penalty for the subsequent offense. Deferred suspensions help reduce lost time and may be suitable in some circumstances. When a suspension is deferred, the employee should be told in writing of the specific conditions under which it will be held in abeyance. NOTE: Care must be exercised if a deferred suspension is put into effect because the employee fails to meet the contingency of good conduct or other specified condition. The suspension may be summarily carried out if the employee has no protective rights. If the employee is entitled to procedural protective rights, he must be accorded such rights before the deferred suspension is put into effect. This means he must be given a written notice of his failure to meet the condition, the right to reply, etc.

c. **Disciplinary warnings.**--The schedule provides for a warning as the minimum penalty for all offenses. A warning will be in writing, will specify the offense, will reference the discussion held with the employee, will advise the employee that he may appeal the warning under the established

grievance procedure, and will be properly dated and signed by the person authorized. A copy of each warning will be placed in the personnel folder of the employee concerned. Warnings may be considered in determining disciplinary action taken at later dates. No letter of warning should be issued until after the employee involved has been fully heard with regard to his position in the matter. Written charges and formal hearings are not necessary in such cases. ★ The disciplinary letter of warning should not be confused with other non-disciplinary oral or written warnings as used with performance ratings, abuse of sick leave, etc.★

d. Admonitions.--Admonitions or oral reprimands for offenses which are not sufficiently serious to warrant letters of warning are to be distinguished from warnings. When admonitions or oral reprimands are ineffective, warnings should be issued.

e. Considering the past record.--Only the past offenses which occurred within the previous two years should be considered. The employee must be advised of his right to answer with regard to the previous offenses cited in the charge. The charge should state the previous offenses and the penalties imposed or other action taken by management.★

f. Reckoning period.--The reckoning period is a specific interval of time after an offense occurs. A repetition of the offense within the period calls for a more severe penalty as determined by the circumstances. Reckoning periods are not cumulative. They commence with the occurrence of the offense and expire absolutely at the end of the period of time specified for the offense. To identify the offense as the first, second or third within a reckoning period, review the record and determine if the employee has committed a like offense during the period, equal in length to the reckoning period, occurring just prior to the current offense. See NCPI 45.11-Encl. 3 for example.

★ **g. Offenses in schedule not to be used as blanket charges.**--When presenting charges to the employee, a blanket statement of the offense from the schedule

should not be used. Use only the parts which describe the employee's actual conduct, and leave out parts which do not apply. For example, if an employee used abusive language, which was not obscene, he should be charged with abusive language only and not with offense No. 27 in its entirety.

h. Use of the charge "Unsatisfactory Service".--The standard schedule provides for removal action on the basis of a current offense and three previous offenses provided all four offenses occurred within a twenty-four month period and two of the offenses are included in the standard schedule (See NCPI 45.11-Encl. 1). Disciplinary action may also be initiated on the basis of a current offense and past conduct or previous offenses which are not included in the schedule if the offenses are comparable to those in the schedule. The use of the charge "Unsatisfactory Service" in such circumstances is not recommended. It is better practice to inform the employee of the reasons for the contemplated action by describing the specific offenses whether or not the offenses are included in the schedule. If the reason for the contemplated disciplinary action cannot be described in terms of an offense, it should be possible to state the reason in terms of regulations or rules of general conduct which have been violated, or damage to or interference with management operations resulting from the employee's action. The factor of wilful negligence should be avoided since wilfulness is difficult to establish. Generally, the question of wilfulness may be discarded if the fact of negligence, failure, or dereliction of the employee is established.★

SECTION 4, RESPONSIBILITY FOR ADMINISTRATION OF DISCIPLINE

	Paragraph No.
Responsibility of activity heads	4-1
Responsibility of Industrial Relations Departments, Bureau Civilian Personnel Offices, and Shop Person-	

nel Supervisors 4-2
 Responsibility of supervisors . 4-3

4-1. RESPONSIBILITY OF ACTIVITY HEADS.

a. General statement. -- Heads of activities are responsible for the administration of disciplinary matters concerning employees under their jurisdiction. They must assure the proper training of supervisors for this function, and assure conformance with the requirements of NCPI 45.11-Encl. 2.

b. Delegation of disciplinary authority.
 (1)★ Actions which are essentially disciplinary in character shall be signed by the official delegated such authority in accordance with NCPI 45.11-Encl. 2. Actions which are not essentially disciplinary in character shall be signed by the official delegated such authority in accordance with NCPI 135.2-3.★

4-2. RESPONSIBILITY OF INDUSTRIAL RELATIONS DEPARTMENTS, BUREAU CIVILIAN PERSONNEL OFFICES, AND SHOP PERSONNEL SUPERVISORS. -- The Industrial Relations Departments, Bureau Civilian Personnel Offices, and Shop Personnel Supervisors are responsible for assisting civilian supervisors, officials and heads of activities at all levels in disciplinary matters; for reviewing disciplinary actions to see that they conform to prescribed regulations and procedures; for studying existing procedures and recommending changes therein; and for recommending final action to heads of activities when so requested. In no case should the Industrial Relations Department, Bureau Civilian Personnel Office, or Shop Personnel Supervisors make an administrative determination concerning★ disciplinary action,★ except for employees under their direct supervision. The function of the Industrial Relations Department, Bureau Civilian Personnel Office, and Shop Personnel Supervisors is purely advisory in all matters of discipline.

4-3. RESPONSIBILITY OF SUPERVISORS.

a. Policy. -- It is the policy of the Department that civilian and military supervisors of employees be delegated appro-

priate responsibility for direction and discipline of employees under their jurisdiction. Both civilian and military supervisors are selected for their position because they possess qualities of leadership necessary for personnel administration. Consistent with the foregoing, employees generally will receive instructions or discipline only from or through their line supervisors, civilian or military. Employees who are guilty of delinquency or misconduct will be corrected by or through their line supervisors to insure that supervisors exercise maximum responsibility over their subordinates.

b. General authority of supervisors. -- When any civilian or military supervisor observes infractions of the rules of the establishment and the immediate supervisor of the employee is not readily available, the observing supervisor should inquire into the circumstances and take such steps on the spot as appear warranted. Thereafter, he should locate the supervisor concerned, fully explain the circumstances to him, and place further responsibility for action in his hands. The supervisors to whom infractions are reported are required then to take appropriate action.

c. Military supervision of civilians. -- Where military personnel, commissioned or noncommissioned, serve as immediate supervisors of civilians, such military personnel will exercise the normal responsibilities over such civilian employees as are exercised by civilian supervisors.

SECTION 5, PROCEDURE

	Paragraph No.
General statement	5-1
Procedure "A"	5-2
Procedure "B"	5-3
★ ★	
Hearings	5-4
Determination of eligibility for future Federal employment	5-5

5-1. GENERAL STATEMENT.

★ a. The procedures described in this section relate solely to disciplinary action and must be used whenever disciplinary action is taken against a Navy

employee. For exceptions to this general statement refer to the following: NCPI 45.8 (Removal or Separation at Request of Civil Service Commission); NCPI 45.3-3c (Disciplinary Warnings); NCPI 45.2-1 (action against native and alien non-citizen employees).

b. Two procedures are described. Procedure "A" is informal and is intended for use with employees who have no protective rights. However, it may be used with any employee when a letter of warning is contemplated as the penalty. Procedure "B" is formal and must be used in taking adverse disciplinary action against veterans or non-veterans who have acquired protective rights by completion of a trial period. Procedure "B" is a combination of Procedures "B" and "C" of previous issues of NCPI 45. It therefore provides procedure required by Section 14 of the Veterans' Preference Act when a veteran preference employee is discharged, suspended for more than 30 days, or reduced in rank or compensation.

c. Procedures "A" and "B" are intended for use in disciplinary action. Since they meet the requirements of law for taking action to remove, demote or suspend employees from duty they may be borrowed for use in taking non-disciplinary adverse actions. Other parts of NCPI may reference these procedures. Such reference is for procedure only. NCPI 45 provides authority solely for disciplinary actions. For authority in other types of adverse action see the appropriate NCPI.

d. The disciplinary procedure in this section should be initiated only after preliminary investigation or inquiry indicates that disciplinary action is necessary for the efficiency of the service, to correct the employee or to maintain general discipline and morale.

5-2. PROCEDURE "A."

a. Coverage.--This procedure will be used with the following employees:

- (1) Employees serving a probationary or trial period (veteran or non-veteran).
- (2) Employees without competitive status who are in excepted positions (Schedule A or B) and have not completed one year of current

continuous employment in such positions (veteran or non-veteran).

- (3) Non-veteran employees who occupy Schedule C positions regardless of status or length of service.
- (4) Veteran employees who occupy Schedule C positions and have not completed one year of current continuous employment in such positions or who have completed such period of employment but are given a penalty other than those specified in Section 14 of the Veterans' Preference Act (Suspension for more than 30 calendar days, removal or reduction in rank or compensation).
- (5) Employees serving under temporary appointments under Section 2.114 of Civil Service Regulations.
- (6) Status quo employees.
- (7) All other employees not included under the coverage of NCPI 45.5-3.

b. Discussion with employee.--Before action is taken against an employee listed in a above, the line official having authority to effect such action, or his designated representative, will hold an informal discussion with the employee at which he will be advised of the specific instances of misconduct, dereliction of duty, unsatisfactory performance of duty or other reasons for the contemplated action. The employee will be permitted to reply and present his side of the case. The line official shall make such inquiry or investigation as he considers necessary to assure himself of the facts in the case. The employee will be advised of the decision at the discussion if practicable. (Neither the Industrial Relations Officer nor Civilian Personnel Officer and members of their staffs nor Shop Personnel Supervisors shall conduct these discussions, although they may be present.)

c. Notice of decision.--The employee shall be notified in writing of the reasons for his suspension, demotion or removal, its effective date, any reckoning period involved and of his right to appeal the action (if not removal) through the established grievance procedure. When the penalty is a letter of warning these details may be included in the letter. The

B. F. 50 may be used for the written notice when the penalty is suspension or removal. Removal of an employee in this category is not appealable to the Department.

d. Summary.--A brief summary of the charges, statements made by the employee and management officials, and the decision will be filed in the activity and a copy thereof will be given to the employee upon request.

e. Suspensions pending decisions.--No formal procedure is required to suspend employees covered by Procedure "A" pending decision. Suspension from duty pending decision should not be invoked without due cause.

5-3. PROCEDURE "B."

a. Coverage.--This procedure will be used with the following employees:

- (1) Permanent or indefinite employees who occupy positions in the competitive service and have completed a probationary or trial period in such positions (veteran or non-veteran).
- (2) Employees with competitive status who occupy a position in Schedule A or B (veteran or non-veteran).
- (3) Employees without competitive status who occupy positions in Schedule A or B and who have completed one year of current continuous employment in such positions (veteran or non-veteran).
- (4) When the penalty is removal, suspension for more than 30 calendar days, or demotion (reduction in rank or compensation), the additional provisions specified for veterans in the following procedure must be observed with permanent or indefinite preference eligible employees who have completed a probationary or trial period in positions in the competitive service, or have completed one year of current continuous employment in excepted positions (Schedule A, B or C.)

b. Steps in procedure.

(1) Advance notice.

- (a) A written notice shall be given the employee at least 5 work days in advance of

the proposed action.

- (b) In the case of veteran preference employees when the proposed adverse action is removal, reduction in rank or compensation, or suspension for more than 30 calendar days, the advance notice shall be given at least 30 calendar days in advance of the action. (The day on which the notice is given to or received by the employee is not counted.) In cases where there is reasonable cause to believe the employee to be guilty of a crime for which a sentence of imprisonment can be imposed, the employee need not be given thirty (30) days advance written notice but must be given such advance notice as under the circumstances will be reasonable.

(2) Nature of action and effective date.

--The advance notice shall indicate the nature of the proposed adverse action and its effective date.

- (3) Specific charges.--The advance notice shall state any and all reasons for the proposed adverse action, specifically and in detail, including dates, specific instances and other data, sufficient to enable the employee to fully understand the charges and to adequately join issue with the proposed action. Where an employee's is considered as making appropriate a more severe penalty than the immediate offense, of itself, warrants under the Schedule of Penalties, the specific charges must set forth in detail the previous infractions and penalties which were invoked, and the employee must be advised that he may reply with respect to these previous infractions. Not more than two years of an employee's past record shall be considered in such connection.

(4) Reasonable time to answer.

(a) A reasonable time (no less than 5 work days) shall be allowed employees for answering in writing the charges and notifications of proposed adverse action and for furnishing affidavits in support of such answers. "Reasonable time" shall depend on all the facts and circumstances in each case and shall be sufficient to afford the employee ample opportunity to prepare an answer and to secure affidavits. The employee shall be advised of the date by which his answer to the charges and affidavits must be submitted. The employee shall be advised that he will be granted a hearing, upon request, and may have a representative and witnesses. Hearings shall be in accordance with NCPI 45.5-4.

(b) The offer of a hearing will satisfy the right of the veteran preference employee to reply to the charges personally as well as in writing.

(5) Status during notice period.

(a) A statement will be included in the advance notice advising the employee as to the work or leave status in which he will be carried during the period of the notice. Normally the employee will be continued in an active duty status. Where it is not considered advisable from an official standpoint to retain him in an active duty status, he may be placed on annual leave without his consent. In unusual cases where the retention of the employee in an active duty status in his position during the notice period may result in damage to government property, would be other-

wise detrimental to the interest of the government, or would be injurious to the employee, his fellow workers, or the general public, the employee may be:

1. temporarily assigned to duties in which these conditions would not exist,
2. placed on leave without pay with his consent or
3. suspended from duty.

(b) Emergency suspension. -- If the employee is to be suspended during the period of notice, the advance notice must advise the employee of the reasons why he cannot be retained on active duty during the notice period and will inform him of his right to reply to such reasons within 24 hours after receipt of the notice. It is important to note that the reasons given for suspension should not be the same as those advanced in support of the contemplated disciplinary action. Following consideration of any reply, the employee will be advised in writing as to whether suspension will be required. This emergency suspension procedure applies to all employees covered by Procedure B. Veteran preference employees may not be suspended for more than thirty (30) calendar days under this emergency suspension procedure.

(6) Notice of final decision. -- After all evidence relating to the charges has been considered, the employee shall be provided with a written decision. The decision, if adverse, shall state the reasons for the action to be taken and its effective date. The adverse decision

must restate the charges presented in the advance notice of the proposed action and must include the findings made with respect to each charge specifically identified. The findings must be stated in specific terms but need not weigh the evidence pro and con. The findings should also state specifically what charges in the advance notice were found to be established and what charges, if any, were dropped as not sufficiently supported. If any of the charges presented in the advance notice are dropped, the adverse decision should state that the remainder of the charges are found sufficient to support the adverse action, or should state specifically what charge is used as a basis for the adverse action.

Charges or specifications not presented in the advance notice must not be considered by management in arriving at the final determination and must not be included in the written adverse decision. In addition to the foregoing, the adverse decision shall state that any evidence submitted or answer made by the employee has been considered, and shall state the length of any reckoning period imposed, with notice that a repetition of the same offense during such period may result in a heavier penalty. The notice of final decision shall advise the employee of his right to appeal as indicated in (7) below. The notice of final decision shall be delivered to the employee at least 5 calendar days prior to the effective date of the adverse action.

(7) Right to appeal.

- (a) All employees covered by Procedure "B" may appeal from removal action to the Office of the Secretary of the Navy via the commanding officer and the management control bureau or office. The appeal must be made within 10 days after the effective date of removal action. Less severe penalties, including sus-

pension and demotion, may be appealed through the grievance procedure in accordance with the rules and time limits specified in NCPI 80. The notice shall inform the employee of these appeal rights.

(b) Veterans who are suspended for more than 30 calendar days, reduced in rank or compensation, or removed have the additional right to appeal to the appropriate office of the Civil Service Commission within ten (10) days after the effective date of the adverse action. Such veterans may choose which appeal right they wish to exercise, but may not file dual appeals.

1. Statement in notice of final decision. --The notice shall contain the following statement of appeal rights. Paragraph One and Paragraph Two or Three shall be used as appropriate.

PARAGRAPH ONE - (Use in all Section 14 cases.)

"As a veteran preference employee, you have the right to appeal to the appropriate office of the Civil Service Commission within ten (10) days after the effective date of this adverse action, as provided by Section 14 of the Veterans' Preference Act of 1944, as amended. No appeal will be accepted by the Commission which is submitted after the expiration of this time if the delay is due to prosecuting an appeal with the Department of the Navy."

PARAGRAPH TWO - (Use when the penalty is removal) "You also have

the right to appeal your removal to the Office of the Secretary of the Navy via the commanding officer of this activity and the management control bureau or office within ten (10) days after the effective date of this adverse action. An appeal to the Department will not be accepted if you elect to pursue your rights as a veteran preference employee by appealing to the Commission."

PARAGRAPH THREE -
(Use in place of Paragraph Two when the penalty is a suspension of more than 30 calendar days or reduction in rank or rating.) "You also have the right to appeal to the Office of the Secretary of the Navy through the grievance procedure in accordance with the rules and time limits specified in NCPI 80. An appeal will not be accepted under the grievance procedure if you elect to pursue your right as a veteran preference employee by appealing to the Commission."

(8) Contents of appeals.

- (a)** All employees shall be advised that an appeal to the Secretary of the Navy must set forth the specific reasons, facts and circumstances which make them believe that the action taken was unjustified and unwarranted, and call attention to any procedural deficiency they have noted.
- (b)** A veteran preference employee who is given a Section 14 penalty (suspended more than 30 calendar days, reduced in rank or compensation, or removed) shall

be advised of the following provisions concerning appeals to the Commission. An appeal under Section 14 to the Civil Service Commission must:

- 1.** Be in writing;
- 2.** Set forth in detail all the facts and circumstances of the adverse decision;
- 3.** Be accompanied by copies of charges, answer, affidavits in support of answer, and notice of the adverse decision, and by such documentary evidence in support of the appeal as the employee may wish to submit;
- 4.** State whether the employee desires to make a personal appearance or an appearance through or accompanied by a representative designated by him before a representative of the Commission;
- 5.** Be supported by acceptable evidence of entitlement to preference and
- 6.** Set forth detailed information regarding the employee's status, such as the date and nature of appointment and whether the employee has completed a probationary or trial period or 1 year of current continuous employment in the civil service of the Federal Government or District of Columbia, and any other data bearing on whether the employee is within the purview of Part 22 of the Commission's regulations.

(9) Record of case.--A copy of the

advance notice, notice of hearing, the original of the transcript or summary of the hearing, the employee's answer and affidavits, if any, and other material relevant to the case shall be made a part of the activity's records of the case. Personnel action forms effecting the adverse action and pertinent records shall be filed in the employee's personnel folder in accordance with NCPI 135.

(10) Processing appeals.

(a) Appeal to the Office of the Secretary. --When an employee appeals from removal action, the appeal shall be forwarded promptly to Chief of Industrial Relations (OIR Code 215), via the bureau, office or service having management control, together with appropriate comments, all records pertaining to the case, and the appellant's personnel folder. Since no provision for a personal hearing in the Department is made in connection with appeals to the Secretary and the review of the action is based on the record alone, it is imperative that a complete picture of the circumstances be provided the Department. Therefore, the activity should review the record prior to submission to the Department in order that comment regarding unrefuted statements of the appellant, activity's basis for discounting the testimony of any witnesses, unusual circumstances which required the action taken, etc., may be included in the forwarding endorsement. Failure to do so may result in the improper sustaining of an appeal. A copy of the forwarding endorsement should be provided the appellant.

1. Action by Bureau or Office. --Action may be taken by the responsible Bureau, Office, or

Service to reverse the removal action taken by an activity under its management control. When action satisfactory to the appellant is thus taken, OIR Code 215 will be informed. Where corrective action favorable to the appellant is not taken, the management bureau or office concerned will, after thorough analysis, prepare a brief of the case which will serve as a basis for review in the Office of the Secretary. The brief will conform to the following prescribed format:

Findings of fact;
Opinion;
Recommendations.

Comment concerning the adequacy or inadequacy of the procedure used and a statement showing the status (duty, annual leave, LWOP, etc.) of the employee, pending the effective date of removal, will be included in the findings of fact. The brief and the appeal record should then be forwarded to OIR Code 215.

2. Action by OIR. --The case will be promptly reviewed. Receipt of appeals will not be acknowledged to appellant and personal hearings will not be provided. The decision on the appeal will be based on the facts in the appeal record. The responsible Bureau or Office will be informed when review of the record indicates that the removal action must be reversed. At the option of the Bureau or

Office the case will be returned for corrective action by the Bureau or Office. Otherwise, the activity concerned will be notified via the Bureau or Office of the corrective action required. When the appeal is denied, the appellant will be promptly informed and a copy of the decision sent to the Bureau and activity concerned.

