

CHAPTER 2

MILITARY CONDUCT AND JUSTICE

LEARNING OBJECTIVES

Upon completion of this chapter, you should be able to do the following:

1. Describe how to conduct a preliminary investigation of offenses.
2. Recognize the purpose and content of *U.S. Navy Regulations*.
3. Describe the content of the *Standard Organization and Regulations of the U. S. Navy*.
4. Explain the Status of Forces Agreement concerning members of the armed forces in foreign countries.

The topics in this chapter deal primarily with regulations that senior enlisted personnel should be aware of to perform their job with consistency. We will first examine the procedures for conducting a preliminary investigation of offenses. Then we will introduce you to the purpose and content of both *U.S. Navy Regulations* and *Standard Organization and Regulations of the U.S. Navy*. We will close the chapter with a discussion of the Status of Forces Agreement (SOFA).

THE PRELIMINARY INVESTIGATION

At some point in your career, the legal officer may assign you to serve as a preliminary inquiry officer (PIO). As the PIO you will conduct an investigation of offenses before a captain's mast takes place. You will only investigate relatively minor offenses that are not under investigation by the Naval Investigative Service (NIS) or a fact-finding body.

REPORT AND DISPOSITION OF OFFENSE(S) (REPORT CHIT)

Naval personnel may be reported for offenses involving military conduct or justice. A complaint

against someone goes through a series of steps from the time it leaves the initiator to the time of the preliminary inquiry.

The legal officer receives the complaint and drafts charges and specifications against the accused on a locally prepared report chit form. Following the guidelines of part IV of the *Manual for Courts-Martial, 1984 (MCM)*, the legal officer writes the charges and specifications using court-martial language. The charges and specifications are then typed on the NAVPERS 1626/7, Report and Disposition of Offense(s) form (figs. 2-1 and 2-2). The accused's service record supplies the information required on the front of the report chit. The legal officer or the person who submitted the complaint then signs the report.

The legal officer conducts a personal interview with the accused to inform the person of his or her rights under article 31(b) of the *Uniform Code of Military Justice (UCMJ)*. When the accused acknowledges he or she understands his or her rights, he or she then signs the ACKNOWLEDGED block and the disciplinary or legal officer signs the WITNESSED block.

THE ACCUSED SHOULD NOT BE INTERROGATED AT THIS TIME. The legal officer should determine and recommend to the commanding officer or executive officer what restraint, if any, should be imposed at this time.

REPORT AND DISPOSITION OF OFFENSE(S)
 NAVPERS 1626/7 (REV. 8-81) S/N 0108-LF-016-2838

To: Commanding Officer, _____ Date of Report: _____

1. I hereby report the following named person for the offense(s) noted:

NAME OF ACCUSED	SERIAL NO.	SOCIAL SECURITY NO	RATE/GRADE	BR. & CLASS	DIV/DEPT

PLACE OF OFFENSE(S) _____ DATE OF OFFENSE(S) _____

DETAILS OF OFFENSE(S) (Refer by article of UCMJ, if known. If unauthorized absence, give following info: time and date of commencement, whether over leave or liberty, time and date of apprehension or surrender and arrival on board, loss of ID card and/or liberty card, etc.):

NAME OF WITNESS	RATE/GRADE	DIV/DEPT	NAME OF WITNESS	RATE/GRADE	DIV/DEPT

(Rate/Grade/Title of person submitting report) _____ (Signature of person submitting report) _____

I have been informed of the nature of the accusation(s) against me. I understand I do not have to answer any questions or make any statement regarding the offense(s) of which I am accused or suspected. However, I understand any statement made or questions answered by me may be used as evidence against me in event of trial by court-martial (Article 31, UCMJ).

Witness: _____ Acknowledged: _____
 (Signature) (Signature of Accused)

PRE-ARREST RESTRAINT

PRE TRIAL CONFINEMENT RESTRICTED: You are restricted to the limits of _____ in lieu of arrest by order of the CO. Until your status as a restricted person is terminated by the CO, you may not leave the restricted limits except with the express permission of the CO or XO. You have been informed of the times and places which you are required to muster.

NO RESTRICTIONS

 (Signature and title of person imposing restraint) (Signature of Accused)

INFORMATION CONCERNING ACCUSED

CURRENT ENL. DATE	EXPIRATION CURRENT ENL. DATE	TOTAL ACTIVE NAVAL SERVICE	TOTAL SERVICE ON BOARD	EDUCATION	GCT	AGE

MARITAL STATUS	NO. DEPENDENTS	CONTRIBUTION TO FAMILY OR OTAS ALLOWANCE (Amount required by law)	PAY PER MONTH (Including sea or foreign duty pay, if any)

RECORD OF PREVIOUS OFFENSE(S) (Date, type, action taken, etc. Nonjudicial punishment incidents are to be included.)

Figure 2-1.-Report and Disposition of Offense(s) Form (NAVPERS 1626/7) (Front).