- (b) Appeals under other procedures. -- Appeals will not be entertained under the above procedure if they are concerned with issues which have been previously entertained under the provisions of NCPI 75, by the Commission under the Veterans' Preference Act, or by any other properly constituted statutory authority. Care should be exercised in applying this principle to avoid refusing legitimate appeal rights to the employee. For example, an employee who has been refused the opportunity by the hearing officer to bring in the issue of racial discrimination in the course of a hearing in connection with a removal action, may not be deprived of his right to file an appeal under the provisions of NCPI 75 alleging racial discrimination. On the other hand, if the employee files a Fair Employment Appeal from removal action, an appeal to the Office of the Secretary from removal action under the provisions of this section will not be entertained. This would also apply to matters which may be appealed under the grievance procedure. For example, an appeal from demotion

would not be accepted from the veteran under the grievance procedure if he also appealed the demotion to the Civil Service Commission.*

5-4. HEARINGS.

a. Purpose. -- Hearings in disciplinary action cases are conducted solely for the purpose of obtaining facts on which an equitable decision may be based and to give the employee an opportunity to present his side of the case.* Hearings are purely administrative proceedings; they are not courts nor are they governed by the legal rules of procedure and evidence.*

b. General conditions. -- Hearings in accordance with these provisions will be held whenever action is taken under Procedure "B" and the employee requests such hearing in his reply to charges. Hearings may be held, in the discretion of management, when the employee fails to request such hearing if it is believed that hearing the case will lead to a better understanding of the issues and more equitable action. Hearings, when requested, should be scheduled as promptly as possible. Hearings will be conducted by the line supervisor authorized to take the action in question, or by another line supervisor designated to act for him. Where desirable, an advisory hearing board may be designated with one member acting as chairman. Shop Personnel Supervisors and officials of the Industrial Relations Departments or Civilian Personnel Offices may not serve as voting members on such boards.

c. Employee representatives. -- In suspension and demotion cases, the employee may be represented by any fellow employee of his choice who is willing to represent him. In removal cases, the employee may be represented by any person of his choice who desires to represent him. In addition, the employee may be accompanied in removal cases by an advisor who may consult with and advise the representative. The advisor shall have no voice in the pro-

ceedings, but shall be permitted to speak to the hearing board or hearing official through the representative.*

d. Witnesses.--The employee may call on witnesses who have direct knowledge of circumstances and factors bearing on the case. Such employee witnesses named by the employee are required to attend to testify. Witnesses may be limited in number on the basis of fair standards which shall be explained to the employee and recorded, and normally shall be present at the hearing only while testifying.

e. Conducting the hearing.--In hearing cases covered by Procedure "B", the following standards and procedures shall be observed:

- (1) The employee shall be advised of the purpose of the hearing and of his right to representation and to call witnesses in his behalf as described in a, c and d above.
- (2) The employee shall be advised of the charges and of the contemplated penalty. The evidence in support of the charges will then be introduced. The evidence may be in the form of testimony of witnesses and participants and introduction of pertinent documents, materials and equipment. Where necessary, affidavits or depositions may be used, with the employee being allowed a reasonable time in which to obtain counter affidavits or depositions. Charges do not constitute evidence. Classified files may furnish valuable leads and result in the securing of proper and admissible evidence, but they may not be considered in determining guilt, innocence, or the penalty, unless the information contained therein or evidence obtained therefrom is made a part of the record and the employee is given fair opportunity to reply thereto. This means that before the information contained in classified files may be used in these hearings, the equivalent evidence in an unclassified form must be obtained and presented at the hearing.

(3) The employee shall be given full opportunity to reply to and refute the evidence and charges against him and to question all witnesses at the hearing.

(4) Witnesses shall be called individually, advised of the purpose of the hearing, cautioned to remain as factual as possible in their testimony,* and advised that their testimony should not be discussed outside the hearing.

(5) The hearing officer shall make every effort to elicit all of the facts bearing on the case whether those facts support the charges or support the employee's position; to confront the employee with the witnesses against him if that is the employee's desire; to assure the employee's full understanding of all phases of the matter; and to confine the discussion and testimony to issues directly related to the case.

f. Hearing records.--An official record of the hearing will be made by the activity, including either a verbatim transcript of the testimony or a summary of each person's statements, for all hearings held under* procedure "B". Activities having mechanical recording equipment available may use such equipment. Such use is advocated since the recording equipment will provide an accurate record which preserves the atmosphere of the hearing and may be checked, results in a saving in time and personnel, and may be used in training personnel concerned how to conduct hearings properly. The employee or his representative will be given a copy of the record of the hearing upon request. If the employee or his representative desire, they may, after reviewing the copy of the record, or listening to the "play-back" of the mechanical record, submit corrections to it on a separate statement, designating pages and lines which are questioned. Otherwise, it will be assumed that there is no disagreement on the record of the hearing. Where recording equipment is used, the mechanical record will be retained intact until the case is finally adjudicated.*

5-3 DETERMINATION OF ELIGIBILITY FOR FUTURE FEDERAL EMPLOYMENT.--When an employee has been removed on charges (other than security) or has resigned upon learning the agency planned to prefer charges or while charges were pending (other than security), the Commission may receive the sworn statement of such employee, setting forth fully and in detail the facts surrounding his removal or resignation and within its discretion may make investigation to determine his eligibility for further employment in the competitive Federal service insofar as suitability and fitness are concerned. After such investigation, such employee will be advised whether the Commission as a result of the investigation has found him to be suitable for further employment in the competitive Federal service. No case will be considered under this provision unless submitted to the Commission within 6 months from the date of separation or 60 days after the date of the last adverse decision as a result of an appeal to the Commission under provisions of Section 14, Veterans' Preference Act of 1944.

SECTION 6, CORRECTIVE ACTION UNDER PUBLIC LAW 623

	Paragraph No.
General statement	6-1
Employees eligible	6-2
Conditions of eligibility	6-3
Rate of compensation	6-4
Retirement deductions	6-5
Leave credits	6-6
Refusal to perform duties	6-7
Oath of office and affidavit	6-8

6-1. GENERAL STATEMENT.--Public Law 623, 80th Congress, provides back pay for certain employees when improperly removed or suspended without pay. This Section contains the applicable regulations for granting back pay where suspensions and removals were involved which were found unjustified or unwarranted.

6-2. EMPLOYEES ELIGIBLE.

a. Non-veteran employees who have permanent competitive status and occupy

positions in the competitive service at the time of suspension or separation are covered by the back pay provisions of Public Law 623. Non-veteran, temporary, probationary, and indefinite nonstatus employees, as well as employees in excepted positions, are excluded from the provisions of the Act (29 Comp. Gen. 29; B-83635 of 19 July 1949).

b. Veterans who have permanent competitive status and occupy positions in the competitive service are eligible. Any veteran who is discharged or suspended under section 14 of the Veterans' Preference Act of 1944, as amended, is eligible. This includes permanent and indefinite veterans who have completed a probationary or trial period in positions under Civil Service Rules, or one year of current continuous employment in excepted positions. Veteran preference eligible employees serving probationary or trial periods and those holding temporary positions are not included (29 Comp. Gen. 29; B-83635 of 19 July 1949; 30 Comp. Gen. 137; B-98093 of 3 October 1950).

c. Eligible veterans or non-veterans who are reinstated or restored to duty based upon a finding by proper appointing or reviewing authority that the suspension, separation or removal action was unjustified or unwarranted, are entitled to the back pay provisions of Public Law 623. Proper appointing or reviewing authority as used herein includes the Civil Service Commission, the Office of the Secretary, the management bureau or office and the commanding officer of a field activity.*

6-3. CONDITIONS OF ELIGIBILITY.

a. General conditions.--Eligibility for reimbursement under the provisions of Public Law 623 is contingent upon three conditions:

- (1) the employee must be removed or suspended without pay after 10 June 1948,
- (2) he must make answer to the charges or reasons proffered for the action, or appeal to proper authority, and
- (3) he must be reinstated or restored on the ground that such

removal or suspension was unjustified or unwarranted.

The back pay provisions of the Act do not apply to demotions under any circumstances. An otherwise eligible employee who is separated as a result of an unsatisfactory performance rating is entitled to compensation under the provisions of the Act if he is restored to duty because of successful appeal from such rating (28 Comp. Gen. 200; B-79027 of 28 September 1948). Although the Civil Service Commission's decisions under Section 14 of the Veterans' Preference Act may encompass rescission of adverse administrative actions and restoration to the rolls retroactively effective to the effective date of such adverse actions, compensation for a period of separation is not allowed if the suspension or separation was effected prior to 10 June 1948, the effective date of Public Law 623 (28 Comp. Gen. 489; B-81930 of 2 March 1949). Reinstatement or restoration of the employee need not be to the position from which separated in order that the back pay provisions of the law may apply (29 Comp. Gen. 29; B-63635 of 19 July 1949).

b. Cases involving procedural defects. -- An eligible employee may receive back pay under the provisions of Public Law 623 only after adverse action is determined to be unjustified or unwarranted on the basis of the merits of the case (29 Comp. Gen. 209; B-88897 of 2 November 1949). A determination that an adverse action was procedurally defective does not entitle the employee concerned to retroactive compensation. However, where no action is initiated against an employee who is restored to duty because of a procedural defect, within 10 days after such restoration, it is assumed that there has been an administrative determination that the action was unjustified or unwarranted within the meaning of Public Law 623 which entitles the employee to compensation. Accordingly, when employees are restored to duty because of procedural defects, activities should after further consideration of the case and if appropriate, proceed as soon as possible to initiate procedurally correct action. Thereafter, if appropriate, the cases will be considered on

their merits.

6-4. RATE OF COMPENSATION.

a. Payment of compensation for the period of separation must be at the rate received on the effective date of suspension or separation and should not be adjusted to conform with provisions of salary or pay acts effective during the period of separation (28 Comp. Gen. 333; B-81369 of 26 November 1948). Since computation of compensation due is on the basis of the salary rate effective on the date of suspension or separation, step increases which would normally be effective during the period of suspension or separation are not considered in computing the amount of compensation to be paid the employee. The period of separation for which retroactive compensation is paid is considered service for the purpose of determining the step rate of compensation payable on and after date of restoration, even though such date may be in the middle of a pay period (28 Comp. Gen. 563; B-82633 of 11 April 1949). See NCPI 195.

b. In event the employee was in a non-pay status on the last day of service, prior to suspension or separation, the rate of compensation to be paid is that fixed by law for the position. (30 Comp. Gen. 114; B-97600 of 21 September 1950.)

6-5. RETIREMENT DEDUCTIONS. -- See NCPI 185.3-1c.

6-6. LEAVE CREDITS. -- Leave taken immediately prior to the effective date of separation, although caused by the impending separation, may not be recredited. Compensation for periods of separation is computed for the entire period but the lump-sum leave payment, including the amount of tax withheld, is deducted therefrom and the amount of leave represented by the deduction is recredited to the employee's leave account (28 Comp. Gen. 333; B-81369 of 26 November 1948). Any permanent employee who is restored to a position as a result of appeal under the Veterans' Preference Act or as a result of appeal under any other author-

ity or procedure is entitled to recredit of any annual or sick leave which remained to his credit upon separation (29 Comp. Gen. 28; B-83635 of 19 July 1949). Public Law 623 prohibits accumulation of leave during the period of suspension or separation.

6-7. REFUSAL TO PERFORM DUTIES.--An employee who refuses to perform properly assigned duties in fact removes himself from a duty status to a non-duty status. In such a case, action taken to relieve the employee from duty is nothing more than administrative recognition of the employee's own actions and does not constitute a suspension from duty as contemplated in Public Law 623 (28 Comp. Gen. 593; B-84647 of 19 April 1949). (The Department interprets this decision to mean that an employee who refuses properly assigned duties may be placed in a non-duty status only for the remainder of the day on which the refusal occurs. When this is done, the employee should be instructed to report for duty on the following work day.)

6-8. OATH OF OFFICE AND AFFIDAVIT.--An employee reinstated or restored under the provisions of Public Law 623 is not required to file a new oath of office and affidavit of non-affiliation provided restoration is retroactively effective to the date of separation.

SECTION 7, SECTION 14 RIGHTS, VETERANS' PREFERENCE ACT

	Paragraph No.
Legal basis	7-1
Policy of the Department	7-2
Disciplinary action	
involving veterans	7-3
Excusing employees to attend	
Commission hearings	7-4
Appeals	7-5

7-1. LEGAL BASIS.

a. Statutory.--Section 14 of the Veterans' Preference Act of 1944 provides that no veteran as defined in NCPI 45.2 shall be discharged, suspended for more than thirty days, furloughed without pay, reduced in rank or compensation, or debarred from future appointment except

for such cause as will promote the efficiency of the service. He shall have at least thirty days' advance written notice (except where there is reasonable cause to believe the employee to be guilty of a crime for which a sentence of imprisonment can be imposed) stating any and all reasons, specifically and in detail, for any such proposed action. Further, he has the right to answer personally and in writing and to appeal such actions to the Civil Service Commission.

b. Civil Service Regulations.--C. S. Regs. 9, 21, 10 and 22 constitute the basis governing advance notice to, and appeals by, veterans against whom adverse action is proposed, in both the competitive and excepted services. *FPM pages S1-28 to 30 indicate the procedural requirements of Section 14 Part 22 of the Commission's regulations is based on Section 14.*

7-2. POLICY OF THE DEPARTMENT.

--All activities will assure compliance with provisions of Section 14 of the Veterans' Preference Act of 1944. Further, they will permit representatives of the Civil Service Commission to inspect or review pertinent records. Heads of activities or their representative should be present at hearings held by the Civil Service Commission on appeals involving their employees who are veterans in order that the interests of all groups may be preserved.

7-3. DISCIPLINARY ACTION INVOLVING VETERANS.

a. Disciplinary action.--Disciplinary action taken against veterans shall be in accordance with the provisions of NCPI 45.5. For corrective action see NCPI 45.6.

b. Adverse actions pursuant to CSC directives.--The procedures required by NCPI 45.5 are not applicable in cases where the Commission directs adverse action against a veteran. * See NCPI 45.8.*

c. Acceptance of reduction in rank or salary to avoid charges.--Cases in which veterans are advised to accept reduction in rank or salary in lieu of having charges preferred against them are

subject to appeal and review by the Commission.

d. Requests for reductions in rank or salary.--The procedures of NCPI 45.5 are not applicable where a veteran makes a written request for a reduction in rank or salary solely for personal reasons and in his own interest provided the employee and not the activity initiates the request for reduction, the activity has exercised no pressure, the employee fully understands the transaction and considers the reduction to be for his benefit, and he has clearly indicated that he wishes the action to be taken. However, a full record should be kept by activities of any cases falling in this category in the event appeal to the Commission is made.

7-4. EXCUSING EMPLOYEES TO ATTEND COMMISSION HEARINGS.

a. The provisions of NCPI 105.8 are applicable. Subject to these provisions the veteran, his representative and his witnesses should be excused without charge to leave to attend hearings held by the Commission whether such hearings are held on or off the premises of the local activity. When the Commission requests the presence of an employee at a hearing, the employee should be excused without charge to leave.

7-5. APPEALS.

a. Regional decisions.

- (1) When veteran preference employees appeal to the Civil Service Commission, naval activities shall comply with decisions of Regional Directors of the Commission or of the Chief, Appeals Examining Office of the Commission, if such compliance does not involve relaxation of the effective and proper administration of the naval activities. Activities shall report to the appropriate office of the Commission within 7 days of receipt of the finding and recommendation, the action that will be taken.
- (2) Where the naval activity finds it impracticable to comply with the finding and recommendation, the naval activity may appeal within

7 days of receipt of the finding and recommendation, to the Commissioners, U. S. Civil Service Commission, Washington 25, D. C., attention, Board of Appeals and Review. The Board of Appeals and Review of the Commission will review the record and, in its discretion, may afford the parties an opportunity to appear personally. The Office of Industrial Relations, OIR Code 105, is available in Washington to assist field activities in making such appeals. In event naval activities do not appeal decisions of the Commission, compliance is mandatory.

b. Commissioners' decisions.--Only in exceptional cases where it is believed that the action recommended by the Commissioners would be prejudicial to the good of the service shall naval activities not comply with the recommendation of the Commissioners. In such cases the complete file shall be forwarded to the Office of Industrial Relations, OIR Code 105, for determination as to whether the Navy Department will ask for reconsideration on the part of the Commissioners.

c. Reopening of cases - further appeals to the Commissioners.--The Commissioners may in their discretion, when in their judgment such action appears warranted by the circumstances, entertain a further appeal at the request of the appellant or his designated representative or of the employing agency.

d. Reference material.--FPM pages 51-51 and 21-301 provide details concerning the processing of appeals, the conduct of hearings, etc.

SECTION 8. REMOVAL OR SEPARATION AT THE REQUEST OF THE CIVIL SERVICE COMMISSION

	Paragraph No.
Legal basis	8-1
Policy	8-2
Civil Service Commission procedure	8-3
Navy Department appeal procedure	8-4
Persons in military service	8-5

8-1. LEGAL BASIS.--The Civil Service Commission is legally responsible for determining "the fitness of applicants for the public service" (Act of 16 January 1883, 22 Stat. 403; 5 USC 632 et seq.).

8-2. POLICY.--It is the policy of the Department that a separation order of the Civil Service Commission will be appealed only if the individual is extremely valuable to the activity and the head of the activity believes the retention of the employee is clearly in the interest of the government.

8-3. CIVIL SERVICE COMMISSION PROCEDURE.--When the Civil Service Commission uncovers evidence which in the opinion of the Commission warrants the suspension or separation of an employee, and the Commission has jurisdiction, the Commission will direct the employing agency or activity to suspend or separate such employee. An employee whose separation is ordered by the Commission may be given 30 days' notice of separation unless the notice instructing removal sets a different period.

8-4. NAVY DEPARTMENT APPEAL PROCEDURE.--Whenever an employing activity receives an order from the Civil Service Commission to suspend or separate an employee, the head of the activity concerned may appeal such order only if the employee's services have been satisfactory and if his separation would cause a material loss to the activity, or if the head of an activity has new and additional information concerning the employee which is likely to alter the Commission's order. In such appeals the following procedure will be followed:

a. Appeal to the Civil Service Commission.--The head of the activity, on the basis of his investigation of the situation, may appeal to the appropriate office of the Commission setting forth in detail and specifically the reasons for which the appeal is being made and providing the Commission with additional information which casts a reasonable doubt on the propriety of the order to suspend or separate the employee. During the time that the appeal is pending, the employee will be

retained in an active duty status.★ If the order was issued by the central office of the Commission, the appeal should be directed to the Board of Appeals and Review, Civil Service Commission, Washington, D. C. If the order was issued by a Regional Director, the appeal should be directed first to the Regional Director and then to the Board of Appeals and Review.

b. Action upon denial of appeal.--If the appeal is denied by the Board of Appeals and Review, the activity must comply with the order or request the assistance of the Department in making a further appeal to the Commissioners, U. S. Civil Service Commission.★

c. Appeal to the Department.--In requesting assistance of the Department, the head of the activity will forward to OIR Code 215 the employment record of the individual and a complete statement of the merits and facts in the case. The Department, after reviewing the material submitted by the head of the activity, will appeal the order for separation or suspension to the★ Commissioners, if such action is considered justified, in which case the activity will be advised and may retain the employee in an active duty status pending further advice from the Department. If the Department concurs in the findings of the Board of Appeals and Review,★ the activity will comply with the order.

d. Personnel action forms.--If and when the employee is separated or suspended, the appropriate personnel action form will be executed showing reason for the separation or suspension. The date and file number of the Commission's request should be placed under "Civil Service or other legal authority."

8-5. PERSONS IN MILITARY SERVICE.--Whenever the Civil Service Commission directs the separation of an employee in the military service, the appointing officer will return the case to the Commission and advise the Commission of the fact of military service. When the employee returns from military service, the activity will advise the Commission of such fact. This procedure will be followed in all cases except those arising from political ac-

tivity by Federal employees (NCPI 150.7).

SECTION 9, ARREST RECORDS FROM THE COMMISSION

	Paragraph No.
Consideration of arrest records	9-1
Report of action taken	9-2
Employees transferred to other naval activities ...	9-3
Employees separated or transferred to other Federal agencies	9-4

9-1. CONSIDERATION OF ARREST RECORDS.--OIR transmits Federal Bureau of Investigation reports of arrest records on employees to naval activities concerned for action considered necessary. Upon receipt of an arrest record, the head of the activity shall inquire into the circumstances involved. Where the disposition of charges is not indicated on the arrest record and the head of the activity desires to know the disposition, he shall check the items with the appropriate Civil Service Regional Office to determine the disposition of the charges. Local policy records shall be reviewed only if the Commission's Regional Office has not done so. After the arrest record has been evaluated, the head of the activity shall take such action as is considered warranted, and make a report of action taken as required by NCPI 45.9-2.

9-2. REPORT OF ACTION TAKEN.--The OIR arrest record transmittal letter will specify the office to which the report of action taken should be addressed. The head of the activity shall report action taken in one of the following ways, as specified:

a. In those cases in which employees are charged with sexual perversion, the head of the activity shall report by letter to OIR Code 111 the action taken. Where the head of the activity does not consider that removal or separation is justified, the report to OIR Code 111 shall explain the basis for the retention of the employee. OIR is required to report to the Commission any action

taken by naval activities upon receipt of such arrest records, including the retention of employees and the reasons therefor.

b. In cases containing charges other than charges of sexual perversion, the head of the activity shall report, on the form provided, the action taken, direct to the Regional Office of the Commission or to the Civil Service Commission, as specified in the form provided. No report of action taken is required by OIR in such cases. Where the head of the activity does not consider that removal or separation is justified, the report to the specified office of the Commission shall explain the basis for the retention of the employee.

9-3. EMPLOYEES TRANSFERRED TO OTHER NAVAL ACTIVITIES.--In the event that the employee concerned has transferred to another naval activity prior to receipt of the arrest record, the head of the activity shall transmit all material forwarded by OIR direct to the gaining activity for compliance with this instruction. A copy of the transmittal letter shall be furnished OIR Code 111.

9-4. EMPLOYEES SEPARATED OR TRANSFERRED TO OTHER FEDERAL AGENCIES.--In the event that the employee concerned has separated, or transferred to another Federal agency, prior to receipt of the arrest record, the head of the activity will report such fact, including the date and nature of separation or the agency and location to which transferred, as follows:

a. To OIR in cases involving sexual perversion.

b. To the Regional Office of the Commission in other cases.*

SECTION 10, ★ CONDUCT OF EMPLOYEES; GENERAL PROBLEMS WHICH MAY REQUIRE DISCIPLINARY ACTION; AND MISCELLANEOUS PROHIBITIONS

	Paragraph No.
Conduct of employees	10-1
Outside employment	10-2
★ Loans	10-3

Indebtedness of employees	10-4*
Unauthorized disclosure of information	10-5
Charges for notarial acts	10-6
Loss of or damage to Govern- ment tools or equipment	10-7
Table of Miscellaneous Offenses Prohibited by Law or Civil Service Regulation	10-8

10-1. CONDUCT OF EMPLOYEES.

a. Speculation by employees.--In a letter dated 22 April 1957, the President requested the Civil Service Commission to take steps to inform all officials and employees of the Government that speculation on their part or in their behalf in corporate stocks or bonds or in commodities is contrary to Government policy. The President said:

"I believe it to be a sound policy of the Government that no officer or employee shall participate directly or indirectly in any transaction concerning the purchase or sale of corporate stocks or bonds or of commodities for speculative purposes, as distinguished from bona fide investment purposes. Engagement in such speculative activities by any officer or employee, whether under the competitive civil service or not, should be among the matters considered by the heads of departments and establishments and by the Commission in passing upon questions concerning his qualifications for retention or advancement."

- (1) Policy.--It is the policy of the Department that engagement in such speculative activities be considered when activities pass upon qualifications of employees for retention or advancement in the service.

b. Conduct unbecoming Government inspectors.--There shall be no dealing whatever, of a private nature, between a naval inspector and a contractor or his representative, and any such transactions will be sufficient cause for discharge. Accordingly, inspectors must not borrow money from representatives of contractors doing work for the Government, nor conduct themselves in such manner that they may be suspected of

collusion with such representatives, nor fail to protect the Government's interests at all times.

c. Standards of conduct for persons having business dealing with the representatives of industry.--All persons engaged in procurement and related activities must be mindful of their grave responsibility and position of trust in their business dealings with representatives of industry. Many practices which would be normal and proper in the private business world are not acceptable for Government employees who are spending the Government's money. It is essential that all such persons set for themselves the highest standards of personal conduct in their relations with business firms and individuals, thereby insuring that these relations are above reproach in every respect. The acceptance of entertainment or gifts (no matter how innocently tendered or received) from one who seeks or enjoys profitable business dealing with the Government may compromise and embarrass both the Navy and the official concerned. No person shall confer special benefits upon particular suppliers, such as by giving them information of proposed purchases, unless such information is also made available to all competing suppliers. The general policy throughout the Department of the Navy with respect to standards of conduct for personnel engaged in procurement and related activities is as follows:

- ★ (1) No Government officer or employee who has the direct responsibility for negotiating and signing contracts or approving the payment of money to contractors, should have any financial interest in any such contractor. No Government officer or employee should permit himself to be exposed to a dual-interest position or to a conflict between self-interest and integrity. He should clearly be in a position to act to the best of his ability without fear or favor in the best interest of his Government.
- (2) Where an officer or employee of the Department of the Navy

has any financial interest in any business entity, corporation, or partnership, transacting or contemplating transacting business with the Government that officer or employee is disqualified from having any dealings of any kind for or in behalf of the Department of the Navy with such business entity.

- (3) Where an officer or employee of the Department of the Navy feels that he should be disqualified from taking action in a particular matter, it is his duty to so inform his superior or department head, and he will be relieved of his duty and responsibility in that particular case. The matter will then be assigned to someone else of equal or higher rank, who clearly has no conflict of interest for decision and action.
- (4) Where any superior who thinks that an officer or employee reporting to him may be involved in a conflict of interest, or an apparent conflict of interest of importance from a public confidence point of view, he will discuss the matter with the person involved and may relieve such officer or employee of responsibility in the case. He will then assign the responsibility for taking action to someone else of equal or higher rank who clearly has no conflict of interest for decision and action, or he may take the responsibility for decision and action himself.★

10-2. OUTSIDE EMPLOYMENT.

a. Policy.--The Department recognizes that some employees in the departmental and field services are also employed by private corporations, partnerships or individuals. It is not the desire of the Department to interfere with the opportunity of employees to increase their incomes through the acceptance of outside employment when opportunity offers, except where such employment interferes with the rendition of satisfactory service to the Navy, involves relations with firms bidding on or making contracts with the Government which may, by the nature of

such relations, have a detrimental effect on the interests of the Government, or where applicable statutes and executive orders are not complied with.

The Department, therefore, under authority of Revised Statute 161 (5 USC 22), specifically prohibits any of its employees from accepting or continuing in employment under the following conditions:

- (1) Where private employment would interfere with the rendition of satisfactory service, such as employment which would affect physically the performance of Government duty. Example: Private employment which strains the mental or physical capacities of employees and results in a lowering of efficiency in their Navy employment.
- (2) Where private employment would result in affecting adversely to the Government the opinions of the employee or the results of his duties, such as employment with a firm holding contracts with the Government or contemplating making or bidding on contracts with the Government where the employee may be in a position, through his employment with the Navy, to influence the holding or making of such contracts. Any employee who violates the provisions of this paragraph shall be directed to cease such employment and failing, shall be transferred or separated under appropriate procedures.
- (3) Where the official positions of employees may otherwise be compromised by reason of outside employment. Such cases must be handled individually on their merits on the basis that no public officer or employee can lawfully engage in business activities which are incompatible with his official duties, which may result in conflicting personal interest, or which may result in neglect of official duties through attention to private affairs.

Charges predicated on condition (1) above should always bear upon the employee's performance in his job with the Navy and should not be based on refusal to sever private employment. Charges based on conditions (2) and (3) above should specifically indicate the areas in which continuance of the private employment is incompatible with the interests of the Government. As a general rule, removal action should not be taken until after the employee has first been warned and has failed to comply with the terms of the warning.

b. Teaching and instruction.-- Federal employees may hold positions as teachers or instructors in state, territorial, or municipal schools and universities if the holding of such positions does not in any manner interfere with the performance of the duties of the position under the Federal Government as provided in Executive Order 8300 of 11 April 1940. See NCPI 45.1-1e. In holding such positions as teachers and instructors, however, no course or class may be conducted and no instruction may be given with a view toward the special preparation of any person for civil-service examinations in violation of Executive Order 9367 of 4 August 1943. Teaching by Federal officers and employees in schools and universities has been held to be prohibited by this executive order under the following circumstances:

- (1) If the particular school or university holds itself out as offering courses specially designed to prepare students for civil service examinations.
- (2) If the course itself is specially designed to train applicants for civil service examinations or is so closely related with the subject matter of a civil service examination that it has the effect of specially preparing persons for such examinations.

Heads of activities, before granting employees permission to teach, should determine that the proposed teaching is not in violation of Executive Order 9367. An appropriate notation that such determination was made should be placed in the personnel folders of employees

concerned. ★ Although prior approval of the Civil Service Commission as to the appropriateness of any teaching activity with respect to Executive Order 9367 is not required, questions as to whether a specific teaching activity is prohibited may be presented to the Commission for an advisory opinion.★
★ ★

10-3. LOANS.

a. Loans.--No civilian employee carried on the rolls in a supervisory rating shall request or accept any loan of money from an employee under his supervision; nor shall any employee lend money to any civilian employee under whose supervision he may be working. Employees violating this policy will be subject to appropriate disciplinary action.

★10-4. INDEBTEDNESS OF EMPLOYEES.

a. The Department of the Navy expects its employees to pay their just debts and maintain a reputation in the community for honoring their obligations. Failure of an employee to honor his just debts without good cause may reflect on his suitability for continued naval employment to such extent that disciplinary action, including removal from the service, may be necessary. In determining whether disciplinary action is required, all the facts and circumstances of the case, including the individual's employment history, shall be taken into consideration. Disciplinary action may be taken whenever the indebtedness reflects so unfavorably on the employee's suitability for Federal service as to make disciplining him necessary. Disciplinary action may not be taken merely on the grounds that the employee has incurred indebtedness.

b. The Department's views and procedures regarding the various types of indebtedness follow:

- (1) **U. S. Income Tax indebtedness. -** It is the policy of the Department that employees must liquidate their delinquent Federal income tax obligations or else show cause why they should not be removed from naval employment. Commanding officers, when notified

by the proper Treasury Department officials, will notify employees of such information and will instruct such employees that they are expected and required to meet or communicate with officials of the Treasury Department and reach mutually satisfactory agreements to liquidate the delinquent taxes. Notices of the agreements should be forwarded to commanding officers by employees concerned. Once an agreement has been reached between an employee and the Treasury Department, failure of the agreement will be sufficient cause to initiate removal action under NCPI 45.5. Commanding officers should satisfy themselves in each case that the employee has, in fact, refused to make reasonable effort to satisfy the delinquent tax obligation, taking into account any unusual circumstances that may have taken place subsequent to the date of the agreement between the employee concerned and the Treasury Department, before removal action is taken.

- (2) Other indebtedness to the United States and indebtedness to state and local agencies of government. -- Activities shall assist Federal, state and local agencies of government by calling the employee's attention to his indebtedness and apprising him of the Department's attitude as stated above. Reasonable effort should be made to prompt the employee to make satisfactory arrangements with the agency involved to liquidate his indebtedness. When appropriate, fiscal action may be considered in accordance with the provisions of paragraph 033016, Navy Comptroller Manual.
- (3) Private debts to individuals and companies. -- The Department considers that it is the responsibility of creditors to investigate employees to whom they extend credit and to assume responsibility for collection. Although the Department desires

that private debts be resolved as expeditiously as possible, and will assist creditors to the extent of calling the employees attention to his indebtedness and the Department's attitude thereto, it cannot consider itself as a collection agent or become an arbiter when the validity of a debt is questioned.

- (4) Letters similar to the form letters provided in NCPI 45.11-Encl. 4, may be used for replying to inquiries regarding any of the categories of indebtedness noted above except U. S. Income Tax indebtedness. Such form letters shall not be used for replying to Congressmen, heads of state and local governments over their personal signatures, or when protocol or good business practice would otherwise preclude their use. The use of such form letters is not mandatory and other methods for handling inquiries concerning indebtedness may be developed in the discretion of management.★

10-5. UNAUTHORIZED DISCLOSURE OF INFORMATION. --Article 1252 of U. S. Navy Regulations states in part:

"No person in the Naval Establishment shall convey or disclose by oral or written communication, publication, or other means, except as may be required by his official duties, any information whatever concerning the Naval or other Military Establishment or forces, or any person, thing, plan, or measure pertaining thereto, when such information might be of possible assistance to a foreign power; or, except by proper naval authority, any information contained in the official records of the Government or otherwise acquired which, for reasons of public policy, should not be disclosed to persons not of the Naval or other Military Establishments. . . ."

10-6. CHARGES FOR NOTARIAL ACTS. --Article 1266 of U. S. Navy Regulations states:

"No officer, clerk, or employee in the executive service of the Government, who is also a notary public, shall charge or receive any compensation whatever for performing any notarial act for any person in the naval service, clerk, or employee of the Government in his official capacity, or in any matter in which the Government is interested, or for any person when, in the case of such person, the act is performed during the hours of such notary's service to the Government. This regulation shall not apply to oaths of disinterestedness, or other oaths required to be made by law, provided that the work in connection therewith is not performed during office hours."

10-7. LOSS OF OR DAMAGE TO GOVERNMENT TOOLS OR EQUIPMENT.

a. Policy.--It is the policy of the Department to handle cases involving loss of or damage to Government-owned tools and equipment, whether such loss or damage is the result of negligence, carelessness or maliciousness, in such manner as will assure minimum losses to the Government, yet at the same time, assure good employee relations.

b. Authority.--There exists no legal authority by which the Secretary of the Navy or any subordinate official may require civilian employees to compensate the Government for loss of or damage to Government property. This is true whether or not fault exists on the part of the employee. However, activities may take appropriate action, as set forth hereinafter, including, in certain circumstances, the withholding or applying of an employee's final salary payment for indebtedness to the Government.

c. Action.--When loss of or damage to Government-owned tools and equipment occurs, activities may utilize any of the following applicable procedures:

- (1) Take disciplinary action under NCPI 45.11-Encl. 1, item 12 or 24, as appropriate.
- (2) Initiate criminal or civil action. This procedure is particularly applicable when clear evidence of negligence, carelessness or maliciousness establishes fault on the part of the employee. Criminal or civil action will be taken

via the management bureau, the Judge Advocate General of the Navy and the Department of Justice.

- (3) Withhold or apply the employee's final salary payment.

(a) When the employee is being separated other than for cause and where the loss of or damage to Government property clearly results from fault of the employee, final salary payment should be withheld from the employee and sent, along with the Government's claim against the employee, to the General Accounting Office for disposition. When the employee is being separated for cause and where the loss of or damage to Government property clearly results from fault of the employee, moneys due him for pay may be applied against any indebtedness therefor and the General Accounting Office notified of such action. In cases involving separations for cause, claims in excess of the amount withheld from the employee may be referred to the General Accounting Office for further action. In either case, whether the final salary payment has been withheld or applied against an employee's indebtedness, the employing activity will inform the General Accounting Office of the conditions of such loss or damage, including:

1. a statement that the charges certified have not previously been certified,
2. that the charges accrued by the employee's fault,
3. that the employee has had reasonable oppor-

tunity to be heard with respect to the charges and has not as a result of such opportunity been relieved of responsibility.

- (c) Where the Navy has either withheld or applied money under (3) (a) above, the employee may present a claim to the General Accounting Office for the money due him, and when this occurs the Department of the Navy must be prepared to justify its action.
- (4) Accept voluntary reimbursement.-- When an employee voluntarily consents to pay for lost or damaged tools under his care, such money may be accepted. However, the threat of initiating action consistent with (1), (2), or (3) above may not be used to secure such "voluntary" payment. ★

10.8. TABLE OF MISCELLANEOUS OFFENSE PROHIBITED BY LAW OR CIVIL SERVICE REGULATION.--NCPI 45.11-Encl. 5 is a table of offenses specifying other prohibitions not listed elsewhere in this Instruction. It lists offenses for which employees may be

punished by removal, fine or imprisonment. These prohibitions and penalties are based on Civil Service Rules or Regulations or on law, and in some cases naval activities have no jurisdiction over the determination as to whether or not an employee is guilty. In such cases appropriate action should be taken in cooperation with the Civil Service Commission or other proper authority. ★ It is not necessary to post this Table on bulletin boards and it has not been printed centrally for distribution.★

SECTION 11, ENCLOSURES

11-1. Standard Schedule of Disciplinary Offenses and Penalties.

★ 11-2. Delegation of authority to effect disciplinary suspensions, demotions and removals.

11-3. Diagram, illustrating the use of reckoning periods in penalty actions.

11-4. Employees Indebtedness Notice NAVEXOS 3893.

11-5. Table of Miscellaneous Offenses Prohibited by Law or Civil Service Regulations.★

File No. - OIR 210

**STANDARD SCHEDULE OF DISCIPLINARY OFFENSES AND PENALTIES
FOR CIVILIAN EMPLOYEES IN THE NAVAL ESTABLISHMENT**

A. INSTRUCTIONS FOR USE OF SCHEDULE

1. THIS LIST IS NOT INTENDED TO COVER EVERY POSSIBLE TYPE OF OFFENSE. PENALTIES FOR OFFENSES NOT LISTED WILL BE PRESCRIBED BY THE HEAD OF THE ACTIVITY CONSISTENT WITH PENALTIES FOR OFFENSES OF COMPARABLE GRAVITY.
2. PENALTIES FOR DISCIPLINARY OFFENSES WILL, IN GENERAL, FALL WITHIN THE RANGES INDICATED. IN UNUSUAL CIRCUMSTANCES, DEPENDING ON THE GRAVITY OF THE OFFENSE AND THE PAST RECORD OF THE EMPLOYEE, A PENALTY EITHER MORE LESS SEVERE THAN THE MAX OR MIN RANGE, PROVIDED FOR HEREIN, MAY BE IMPOSED BY THE HEAD OF THE ACTIVITY.
3. DEPENDING ON THE SEVERITY OF THE OFFENSE, REMOVAL PROCEEDINGS MAY BE INSTITUTED AGAINST AN EMPLOYEE FOR ANY FOUR OFFENSES COMMITTED IN ANY 24 MONTHS' PERIOD WHICH INCLUDE TWO OR MORE OFFENSES OF THIS SCHEDULE, OR FOR THE FOURTH OCCURRENCE OF THE SAME OFFENSE WITHIN THE RECKONING PERIOD FOR THAT OFFENSE.
4. RECKONING PERIODS ARE NOT CUMULATIVE.
5. WHERE APPROPRIATE, CONSIDERATION MAY BE GIVEN TO DEMOTION IN LIEU OF REMOVAL.
6. THE SUSPENSION PENALTIES LISTED HEREIN ARE APPLICABLE TO WORK DAYS ONLY. (Caution: Section 14, Veterans' Preference Act of 1944 - "Suspended for more than 30 days" is interpreted to express calendar days)

27

**RANGE OF PENALTIES FOR STATED OFFENSES
(Warnings - Suspensions - Removals)**

NATURE OF OFFENSE	Number of occurrence in reckoning period						Reckoning Period	Remarks
	1st		2nd		3rd			
	MIN	MAX	MIN	MAX	MIN	MAX		
1. UNEXCUSED FAILURE TO RING CLOCK OR SIGN ATTENDANCE RECORD OR OTHERWISE CHECK IN	Warning	1 day	1 day	5 days	5 days	15 days	6 months	

23 September 1954
C. S. 529

S 000808

23 September 1964
C. B. 520

28

S 000809

NATURE OF OFFENSE	Number of occurrences in reckoning period						Reckoning Period	Remarks
	1st		2nd		3rd			
	MIN	MAX	MIN	MAX	MIN	MAX		
2. UNEXCUSED TARDINESS	Warning	1 day	1 day	5 days	5 days	15 days	6 months	Suspensions are in addition to non-pay status for period of tardiness
3. FAILURE TO CARRY OR SHOW PROPER IDENTIFICATION ON NAVY PREMISES AS REQUIRED BY COMPETENT AUTHORITY, OR MISPLACEMENT OR LOSS OF IDENTIFICATION BADGE	Warning	1 day	1 day	5 days	5 days	15 days	6 months	
4. FAILURE TO REPORT PERSONAL INJURY OR ACCIDENT	Warning	1 day	1 day	5 days	5 days	15 days	1 year	

NCIF 45.11-ENCL 1
NAVY CIVILIAN PER. ENCL INSTRUCTIONS

NATURE OF OFFENSE	Number of occurrences in reckoning period						Reckoning Period	Remarks
	1st		2nd		3rd			
	MIN	MAX	MIN	MAX	MIN	MAX		
5. UNEXCUSED OR UN-AUTHORIZED ABSENCE ON 1 OR MORE SCHEDULED DAYS OF WORK	Warning	5 days	3 days	10 days	10 days	Removal	1 year	<p>* Charge may also be used for failure to report for scheduled overtime.</p> <p>The charge of EXCESSIVE UNAUTHORIZED ABSENCE with the penalty of removal may be used when the absence is prolonged to exceed five work days or when it appears the employee has abandoned his position. Extenuating circumstances offered by the employee should be considered. *</p>
6. LEAVING JOB TO WHICH ASSIGNED OR NAVY PREMISES AT ANY TIME DURING WORKING HOURS WITHOUT PROPER PERMISSION	Warning	5 days	3 days	10 days	10 days	Removal	1 year	

29

23 September 1954
C. R. 920

5000810

23 September 1954
C. B. 529

30

NATURE OF OFFENSE	Number of occurrences in reckoning period						Reckoning Period	Remarks
	1st		2nd		3rd			
	MIN	MAX	MIN	MAX	MIN	MAX		
7. FAILURE TO OBSERVE PRECAUTIONS FOR PERSONAL SAFETY, POSTED RULES, SIGNS, WRITTEN OR VERBAL SAFETY INSTRUCTIONS OR TO USE PROTECTIVE CLOTHING OR EQUIPMENT	Warning	5 days	3 days	10 days	10 days	Removal	1 year	
8. VIOLATING TRAFFIC REGULATIONS, RECKLESS DRIVING ON NAVY PREMISES, OR IMPROPER OPERATION OF MOTOR VEHICLE	Warning	5 days	3 days	10 days	10 days	Removal	1 year	Driver's permit to operate vehicle on premises may be suspended or revoked, in lieu of other penalty, if vehicle involved is privately owned and recklessness or hazard to others is not involved in offense
9. LOAFING, WILLFUL IDLENESS OR WASTING OF TIME	Warning	5 days	3 days	10 days	10 days	Removal	1 year	

NCPI 45-11-ENC. 1
NAVY CIVILIAN 1
SONNEL INSTRUCTIONS

5000814

NATURE OF OFFENSE	Number of occurrences in reckoning period						Reckoning Period	Remarks
	1st		2nd		3rd			
	MIN	MAX	MIN	MAX	MIN	MAX		
10. CARELESS OR NEGLIGENT WORKMANSHIP RESULTING IN SPOILAGE OR WASTE OF MATERIALS, OR DELAY IN PRODUCTION	Warning	5 days	3 days	10 days	10 days	Renoval	1 year	
11. FAILURE OR DELAY IN CARRYING OUR ORDERS, WORK ASSIGNMENTS OR INSTRUCTIONS OF SUPERIORS	Warning	5 days	3 days	10 days	10 days	Renoval	1 year	
12. LOSS OF OR DAMAGE TO GOVERNMENT PROPERTY, TOOLS AND EQUIPMENT OR THE PROPERTY OF OTHERS, OR ENDANGERING SAME, THROUGH CARELESSNESS	Warning	10 days	10 days	Renoval	15 days	Renoval	1 year	Does not apply to damage to government-owned household furnishings or quarters resulting from normal tenancy therein.