PRELIMINARY INQUIRY REPORT					
From: Commanding Officer			Date: _____		
To: _____					
1. Transmitted herewith for preliminary inquiry and report by you, including, if appropriate in the interest of justice and discipline, the preferring of such charges as appear to you to be sustained by expected evidence.					
REMARKS OF DIVISION OFFICER (Performance of duty, etc.)					
NAME OF WITNESS		RATE/GRADE	DIV/DEPT	NAME OF WITNESS	
RECOMMENDATION AS TO DISPOSITION:					
<input type="checkbox"/> DISPOSE OF CASE AT MAST		<input type="checkbox"/> REFER TO COURT MARTIAL FOR TRIAL OF ATTACHED CHARGES (Complete Charge Sheet (DD Form 558) through Page 2)		<input type="checkbox"/> OTHER	
		<input type="checkbox"/> NO PUNITIVE ACTION NECESSARY OR DESIRABLE			
COMMENT (Include data regarding availability of witnesses, summary of expected evidence, conflicts in evidence, if expected. Attach statements of witnesses, documentary evidence such as service record entries in DA cases, items of real evidence, etc.)					
_____ (Signature of Investigation Officer)					
ACTION OF EXECUTIVE OFFICER					
<input type="checkbox"/> DISMISSED			<input type="checkbox"/> REFERRED TO CAPTAIN'S MAST		
			SIGNATURE OF EXECUTIVE OFFICER		
RIGHT TO DEMAND TRIAL BY COURT-MARTIAL (Not applicable to persons attached to or embarked in a vessel)					
I understand that nonjudicial punishment may not be imposed on me if, before the imposition of such punishment, I demand in lieu thereof trial by court-martial. I therefore (do) (do not) demand trial by court-martial.					
WITNESS			SIGNATURE OF ACCUSED		
ACTION OF COMMANDING OFFICER					
<input type="checkbox"/> DISMISSED		<input type="checkbox"/> DISMISSED WITH WARNING (Not considered NJP)		<input type="checkbox"/> CONF. OR _____ 1, 2, OR 3 DAYS	
<input type="checkbox"/> ADMONITION: ORAL/IN WRITING		<input type="checkbox"/> REPRIMAND: ORAL/IN WRITING		<input type="checkbox"/> CORRECTIONAL CUSTODY FOR _____ DAYS	
<input type="checkbox"/> REST. TO _____ FOR _____ DAYS		<input type="checkbox"/> REST. TO _____ FOR _____ DAYS WITH SUSP. FROM DUTY		<input type="checkbox"/> REDUCTION TO NEXT INFERIOR PAY GRADE	
<input type="checkbox"/> FORFEITURE: TO FORFEIT \$ _____ PAY PER MO. FOR _____ MO(S)		<input type="checkbox"/> DETENTION: TO HAVE \$ _____ PAY PER MO. FOR (1, 2, 3) MO(S) DETAINED FOR _____ MO(S)		<input type="checkbox"/> REDUCTION TO PAY GRADE OF _____	
				<input type="checkbox"/> EXTRA DUTIES FOR _____ DAYS	
				<input type="checkbox"/> PUNISHMENT SUSPENDED FOR _____	
				<input type="checkbox"/> ART. 32 INVESTIGATION	
				<input type="checkbox"/> RECOMMENDED FOR TRIAL BY GCM	
				<input type="checkbox"/> AWARDED BPCM	
				<input type="checkbox"/> AWARDED SCM	
DATE OF MAST:		DATE ACCUSED INFORMED OF ABOVE ACTION:		SIGNATURE OF COMMANDING OFFICER	
It has been explained to me and I understand that if I feel this imposition of nonjudicial punishment to be unjust or disproportionate to the offenses charged against me, I have the right to immediately appeal my conviction to the next higher authority within 15 days.					
SIGNATURE OF ACCUSED			DATE		
			I have explained the above rights of appeal to the accused.		
			SIGNATURE OF WITNESS		
			DATE		
FINAL ADMINISTRATIVE ACTION					
APPEAL SUBMITTED BY ACCUSED			FINAL RESULT OF APPEAL:		
DATED: _____					
FORWARDED FOR DECISION ON _____					
APPROPRIATE ENTRIES MADE IN SERVICE RECORD AND PAY ACCOUNT ADJUSTED WHERE REQUIRED			FILED IN UNIT PUNISHMENT BOOK:		
DATE: _____ (Initials)			DATE: _____ (Initials)		
NAVPERS 1626/7 (REV. 8-81)(BACK)			* U.S. Government Printing Office: 1982-505-106/488 2-1		

Figure 2-2.-Report and Disposition of Offense(s) Form (NAVPERS 1626/7) (Back).

PRELIMINARY INQUIRY

The legal officer forwards the report chit to you. Once you receive it, you can begin conducting the preliminary inquiry of the reported offense. You should usually conduct the inquiry informally. Your final report on the preliminary inquiry should consist of the following items:

1. Report and Disposition of Offense(s) (NAVPERS 1626/7)
2. Investigator's Report (fig. 2-3)
3. Statements or summaries of interviews with all witnesses; sworn statements, if possible (fig. 2-4)

4. Originals or copies of documentary evidence
5. If the accused waives all his or her rights, a signed sworn statement by the accused; or a summary of the interrogation of the accused, signed and sworn to by the accused; or both
6. Any additional comments you feel are necessary

Objective

Your primary objective in conducting the preliminary inquiry is to collect all available evidence pertaining to the alleged offense(s). Your