31

23 September 1954
C. S. 489

5000812

29 September 1964
C. S. 529

32

S 000813

NATURE OF OFFENSE	Number of occurrences in reckoning period						Reckoning Period	Remarks
	1st	2nd	3rd	1st	2nd	3rd		
	MIN	MAX	MIN	MAX	MIN	MAX		
13. GAMBLING, UNLAWFUL BETTING ON NAVY PREMISES	Warning	10 days	10 days	Removal	15 days	Removal	2 years	
14. FIGHTING, THREATENING, ATTEMPTING OR INFLECTING BODILY INJURY TO ANOTHER; ENGAGING IN DANGEROUS HORSEPLAY OR RESISTING COMPETENT AUTHORITY; DISORDERLY CONDUCT	Warning	10 days	10 days	Removal	15 days	Removal	2 years	
15. COVERING UP OR ATTEMPTING TO CONCEAL DEFECTIVE WORK; REMOVING OR DESTROYING SAME WITHOUT PERMISSION	Warning	10 days	10 days	Removal	15 days	Removal	2 years	

NCPI 45.11-Encl. 1
NAVY CIVILIAN PERSONNEL INSTRUCTIONS

NATURE OF OFFENSE	Number of occurrences in reckoning period						Reckoning Period	Remarks
	1st		2nd		3rd			
	MIN	MAX	MIN	MAX	MIN	MAX		
16. REPORTING FOR DUTY OR BEING ON DUTY UNDER THE INFLUENCE OF INTOXICANTS; UN-AUTHORIZED POSSESSION OF, OR ATTEMPTING TO BRING, INTOXICANTS ON NAVY PREMISES	Warning	10 days	10 days	Renoval	15 days	Renoval	2 years	Consider the nature of an employee's position or assignment.
17. SELLING INTOXICANTS ON NAVY PREMISES	Warning	Renoval	10 days	Renoval	Renoval	Renoval	2 years	
18. PROMOTION OF GAMBLING ON NAVY PREMISES	Warning	Renoval	15 days	Renoval	Renoval	Renoval	2 years	
19. SLEEPING DURING WORKING HOURS	Warning	Renoval	15 days	Renoval	Renoval	Renoval	1 year	Consider the nature of an employee's position or assignment.

23

23 September 1954
C. R. 529

5000814

23 September 1974
C. S. 520

74

5000815

NATURE OF OFFENSE	Number of occurrences in reckoning period						Reckoning Period	Remarks
	1st		2nd		3rd			
	MIN	MAX	MIN	MAX	MIN	MAX		
20. FAILURE TO SAFEGUARD CLASSIFIED MATTER	Warning	Removal	15 days	Removal	Removal	Removal	2 years	Consider the nature of the employee's position or assignment, whether disclosure resulted, and the classification of the jeopardized matter. See U. S. Navy Security Manual for definition of classified matter and security manual of the appropriate agency when non-Navy matter is jeopardized.
21. SMOKING IN UNAUTHORIZED PLACES OR THE CARRYING OF MATCHES IN EXPLOSIVE AREAS	Warning	Removal	15 days	Removal	Removal	Removal	2 years	
22. ENDANGERING THE SAFETY OF OR CAUSING INJURY TO PERSONNEL THROUGH CARELESSNESS OR NEGLIGENCE	Warning	Removal	15 days	Removal	Removal	Removal	2 years	

NCPL 45.11-Encl. 1
NAVY CIVILIAN PERS. INEL. INSTRUCTIONS

NATURE OF OFFENSE	Number of occurrences in reckoning period						Reckoning Period	Remarks
	1st		2nd		3rd			
	MIN	MAX	MIN	MAX	MIN	MAX		
★ 23. MAKING FALSE OR UN- FOUNDED STATEMENTS, WHICH ARE SLANDEROUS OR DEFAMATORY, ABOUT OTHER EMPLOYEES, SUPERVISORS OR OFFICIALS. ✖	Warning	Removal	15 days	Removal	Removal	Removal	2 years	★ Consider the duties and position of the employee, the nature of the statements made and the extent to which they damage the activity or the injured party, the nature and timing of any retraction by the employee, and the extent to which the damaging state- ments are supported by established facts. ✖
24. MALICIOUS DAMAGE TO GOVERNMENT PROPERTY, TOOLS OR EQUIPMENT OR THE PROPERTY OF OTHERS	Warning	Removal	15 days	Removal	Removal	Removal	2 years	
29. ACTUAL OR ATTEMPTED THEFT OF GOVERNMENT PROPERTY, TOOLS, OR EQUIPMENT, OR THE PROPERTY OF OTHERS	Warning	Removal	15 days	Removal	Removal	Removal	2 years	Whether or not resti- tution was made should enter into the deter- mination of the penalty for this offense.

35

23 September 1954
C. S. 439

5000816

23 September 1954
C. S. 320

8

S 000817

NATURE OF OFFENSE	Number of occurrences in reckoning period						Reckoning Period	Remarks
	1st		2nd		3rd			
	NIB	NAI	NIB	NAI	NIB	NAI		
26. IMMORAL, INDECENT OR NOTORIOUSLY DISGRACEFUL CONDUCT	Warning	Removal	15 days	Removal	Removal	Removal	2 years	
27. DISRESPECTFUL CONDUCT, USE OF INSULTING, ABUSIVE OR OBSCENE LANGUAGE TO OR ABOUT OTHER PERSONNEL	Warning	Removal	15 days	Removal	Removal	Removal	2 years	
28. FALSIFICATION, INTENTIONAL MISSTATEMENT, EXAGGERATION OR CONCEALMENT OF MATERIAL FACT IN CONNECTION WITH EMPLOYMENT, PROMOTION, ANY RECORD, INVESTIGATION OR OTHER PROPER PROCEEDING	Warning	Removal	15 days	Removal	Removal	Removal	2 years	

NCR 45.11-ENCL. 1
NAVY CIVILIAN BE. ENCL. INSTRUCTIONS

NATURE OF OFFENSE	Number of occurrences in reckoning period						Reckoning Period	Remarks
	1st		2nd		3rd			
	NIN	NAX	NIN	NAX	NIN	NAX		
29. FALSIFYING ATTENDANCE RECORD FOR ONESELF OR ANOTHER EMPLOYEE	Warning	Removal	15 days	Removal	Removal	Removal	2 years	
30. DISOBEDIENCE TO CONSTITUTED AUTHORITIES, OR DELIBERATE REFUSAL TO CARRY OUT ANY PROPER ORDER FROM IMMEDIATE SUPERVISOR OR OTHER SUPERVISOR HAVING RESPONSIBILITY FOR THE WORK OF THE EMPLOYEE; INSUBORDINATION	Warning	Removal	15 days	Removal	Removal	Removal	2 years	

★ NOTE: INFORMATION CONCERNING OTHER OFFENSES FOR WHICH EMPLOYEES MAY BE PUNISHED BY REMOVAL, FINE OR IMPRISONMENT MAY BE FOUND IN OTHER SECTIONS OF NCP 45 AND IN OTHER NAVY ADMINISTRATIVE REGULATIONS. SUCH PROHIBITIONS AND PENALTIES ARE BASED ON CIVIL SERVICE RULES OR REGULATIONS OR ON LAW. IN CASE OF INFRACTION, APPROPRIATE ACTION WILL BE TAKEN IN COOPERATION WITH THE PROPER AUTHORITY. ★

37

23 September 1954
C. B. 680

S 000818

**DELEGATION OF AUTHORITY TO EFFECT DISCIPLINARY
SUSPENSIONS, DEMOTIONS, AND REMOVALS**

Employees	Officials Authorized to Effect Actions		
	Removal	Demotion	Suspension
Groups I, II, III and Group IVb below GS-9	Activity Head	Activity Head or Head of major organizational segment (normally Department Head)	Head of Activity or Head of major Organizational Segment (normally Department Head), or Head of Principal Subdivision of Major Organizational Segment (normally Shop Master or Division Head).
Departmental Employees below GS-9 (or equivalent) and wage board employees in groups I, II, and III	Chief of Bureau, Office, or Headquarters	Chief of Bureau, Office, or Headquarters, or Head of Major Division	As delegated by Chief of Bureau, Office, or Headquarters
Group IVa, and Group IVb at or above GS-9	Activity Head	Activity Head	Head of Activity or Head of major Organizational Segment (normally Department Head).
Departmental Employees at GS-9 and above (or equivalent) and Group IVa wage board employees	Chief of Bureau, Office, or Headquarters	Chief of Bureau, Office, or Headquarters	As delegated by Chief of Bureau, Office, or Headquarters

- NOTE:** (1) Heads of activities and Chiefs of Bureaus, Offices and Headquarters in the Departmental Service, will determine at which of the above delegated levels, authority will be exercised.
- (2) Industrial Relations Officers and Personnel Officers shall not sign any personnel action forms involving discipline except for employees under their own supervision.

USE OF RECKONING PERIODS IN PENALTY ACTIONS

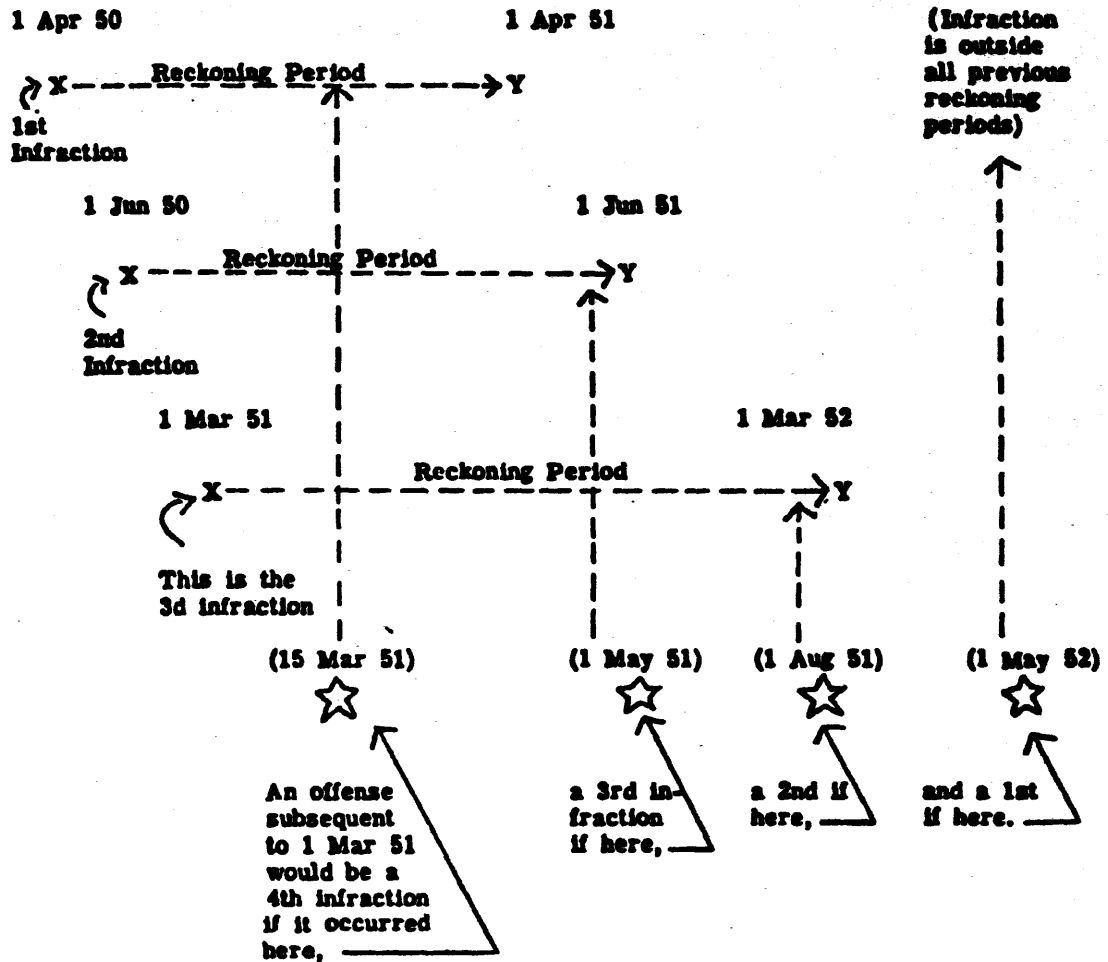


DIAGRAM: EFFECT OF RECKONING PERIOD ON REPETITIONS OF THE SAME OFFENSE. Employee commits the same offense on 1 April 1950, on 1 June 1950, and on 1 Mar 1951, and is formally disciplined each time. The reckoning period is one year. The sign X represents time of the offense; the sign Y represents the expiration date for the reckoning period. The sign ☆ represents a subsequent infraction which would be the fourth infraction in sequence but would be treated as the 4th, 3rd, 2nd or 1st infraction depending upon when it occurred. A vertical line erected over any infraction shown in the diagram will cut the horizontal reckoning period lines of all offenses which must be considered as previous infractions in determining the penalty. If no horizontal lines are cut, the offense is a first infraction case.

EMPLOYEE'S INDEBTEDNESS NOTICE
NAVY FORM 3003

DEPARTMENT OF THE NAVY

NAME	ACTIVITY	DATE
-------------	-----------------	-------------

IS AN EMPLOYEE OF THE DEPARTMENT OF THE NAVY

 HAS NEVER BEEN AN EMPLOYEE

 HAS BEEN EMPLOYEE OF DEPT OF THE NAVY BUT CURRENTLY SERVING ON THE RESERVE LIST

The attention of both parties is invited to the statements of policy below.

SIGNATURE	TITLE
------------------	--------------

(Fold on this line)

STATEMENTS OF POLICY

1. Creditor:

The Department of the Navy considers that it is the responsibility of creditors to investigate employees to whom they extend credit and to assume responsibility for collection. Although the Department desires that private debts be resolved as expeditiously as possible, and will assist creditors to the extent of calling the employee's attention to his indebtedness and the Department's attitude thereto, it cannot consider itself as a collection agent or become an arbiter when the validity of a debt is questioned.

The Department expects its employees to pay their just debts and maintain a reputation in the community for honoring their obligations. Failure without good cause to honor just debts may reflect on an employee's suitability for continued employment with the Navy and may lead to disciplinary action, including removal.

2. Employee.

It is emphasized that failure to honor your just debts will reflect adversely on your suitability for continued employment. Each communication received from your creditor(s) will become a matter of record and may serve as part of the total record considered when personnel actions of vital importance are taken. Failure on your part to assume a responsible attitude toward your obligations will be considered sufficient reason to initiate disciplinary action to suspend or separate you from employment. It is therefore unquestionably to your interest to make immediate arrangements to settle this matter satisfactorily.

If this form is used, three (3) copies should be prepared when replying to creditors regarding employee's indebtedness -

- Original - to the creditor, in a 8 7/8" x 3 7/8" window envelope
- 2nd copy - to the employee in a regular envelope
- 3rd copy - employee's personnel folder

(NOTE: The use of this form is not mandatory; however, copies may be secured from District Publications and Printing Offices for those activities that may want to use it. Other forms or other methods of handling inquiries may be developed to fit specific local needs.)

**TABLE OF MISCELLANEOUS OFFENSES PROHIBITED
BY LAW OR CIVIL SERVICE REGULATIONS**

*
—

NOTE: A number of offenses listed under various titles of the U. S. Code, particularly Title 18, "Crimes and Criminal Procedure" require removal of the offender from the Federal Service in addition to any penalty imposed by the courts. This table presents only a partial list of such offenses. The offenses included are listed in outline form for convenience and reference. The actual text of the law or rule should be consulted before disciplinary action is initiated on the basis of the offense. ★

NATURE OF OFFENSE	LAW	MAXIMUM PENALTY
Accepting voluntary service.-- Accepting voluntary service for the Government except in cases of sudden emergency involving the loss of human life or the destruction of property.	Sec. 3679, Revised Statutes, as a- mended; 31 U.S.C. 665.	Removal (mandatory); \$100 fine or one month imprisonment.
Employing unauthorized personnel.--Employing personal service in excess of that authorized by law, except in cases of sudden emergency involving the loss of human life or the destruction of property.	Sec. 3679 Revised Statutes, as a- mended; 31 U.S.C. 665.	Removal (mandatory); \$100 fine or one month imprisonment.
Employing employee at seat of Government, except as provided otherwise.	5 U.S.C. 45, 47.	Removal (mandatory); \$1,000 fine or one year imprisonment.
Paying for services from appropriations not containing authorization therefor.-- Paying any employee at the seat of Government from any appropriation made for contingent expenses, or for any specific or general purpose, unless authorized and payment therefor specifically provided.	5 U.S.C. 46, 47.	Removal (mandatory); \$1,000 fine or one year imprisonment.
Fraud in examination or appointment.--Intentionally making a false statement or practicing any deception or fraud in examination or appointment.	Civil serv- ice regu- lations 2.104 and 9.101.	Removal.

TABLE OF MISCELLANEOUS OFFENSES -- CONTINUED

NATURE OF OFFENSE	LAW	MAXIMUM PENALTY
Inducing withdrawals.--Influencing another person to withdraw from competition for any position in the competitive service for the purpose of either improving or injuring the prospects of any applicant for appointment.	Section 4.2 of Civil Service Rule IV.	Such disciplinary action as Civil Service Commission may direct.
Obstructing right of examination.--Willfully and corruptly, alone or in cooperation with others, defeating, deceiving, or obstructing any person in respect of his right of examination according to the civil service rules and regulations.	Sec. 5, Civil Service Act; 5 U. S.C. 637.	\$1,000 fine; one year imprisonment; or both.
Improper activity with respect to examination ratings.-- Willfully, corruptly, and falsely marking, grading, estimating, or reporting upon the examination or proper standing of any person examined under the Civil Service Act, or aiding in so doing. Willfully and corruptly making any false representations concerning the examination or proper standing of any person examined under the Civil Service Act, or concerning the person examined.	Sec. 5, Civil Service Act; 5 U. S.C. 637.	\$1,000 fine; one year imprisonment; or both.
Improperly furnishing information relating to examinations.--Willfully and corruptly furnishing to any person any special or secret information for the purpose of either improving or injuring the prospects or chances for appointment, employment, or promotion, of any person examined or to be examined under the Civil Service Act.	Sec. 5, Civil Service Act; 5 U. S.C. 637.	\$1,000 fine; one year imprisonment; or both.

TABLE OF MISCELLANEOUS OFFENSES -- CONTINUED

NATURE OF OFFENSE	LAW	MAXIMUM PENALTY
Misconduct generally.--Criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct.	Civil Service Regulation 2.104.	Removal.
Influencing Members of Congress.--Using directly or indirectly, funds appropriated by Congress to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress. ¹	18 U.S.C. 1913	Removal (mandatory) after notice and hearing; \$500 fine, one year imprisonment, or both.
Influencing parties or witnesses or obstructing proceedings.--Endeavoring corruptly, or by threats or force, or by any threatening letter or communication, to influence, intimidate or impede any witness in any proceeding pending before any department, or agency of the United States, or in connection with any inquiry or investigation being had by either House, or any committee of either House, or any joint committee of the Congress of the United States.	18 U.S.C. 1505.	\$5,000 fine; five years imprisonment, or both.

¹ This restriction does not operate to prevent officers and employees of the United States from communicating to Members of Congress on the request of any Member or to Congress through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

TABLE OF MISCELLANEOUS OFFENSES -- CONTINUED

NATURE OF OFFENSE	LAW	MAXIMUM PENALTY
Misconduct generally.--Criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct.	Civil Service Regulation 2.104.	Removal.
Influencing Members of Congress.--Using directly or indirectly, funds appropriated by Congress to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress. ¹	18 U.S.C. 1913	Removal (mandatory) after notice and hearing; \$500 fine, one year imprisonment, or both.
Influencing parties or witnesses or obstructing proceedings.--Endeavoring corruptly, or by threats or force, or by any threatening letter or communication, to influence, intimidate or impede any witness in any proceeding pending before any department, or agency of the United States, or in connection with any inquiry or investigation being had by either House, or any committee of either House, or any joint committee of the Congress of the United States.	18 U.S.C. 1505.	\$5,000 fine; five years imprisonment, or both.

¹ This restriction does not operate to prevent officers and employees of the United States from communicating to Members of Congress on the request of any Member or to Congress through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

TABLE OF MISCELLANEOUS OFFENSES -- CONTINUED

NATURE OF OFFENSE	LAW	MAXIMUM PENALTY
<p>Influencing parties--continued. Endeavoring corruptly, or by threats or force, or by any threatening letter or communication, to influence, obstruct, or impede the due and proper administration of the law under which such proceeding is being had before such department, or agency of the United States, or the due and proper exercise of the power of inquiry under which such inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress of the United States.</p> <p>Injuring any party or witness in person or property on account of attending such proceeding, inquiry or investigation, or of testifying to any matter pending therein.</p>		
<p>Refusing to testify before Civil Service Commission.-- Refusing to give the Civil Service Commission or its authorized representatives all information and testimony in regard to matters inquired of arising under the Civil Service Act, rules and regulations, or to subscribe such testimony and make oath or affirmation thereto before an officer authorized by law to administer oaths.</p>	<p>Sec. 5.3 of Civil Service Rule V.</p>	<p>Removal.</p>
<p>Impersonating Federal officer or employee.--Falsely assuming or pretending to be officer or employee acting under the authority of the United States, or in such pretended character demands</p>	<p>18 U.S.C. 912.</p>	<p>\$1,000 fine; 3 years imprisonment; or both.</p>

TABLE OF MISCELLANEOUS OFFENSES -- CONTINUED

NATURE OF OFFENSES	LAW	MAXIMUM PENALTY
Habitual drunkenness.--Habitually using intoxicants to excess.	Sec. 8, Civil Service Act; 5 U. S.C. 640.	Removal (mandatory).
Receiving salary from source other than the United States Government.--Receiving any salary in connection with services as a Government official or employee from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality (There are some statutory exemptions from this prohibition in the case of certain employees of specific departments.)	18 U.S.C. 1914 (Formerly 5 U.S.C. 66)	\$1,000 fine; 6 months imprisonment; or both.
Gifts to official superiors.--Soliciting contributions from other Government officers or employees for a gift or present to those in a superior official position. Accepting gifts or presents offered or presented as a contribution from persons in Government employ receiving a lower salary. Making donation as a gift or present to official superior.	Sec. 1784, Revised Statutes; 5 U.S.C. 113.	Removal (mandatory) after notice in writing.
Bribes.--Asking, accepting, or receiving bribe of any kind with the intent of having one's decisions on any official matter influenced thereby.	18 U.S.C. 202	Fine of 3 times the value the bribe; 3 years imprisonment; or both; removal; perpetual disqualification from any Federal office of honor, trust, or profit.