INVESTIGATOR'S REPORT IN THE CASE OF _____			
1. Read paragraphs in MCM concerning offenses/charges			Yes: / <input type="checkbox"/>
2. Witnesses interviewed (not the accused).			
	(NAME)	(PHONE)	
		signed statement attached	summary of interview attached
a.			/ <input type="checkbox"/> or / <input type="checkbox"/>
b.			/ <input type="checkbox"/> or / <input type="checkbox"/>
c.			/ <input type="checkbox"/> or / <input type="checkbox"/>
d.			/ <input type="checkbox"/> or / <input type="checkbox"/>
e.			/ <input type="checkbox"/> or / <input type="checkbox"/>
f.			/ <input type="checkbox"/> or / <input type="checkbox"/>
3. Accused's supervisor(s) interviewed:			
a.			/ <input type="checkbox"/> or / <input type="checkbox"/>
b.			/ <input type="checkbox"/> or / <input type="checkbox"/>
4. Documentary evidence:			
	(ORIG.)	(COPY) / (ATTACHED)	(LOCATION)
a.	/ <input type="checkbox"/>	or / <input type="checkbox"/> / <input type="checkbox"/>	or _____
b.	/ <input type="checkbox"/>	or / <input type="checkbox"/> / <input type="checkbox"/>	or _____
c.	/ <input type="checkbox"/>	or / <input type="checkbox"/> / <input type="checkbox"/>	or _____
d.	/ <input type="checkbox"/>	or / <input type="checkbox"/> / <input type="checkbox"/>	or _____
5. Real evidence:			
	(DESCRIPTION)	(NAME OF CUSTODIAN)	(CUSTODIAN'S PHONE)
a.			
b.			
6. Permit the accused to inspect Report Chit.			Yes _____ No _____
7. Accused initialed second page of charges (if any) N/A			Yes _____ No _____
8. Accused signed Acknowledgement line on NAVPERS 1626/7			Yes _____ No _____
9. Investigator signed witness line on NAVPERS 1626/7			Yes _____ No _____
10. Accused waived his rights.			Yes _____ No _____
11. Accused made statement (only when #10 is Yes), and			
a.	/ <input type="checkbox"/> Accused's signed statement attached.		
b.	/ <input type="checkbox"/> Summary of interrogation attached.		

Figure 2-3.-Investigator's Report.

first step is to become familiar with those paragraphs of the *Manual for Courts-Martial, 1984 (MCM)* describing the alleged offense(s). Part IV of the *MCM* describes those actions the military considers offenses. Within each paragraph is a section entitled "Elements" that lists the requirements for proof of the offense. Be careful to focus your attention on the correct element of proof. Copy down the elements of proof to help you in your search for relevant evidence. Your job is to search for anything that might prove or disprove an element of proof. You must remain impartial.

Your second objective is to collect information about the accused. That information will aid the commanding officer in making proper disposition

of the case. The information will also help the commanding officer decide what nonjudicial punishment (NJP), if any, is appropriate. Items of interest to the commanding officer include:

- The accused's currently assigned duties
- Evaluation of his or her performance
- The accused's attitudes and ability to get along with others
- Personal difficulties or hardships the accused is willing to discuss

Statements given by supervisors, peers, and the accused provide the best source of information about the accused.

Name	Rank/Rate	Social Security No.
Command	Division	
TAD from/to	until	
Whereabouts for next 30 days	Phone	
<p>I, _____, hereby make the following statement to _____, who has identified himself/herself as a preliminary inquiry officer for the Naval Justice School, Newport, Rhode Island.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p style="text-align: right;">(use additional pages if necessary)</p>		
<p>I swear (or affirm) that the information in the statement above and on the _____ attached page(s) is true to my knowledge or belief.</p>		
(Witness' Signature)	(Date) _____ 19__	(Time) _____
Sworn to before me this date.		
(Investigator's Signature)	(Date) _____ 19__	(Time) _____

Figure 2-4. Witness' Statement.

Interrogate Witnesses

You can obtain a significant amount of information from the witnesses. Start by interrogating the person who initiated the report and the people listed as witnesses. You may discover other persons having relevant information when questioning these people.

Don't begin the inquiry by interrogating the accused. The accused has the greatest motive for lying or distorting the truth—if the accused is guilty. Leave the interrogation of the accused until last. Even when the accused has admitted guilt, you should first collect all other evidence corroborating the confession of the accused.

Request that witnesses who have relevant information make a sworn statement. If you interview a witness by telephone, write a summary of the interview and certify it to be true.

Elicit all relevant information during your interview of a witness. One method is to start with a general survey question. Ask the witness to relate everything he or she knows about the case. Then follow-up with more specific questions. After speaking with the witness, help the witness write a statement that is thorough, relevant, orderly, and clear. The substance of the statement must consist of the witness's thoughts, knowledge, or beliefs about the accused. Limit your assistance to helping the witness express himself or herself accurately and effectively in writing.

(Date)		
FULL NAME (ACCUSED/SUSPECT)	SOCIAL SECURITY NUMBER	RATE/RANK
INTERVIEWER	SOCIAL SECURITY NUMBER	RATE/RANK
RIGHTS		
I certify and acknowledge by my signature and initials set forth below that, before the interviewer requested a statement from me, he/she warned me that:		
(1) I am suspected of having committed the following offense(s): _____		

(2) I have the right to remain silent;-----Initial _____		
(3) Any statement I do make may be used as evidence against me in trial by court-martial;-----Initial _____		
(4) I have the right to consult with a lawyer prior to any questioning. This lawyer may be a civilian lawyer retained by me at my own expense, or, if I wish, Navy or Marine Corps authority will appoint a military lawyer to act as my counsel without cost to me; or both-----Initial _____		
(5) I have the right to have such retained civilian lawyer and/or appointed military lawyer present during this interview-----Initial _____		
<u>WAIVER OF RIGHTS</u>		
I further certify and acknowledge that I have read the above statement of my rights and fully understand them,-----Initial _____ and that,		
(1) I expressly desire to waive my right to remain silent---Initial _____		
(2) I expressly desire to make a statement-----Initial _____		
(3) I expressly do not desire to consult with either a civilian lawyer retained by me or a military lawyer appointed as my counsel without cost to me prior to any questioning-----Initial _____		
(4) I expressly do not desire to have such a lawyer present with me during this interview-----Initial _____		

Figure 2-5.-Suspect's Rights Acknowledgment/Statement (Front).