TABLE OF MISCELLANEOUS OFFENSES -- CONTINUED

NATURE OF OFFENSE	LAW	MAXIMUM PENALTY
Bribes.--Continued		If the offense was committed by a person authorized by any law of the United States to hear or determine any question, matter, cause, controversy, or proceeding, and was committed in connection therewith, \$2,000 fine; 2 years imprisonment; or both.
Extortion.--Under color of office, or pretended office, attempting any act which if performed would be extortion, or act of extortion.	18 U.S.C. 872.	\$5,000 fine; 3 years imprisonment; or both (if the amount extorted or demanded does not exceed \$100, \$500 fine; one year imprisonment; or both.)
Requiring receipts for larger sums than paid.--The following acts when performed by persons charged with payment of any appropriation made by Congress: Paying to any clerk or other employee of the United States a sum less than provided by law, and requiring such employee to give voucher for a greater amount than paid.	18 U.S.C. 652.	Fine of double amount withheld; 2 years imprisonment; or both. (if the amount embezzled is \$100 or less, \$500 fine; one year imprisonment; or both.)
Using public money unlawfully.--Following acts when performed by any disbursing officer or person acting as such: Converting to own use; or loaning or depositing in any manner except as authorized by law, any public money entrusted to him; withdrawing such money	18 U.S.C. 653.	Fine of amount embezzled; 10 years imprisonment; or both. (if the sum embezzled is \$100 or less, \$1,000 fine; one year imprisonment; or both.)

TABLE OF MISCELLANEOUS OFFENSES -- CONTINUED

NATURE OF OFFENSE	LAW	MAXIMUM PENALTY
<p>Using public money.--Continued from the Treasury or any authorized depository for any purpose not prescribed by law.</p> <p>The following acts when performed by person charged with safe-keeping of public moneys: Lending, using, converting, or depositing public moneys entrusted to him, except as specially allowed by law.</p>	18 U.S.C. 648.	Fine equal to amount embezzled; 10 years imprisonment or both. (If the amount embezzled does not exceed \$100, fine of \$1,000; one year imprisonment; or both.)
<p>Fraud as to Government transportation requests.--Falsely making, or assisting in making counterfeiting, forging, in whole or in part, any form of transportation request.</p> <p>Knowingly altering or assisting in altering any such request.</p> <p>Knowingly passing, publishing, selling, or attempting to pass publish, or sell any such false, forged, counterfeited, or altered form of request.</p>	18 U.S.C. 508.	\$5,000 fine; 10 years imprisonment or both.
<p>Misuse of Government vehicles.-- Using, or authorizing the use of, Government-owned or leased vehicles for other than official purposes.</p>	5 U.S.C. 78c.	Removal.
<p>Fraudulent use of official envelopes.--Using official envelope, label or endorsement authorized by law, to avoid payment of postage or registry fee on private letter, package, or other matter in the mail.</p>	18 U.S.C. 1719.	\$300 fine.
<p>Interest in claims against the United States.--Aiding and assisting in prosecution of claim against the United</p>	18 U.S.C. 283.	\$10,000 fine; 1 year imprisonment; or both.

5000828

TABLE OF MISCELLANEOUS OFFENSES -- CONTINUED

NATURE OF OFFENSE	LAW	MAXIMUM PENALTY
<p>Interest in claims.--Continued States, or receiving any gratuity or any share of or interest in claim from any claimant otherwise than in discharge of proper official duties.</p>		
<p>False claims.--Entering into any agreement, combination or conspiracy to defraud the Government of the United States or any department or officer thereof, or any corporation in which the United States is a stockholder, by obtaining or aiding to obtain the payment or allowance of any false or fraudulent claim.</p> <p>Presenting for payment or approval by any person or officer in civil, military, or naval service of the United States or any department thereof, any claim upon or against the United States knowing such claim to be false fictitious, or fraudulent.</p> <p>Knowingly and willfully falsifying or concealing or covering a material fact by any trick, scheme, or device.</p> <p>Making false or fraudulent statements or representations.</p> <p>Making false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing same to contain any fraudulent or fictitious statement.</p>	<p>18 U.S.C. 287, 1001.</p>	<p>\$10,000 fine; 5 years imprisonment; or both.</p>
<p>Abuse of Government documents or records.--Willfully or unlawfully concealing, removing, mutilating, obliterating, or destroying records or documents.</p>	<p>18 U.S.C. 2071.</p>	<p>\$2,000 fine, 3 years imprisonment, or both. If the guilty person was in charge of the records or documents, and actually concealed,</p>

TABLE OF MISCELLANEOUS OFFENSES -- CONTINUED

NATURE OF OFFENSE	LAW	MAXIMUM PENALTY
<p>Abuse of Gov't. documents.--Contd.</p> <p>Attempting to conceal, remove, mutilate, obliterate, or destroy records or documents; taking or carrying away records or documents, with intent to conceal, remove, mutilate, obliterate, destroy, or steal them.</p>		<p>removed, mutilated, falsified, obliterated, or destroyed them, \$2,000 fine, 3 years imprisonment, or both, plus removal and perpetual disqualification for Federal office.</p>
<p>Taking and carrying away, without authority, from place where filed or kept, any document or file, intended to be used or presented to procure payment of money from or by the United States; presenting, using, or attempting to use any such document or paper, in order to procure the payment of any money from or by the United States.</p>	<p>18 U.S.C. 285.</p>	<p>\$5,000 fine; 5 years imprisonment; or both.</p>
<p>False certificates.--Giving certificate or other writing, containing any statement which is known to be false.</p>	<p>18 U.S.C. 1018.</p>	<p>\$500 fine; 1 year imprisonment; or both.</p>
<p>False entries or reports.--Following acts when performed by any person holding office or employment under the United States, and charged with the duty of keeping accounts or records of any kind: Making in any such account or record any false or fictitious entry, or aiding or abetting any such</p>	<p>18 U.S.C. 2073.</p>	<p>\$5,000 fine; 10 years imprisonment; or both.</p>

TABLE OF MISCELLANEOUS OFFENSES -- CONTINUED

NATURE OF OFFENSE	LAW	MAXIMUM PENALTY
<p>False entries.--Continued. person in so doing, with intent to deceive or defraud the United States or any person. Following acts when performed by any person holding office or employment under the United States, and charged with the duty of receiving, holding or paying over moneys, to, for, or on behalf of the United States, or of receiving, or holding in trust for any person any moneys or securities: Making false report of any moneys or securities or aiding or abetting any such person in so doing, with intent to deceive or defraud the United States or any person.</p>		
<p>Failing to make returns or reports.--Neglecting or refusing to make any return or report which any officer is required to make at stated times by any act of Congress or regulation of the Treasury Department, other than his accounts, within the time prescribed by such act or regulation.</p>	<p>18 U.S.C. 2075.</p>	<p>\$1,000 fine.</p>
<p>Failing to render accounts.-- Failing to render accounts as provided by law for public money received other than salary, pay, or emolument.</p>	<p>18 U.S.C. 643.</p>	<p>Fine equal to sum embezzled; 10 years imprisonment; or both. (For embezzlement of amount not exceeding \$100, \$1,000 fine; one year imprisonment; or both.)</p>
<p>Failing to make deposit when required.--Failing to deposit with the Treasurer or some public depository money in</p>	<p>18 U.S.C. 649.</p>	<p>Fine equal to sum embezzled; 10 years imprisonment; or both. (For</p>

TABLE OF MISCELLANEOUS OFFENSES -- CONTINUED

NATURE OF OFFENSE	LAW	MAXIMUM PENALTY
Failing to make deposit.--Cont'd possession or under control when required to do so by the Secretary of the Treasury or the head of any other proper department.		embezzlement of amount not exceeding \$100, \$1,000 fine; one year imprisonment; or both.)
Failing to dispose properly of moneys accruing from lapsed salaries or unused appropriations for salaries.--Failing to cover into the Treasury any moneys accruing from lapsed salaries or unused appropriations for salaries.	5 U.S.C. 50.	Removal (mandatory); \$1,000 fine or one year imprisonment.
Contracting beyond specific appropriation.--The following act when performed by an officer of the United States: Knowingly contracting for erection, repair, furnishing of public building, or for any public improvement, to pay larger amount than specific sum appropriated for such purpose.	18 U.S.C. 435.	\$1,000 fine and 1 year imprisonment; or both.
Making official contract with Member of Congress.--The following act when performed by an officer of the United States: Making or entering into any contract, or agreement on behalf of the United States directly or indirectly, with any member of or delegate to Congress or Resident Commissioner, after his election before or after qualifying for office.	18 U.S.C. 432.	\$3,000 fine.
Participating in importation, distribution, or advertising of immoral articles.--Knowingly aiding or abetting any person in violating any provision of law which prohibits	19 U.S.C. 1305 (b).	\$5,000 fine; 10 years imprisonment at hard labor; or both.

S 000832

TABLE OF MISCELLANEOUS OFFENSES -- CONTINUED

NATURE OF OFFENSE	LAW	MAXIMUM PENALTY
<p>Participating in importation, distribution.--Continued importing, advertising, sending, or receiving by mail articles of immoral use or tendency, or books or writings advocating treason or insurrection against the United States.</p>		
<p>Strikes.--Participating in any strike against the Government of the United States.</p>	<p>Sec. 305, Public Law .101, 80th Congress, 1st session.</p>	<p>Immediate removal; forfeiting civil service status; ineligibility for reemployment for three years by the United States or any agency thereof.</p>
<p>Accepting salary or compensation after engaging in a strike against the Government of the United States or while holding membership in an organization of Government employees that asserts the right to strike against the Government of the United States.</p>	<p>Appropriation acts.</p>	<p>\$1,000 fine; one year imprisonment; or both.</p>

<p>Procurement of contract by officer or member of Congress.--The following act when performed by an officer of the United States: Directly or indirectly receiving money or anything of value in return for obtaining or giving a government contract or rendering assistance in that connection.</p>	<p>18 U.S.C. 216 (formerly Criminal Code, Sec. 112)</p>	<p>\$10,000 fine; 2 years imprisonment; or both; permanent disqualification from holding Federal office.</p>
<p>Compensation to members of Congress, officials and others in matters affecting the Government.--Officers and agents of the United States are forbidden the following act: Directly or indirectly receiving or agreeing to receive any compensation for services rendered in connection with any government contract, claim, or other matter in which the United States is interested.</p>	<p>18 U.S.C. 281 (formerly Criminal Code, Sec. 113)</p>	<p>\$10,000 fine; 2 years imprisonment; or both; permanent disqualification from holding Federal office.</p>
<p>Interested persons acting as Government agents.--Acting as a Government officer or agent for the transaction of business with a corporation or organization in which the agent is financially interested.</p>	<p>18 U.S.C. 434 (formerly Criminal Code, Sec. 41)</p>	<p>\$2,000 fine; 2 years imprisonment; or both.</p>
<p>Use of confidential information for speculation.--The following act when performed by an officer or employee of the United States, or any department or agency thereof: Using confidential information, received by virtue or office or employment, in speculating directly or indirectly on any commodity exchange, or disclosing such information to aid any other person so to speculate. (The term speculate, as used herein, does not include a legitimate hedging transaction, or purchase or sale which is accompanied by actual delivery of the commodity.</p>	<p>Sec. 710(e) Public Law 774, 81st Congress 2nd Session</p>	<p>\$10,000 fine; one year imprisonment; or both.</p>

APR 21

5000835

RESUME OF A PRESENTATION GIVEN TO THE BOARD ON 3 JANUARY 1957
CONCERNING THE PROCEDURES IN EFFECT FOR DISPOSITION OF CASES
INVOLVING HOMOSEXUAL ACTIVITIES OF MEMBERS OF THE NAVAL SERVICE

S 000836

CASES INVOLVING OFFICERS ON ACTIVE DUTY

AND ON THE RETIRED LIST OF THE NAVY

1. INCEPTION.

The origin of cases involving an officer is identical with that described in paragraph 1 under Enlisted Cases. No further comment is considered necessary for the purpose of this discussion.

2. INVESTIGATION.

The investigation of cases arising among officer personnel is instituted by the officer's commanding officer to the appropriate District Intelligence Office or through the commanding officer's own Security Office. A request for such investigative assistance is usually made by formal letter, and only after the commanding officer has fully evaluated the allegations received in the officer's case, and after such evaluation has determined that an investigation was required.

3. REPORTS.

After receipt of the completed report of investigation which was requested by the commanding officer, and after full evaluation of the information contained therein indicates that the processing under SecNav Instruction 1620.1 of 5 June 1953 is required, the commanding officer takes the following action:

(a) Obtain the Statement. This may be a statement given by the subject to the Investigating Authorities, witnessed and attested, wherein the individual confesses in detail his homosexual activities. He may include any statement he desires in his own behalf. Should he not desire to make such statement he should so indicate over his signature.

(b) Obtain Statements of Witnesses. Statements of witnesses, if appropriate, are included. This often includes the statement of the co-participant in the act or acts.

(c) Obtain Psychiatric Reports. At the outset of any processing under current instructions, the commanding officer should refer the subject to an appropriate medical activity for psychiatric evaluation. If at all possible, a psychiatric report should be worked up by a qualified psychiatrist.

(d) Prefer Sample Charges and Specifications. In appropriate cases,

5000837

sample charges and specifications are included concerning the offense or offenses as alleged in the case.

(e) Provide the Subject With An Opportunity to Tender His Resignation for the Good of the Service. Should the individual desire to resign his commission in the Naval Service in lieu of further processing of his case under SecNav Instruction 1620.1, he should be advised that he is privileged to submit his resignation for the good of the service and to escape trial by General Court Martial, (in Class II cases), or for the good of the service, (in Class III cases).

(f) Refer for Trial by General Court-Martial. This action is taken only in Class I cases, or in those cases of Class II where the officer declined to submit his resignation.

(g) Commanding Officer's Letter and Recommendation. This letter forwards all the information outlined in (a) through (e) above to the Chief of Naval Personnel, and includes such comments and recommendation as the commanding officer may consider appropriate.

4. PROCESS WITHIN THE BUREAU.

Upon receipt of a case in the Bureau of Naval Personnel, it is reviewed in the Officer Performance Division. This activity will return it for further investigation, return it for trial by General Court-Martial, or consult appropriate departmental activities, should such action be considered warranted. After it is determined that the case is complete in all respects, the same is referred to a board of officers for findings, opinions, and recommendation.

5. BOARD OF OFFICERS.

Every case received in the Bureau of Naval Personnel which has not been referred for trial by General Court-Martial is referred to a board of officers for full review and appropriate recommendation based upon Navy Department policy. All information in the individual's case, which includes his service records, fitness reports, investigation files, and papers from the field will be available to such board. This board may recommend: (a) acceptance of the resignation as submitted, (b) acceptance of the resignation in other form, (c) retention in the Naval Service, or (d) the initiation of correspondence for additional information. Each board convened in the Bureau of Naval Personnel is composed of three officers who are senior to the individual under consideration, the majority of which are members of the reserve components, should the subject be a reserve officer, and a female officer if the subject is a female.

6. RECEIPT AND APPROVAL.

5000838

The recommendations of the board of officers in each case is forwarded to the Chief of Naval Personnel via the Director, Officer Performance Division.

sample charges and specifications are included concerning the offense or offenses as alleged in the case.

(e) Provide the Subject With An Opportunity to Tender His Resignation for the Good of the Service. Should the individual desire to resign his commission in the Naval Service in lieu of further processing of his case under SecNav Instruction 1620.1, he should be advised that he is privileged to submit his resignation for the good of the service and to escape trial by General Court Martial, (in Class II cases), or for the good of the service, (in Class III cases).

(f) Refer for Trial by General Court-Martial. This action is taken only in Class I cases, or in those cases of Class II where the officer declined to submit his resignation.

(g) Commanding Officer's Letter and Recommendation. This letter forwards all the information outlined in (a) through (e) above to the Chief of Naval Personnel, and includes such comments and recommendation as the commanding officer may consider appropriate.

4. PROCESS WITHIN THE BUREAU.

Upon receipt of a case in the Bureau of Naval Personnel, it is reviewed in the Officer Performance Division. This activity will return it for further investigation, return it for trial by General Court-Martial, or consult appropriate departmental activities, should such action be considered warranted. After it is determined that the case is complete in all respects, the same is referred to a board of officers for findings, opinions, and recommendation.

5. BOARD OF OFFICERS.

Every case received in the Bureau of Naval Personnel which has not been referred for trial by General Court-Martial is referred to a board of officers for full review and appropriate recommendation based upon Navy Department policy. All information in the individual's case, which includes his service records, fitness reports, investigation files, and papers from the field will be available to such board. This board may recommend: (a) acceptance of the resignation as submitted, (b) acceptance of the resignation in other form, (c) retention in the Naval Service, or (d) the initiation of correspondence for additional information. Each board convened in the Bureau of Naval Personnel is composed of three officers who are senior to the individual under consideration, the majority of which are members of the reserve components, should the subject be a reserve officer, and a female officer if the subject is a female.

6. RECEIPT AND APPROVAL.

5000838

The recommendations of the board of officers in each case is forwarded to the Chief of Naval Personnel via the Director, Officer Performance Division.

CASES OF INACTIVE OFFICERS OF THE NAVAL RESERVE

1. INCEPTION.

The origin of cases involving an officer, whether on active or inactive duty is identical with that described in paragraph 1 under Enlisted Cases. No further comment is considered necessary for the purpose of this discussion.

2. INVESTIGATION.

The investigation of cases arising among inactive reserve officer personnel is normally initiated by the Chief of Naval Personnel to the Director of Naval Intelligence after a full evaluation of the allegations received. A request for such investigative assistance is usually made by formal letter and only after a full evaluation of the case, if determined that investigation was required.

3. REPORTS.

After receipt of the completed report of investigation, and after full evaluation of the information contained therein, the Chief of Naval Personnel, acting through the Head, Officer Performance Division, takes the following action:

(a) Obtain the Statements. This may be a statement given by the subject to the investigative authorities, witnessed and attested, wherein the individual confesses, in detail, his homosexual activities. He may include any statement he desires to be used in his own behalf. This statement is usually incorporated as an integral part of the investigative file in the case.

(b) Obtain Statements of Witnesses. Statements of witnesses, if appropriate, are included. Statements of this nature often include the statement of any co-participant in specified act or acts. Statements of this nature are usually incorporated as an integral part of the report of investigation.

(c) Status Letter. The Chief of Naval Personnel will address the subject of the investigation a status letter wherein he is informed of the nature of the information in his case and advised that in view of the information contained in his case it is considered that his discharge from the Naval Reserve may be warranted. He is provided an opportunity to submit a statement, request a hearing, (10 USC 1162, 1163), or to tender his resignation from the Naval Reserve in lieu of discharge action. A copy of a form of resignation, usually for the good of the service, is provided as an enclosure to the status letter. This letter is normally delivered to the subject

5000840

and provides a period of thirty days in which to indicate his desire to utilize any of the privileges provided him, and outlined above.

d. Refer to Board of Officers in the Bureau of Naval Personnel.

4. BOARD OF OFFICERS.

Every case which is processed in the Bureau of Naval Personnel is referred to a Board of Officers for full review and appropriate recommendation based upon the Navy Department policies. Each board is composed of three officers who are senior to the officer under consideration, the majority of which are members of the Naval Reserve. In those cases where a female officer is under consideration, one member of the Board is a female officer. All information in the individual's case, which includes the service records, fitness reports, investigative files, and papers from the field are made available to this Board. After full consideration of the individual's case, the Board may recommend: (a) acceptance of his resignation as submitted, (b) acceptance of his resignation in another form, (c) retention in the Naval Reserve, (d), discharge from the U. S. Naval Reserve, or (e) the initiation of appropriate correspondence to obtain additional information for its consideration.

5. REVIEW AND APPROVAL.

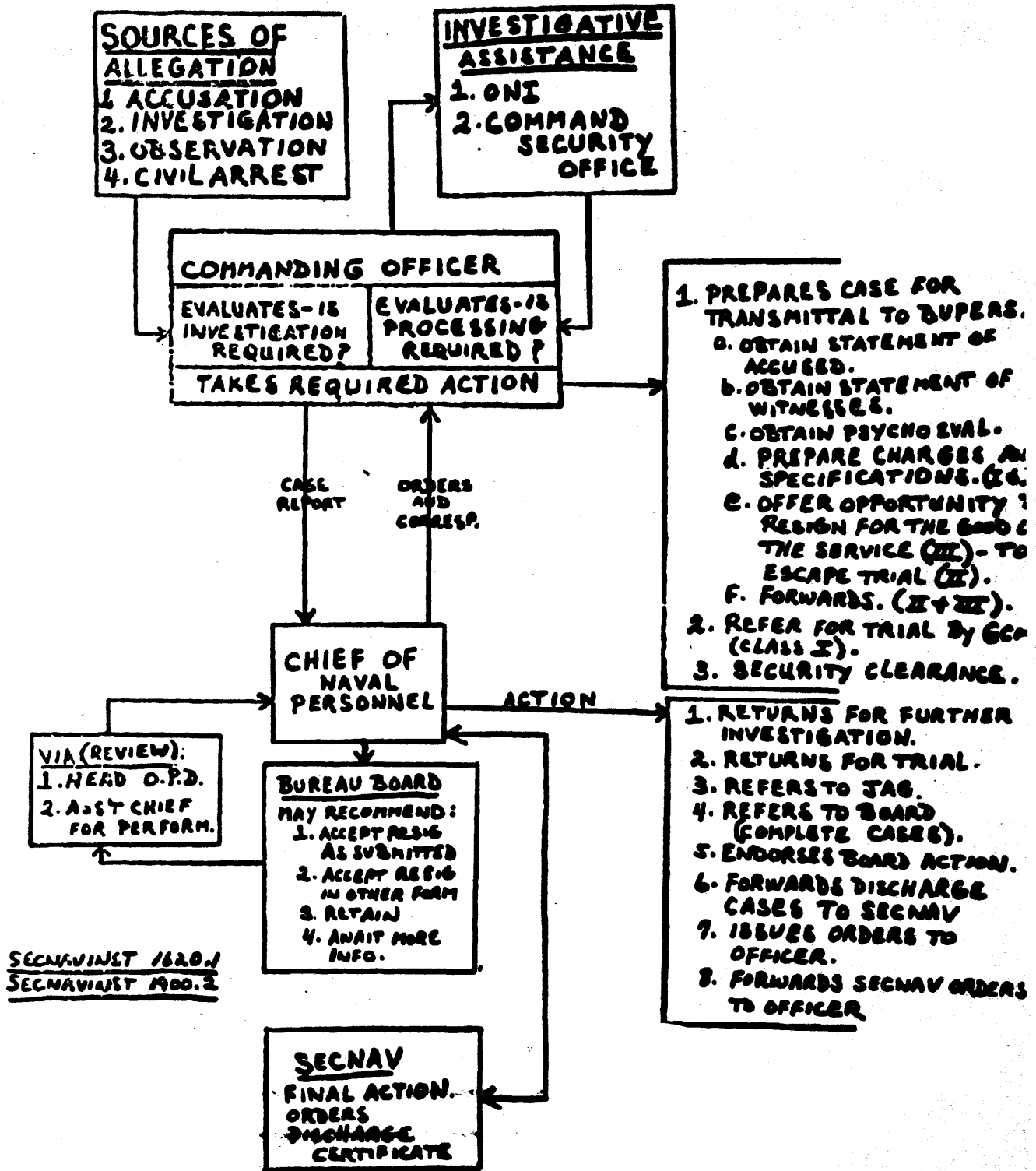
The recommendation of a Board of Officers in each case be forwarded to the Chief of Naval Personnel, via the Head, Officer Performance Division and the Assistant Chief of Performance. The case is then forwarded to the Secretary of the Navy for final action. In the normal course of events, the Secretary of the Navy will require prior review in the Office of the Judge Advocate General before final action.

6. IMPLEMENTATION OF APPROVED RECOMMENDATION.

Following a final approval by the Secretary of the Navy in those cases involving discharge, the Chief of Naval Personnel forwards appropriate orders to the officer concerned, which are signed by the Secretary of the Navy, via the commandant of the officer's home naval district. An appropriate discharge certificate to the subject is forwarded to his home subsequent to his discharge.

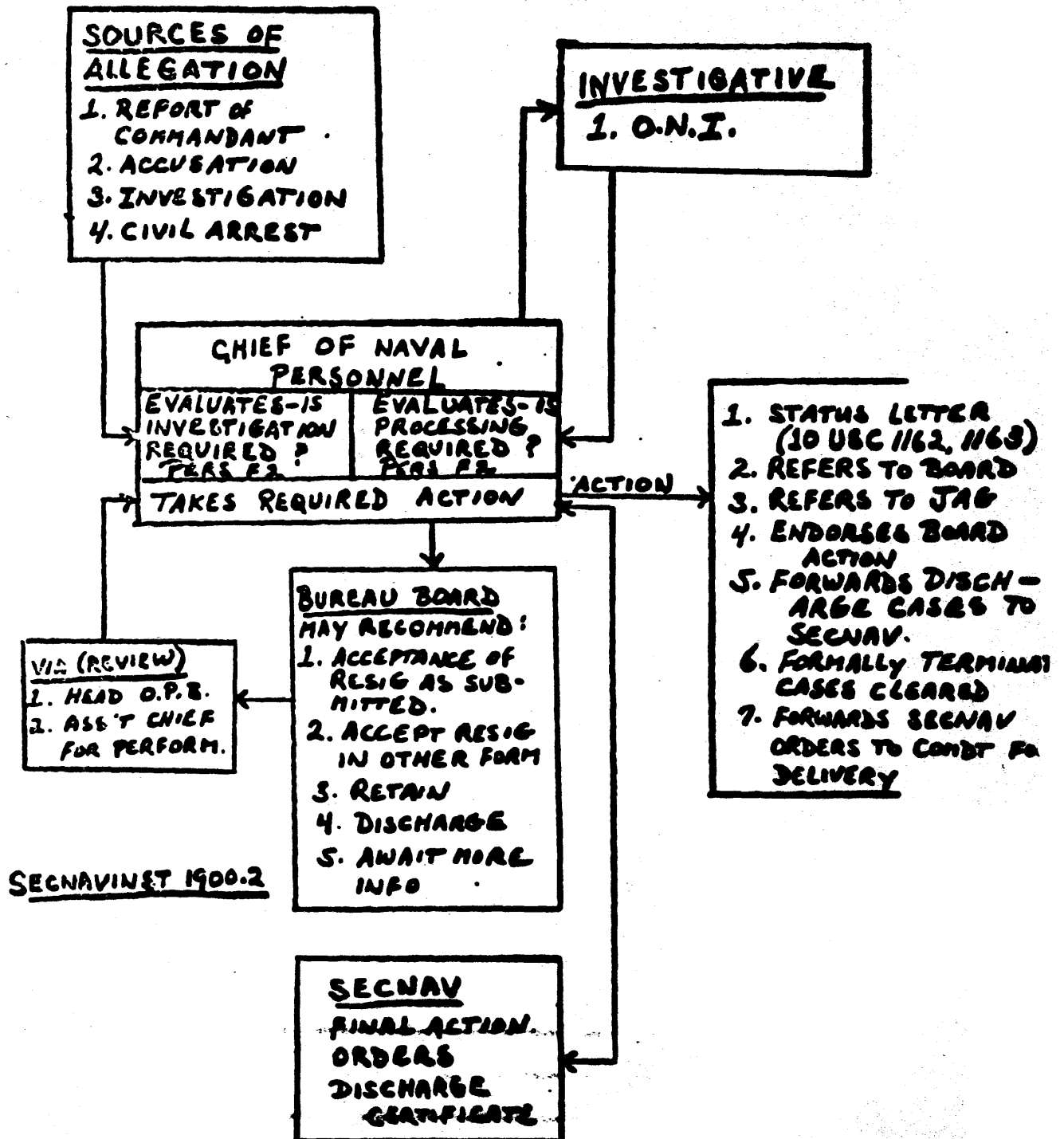
3000841

OFFICERS ON ACTIVE DUTY



5000842

INACTIVE OFFICERS



S000843

RESUME OF A PRESENTATION GIVEN TO THE BOARD ON 3 JANUARY 1957
CONCERNING THE PROCEDURES IN EFFECT FOR DISPOSITION OF CASES
INVOLVING HOMOSEXUAL ACTIVITIES OF MEMBERS OF THE NAVAL SERVICE.

S000844

THE PROCESSING PROCEDURES OF HOMOSEXUAL CASES ARISING WITHIN THE NAVAL
ESTABLISHMENT FROM INCEPTION TO RESOLUTION

ENLISTED CASES

1. RECEPTION.

Cases involving homosexual activities by naval personnel generally originate in one of the forms set forth below:

Voluntary Confessions. Wherein the individual voluntarily confesses his homosexual acts or tendencies to his chaplain, medical officer, executive officer or commanding officer.

Reported by Third Party Witness. Wherein a third party, not a participant, witnesses two individuals in homosexual activities.

Reported by the Victim of an Unsolicited Homosexual Advance. Wherein an individual has been subjected to a homosexual advance or proposition by another individual finding it contrary to his moral standards and who thereafter reports the incident to his superiors.

Implicated by Another's Confession. Wherein during the course of an investigation into the homosexual activities of one person, he implicates one or more others who have participated with him in homosexual activities. In no case, an individual in one service will implicate another individual in a different service. The cognizant service of the second individual becomes aware of the allegations through inter-service exchange of Intelligence Reports. To a greater extent, same result is accomplished between the Navy and Marine Corps by direct liaison within the Navy Annex.

ONI Reports and Other Cases. Wherein an otherwise unidentified individual is mentioned in an ONI Report or in a statement included in another case being processed within the Bureau. The Chief of Naval Personnel identifies the individual through the facilities available within the Bureau and requests the Director of Naval Intelligence to investigate.

Civil Convictions. Wherein an individual has been apprehended, tried and convicted in civil court for a homosexual act not committed within naval jurisdiction.

INVESTIGATION.

Whenever a case has once been brought to the attention of the responsible officers, a complete investigation is conducted concerning the allegations. Investigations may be conducted by trained investigators assigned to commands or to a greater extent, with the cooperation and assistance of Intelligence agents located within the District or area.

S 000845

3. REPORTS.

After the case has been completely investigated, a report is submitted to the Chief of Naval Personnel which contains the following elements:

- a. Commanding Officer's Letter and Recommendation. This includes results of the investigation and all other matters that may be of assistance to the Chief of Naval Personnel in arriving at a proper disposition of the case. Additionally, the commanding officer submits his recommendation in the premise.
- b. The Subject's Statement. This may be a statement given to the investigators, witnessed and attested, wherein the individual confesses in detail his homosexual activities. He may include any statement he desires in his own behalf.
- c. Sample Charges and Specifications. In appropriate cases (normally Class II, SecNav Instruction 1620.1), sample charges and specifications are included concerning the offense or offenses the individual is alleged to have committed.
- d. Agreement to Accept Undesirable Discharge Vice Trial by Court-Martial. Should the individual desire to voluntarily accept an undesirable discharge in lieu of trial by court-martial, such agreement is included.
- e. Statement of Awareness that Subject Could Receive an Undesirable Discharge. In certain cases, normally where court-martial jurisdiction does not exist, the case may be processed under Article C-10312, BuPers Manual, which authorizes an undesirable discharge for, among other things, anti-moral and anti-social traits. These cases include, but are not necessarily limited to, the following:
 - (1) Where pre-service homosexual acts are alleged.
 - (2) Cases of inactive Reserves.
 - (3) Wherein the individual only confesses tendencies, but denies any homosexual acts.

It may be noted in passing, that although these cases are processed under the Article which authorizes a discharge for unfitness, those who confess to pre-service acts or only confess to having tendencies are usually awarded a General Discharge Under Honorable Conditions for unsuitability.

f. Psychiatric Reports. A psychiatric report is always included which may or may not have been worked up by a qualified psychiatrist.

g. Statements of Witnesses. Statements of witnesses, if appropriate, are included. This often includes the statement of the co-participant in the act or acts.

4. PROCESSING WITHIN THE BUREAU.

S 000846

After the report on a case is received within the Bureau, the following procedural steps are adhered to:

a. Case Is Briefed. The case is briefed by trained briefers and attached to the individual's duplicate service record together with the complete report as received from the command. The brief sheet includes all pertinent information concerning the individual under consideration including: name, service number, rate, class, age, date of birth, military status, previous discharges, date of current enlistment, total service, active and inactive, GCI education, duty station on discovery, pre-service involvement, family background, recreation preferences, place the alleged act took place, race, and the pertinent circumstances surrounding the case.

b. Case Submitted to a Board of Officers. After the case is briefed and attached to the duplicate service record, the entire case is submitted to a board composed of three officers of the rank of Commander, drawn from a sixteen-officer panel. In the case of a Reserve, two of the three officers are themselves Reserves. In the case of Waves, a Wave officer member of the board also sits in judgment on the case and in appropriate cases, the Assistant Chief for Women reviews the case.

c. Board Recommendations. Following evaluation of each case, the board may recommend to the Chief of Naval Personnel anyone of the following actions and disposition:

- (1) Retain the individual.
- (2) Issue the individual a discharge for the convenience of the Government, with character of the discharge as his service record warrants.
- (3) Discharge the individual under honorable conditions for unsuitability.
- (4) Discharge the individual as undesirable under other than honorable conditions.
- (5) Return the case to the command to obtain more information.
- (6) Resolve the case by court-martial trial if the guilt or innocence is in doubt.
- (7) Request permission from the Secretary of the Navy to try the individual by court-martial. (This recommendation is appropriate when an individual has been tried and convicted in a civil court for homosexual acts, but who resists administrative separation for the offense).

d. Review and Approval. Each case is reviewed in the Enlisted Performance Division by either the Director or Assistant Director; and in appropriate cases, the Assistant Chief for Performance, the Deputy Chief of Naval Personnel or the Chief of Naval Personnel reviews the recommendations submitted by the board.

e. Implementation of Approved Recommendation. Following approval of the board's recommendation, a letter is issued to the individual's commanding officer directing him to take the action as finally approved.

5000847

128

S000848

101

C O P Y

**DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
Washington 25, D. C.**

14 Nov 1952

**From: Secretary of the Navy
To: Chief of Naval Personnel**

**Subj: Proposed procedures for implementing program of
indoctrination of naval personnel at naval
training centers as to subject of homosexuality**

**Ref: (a) BuPers 3-page paper, undated, entitled "Modi-
fications to Recruit Training Curriculum"
(b) BuPers 3-page paper, undated, entitled
"Proposed Procedures for Implementing Program
of Indoctrination of Naval Personnel at Naval
Training Centers as to Subject of Homosexuality"**

**1. The subject program, as outlined in references (a) and (b),
is approved. It is desired that immediate steps be taken to
implement this program.**

/s/ Francis P. Whitehair

**FRANCIS P. WHITEHAIR
Under Secretary of the Navy**

C O P Y

C O P Y

S 000849

COPY

DEPARTMENT OF THE NAVY
Bureau of Naval Personnel
Washington 25, D. C.

Pers C111-tn
4 Dec 1952

From: Chief of Naval Personnel
To: Captain E. L. Ackiss, CHC
Chaplains Division
Bureau of Naval Personnel

Commander C. J. Covert, CHC
Chaplains Division
Bureau of Naval Personnel

Commander W. A. Walker III, USN
Training Division
Bureau of Naval Personnel

Lieutenant R. C. Bagg, MC
Preventive Medicine Division
Bureau of Medicine and Surgery

Subj: Program of indoctrination of naval personnel at Naval Training Centers
on the subject of homosexuality.

Ref: (a) Secretary of the Navy ltr of 14 Nov 1952
(b) BuPers 3-page paper, undated, entitled "Modifications to
Recruit Training Curriculum."
(c) BuPers 3-page paper, undated, entitled "Proposed Procedures for
Implementing Program of Indoctrination of Naval Personnel at
Naval Training Centers as to Subject on Homosexuality"

Encl: (1) Copy of reference (a)
(2) Copy of reference (b)
(3) Copy of reference (c)

1. In accordance with reference (a), the following named officers are hereby
appointed as a three-man committee responsible for the implementation of the
program described in reference (b) and (c):

Captain E. L. Ackiss, CHC, Chairman
CDR W. A. Walker III, USN
LT. R. C. Bagg, MC

Alternate: CDR C. J. Covert, CHC, will serve as alternate for
Captain Ackiss

2. Attention is directed specifically to paragraphs II (A) and II (D) of
reference (c) for a discussion of the duties and responsibilities of the
committee.

5000850

COPY

COPY

C O P Y

Pers C111-tn

Subj: Program of indoctrination of naval personnel at Naval Training Centers on the subject of homosexuality.

3. It is desired that the services of Mr. T. J. Mullikin, special investigator, Office of Naval Intelligence, be utilized to the fullest extent practicable.
4. The chairman is directed to convene his committee at the earliest practicable date in order that immediate steps may be taken to get this program under way.

/s/ J. F. Bolger

J. F. BOLGER
Deputy Chief of Naval Personnel

Copy to:
Director of Naval Intelligence (w/o encl.)
Mr. T. J. Mullikin, ONI (with encl.)

COPY

COPY

S000851

1912

PROPOSED MODIFICATIONS TO RECRUIT TRAINING CURRICULUM

The following changes to the Recruit Training Curriculum are recommended in order to implement present plans for the establishment of a positive program of instruction of recruits relating to the subject of homosexuality. Reference herein is to NavPers 91739, Curriculum for Recruit Training, August 1951.

Topic: Introduction.

This is to be a one period introduction to the program of instruction pertaining to homosexuality to be conducted at the beginning of the second week of recruit training. It is not deemed advisable for this period of instruction to be conducted in the first week of recruit training while the recruit is undergoing a marked period of adjustment to Navy life. On the other hand, neither is it advisable, because of the importance of informing the recruit as to the subject, to delay this topic later than the second week of training. The topic will be covered by and is a joint enterprise of a team of officers especially selected and indoctrinated for this task. One should be a medical officer, one a chaplain, and the third an officer of the line, legal officer strongly preferred. Each officer will conduct his appropriate part of this instruction.

A. Objectives:

1. To acquaint the recruit with the existence of homosexuality and the extreme bad effects to him that could invariably result from his involvement.
2. To pave the way for references to and instruction in this subject in other subject matter areas and topics which follow in the curriculum.

B. Outline of Instruction:

1. General approach: In this topic the subject is to be discussed generally with the various aspects as they affect an individual discussed.
2. As a start and to give the subject its proper relative importance, indicate that there are a good many things that are bad in life. Many of these recruits are already familiar with. These are things such as smoking, lying, sexual abuse, and use of and involvement with narcotics. Fortunately most of us are acquainted with the evil effects that accrue to the individual who becomes involved in these things. During this period emphasis is going to be placed on another very bad thing that exists in life but about which the majority of people know little or nothing. We hear of these other things through radio, in print, and even so in school. But in no other place is there information afforded on the subject of homosexuality.

5000852

3. What homosexuality is. Define primarily by examples.
4. Characteristics of homosexuals. The network that exists throughout the country. The fact that there is always a witness who inevitably and eventually will talk and reveal the name of all individuals with whom he has had homosexual relations.
5. The benefits:
 - a. The workings of the network
 - b. Fear of being found out
 - c. Fear of blackmail
 - d. Probably separate heterosexually
 - e. Some may have disciplinary action with undesirable discipline
 - f. Higher individual post security risk
 - g. Better treatment to and for parents and kindfolk
 - h. Better employment opportunities -- holding jobs
6. The social stigma associated with alcohol and homosexuality. If you drink, how do you feel about drinking and how do you feel about it?
7. Closely connected with all other forms of crime, -- homicide, assault, robbery and burglary, stealing and all other forms of personal offenses. (to be included)
8. Illustrate all of above points with examples -- case histories.

C. Suggestions to the instructors:

The presentation of this topic is to be forced, serious, and direct. The instructor expects that officers and petty officers of Recruit Training Commands will follow up and prevent the same attitude against this subject to all recruits. To this end it is considered necessary that there occur periodic instructions of all prospective Company Commanders in Company Commanders School on the handling of this subject during Company Commanders time and during various unscheduled and information periods when this subject may be discussed among recruits.

The subject is not to be "dressed up" in high flown technical language. Homosexuality is wrong, it is evil, and it is to be treated as such. No pulling of punches or inferences that the writer is not serious. Nor are homosexuals to be referred to as being "mentally sick". A homosexual, therefore is to be considered as a person no more than would a person who would walk into a house and kill the occupants, for being gay is a killer too. To make matters worse, to limit homosexuals, ruin and degrade before all the world.

D. References.

Case histories of various types -- to be provided.

.....

Area I, Topic 4, Religion: Life in the Navy (page 23):

Instruction on homosexuality to be included in chaplain's lectures. To be developed and handled upon instructions from the Chief of Chaplains.

Area I, Topic 6, Naval Discipline (page 28):

B(5)(b)(2)(c) -- using case histories, cite examples of lasting effects of undesirable discharge resulting from involvement in homosexuality. Cite case histories in which normal civilian life was made impossible because of the bad record and bad effects.

Area I, Topic 10, Security of Information (page 41):

B(2): All (a) as follows:

(e) Homosexuals are not security risks. The operation of the homosexual "network" makes them vulnerable to disclosure and blackmail. There are known cases where important national military secrets have been revealed because of pressure from homosexuals. Cite cases in World War II.

Area V, Topic 5, Personal Hygiene (page 100):

Under B edit:

11. Navy's attitude and approach to problems of homosexuality:

- a. Stress in training that homosexual acts cannot result in venereal disease. Emphasize that there are a significant number of cases of transmission of venereal disease through homosexuality with particularly painful results. Cite examples.
 - b. The possible results that in advance in homosexuality taken the individual impact: heterosexuality.
-

Area VI, Company (Sergeants) Requirements:

At various times Company Commanders will use portions of their time with recruits to support and augment instruction regarding homosexuality. This approach will be usually set up by the area of officers responsible for the introduction to the subject. The subject will not be treated lightly or jokingly, or crudely. Language to be used may be "strong" to certain extent that there will be no misunderstandings. Instruction will be straightforward. The Company Commanders will answer questions directly and factually. He will emphasize the serious consequences involved and the bad effects that come to any individual who lets himself get involved.

S000854

**Proposed Procedure for Implementing Program of Indoctrination
of Naval Personnel at Naval Training Centers as to
Subject of Homosexuality**

I. Fundamental Concept:

Recruits and other naval personnel need to be indoctrinated as to the existence of homosexuality, the effects upon the individual who becomes involved in it, and the Navy's attitude toward it.

The approach shall be that:

1. Homosexuality is one of the very bad things encountered in life. In training of personnel emphasis upon homosexuality becomes necessary because there are few other means for obtaining information about it. Information about robbery, stealing, lying, and other crimes flows continuously to people through the press, radio, and institutions of learning. For the protection of naval personnel, therefore, this instruction is necessary.

2. The bad effects to the individual of any involvement is to be emphasized.

3. Case histories illustrating pertinent points will be used.

4. The subject is not to be treated lightly, jokingly, crudely or vulgarly. There is nothing funny about it. It is serious business. Instruction will be given in a straightforward, factual manner. Language used is not to be vulgar, but unflinchingly "down to earth" to insure that there is no misunderstanding. The subject is not to be "dressed up" in technical language. There is to be no intimation that people who engage in such practices are "mentally sick". Homosexuality is wrong, evil and an offense to all decent and law-abiding people, and is not to be condoned on grounds of "mental illness" any more than other crime such as theft, homicide, or physical assault.

II. Implementation:

A. A three man team or committee be established at Navy Departmental level, consisting of one officer of the line, preferably a legal officer, one medical officer and one Chaplain to exercise control as to planning and policy in the setting up of the indoctrination program in various field commands by: (1) Presenting the circumstances of the situation through facts and figures, and (2) instructing similar teams appointed by Commanding Officers at Training Centers and command levels. This team will also furnish advisory supervision at Washington level once this program is launched.