Collecting Documentary Evidence

Collect documentary evidence such as Shore Patrol reports, log entries, watch bills, service record entries, local instructions, or organizational manuals. Attach the original or a certified copy of relevant documents to the investigator's report. Check to see if you, as investigator, have the authority to certify relevant documents. If you do, write on the documents the words *certified to be a true copy*, and sign your name.

Collecting Real Evidence

Real evidence is a physical object, such as a knife used in an assault or a stolen camera in a theft case. Before seeking real evidence, become

familiar with the Military Rules of Evidence concerning searches and seizures. The *Manual for Courts-Martial, 1984* contains the Military Rules of Evidence. Take photographs of an object if it is too large to bring to NJP proceedings. Leave real evidence in the custody of a law enforcement agency unless otherwise directed; however, personally examine the evidence.

Advise the Accused

Before questioning the accused, have the accused sign the acknowledgement line on the front of the report chit and initial any attached pages.

Use the Suspect's Rights Acknowledgment/Statement form (figs. 2-5 and 2-6) as a checklist

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

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

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

SIGNATURE (ACCUSED/SUSPECT)

Figure 2-6.-Suspect's Rights Acknowledgment/Statement (Back).

to ensure you correctly advise the accused of his or her rights before asking any questions. When you first meet the accused, fill in this page as your first order of business. You may serve as your own witness that you advised the accused of his or her rights by signing this form; no one else is required.

Interrogate the Accused

You may question the accused **ONLY IF HE OR SHE HAS KNOWINGLY AND INTELLIGENTLY WAIVED HIS OR HER STATUTORY RIGHTS**. If the accused makes the waiver, record it on the accused's statement. If the accused asked you if he or she should waive his or her rights, decline to answer or give advice. You are only authorized to advise the accused of his or her rights. Never advise the accused on legal matters. Let the accused obtain a lawyer if he or she so desires.

After the accused waives his or her rights, begin the questioning in a low-keyed manner. Permit the accused to give his or her own version of the incident. When the accused has finished presenting the facts, begin to probe with pointed questions. Confront the accused with inconsistencies in the story or contradictions with other evidence. Remember, a confession that is not voluntary cannot be used as evidence. Any confession that is obtained by coercion, unlawful influence, or unlawful inducement is not voluntary.

The following are some examples of coercion, unlawful influence, or an unlawful inducement:

- Infliction of bodily harm, including questioning accompanied by deprivation of the necessities of life, such as food, sleep, or adequate clothing
- Threat of bodily harm
- Imposition or threats of confinement, or deprivation of privileges or necessities
- Promises of immunity or clemency as to any offense committed by the accused
- Promises of reward or benefit, or threats of disadvantage likely to induce the accused to make the confession or statement

If the accused desires to make a written statement, make sure the accused has acknowledged and waived all of his or her rights. You may help

the accused draft the statement, but you must be careful not to put words in the accused's mouth or trick the accused into saying something he or she does not intend to say. If you type the statement, permit the accused to read it over carefully and make any necessary changes. The accused should initial any changes, and you should witness them in writing.

Oral statements are admissible into evidence against the accused. If the accused does not wish to put his or her statements in writing, attach a certified summary of the interrogation to your report. If the accused makes a written statement but omits some of the statements made orally, add a certified summary of items omitted from the accused's statement.

U.S. NAVY REGULATIONS

The 12 chapters of *Navy Regulations (Navy Regs)* describe the authority and responsibilities of the offices within the Department of the Navy. They also describe the regulations concerning the procedures, authority, and command of those offices. *Navy Regs* also covers honors and ceremonies, the rights and responsibilities of persons in the Department of the Navy, and the purpose and force of these regulations.

Each ship and station has complete copies of *Navy Regs* available to all personnel. Also available is an excellent nonresident training course entitled *Navy Regulations*, NAVEDTRA 13082, which you are encouraged to complete. Your educational services officer (ESO) can help you order this course.

The following sections list articles (with a condensation of their text, if appropriate) from *United States Navy Regulations, 1990* that senior enlisted personnel in the Navy should know. This listing serves only as a starting place for you to learn about Navy regulations. You are responsible for learning and obeying all regulations. These regulations are not punitive articles, but laws under which the Navy operates. Many exist for your own protection. Failure to obey any regulation subjects the offender to charges under article 92, *UCMJ* (Failure to obey order or regulation).

When the article itself is self-explanatory, the article is presented in block quotation exactly as stated in *Navy Regs*; no further explanation is given. Articles that are lengthy and, in some cases, difficult to interpret are paraphrased to give you a brief overview of the contents of the article.

STATUTORY AUTHORITY FOR UNITED STATES NAVY REGULATIONS

Chapter 1 contains the 0100 article series. This chapter discusses the origin of Navy *Regs*, the statutory authority, issuance of other directives, and maintenance of Navy regulations.

0103. Purpose and Effect of United States Navy Regulations

United States Navy Regulations is the principle regulatory document of the Department of the Navy, endowed with the sanction of law, as to duty, authority, distinctions and relationships of various commands, officials and individuals. Other directives issued within the Department of the Navy shall not conflict with, alter or amend any provision of *Navy Regulations*.

0107. Maintenance of Navy Regulations

The Chief of Naval Operations is responsible for maintaining *Navy Regulations*. Whenever any person in the Navy believes a change to *Navy Regulations* is needed, that person should forward a draft of the change through the chain of command along with a statement of the reasons for the change. The Secretary of the Navy must approve all additions, changes or deletions to *Navy Regulations*.

THE DEPARTMENT OF THE NAVY

Chapter 2 covers the 0200 article series. This chapter discusses the origin and authority of the Department of the Navy and briefly covers its mission and composition.

THE SECRETARY OF THE NAVY

Chapter 3 covers the 0300 article series. This chapter is divided into two sections and two subsections. Section 1 outlines the responsibilities of the Secretary of the Navy. Section 2 describes the composition, responsibility, and authority of the Office of the Secretary of the Navy. Section 2A outlines the responsibilities of civilian executive assistants within the Office of the

Secretary of the Navy. Section 2B outlines the responsibilities of staff assistants within the Department of the Navy.

THE CHIEF OF NAVAL OPERATIONS

Chapter 4 contains the 0400 article series. This chapter describes the responsibilities of the Chief of Naval Operations.

THE COMMANDANT OF THE MARINE CORPS

Chapter 5 covers the 0500 article series. This chapter outlines the responsibilities of the Commandant of the Marine Corps.

THE UNITED STATES COAST GUARD (WHEN OPERATING AS A SERVICE IN THE NAVY)

Chapter 6 covers the 0600 article series. The United States Coast Guard is normally a component of the Department of Transportation; however, upon declaration of war or when directed by the President, the Coast Guard operates as a component within the Department of the Navy. This chapter assigns the duties of the Commandant of the Coast Guard and outlines the duties and responsibilities of the office of the Commandant.

COMMANDERS IN CHIEF AND OTHER COMMANDERS

Chapter 7 covers the 0700 article series. This chapter is divided into three sections. Section 1 describes the titles and duties of commanders. Section 2 explains the organization of a staff and the authority and responsibility of the staff officers. Section 3 outlines the administration and discipline of the staff of a commander or a separate and detached command.

THE COMMANDING OFFICER

Chapter 8 contains the 0800 article series. This chapter is divided into three sections. Section 1 describes the general authority and responsibilities of the commanding officer. Section 2 outlines the additional responsibilities of commanding officers afloat. Section 3, divided into two subsections, covers special circumstances. Subsection A concerns ships in naval stations and shipyards, and subsection B contains regulations governing prospective commanding officers.

0801. Applicability

The provisions of this chapter apply to officers in charge (including petty officers when so detailed) and those persons standing the command duty.

0818. Publishing and Posting Orders and Regulations

1. In accordance with Article 137 of the *Uniform Code of Military Justice*, the articles specifically enumerated therein shall be carefully explained to each enlisted person:

- a. At the time of entrance on active duty or within six days thereafter,
- b. Again, after completion of six months active duty; and
- c. Again, upon the occasion of each reenlistment.

2. A text of the articles specifically enumerated in Article 137 of the *Uniform Code of Military Justice* shall be posted in a conspicuous place or places, readily accessible to all personnel of the command.

3. Instructions concerning the *Uniform Code of Military Justice* and appropriate articles of *Navy Regulations* shall be included in the training and educational program of the command.

4. Such general orders, orders from higher authority, and other matters which the commanding officer considers of interest to the personnel or profitable for them to know shall be published to the command as soon as practicable. Such matters shall also be posted, in whole or in part, in a conspicuous place or places readily accessible to personnel of the command.

5. Upon the request of any person on active duty in the armed services, the following publications shall be made available for that person's personal examination:

- a. A complete text of the *Uniform Code of Military Justice*,
- b. *Manual for Courts-Martial*,
- c. *Navy Regulations*,
- d. *Manual of the Judge Advocate General*,
- e. *Marine Corps Manual* (for Marine Corps personnel),

f. *Naval Military Personnel Manual* (for Navy personnel) or *Marine Corps Personnel Manual* (for Marine Corps personnel).

THE SENIOR OFFICER PRESENT

Chapter 9 covers the 0900 article series. The chapter deals with the duties of both the senior officer present afloat and ashore. It defines eligibility for command at sea, authority and responsibility, and authority within separate commands within the command. It discusses relations with diplomatic and consular representatives and international treaties and laws. It outlines the actions of U.S. naval forces within a vicinity of other armed forces. The remainder of the chapter deals with the relationships of the senior officer present with foreigners; readiness and safety of forces; and general policies such as shore patrol, leave and liberty, assistance to ships, aircraft and persons in distress, and admiralty claims.

PRECEDENCE, AUTHORITY AND COMMAND

Chapter 10 contains the 1000 article series. This chapter is divided into four sections. Section 1 describes the precedence of officers and defines officers as line officers, staff officers, and warrant officers. Section 2 explains the authority of officers in the Navy. Section 3 describes the detailing of officers and enlisted persons. Section 4 contains the regulations pertaining to succession of command.

1020. Exercise of Authority

All persons in the naval service on active duty, those on the retired list with pay, and transferred members of the Fleet Reserve and the Fleet Marine Corps Reserve are at all times subject to naval authority. While on active duty they may exercise authority over all persons who are subordinate to them. However, they may not exercise that authority if on leave of absence, except as noted in this article; on the sick list; taken into custody; under arrest; suspended from duty; in confinement; or otherwise incapable of discharging their duties.

1021. Authority Over Subordinates

This article gives officers the authority necessary to perform their duties.

1022. Delegation of Authority

The delegation of authority and issuance of orders and instructions by a person in the naval service shall not relieve such person from any responsibility imposed upon him or her. He or she shall ensure that the delegated authority is properly exercised and that his or her orders and instructions are properly executed.

1023. Abuse of Authority

Persons in authority are forbidden to injure their subordinates by tyrannical or capricious conduct, or by abusive language.

1024. Contradictory and Conflicting Orders

An enlisted person who receives an order that annuls, suspends, or modifies one received from another superior will immediately relate that fact to the superior from whom the last order was received. If, after receiving that information, the superior from whom the last order was received should insist upon the execution of that order, the person must obey it. The person receiving and executing such order will report the circumstances as soon as practicable to the superior from whom the original order was received.