B. A three man team be established at Training Center level to exercise planning and implementing control functions for the program at each Training Center.

C. As many sub-teams (3 men each -- legal, medical, chaplain) as required be established in each command for the following purposes:

1. Perform actual instruction of recruits in the introduction to this subject (1 period). Each of the three officers provides instruction as appropriate from his point of view.
2. Provide necessary instruction to Company Commanders (Company Commanders School) and other instructional personnel having assignments involving instruction as to the subject.
3. Perform actual instruction periodically in the Service Schools, Administrative Commands and Hospital commands so as to include all personnel newly arrived since the previous instructional period.
4. Assist in the selection of personnel who give lectures and instructions of any kind in connection with this subject.
5. Exercise technical supervision over the instruction in accordance with policies and procedures established by Training Center committee and higher authority.

D. General Operating Procedures:

1. The three man committee functioning on the Navy Department level will formulate policies and take plans, in whatever detail as considered practicable, for the implementation of the program.
2. The committee (or team) will screen and approve any written material necessary.
3. It will visit each Naval Training Center in which this program is to be established, explain the program to Center Commanders and Commanding Officers, and instruct Center Command teams in the approach to the subject and procedure to be followed. Of particular importance in this, is the utilization of the services of Mr. T. J. MURKIN, special investigator, Office of Naval Intelligence, who is available to visit the Training Centers and supply such factual and case history information essential to the instruction.
4. After inauguration of the program at the Training Centers, the Navy Department committee will exercise supervisory control in the name of the Chiefs of their respective Bureaus or Offices, over the further development and implementation of this program.

5-000856

It will serve in an advisory and consultative capacity to the commanding officer of the Bureau of Naval Personnel on matters relating to the exercise of management control (not delegated to it) in the Office of Naval Personnel.

The officer will be assigned in Recruit Training as follows:

1. The officer will be assigned to a ship or shore station in Recruit Training to provide instruction of the subject by a sub-lead Chaplain, lead officer, lead officer or other line officer. The period of assignment will be during the 20-week period of Recruit Training.

2. The officer will be assigned to other topics of instruction as it is determined to be necessary.

3. The officer will be assigned to the lead Chaplain's lectures on the subject of the officer or individual or undesirable associates of the officer. The officer will be assigned to the subject of the officer - V. D.

4. Company Commanders Three: Company Commanders will be prepared to answer questions from recruits pertaining to the subject. In so doing, they will conform rigidly with the established approach to the subject and will support exactly the instruction provided in the introduction by the lead officer. To repeat, the subject will not be treated lightly, jokingly, or crudely. Language will not be vulgar, but will be sufficiently down to earth to be sure that there is no misunderstanding. The Company Commander will answer questions in a straightforward manner and accurately.

F. Materials

Instructional outlines (announcements to NavPers 01789, Curriculum for Recruit Training) will be made available for the Introduction (1 period) and additions to other topics involved. See E(1) and (2) above.

A primary source of material will be factual data and selected case histories as supplied by Mr. HILLMAN of the Office of Naval Intelligence; these to be written from on tape recordings or other aids if deemed desirable.

C O P Y

Pers-C111-tn

22 Dec 1952

From: Chief of Naval Personnel

To: LCDR Mary K. BONDS (W), USN
Training Division
Bureau of Naval Personnel

Subj: Program of indoctrination of naval personnel at Naval Training Centers on the subject of homosexuality

Ref: (a) Chief of Naval Personnel ltr Pers C111-tn of 4 Dec 1952
(b) Secretary of the Navy ltr of 14 Nov 1952
(c) BuPers 3-page paper, undated, entitled "Modification to Recruit Training Curriculum"
(d) BuPers 3-page paper, undated, entitled "Proposed Procedures for Implementing Program of Indoctrination of Naval Personnel at Naval Training Centers as to Subject of Homosexuality"

Encl: (1) Copy of reference (a)
(2) Copy of reference (b)
(3) Copy of reference (c)
(4) Copy of reference (d)

1. It is intended that the program of indoctrination of naval personnel on the subject of homosexuality described by reference (c) and (d) and directed by reference (b) include women personnel. You are hereby appointed as an additional member of the committee appointed by reference (a) for the implementation of this program and will function as the line officer of that committee on all matters pertaining to the indoctrination of women personnel.

2. Attention is directed specifically to paragraphs II (A) and II (D) of reference (d) for a discussion of the duties and responsibilities of the committee.

Copy to:

Pers-K
Pers-C
Pers-C12
Pers-C 1121
Pers-C11
Pers-J
Captain E.L. Ackiss, ChC
CDR C. J. Covert, ChC
CDR W. A. Walker, III, USN
LT. R. C. Bagg, MC

/s/ J. F. BOLGER
Deputy Chief of Naval Personnel

5000858

APP
23

S000859

INDOCTRINATION: WAVE RECRUITS ON SUBJECT OF HOMOSEXUALITY

Part I - Line Officer's Section

Good morning/afternoon! I am _____. The officer on my right/left is Dr. _____. The officer on my left/right is Chaplain _____. We would like to speak to you today about a subject with which, very likely, many of you have never been confronted and on which most of you, perhaps, have never heard a formal discussion. The subject is homosexuality. The Chaplain and the Doctor will talk to you concerning the medical and religious aspects of this problem. I shall speak to you as a woman officer because there are some things about homosexuality that concern us as women in the service. This presentation is to tell you the facts concerning homosexuality and most important of all, how to avoid becoming involved with homosexuals. This doesn't mean that homosexuals are a brand new-type of person. We have long had them in our society. Such people are found in all walks of civilian life. Some of them enlist in the Navy. Those who do enlist in the Navy do not stay long. They are discovered, and when they are, they are eliminated from the service. Unfortunately, this type of woman is not always found out before she has had the opportunity to involve other previously innocent young women in her homosexual acts. My purpose today is to:

- (1) warn you that there are homosexuals.
- (2) inform you why the Navy doesn't tolerate homosexuals in the Naval service.
- (3) tell you what can happen if you are foolish enough to commit a homosexual act.
- (4) and most important of all, to show how any one of you may become involved in a homosexual act unless you understand the circumstances under which the homosexual may make an approach to you.

Let us first review the definition of homosexuality. It is sexual gratification of an individual through physical contact with another person of the same sex. A homosexual, then, is one who gratifies her sex desires by being sexually intimate with another woman.

S 000880

You may ask, how can a young woman who has always led a wholesome life become involved? There are several techniques which may be used by the practicing homosexual

to lure you into involvement in a homosexual act.

One of the most commonly used techniques is for a practicing homosexual to form a friendship as a means to secure for herself a partner in her homosexual acts. The practicing homosexual may be of any profession or walk of civilian life, or she may have become a member of the Navy. You may meet her out on liberty, or you may meet her in your barracks. The practicing homosexual may begin her approach to you as a sympathetic, understanding and motherly person. At first she will present the same appearance as many of your friends. She will have many interests in common with you, but as time progresses you will be aware that she is developing this friendship as much as possible along emotional lines. This person may begin to demand all of your time, and to shower you with expensive gifts, and to pay all the expenses when you are out together. Even though you may never have indulged in alcohol, she may initiate you into the "art of social drinking." She may plan activities that will end in parties where heavy drinking is being done. She may plan more and more time for the two of you to be alone....late rides in her car, intimate conversations between the two of you, and physical advances such as embraces. As time goes by, she may propose that you take a week-end trip with her to a near-by city, to sightsee or take in a show. This trip will involve sharing a hotel or motel room. When you are alone...she orders drinks...and more and more alcohol is consumed. Then follow the improper physical advances and a homosexual act is committed.

Not long ago, a young Wave received an undesirable discharge from the Navy because of homosexuality. She was a nice young woman from a fine family. How did she become involved? Because she was curious. She had heard about homosexuality but had never known any homosexuals. So when one approached her, she thought it would be "fun" to learn more. Before she knew what had happened, she had been seduced....and was a partner in a homosexual act. Feelings of fear and shame followed. Normal young women wouldn't associate with her. For friendship, she had no one to turn to but the very people who had led her into perversion. Shortly thereafter she was discharged from the Navy as an undesirable.....a high price to pay for curiosity.

It is extremely important for all of you to have a basic understanding of this sort of behavior in case you should run into the practicing homosexual. Let us look at a few situations that might tend to influence your reactions. You all want a normal amount of adventure and excitement. You may have been dissatisfied with the job opportunities in your home town. There was no chance for future advancement and your chief enemy was boredom. In many areas, the male population has been depleted due to required military service, and men of your age were not available for dating and companionship. Some of you may have had an unhappy and unsatisfactory home life. All of these points really add up to one basic need we all have....the need for affection. We require affection for complete development of our personality and character. If a young woman handles the desire for love and affection as it was intended, she will proceed in due time to a happy marriage or toward a well-adjusted single life with a career. If she lets this desire express itself in familiar and intimate sexual acts with another woman, then she has involved herself with homosexuality.

The young woman who becomes involved with the practicing homosexual usually fails to recognize that the insistent personal attention was not the innocent offer of friendship it appeared to be. She was not fully aware that her own emotional and physical desires for love were being exploited and diverted to unnatural conduct. She fails to realize that a homosexual is not necessarily a woman with a mannish haircut, swaggering stride or deep-pitched voice, but may appear quite feminine.

There are several other techniques I would like to mention briefly so that you will be aware of them.

A woman homosexual may use a technique that is opposite to the one of kindness, protective sympathy, and understanding. Her approach may be signalled by domineering, severely bossy, mentally cruel or bossy conduct toward the individual approached. This technique is to secure the domination of the sought individual, and to gain mastery and control over her. Just how this dominance is secured, whether through timidity or fear does not matter...it may lead to seduction.

The "Come-on-and-no-risk" approach is still another technique that may be used and it fits into the battle against boredom. Many women may be propositioned to

indulge, just a little bit in homosexuality, "because you can have a lot of fun with no after effects. Frankly, what is being said is that you can experience sexual stimulation and sexual satisfaction in a homosexual act without risk of pregnancy.

Reactions of shame, confusion, and fear follow involvement in these homosexual acts. Even though she may try to justify her actions because she was merely the passive partner, a young woman must remember this.....it takes two people to complete the homosexual act. It makes no difference how it was conducted. Both parties to the act are equally guilty. The fact that none or both parties were under the influence of alcohol at the time of the homosexual act makes no difference. That does not in any way excuse a person of being a guilty party to the act. In many instances, a previously innocent young woman may become a homosexual, and in turn proceed to seduce another young woman in a homosexual act.

It is important that you understand the Navy's policy toward homosexuality. The policy of the Navy is quite positive in that all persons found guilty of so much as one single homosexual act while in the Naval service must be eliminated from the service. The "first timer" or experimenter is just as liable to separation as a confirmed homosexual. A woman is not tried for being a homosexual, she is tried for committing a homosexual act. One thing is certain, she is going out of the Navy as fast. Under certain circumstances she will be given an undesirable discharge, called a U.D. It means she has been discharged from the Navy as an undesirable, and her discharge papers will state that it is under conditions other than honorable and without satisfactory service. In certain circumstances she may face trial by General Court-Martial.

Answer these questions for yourselves.....if you were discharged from the Navy for committing a homosexual act.....what kind of a job would you be able to get? The person hiring you would investigate and find out that you were not the type of person who would be a good risk as an employee. Government employment is impossible. You may lose virtually all rights as a veteran under both Federal and State legislation. You would be red 636 3000853 making a job of such low level and so

undesirable that your... wouldn't bother to investi,

What would you tell your family and friends? Or the man you hope someday to marry? Could you tell them that you were discharged from the Navy as an undesirable, or were Court-Martialled for abnormal sex practices? These facts have an unpleasant way of coming out, no matter how much you try to hide them.

The Navy has good reasons to rid itself of homosexuals. They lower morale wherever they turn up and no one wants to serve in an organization where they are surrounded by such a large number of innocently born and at the very least creditable people. They are generally poor security risks.

The relatives, friends, and friends of women who have been discharged from the Navy for homosexual acts, write tearful letters to the Navy Department in Washington, D. C., begging for relief from the type of discharge they have received. They claim the Navy has branded them as homosexuals, and because of this they find it difficult to earn a living, or find an acceptable young man for dating, companionship, or possible marriage. Actually, the Navy has not branded these women. They have branded and disgraced themselves, and no relief is possible. Women who engage in homosexual acts cannot and will not be tolerated by the United States Navy.

This discussion would not be complete without touching on the effects these homosexuals have on the group. The barracks must be shared by all. This means that everyone's rights and sensibilities must be considered. Homosexuals carrying on activities of physical contact create an attitude of disgust, and the barracks becomes an unpleasant place for fine normal women to live. Their behavior not only affects their own reputation but it affects the reputation of all women in the barracks. The practice of homosexuality creates a very definite moral problem. The woman homosexual is an unfortunate individual. She is unfortunate because she has not learned to appreciate the normal rewards and satisfactions of maturity. From the point of view of the Navy, she not only does not behave as a normal woman should, but she is dangerous because she influences other women toward homosexuality.

If a homosexual makes an approach to you....stay away from her. If you have evidence of homosexual acts report them to the proper authorities. You may think

637 3000884

...not be involved with homosexuality, but some less informed women may
is. Protect her as well as yourself from abnormal sex practices.

Remember, the fine friendships between normal, decent women is not the thing
I'm referring to today. The many wholesome friendships formed in the Naval service
are one of the finest influences in barracks and social life. These friendships are
of great value to the Navy woman, both while in the service and in civilian life when
she has returned to her home. The annual reunion celebration of Navy women throughout
the United States every year gives some concept of the importance of such friendships.
It is good for young women coming into the service to use their petty officers as
guides and models of service life. Be wise in your choice of friends. Be alert and
avoid emotional pitfalls.

Finally, all of us should be very proud to be women serving in the United States
Navy, but let us be sure that we retain as much of our basic femininity as possible.
We are not competing with the men...we are supplementing and complementing them.
We must take pride in the kind of things women do well...that of setting a high
standard of conduct by living in accord with the moral beliefs of our society.

Now I now present Doctor _____, Medical Corps, U. S. Navy, who will speak
to you on the medical aspects of homosexuality.

5000885

MEDICAL OFFICER'S PRESENTATION (UNCLASSIFIED)

The medical officer, particularly one that specializes in psychiatry, is interested in homosexuality as an abnormal form of human behavior. While the duties of the medical officer are principally those of understanding and caring for sick people, he must maintain the broad point of view which is directed to the understanding of all types of behavior, good and bad, normal and abnormal, individual and group. This does not mean that he approves or excuses homosexuality any more than he does any type of behavior which is socially unacceptable such as thievery, alcoholism, and drug addiction.

Homosexuality is not on the increase but that which is present is wide-spread and homosexual activity occurs under varied circumstances. The psychiatrist encounters individuals throughout this range, from those who are exclusively homosexual, having no interest in the opposite sex, to those who "dabble" experimentally at one time or another. Because of this variation in homosexual activity, each individual case needs separate study and evaluation.

Generally speaking, homosexual activity is the manifestation of failure on the part of the individual to grow up sexually, which leads to personality disorders in adult life. This is true whether the individual be exclusively homosexual or only "dabbler". In the process of growing up, individuals not infrequently have one or more sexual experiences with someone of the same sex and of relatively their own age, on a basis of curiosity and experimentation. The psychiatrist considers this commonly occurring sexual activity of childhood and early adolescence as a developing and growing-up process which has very little to do with the subject under discussion today - that is, the homosexual activity of the grown-up or the adult. What you have done in your younger and developing period of life is NOT to be taken as placing you in a position of the person under discussion today, or to be in a position of danger. To draw a comparison, it is not that you wet the bed as a child but do you wet the bed today.

By virtue of the fact that you are now in the Navy, you are considered grown-up

Encl.(2)

S000860

and adult behavior is expected of you. If such behavior is not forthcoming, you will be held accountable. Take a pause a moment and think -- this is not unlike civilian life where cultural, social, and educational influences serve as a constant curb to a person's wishes, desires, and actions which are considered as not being mature or grown-up.

Some individuals, influenced by alcohol, money, curiosity, or some other circumstance, may become involved or participate in a homosexual act. They then contend that they themselves are not "homosexual" and offer this as a defense of their behavior. Medically speaking this may be true, but from the Navy's point of view such a medical opinion makes no difference whatsoever. In the Navy, you are not accused of being "homosexual" but are accused of engaging in a homosexual act. Obviously, it takes two to comprise a homosexual act and insofar as the Navy is concerned, one party of the act is as guilty as the other of an offense against the naval organization and its social structure.

Several common misconceptions exist about homosexuality and it is these misconceptions which lead people into trouble. One such misconception is that it is easy to identify a practicing female homosexual by her masculine mannerisms and characteristics. This is not true. Many practicing female homosexuals are quite feminine in appearance and some are outstandingly so. There are probably more female homosexuals who are completely feminine in appearance than there are female homosexuals who are masculine in appearance.

S 000861

Another common misconception is that those who engage in homosexuality are safe from acquiring venereal disease. This also is not true, as both gonorrhoea and syphilis can be readily contracted through sexual relations with females as well as through sexual relations with males. Reports from various clinics reveal one out of every four male and female patients admitted with syphilis acknowledged homosexual contacts as the source of their infection. Practicing homosexuals are notoriously promiscuous and not very particular in whom they pick up, infected or otherwise.

A third misconception is that homosexuals are born and not made. This idea leads to the belief that an individual who is not born a homosexual can participate

In homosexual acts without danger and, second, that nothing can be done medically for the confirmed homosexual. Neither of these beliefs is true. Treatment is available for even the confirmed homosexual but this is not an obligation of the Navy Medical Corps. As to the other belief, repeated dabbling in homosexuality in late adolescence as well as in adulthood can and frequently does constitute the making of a homosexual. Some who start as "dabblers" or "experimenters" progress steadily to become exclusively homosexual in their behavior. Experimentation, therefore, aside from being an infringement on social as well as Navy standards, is dangerous in its own right.

In this entire problem, the medical officer has a two-fold interest: first, and uppermost, he is a naval officer and has an interest in the Navy as a whole. It is his duty to help eliminate disturbing and undesirable factors from the Naval service, such as confirmed homosexuals. In the second place, as a physician and a psychiatrist, he offers his experience and knowledge of behavior disorders in helping those who are concerned about this problem. In this latter capacity, he maintains an open door attitude to all, and he is available for interview at your request.

May I now present Chaplain _____ who will speak to you on the social, moral and spiritual aspects of homosexuality.

5000862

CHAPLAIN'S PRESENTATION (WAVE RECRUITS)

The Chaplain's primary concern with the problem of homosexuality is its relationship to the individual's social, moral and spiritual life. The following factors often play a prominent role in the involvement of women personnel in homosexual activity:

1. The normal desire for social life and social entertainment. The service living conditions, barracks and cubicle life with their lack of personal privacy, the living in close proximity to new and strange women, the normal homesickness, loneliness, etc., all add up to making the Navy woman particularly vulnerable to approaches of friendliness, kindness, big sisterliness, motherliness, etc. Due to these factors, the Navy woman may welcome any offer for friendliness, an invitation out to a meal, to an entertainment, or for a week-end. If the Navy woman accepts free meals, free drinks, and unwholesomely affectionate and insistent sisterly or motherly solicitude, gifts, and attention from another woman, whether in civilian life or in the service, and permits them to ripen into a close, exclusive friendship, she is taking a risk of becoming involved.

Since the practicing homosexual may use just this sort of technique in making her approach, the Navy woman must examine carefully any unusual or pressured cultivation, whether out of the service or in the service, even though the cultivation may appear innocent and kindly disposed. There is often an unhealthy and unwholesome interest on the part of an especially insistent person.

2. Social drinking is one of the most frequently used techniques of homosexual. As you have been advised, drinking removes or lowers inhibitions, both the good and the bad ones alike. It impairs the reason, the will, one's self-control, judgment and self respect. The practicing homosexual is usually out for new conquests. She knows how to prey upon service women, understanding very well that new girls are lonely, homesick, disturbed by the strange way of the Navy, and knows that they respond to kindly treatment.

Let me emphasize just here, however, that NOT EVERY ONE BY ANY MEANS who offers friendly advice or help to a Navy woman is to be suspected of a homosexual approach.

5000863

Usually the Navy woman has her own group, based on age and other common interests. In this group she finds her friends. Fine, normal, wholesome friendships are formed in the Naval service that long outlast enlistments, and are sources of helpfulness and enjoyment throughout life.

HOMOSEXUALITY DESTROYS A WOMAN'S SOCIAL STATUS AND HER SOCIAL FUTURE

I do not feel I have to emphasize to you how delicate a structure is a woman's good name, or how easy it is to tarnish or destroy it.

A single act, or an association, may brand a woman as a sexual pervert. Society allows women more emotional demonstrations in public than it allows men. Women friends may embrace and kiss each other as they meet in public without causing suspicion or starting a whispering campaign. Such displays of emotion and friendship, however, must always be within good taste.

By her conduct a Navy woman may ruin her chances for a happy marriage. Friends should be chosen with great care. Friendships are best when they are carefully formed on the basis of similar ages and interests.

Homosexuals dread detection, social ostracism, and legal prosecution. If a woman gets entangled in homosexuality and is given an undesirable discharge or a dishonorable discharge from the Navy, she finds herself cut off from acceptable relationships with men and the companionship of normal women. She also finds it difficult to explain to her family and to her friends just why she is no longer in the Naval service. To get entangled with homosexuality means three things:

- (1) The woman gambles with the possible destruction of her social life and future marriage.
- (2) She will become the target of other homosexuals.
- (3) All normal, decent people who know, or even who strongly suspect the facts will have nothing to do with her.

5000864

HOMOSEXUALITY DESTROYS A WOMAN'S CHARACTER

Homosexuality is a social offense, and is named a felony by law. Conventional

Fear of detection, blackmail, economic and social ruin, and legal prosecution and imprisonment.