1033. Authority in a Boat

This article provides the senior line officer eligible for command at sea the authority over all persons embarked in a boat. It also delegates the officer responsibility for the safety and management of the boat.

1037. Authority of Warrant Officers, Noncommissioned Officers, and Petty Officers

Chief warrant officers, warrant officers, noncommissioned officers and petty officers shall have, under their superiors, all necessary authority for the proper performance of their duties, and they shall be obeyed accordingly.

1038. Authority of a Sentry

A sentry, within the limits stated in his or her orders, has authority over all persons on his or her post.

1039. Authority of Juniors To Issue Orders to Seniors

No member of the armed forces is authorized by virtue of his or her rank alone to give any order or grant any privilege, permission, or liberty to any officer senior to him or her. A member is not required to receive such order, privilege, permission, or liberty from a junior, unless such junior is at the time:

- a. in command of the ship or other command to which the senior is attached
- b. in command or direction of the military expedition or duty on which such senior is serving
- c. an executive officer executing an order of the commanding officer

GENERAL REGULATIONS

Chapter 11 contains the 1100 article series. This chapter is divided into five sections. Section 1 covers the topic of administration of discipline. Section 2 outlines the standards of conduct. Section 3 contains regulations governing official records. Section 4 explains the general duties of individuals within the Navy. Section 5 defines the rights and restrictions of persons in the naval service.

1111. Pecuniary Dealings With Enlisted Persons

No officer should have any dealings involving money with enlisted persons except as may be required in the performance of the officer's duties or as involved in the sale of personal property. An officer may be designated by superior authority to accept deposits from enlisted personnel for the purpose of safeguarding these funds under emergency or operational situations.

1112. Lending Money and Engaging in a Trade or Business

Naval personnel are not permitted to lend money to another member of the armed services at an interest rate, for the period of the loan,

that exceeds 18 percent simple interest per year. Personnel may not act as a salesperson or an agent or engage in a business on board without permission of the commanding officer.

1115. Report of Fraud

Any suspicions of fraud, collusion, or improper conduct in matters concerning supplies and repairs should be reported to proper authority.

1125. Inspection of the Record of a Person in the Naval Service

A person's naval record is maintained by the Chief of Naval Personnel or the Commandant of the Marine Corps. The record must be available for inspection by that person or an authorized agent designated in writing by that person.

1130. Officer's Duties Relative to Laws, Orders and Regulations

All officers in the naval service will acquaint themselves with and obey the laws, regulations, and orders relating to the Department of the Navy. They will also, as far as their authority extends, enforce these laws, regulations, and orders. They should faithfully and truthfully discharge the duties of their office to the best of their ability in conformance with existing orders and regulations and their solemn profession of the oath of office. In the absence of instructions, they will act in conformity with the policies and customs of the service to protect the public interest.

1132. Compliance With Lawful Orders

All persons in the naval service are required to obey readily and strictly, and to execute promptly, the lawful orders of their superiors.

1133. Language Reflecting on a Superior

Do not use language that diminishes the confidence and respect due superior officers.

1134. Exchange of Duty

An assigned duty may not be changed with another person (such as trading watches) without permission from proper authority.

1137. Obligation To Report Offenses

All offenses observed should be reported to the proper authority.

1138. Responsibilities Concerning Marijuana, Narcotics, and Other Controlled Substances

Personnel may not bring on board any naval activity, or have in their possession at any time, marijuana, narcotics, or any controlled substances.

1143. Report of a Communicable Disease

Personnel should report any suspicions of communicable disease to their medical representative.

1144. Immunization

Personnel must take the immunizations prescribed for them as scheduled.

1145. Service Examinations

No persons in the Navy, without proper authority, should have or attempt to have in their possession, any examination papers, any part or copy thereof, or any examination answer sheets. They also will not obtain, sell, publish, give, purchase, receive, or reproduce any of these examination products.

1150. Redress of Wrong Committed by a Superior

A person who believes a superior exercises authority in an unjust or cruel manner or is guilty of misconduct should submit a complaint to his or her commanding officer.

1151. Direct Communication With the Commanding Officer

The right of any person in the naval service to communicate with the commanding officer in a proper manner, and at a proper time and place, shall not be denied or restricted.

1154. Communications to the Congress

Personnel may not, in their official capacity, apply to Congress for congressional action of any kind or provide information requested by Congress. The only exception to this regulation is such communication as authorized by the Secretary of the Navy or as provided by law.

1155. Dealings With Members of Congress

All persons may write to their congressmen on any subject as long as they do not violate security regulations or the law.

1156. Forwarding Individual Requests

Requests from persons in the naval service shall be acted upon promptly. When addressed to higher authority, requests shall be forwarded without delay. The reason should be stated when a request is not approved or recommended.

1157. Leave and Liberty

Leave and liberty will be granted to the maximum extent practicable.

1158. Quality and Quantity of Rations

Meals served in the general mess will be sampled regularly by an officer detailed by the commanding officer. If the officer finds the quality or quantity of the food unsatisfactory or any member of the mess objects to the quality or quantity of the food, the officer will notify the commanding officer.

1159. Possession of Weapons

Personnel may not have any weapons or explosives in their possession without proper authority.

1160. Possession of Government Property

Personnel will not possess, without permission, any property of the United States except what is needed in the performance of their duty.

1162. Alcoholic Beverages

The personal possession of any alcoholic beverages aboard any ship is prohibited. The transportation aboard ship of alcoholic beverages for personal use ashore is authorized subject to the discretion of, and under regulations established by, the commanding officer.