People who engage in homosexuality fear exposure for there is always a witness (the other person). It is not possible to live under constant tension and fear, without seriously weakening one's moral fiber, mental and emotional stability.

Homosexuality destroys a woman's personal integrity. Little by little, the individual becomes more deeply entangled in the homosexual web. At first she wonders how it all happened. She reacts with confusion, shame and fear. She rationalizes that she was only a passive partner; that she really did not DO any thing. But she knows better. Then she faces the possibility of blackmail. She finds it easier to submit to homosexuality than to fight against it.

Experience indicates that the odds are heavy against her ever quitting. She slowly deteriorates in character, losing her power of will, and her integrity. Thus the deterioration and destruction of character and integrity are the end results of homosexuality. Even such gross crimes as robbery, suicide and murder often grow out of homosexuality.

HOMOSEXUALITY DESTROYS A WOMAN'S SPIRITUAL VALUES AND HER SPIRITUAL LIFE

Moral and ethical codes reaching far back into history are against any form of homosexuality. It is universally condemned by all religions. All nations who have given way to the practice of homosexuality have fallen and it is against the law of all civilized nations. The guilt associated with homosexuality is a barrier between the individual and God.

The Creator has endowed the bodies of women with the noble mission of motherhood and the bringing of human life into the world. Any woman who violates this great trust by participating in homosexuality not only degrades herself socially but also destroys the purpose for which God created her.

IN CONCLUSION: Let me emphasize the following:

5000865

It is important to recognize danger. It is foolish to expose yourself. Good sportsmanship and courage are never proved by taking unnecessary risks, flirting

with danger, or "taking a chance!" Homosexuality is dangerous in all of its phases. The woman who takes any chances with it demonstrates only her own stupidity, never her courage or smartness.

We do not wish to alarm you about homosexuality, nor do we intend anything that we say in this lecture to lead you to believe that an unmarried woman who does not engage in sexual practices with men is homosexual. She is, on the contrary, a sensible person. Sex was created for the married state and true happiness can best be found through marriage and a home. We are confident that you will go on through life using common sense and self-discipline.

We would also like to emphasize again the need of avoiding vicious gossip and rumors accusing or implying that someone is a homosexual or engaging in homosexual acts. Before engaging in such talk or spreading such dastardly gossip about anyone, I would suggest that you think of two things. First, think of the terrible harm that may come to this girl and her family because of you. And secondly, ask yourself how would I feel if someone were to spread such vicious rumors about me?

If you are actually approached by one of these people or if you strongly suspect something that is out of line, talk the matter over with someone who can do something about it without harming someone who may be innocent. Your Wave office, your Medical officer and Chaplain are always available for personal counsel. If you wish to discuss this presentation just given, please feel free to contact any of us who have given it or any of the above mentioned officers. Thank you for your attention.

S 000866

MEMORANDUM OF MAIL DELIVERIES ON SUBJECT OF HOMOSEXUALITY

Part I - Line Officer's Section

GOOD MORNING! I am _____. The officer to my right/left is Dr. _____ and the one to my left/right is Chaplain _____. We would like to speak to you today about a subject with which very likely many of you have never been confronted.

OUR TOPIC - - - - - HOMOSEXUALITY

Now, this is a very serious subject. It is not a matter to be taken lightly nor joked about. The problem of homosexuality is one which could affect you not only as a member of the Navy, but throughout your entire life as well.

We learn every day from the newspapers, radio, television, our parents, schools and churches of many things both good and bad. This subject, however, is one which is not widely discussed through these media - or, for that matter, even among our own families. Today, therefore, we wish to discuss this subject quite thoroughly in order that you may be aware of the dangers of homosexuality and the problem which it presents the Navy. In so doing we don't want to scare you or search into your past, but we do want to inform you of a situation which does exist and what the Navy expects of you should you encounter it.

It is the Navy's intention that you receive authoritative information on straight forward facts. To this end I will discuss the Navy's attitude and policy toward homosexuality and the legal and disciplinary measures which the Navy will take in all such cases that are brought to light. Dr. _____ will talk about the subject from a medical and psychiatric standpoint, and Chaplain _____ will speak to you on the moral aspects of homosexuality.

To start with we immediately ask ourselves, "What is Homosexuality"? Well, it can be defined as an attempt to obtain sexual pleasure or enjoyment through a physical act or contact with another person of the same sex. As many of you already know, homosexual persons are frequently referred to as

queer, homosexuals, fairsies and other like terms

Now the attitude and policy of the Navy toward the commission of homosexual acts is very clear and very positive. If anyone in the United States Navy is discovered, apprehended or proven to have engaged in any such act while in the Navy, whether one time or a hundred times, drunk or sober, whether his participation was active or passive, very serious consequences are inevitable. Remember, one act is sufficient to convict a man. And it makes no difference whether the person was drunk or sober nor where the act was committed, on board ship, at a shore station or on liberty in town. Nor does it matter who took the lead in the act. Both are equally guilty as far as the Navy is concerned. And once the Navy finds out appropriate disciplinary action must follow.

What action is taken against the Navy man who is caught and what are the inevitably serious consequences of such action? One thing is certain! He will be discharged from the service under extremely discreditable conditions. He will either face trial by General Court Martial with a sentence of up to five years imprisonment in a federal penitentiary followed by a Dishonorable Discharge, under certain circumstances he may be allowed to accept an Undesirable Discharge in order to escape trial by General Court Martial. He, therefore, either becomes an ex-convict in the truest sense of the word or he carries a discharge paper bearing the statement that he was discharged from the United States Navy under other than honorable conditions and without satisfactory service. Either way, he has been literally kicked out of the service and the consequences of a separation are manifold. He has brought disgrace on himself, his family and friends. He has lost virtually all his rights as a veteran under both Federal and State legislation. No government employment of any kind is open to him and indeed find it difficult to obtain decent employment with any civilian concern.

Why, you may ask, is the Navy so tough in its attitude toward homosexuals?

There are several reasons for this. First, homosexuals lower morale

30008

wherever they turn up. No decent individual wants them around, and this is especially true of the Navy where men must work and live so closely at all times, whether ashore or on board ship. Secondly, homosexuals usually try to involve previously innocent persons in their acts. Many men have been ruined and disgraced from either deliberately or carelessly becoming involved with them. Thirdly, homosexuality is often associated with alcoholism, narcotics and acts of violence such as suicide, manslaughter and murder. And finally, homosexuals have been found to be poor security risks. There are many cases where enemy agents, themselves homosexuals, either have obtained or have tried to obtain security information through their homosexual contacts. The threat of exposure to a man who has become thus involved could indeed be a very powerful inducement to give away information involving the security of our nation. Quite obviously the Navy cannot and will not take a chance on such a person.

What are the chances of detection of a person engaging in homosexual acts? Of one thing you may be certain: He will eventually be found out. Homosexuals form a minority group that is outcast from our society. As individuals they are constantly trying to involve normal persons in their acts, and once this is accomplished the homosexual uses all kinds of pressure, including blackmail, to make them continue in these acts. Most homosexuals keep a list of all their contacts and pass these names along to others of their kind. It is also a peculiarity of homosexuals that they will freely give all details of their contacts to the law enforcement officers when picked up for questioning. It is, therefore, true that once having engaged in a homosexual act a person can never feel safe from detection. Remember, it takes two to engage in a homosexual act; therefore, by its very nature there is always a witness to such an act, and that witness will not hesitate to talk freely.

Now -- how could a normal, clean-minded young man get into such a mess? Let me cite an example, the case history of, shall we say, John Doe. Before joining the Navy he was a decent young man. In his home town he had never come in contact with homosexuals, nor, for that matter, did he know anything

5000869

about them except in a very general way. He had heard about such people, but that was all. Naturally he would have laughed at anyone who told him he could get mixed up with a homosexual. He does not realize that a man is not born a homosexual, but that he becomes such by his own actions. Neither is he fully aware of how a little alcohol can befuddle one's thinking and how, after a few drinks, he might do things he would never think of doing when sober.

John is an excellent recruit, one of the best men in his company, and well liked by all his shipmates. At the end of his fifth week of training Recruit Doe rates liberty and catches a bus for town. Sitting next to him on the bus is a husky young civilian who engages John in a friendly conversation. This young civilian, learning that John is new in town and on his first liberty, offers to show him around. This sounds fine to John and he never suspects that his new found friend is actually a homosexual "on the make". He has always identified homosexuals in his own mind as being effeminate in their manner of speech, gestures and walk. After having done the town during the afternoon, this young man suggests going to his apartment for dinner after which he will line up a couple of girls for the evening. John is induced to have a few drinks while his friend appears to busy himself with dinner preparations and a number of naturally unsuccessful phone calls. Recruit Doe is completely unaware that this young man has no intention of lining up any girls but that instead he wants John for himself. John, not being used to liquor, becomes pretty well loaded. In this condition, the approach is made and John, unfortunately, becomes involved in homosexuality. Later on a routine police check of known homosexuals finds John's name in this individual's address book. It is turned over to the Naval authorities and, after appropriate investigation, Recruit Doe, his Naval career hardly even started, is kicked out of the Navy, disgraced and with a discharge paper he does not like to show. S-000870

Let me cite another example, this one concerning security. During World War II, a naval enlisted man was assigned a billet where he handled secret correspondence. Without thinking, he became involved with a civilian homosexual

through, of all things, curiosity. This civilian, as it turned out, was not only a homosexual but an enemy agent as well. The sailor, having been introduced to homosexuality, was blackmailed by the civilian, under threat of exposure to the authorities, to pass along certain security information to which he had access. Meanwhile the civilian, having been suspected of espionage activity, had been under constant surveillance by the Office of Naval Intelligence for some time. When the ONI finally cracked down and all the facts of the case were brought to light, the civilian was tried and convicted of espionage. The Navy man was tried by General Court Martial and convicted of both espionage and the commission of homosexual acts.

The cases I have mentioned illustrate only a few of the ways in which a Navy man can become involved with homosexuals and the tragic results of getting mixed up with them. Homosexuals know no boundaries. You might run into them wherever you go. They may turn up in bars, on the street, in buses and streetcars, in parks and various places of entertainment and even in your own barracks or aboard ship. If you are approached or propositioned by a civilian homosexual, don't cause a scene but get away from him quickly and stay away. Should you receive a homosexual proposition from anyone in the service or have knowledge of the commission of a homosexual act by anyone in your ship or unit, it becomes your duty and responsibility to make the situation known to your Company Command Battalion Commander, Division Officer, Department head or other person in authority as soon as possible.

In concluding my part of this lecture, I should like again to stress several important points:

(1) First of all, committing a homosexual act is a criminal offense. Separation from the service is mandatory and this will be carried out either through trial by General Court Martial with a possible sentence of up to five years imprisonment and a Dishonorable Discharge, or under certain circumstances, by Undesirable Discharge.

5-000871

(2) Secondly, both parties to a homosexual act are equally guilty. The Navy makes no distinction and alcohol is never accepted as an excuse.

(3) Thirdly, stay away from those places which you suspect or which are known to be hangouts for homosexuals. Even by being frequently seen in such places, you could be caused considerable embarrassment by having your name placed on the local police list and consequently picked up for questioning should a sex crime be committed in the area.

(4) And finally, don't associate with strangers who are too persistent in being nice to you. Now that doesn't mean that every stranger who offers you a drink or a free meal is a homosexual; but by remaining sober and alert and using common sense you will be able to suspect when something is out of line. Act accordingly!

The Navy Department is the constant target of tearful appeals from the parents, families and friends, and even from the men themselves, who have been discharged from the Navy with discredit. They are asking for relief from the type of discharge received. They claim that the Navy has branded them as homosexuals and that they have been disgraced and cannot get decent jobs. Actually, the Navy has not branded these people. They have branded and disgraced themselves and no relief is possible. You cannot participate in homosexuality without sooner or later getting caught and men who engage in homosexual acts cannot and will not be tolerated by the United States Navy.

Now, may I present Dr. _____ who will speak of the medical and psychiatric aspects of homosexuality? Dr. _____.

S-000872

INDICATION OF MALE RECRUITS ON HOMOSEXUALITY

MEDICAL OFFICER'S SECTION

The medical officer, particularly one that specializes in psychiatry, is interested in homosexuality as an abnormal form of human behavior. While the duties of the medical officer are principally those of understanding and caring for sick people, he must maintain the broad point of view which is directed to the understanding of all types of behavior -- good and bad, normal and abnormal, individual and group. This does not mean that he approves or excuses homosexuality any more than he does any type of behavior which is socially unacceptable such as thievery, alcoholism, and drug addiction.

Homosexuality is NOT on the increase, but that which is present is wide-spread and homosexual activity occurs under varied circumstances. The psychiatrist encounters individuals throughout this range from those who are exclusively homosexual that is, having no interest in the opposite sex, to those who "dabble" experimentally at one time or another. Because of the wide variation in homosexual activity, each individual concerned needs separate study and evaluation.

Generally speaking, homosexual activity is the manifestation of failure on the part of the individual to grow up sexually which leads to personality disorders in adult life. This is true whether the individual be exclusively homosexual or only a "dabbler". In the process of growing up, individuals not infrequently have one or more sexual experiences with someone of the same sex and of relatively their own age on the basis of curiosity and experimentation. The psychiatrist considers this commonly occurring sexual activity of childhood and early adolescence as a developmental and growing up process which has very little to do with the subject under discussion today -- that is, the homosexual activity of the grown-up or the adult. What you have done in your younger and developing period of life is not to be taken as placing you in the position of the person under discussion today or to be in a position of danger. To draw a comparison, it is not that you wet the bed as a child but do you wet the bed today.

5000873

By virtue of the fact that you are now in the Navy, you are considered grown-up and adult behavior is expected of you. If such behavior is not forthcoming, you will be held accountable. To pause one moment and think -- this is not unlike civilian life where cultural, social, and educational influences serve as a constant curb to a person's wishes, desires, and actions which are considered as not being mature or grown up.

Some individuals, under various and possibly innocent circumstances, may become involved or participate in a homosexual act. They then contend that they themselves are not "homosexual" and offer this as a defense of their behavior. Medically speaking this may be true but from the Navy's point of view such a medical opinion makes no difference whatsoever. In the Navy, you are not accused of being "homosexual" but are accused of engaging in a homosexual act. Obviously, it takes two to comprise a homosexual act and, in so far as the Navy is concerned, one party of the act is as guilty as the other of an offense against the naval organization and its social structure.

Several common misconceptions exist about homosexuality and it is these misconceptions which lead people into trouble. One such misconception is that it is easy to identify a practicing homosexual by his feminine mannerisms and characteristics. This is not true. The majority of practicing homosexuals are quite masculine in appearance and some are outstanding athletes.

Another common misconception is that those who engage in homosexuality are safe from acquiring venereal disease. This also is not true, as both gonorrhea and syphilis can be readily contracted through homosexual relations. From the clinics of several large cities, survey reports indicate that one out of every four cases of venereal disease admitted for treatment acknowledge homosexual contacts as the source of the infection. Practicing homosexuals are notoriously promiscuous and not very particular in whom they pick up -- infected or otherwise.

S 000874

A third misconception is that homosexuals are born and not made. This stems to the beliefs, first, that nothing can be done medically for the confirmed homosexual and, second, that an individual who is not born a homosexual can participate in

acts without danger. Whether of these beliefs is true. Treatment is available for even the confirmed homosexual but this is not an obligation of the Navy Medical Corps. As to the second belief, repeated dabbling in homosexuality in late adolescence as well as in adulthood can and frequently does constitute the making of a homosexual. Some who start as "dabblers" or "experimenters" progress steadily to become exclusive homosexuals in their behavior. Experimentation, therefore, aside from constituting an infringement on society as well as Navy standards, is dangerous in its own right.

In this entire problem, the medical officer has a two-fold interest; first, and upper most, he is a naval officer and has an interest in the Navy as a whole. It is his duty to help eliminate disturbing and undesirable factors from the Naval service such as confirmed homosexuals. In the second place, as a physician and a psychiatrist he offers his knowledge of and experience with behavior disorders in helping those who are concerned about this problem. In this latter capacity, he maintains an open door attitude to all, and he is available for interview at your request.

And now let me introduce Chaplain _____ who will speak on the social, moral and spiritual effects of homosexuality.

S 000875

CHAPLAIN'S PRESENTATION (MAL' WUITS)

The Chaplain's primary concern with the problem of homosexuality is its relationship to the individual's social, moral and spiritual life. The following factors often play a prominent role in the involvement of personnel in homosexual activity:

1. The normal desire for social life and entertainment. The practicing homosexual is quite aware that service personnel ashore are often lonely and frequently quite ready to accept courtesies and hospitality even though offered by a stranger.

2. Social drinking is one of the most frequently used techniques of homosexuals and is often the opening play of a game that leads to the downfall of the sailor.

At last we hear the familiar refrain: "I got to drinking with this individual and passed out. When I came to, the job had been done." The Chaplain is always sorry for the man who gets into trouble. However, the Chaplain's primary concern with homosexuality is its relationship to the individual's social, moral, and spiritual life.

FIRST OF ALL, HOMOSEXUALITY DESTROYS A MAN'S SOCIAL STATUS:

A single act, or even guilt by association, may brand a man as a pervert in the locality in which he lives. To be arrested, booked, and have to prove one's innocence when caught in a raid of a place where homosexuals gather, may be the basis for general and harmful gossip.

Homosexuals dread detection, social ostracism, and legal prosecution. If a man gets snared or entangled in the homosexual web, and is given an undesirable or a dishonorable discharge from the U. S. Navy, he finds it highly embarrassing if not impossible, to explain to his family and friends why he is no longer in the Naval service.

5000876

Once it is known, or strongly suspected that a man has been discharged for homosexuality, people will avoid him and he will be socially ostracized.

To get entangled in the homosexual web means two things:

- (1) The individual will become the target of other homosexuals, and
- (2) Decent people who know or strongly suspect homosexuality will shun him.

HOMOSEXUALITY ALSO DESTROYS A MAN'S CHARACTER

Homosexuality is a social offense. It is not condoned by society. It is named a felony by law. Conventional society detests the homosexual. The homosexual lives in a continuous dread and constant fear of detection, social ostracism, blackmail, and economic ruin, and legal prosecution and imprisonment.

Most people who engage in homosexuality suffer a period of fear of exposure, disgust with themselves, and a deep sense of uncleanness. For a time they seek to adjust themselves to the condition which they have brought upon themselves by their own conduct. It is not possible, however, to live under constant tension and fear, acting out a role through a prolonged period, without seriously weakening one's moral fiber.

The practice of homosexuality destroys a man's personal integrity. Little by little the individual becomes more deeply entangled in the homosexual web. At first he wonders how it all happened. He reacts with confusion, shame, and fear. He rationalizes that he was only a passive agent; that he really did not do anything. But he really knows better.

Then he may face blackmail and he continues his acts. He finds that it is easier to submit than to fight on against it. He consoles himself that he will break off the relationship later, but he really has little hope of actually doing so. Experience indicates that the odds are heavily against his ever quitting. He slowly deteriorates in character, losing his power of will and his personal integrity. He therefore often becomes a drug addict, an alcoholic, a thief, or even a murderer or suicide. He joins the dregs of society. Thus the deterioration and destruction of character and integrity are the end results of homosexuality.

S 000877

HOMOSEXUALITY ALSO DESTROYS A MAN'S SPIRITUAL VALUES AND HIS SPIRITUAL LIFE

~~Moral and ethical codes reaching far back into history are unequivocally opposed~~

any form of homosexual. It is universally condemned by all religions. Since the body is the sacred temple of God, any misuse of sex is a desecration of God's holy temple. Therefore, the commission of a homosexual act is a sin.

All nations which have given way to the practice of homosexuality have fallen. Homosexual practices have contributed to their moral decay and thus to their downfall. The Scriptures say, "Righteousness exalteth a nation, but sin is a reproach to any people."

Today, as a result of scientific progress man is able to do great things. He is able to fly faster than sound. Through television, he is able to see things actually happening thousands of miles away. He is able to speak to his fellowman by radio and telephone throughout the entire world. None of these powers, however, can begin to compare with that power given to him by his Creator, namely, the power of bringing another human being into the world through the proper use of his sexual drives. Any individual who would use this God-given power in any manner contrary to God's law not only degrades himself morally and spiritually but violates a most sacred trust. This is especially true in the case of homosexuality.

Both the Jewish and the Christian faiths regard homosexuality as abnormal, immoral and as a carnal sin. It must, therefore, be avoided. The most severe condemnation is pronounced by religion on all homosexuality. The breaking of God's laws in sexual matters is a direct frustration of His will for us and the defilement of our bodies as a suitable abode for His presence. Persistence in such practices begets moral and spiritual suicide.

The Holy Writ or Holy Scriptures condemn homosexuality. The account of the destruction of Sodom in the Bible shows the Scriptural disapproval of the act. There are other references which your Chaplain can give you. Let me emphasize these:

1. It is unwise, and the part of wisdom, to recognize danger. It is foolish to expose yourself to danger needlessly. Courage is never proven by taking foolish risks or flirting with danger. Homosexuality is dangerous in any of its phases. Anyone who takes chances with it only proves his own stupidity, never his courage or his wisdom.

5000878

2. As we said before, the purpose of this talk is not to frighten you or to delve into your past. Keep up your normal friendships with your buddies in the service. And don't feel that every stranger, civilian or military, who tries to be friendly, is out for no good. Be very careful about making remarks implying or accusing a person of being a homo or a queer. Before you make such an accusation think of the harm you can do to a man and his family and think also how you would like that same man to make the same charge about you. By being alert to the possibility of meeting homosexuals, your common sense will tell you when you do meet a person who is one or very likely could be one. When that situation arises, get away from him quickly and quietly.

If you are actually approached or feel almost certain that you have run into such a situation, talk the matter over with your Company Commander, your Battalion Commander, your Medical Officer or Chaplain. If you wish to discuss this presentation today, feel free to contact any of us who have given it or any of the men mentioned above. Thank you for your attention.

5000879

PENTAGON LIBRARY
WASHINGTON, DC