FLAGS, PENNANTS, HONORS, CEREMONIES, AND CUSTOMS

Chapter 12 covers the 1200 article series. This chapter is divided into 10 sections and a listing of tables pertinent to the 1200 article series. Section 1 contains general regulations governing honors. Section 2 outlines honors to national anthems and national ensigns. Section 3 explains hand salutes and other marks of respect. Section 4 pertains to gun salutes. Section 5 covers passing honors. Section 6 contains regulations that govern official visits and calls. Section 7 defines formal occasions other than official visits. Section 8 explains the display of flags and pennants. Section 9 defines special ceremonies, anniversaries, and solemnities. Section 10 addresses deaths and funerals.

STANDARD ORGANIZATION AND REGULATIONS OF THE U.S. NAVY

The *Standard Organization and Regulations of the U.S. Navy (SORN)*, OPNAVINST 3120.32B, provides regulations and guidance governing the conduct of all members of the Navy. This publication specifies duties and responsibilities of personnel within a unit organization—from the commanding officer down to the messenger of the watch.

Failure to comply with the provisions of the regulatory material in chapter 5 of the *SORN* is punishable in accordance with the *Uniform Code of Military Justice (UCMJ)*. Regulatory articles are printed on large posters, which are posted in conspicuous locations aboard naval units.

When the article itself is self-explanatory, the article is presented in block quotation exactly as stated in the *SORN*; no further explanation is given. Articles that are lengthy and, in some cases, difficult to interpret are paraphrased to give you a brief overview of the contents of the article.

UNIT ADMINISTRATION

Chapter 1 covers the administration of a unit and the limits of authority of personnel in management positions. It also discusses organizational theory and defines terms such as *unity of command*, *span of control*, and *leadership*.

100.1 Relationship to Other Guidance

The *SORN* issues regulations and standard organizational requirements applicable to the administration of naval units. Type commanders or higher authority issues additional requirements to supplement the Navywide guidance provided by the *SORN*. Guidance is intended to assist commanding officers in administering their unit in the best possible manner.

142.2 Policy Guidance

The guidance provided by the *SORN* helps the Navy set policies consistently. A complete policy statement concerning the following items is beyond the scope of this text. You should consult the *SORN* for specific details. The following is a brief look at Navy policies covered by the *SORN*; consult the *SORN* for specific details about each policy:

EXTRA MILITARY INSTRUCTION (EMI) — This is instruction intended to correct a deficiency of a person in a phase of military duty. General guidelines are as follows:

- EMI will not normally be assigned for more than 2 hours per day.

- EMI maybe assigned at a reasonable time outside of normal working hours.
- EMI will not be conducted over a period that is longer than necessary to correct the performance deficiency.
- EMI should not be conducted on a members sabbath.
- EMI will not be used as a method of depriving normal liberty. Normal liberty may commence upon completion of EMI.

The authority to assign EMI rests with the commanding officer. Normally, you may assign EMI during working hours if the commanding officer delegates the authority. However, the commanding officer usually chooses not to delegate the authority to assign EMI after working hours; that limits your actions to recommending EMI. Refer to the *SORN* and your command regulations regarding assignment of EMI.

WITHHOLDING OF PRIVILEGES — Temporary withholding of privileges is authorized as an administrative measure to correct minor infractions of military regulations or performance deficiencies when punitive action is deemed inappropriate. Privileges that may be temporarily withheld include special liberty, exchange of duty, special pay, special command programs, bases or ship libraries and movies, command parking, and special services events.

PRIVILEGES CAN ONLY BE TEMPORARILY WITHHELD BY THE PERSON WITH THE AUTHORITY TO GRANT THE PRIVILEGE — Your action should normally be limited to a recommendation to the chain of command to temporarily withhold a privilege. For further guidance, consult the *SORN* and local regulations concerning withholding of privileges.

EXTENSION OF WORKING HOURS — Deprivation of normal liberty as punishment except as specifically authorized by the *UCMJ* is illegal. However, lawful deprivation of normal liberty is authorized in certain situations such as pretrial restraint or in a foreign country when such action is deemed necessary. Working hours may be extended for official functions, accomplishment of essential work, or the achievement of the currently required level of operational readiness.

You are expected to keep your superiors informed when planning to direct your subordinates to work beyond normal working hours.

CONTROL THROUGH RECOGNITION OF PERFORMANCE —You have a basic responsibility to recognize initiative and exemplary performance of your subordinates. Give public recognition when appropriate. Make the extra effort to provide the following forms of recognition:

- Award letters of commendation and appreciation or recommend such for signature of higher authority.
- Initiate recommendation for higher awards.
- Initiate recommendations for sailor of the month, quarter, year, force, fleet, and Navy.
- Make recommendations for reenlistment, assignment to training schools, and education or advancement programs; document exceptional performance in enlisted evaluations.

STANDARD UNIT ORGANIZATION

Chapter 2 covers the process and basis for a standard unit organization. It includes requirements for shipboard divisions, aviation units, and concepts of organization. Refer to the following articles of chapter 2 for an in-depth explanation:

- 230. Promoting understanding of the organization
- 231. Organizational charts
- 232. Functional guides

THE UNIT ORGANIZATION

Chapter 3 describes the responsibilities of the various billets within an organization. Refer to the following articles of chapter 3 for an in-depth explanation:

- 351. Department duty officer
- 364. Division leading chief petty officer (LCPO)

- 365. Division damage control petty officer
- 366. Work center supervisor (other than aviation units)

WATCH ORGANIZATION

Chapter 4 describes the responsibilities of the watches required for safe and proper operation of a unit. Refer to the following articles of chapter 4 for further information:

- 403. General duties of watch officers and watch standers
- 404. Watchstanding principles
- 405. Orders to sentries
- 406. Circumstances under which deadly force may be used by security force personnel
- 414. Relieving the watch
- 420. The deck and engineering logs
- 421. The deck log
- 441.3 Officer of the deck in-port
- 441.7 Department duty officer
- 442. Quarterdeck watches
- 443. Security watches
- 444. Additional watches

REGULATIONS

Chapter 5 is an extension of *Navy Regs* that provides greater coverage on general subjects required for the smooth operation of a unit.

510.5 Armed Forces Identification Cards and Leave Papers

No person without proper authority shall:

- a. Have in his/her possession more than one properly validated Armed Forces Identification Card.
- b. Depart on liberty without his/her own properly validated identification card; or, in the case of leave, without his/her own properly validated leave papers and identification card.

c. Have in his/her possession a false or unauthorized identification card; or a mutilated, erased, altered, or not properly validated identification card; or an identification card bearing false or inaccurate information concerning a name, grade, service number, or date of birth.

d. Return from leave without depositing his/her leave papers with the proper authority. Any person returning without an identification card shall report the loss to the OOD in person.

510.7 Berthing

No person will:

a. Sleep in any spaces or use any bunk or berth other than that to which assigned, except as authorized by proper authority.

b. Sleep or lie on any bunk or berth while clothed in dungarees or working clothes or while wearing shoes.

c. Smoke while sitting or lying on any bunk or berth, or smoke in any berthing space during the night hours between taps and reveille.

d. Remove any mattress from any bunk or place of stowage or place such mattress on the deck or in any place other than a bunk, except as authorized by proper authority.

e. Create a disturbance or turn on any white light in any berthing or living space during the night hours between taps and reveille, except as required to perform assigned duties.

f. Fail to turn out of his/her bunk at reveille, except when he/she is on the sick list or authorized to late bunk.

g. Be authorized late bunk privileges unless he/she has had a midwatch or made a boat trip as a crew member after 2200 the previous day or is specifically authorized late bunk privileges by the Executive Officer or Command Duty Officer. All late bunk sleepers will turn out at 0700.

510.9 Card Games and Gambling

No person will:

a. Gamble for money with playing cards, dice, or other apparatus or methods on board naval units.

b. Engage in any card games or other games during prescribed working hours or during the hours between taps and reveille, or during divine services.

510.10 Civilian Clothing

You may wear civilian clothing based on the following regulations unless the privilege has been suspended.

- You are permitted to wear civilian clothing when leaving or returning to a naval unit, awaiting transportation to leave the unit, while on authorized leave of absence, liberty, or in any off-duty status on shore.

- Your dress and personal appearance must be appropriate for the occasion and not bring discredit on the naval service. Uniform items may not be worn with civilian clothing except as provided in *U.S. Navy Uniform Regulations*.

510.18 Emergency Equipment

NO PERSON shall use emergency equipment for any purpose other than that for which it is intended. Emergency equipment includes items such as battle lanterns, EMERGENCY FIRST AID boxes, shoring, wrenches, life rings, equipment in life rafts and boats, portable fire pumps, fire hoses, and fuel for emergency machinery.

510.21 Government Property

No person shall:

a. Conceal or fail to report to proper authority the loss, removal, destruction, or damage of Government property entrusted to his/her care or custody.

b. Remove without proper authority from its regular place of stowage or location, for any purpose whatever, any article of Government property, including hull and damage control fittings, first aid equipment, life saving and emergency equipment, and stores and foodstuffs.

c. Have in his/her possession any article of Government property except as may be necessary for the performance of his/her duty or as may be authorized by proper authority.

510.22 Grooming and Personal Appearance

It is the responsibility of officers in command to ensure their personnel are neat and well groomed at all times. (See *U.S. Navy Uniform Regulations*, NAVPERS 15665G, for current standards.)

510.24 Hitchhiking

No naval personnel will, on a public road, street, or highway, endeavor by words, gestures, or otherwise to beg, solicit, or hitchhike a ride in or on any motor vehicle. Accepting rides at established service personnel pickup stations is authorized.

510.25 Indebtedness

Since indebtedness brings a discredit to the naval service, debts shall not be incurred when there is no reasonable expectation of repaying them. The Commanding Officer's interest in the matter of indebtedness of personnel attached to a naval unit will be directed principally to the establishment of facts so that corrective or disciplinary measures may be taken.

510.32 Mess Gear

The removal of mess gear from the mess decks is prohibited. The senior petty officer in charge of the compartment in which mess gear is found will ensure its immediate return to the mess decks.

510.37 Outfits, Uniforms, and Clothing

No person will:

- a. Wear frayed, torn, dirty, or otherwise mutilated clothing.
- b. Wear any article of clothing which is not prescribed as a part of the uniform of the day.
- c. Wear any article of a naval uniform in a manner that would bring discredit to the naval service.
- d. If that person is enlisted, have any article of uniform clothing which is not legibly marked with his/her name and/or service number; or any article of clothing or bedding marked with the name and/or

service number of another person which has not been marked "DC" by the Chief Master-At-Arms and recorded in the DC clothing record book.

e. Sell, barter, exchange, lend, or give away clothing, arms, military outfits, or equipment furnished by the government. No names, designs, or marks except the number prescribed for official identification will be placed on any foul weather clothing or other equipment furnished by the government.

f. Wear or have exposed upon the uniform, articles such as watch chains, fobs, pins, jewelry, handkerchiefs, combs, cigars, cigarettes, pipes, or similar items, except that tie clasp, cuff links, shirt studs, and earrings will be worn as prescribed in *Uniform Regulations*. Wearing of wrist watches, identification bracelets, and inconspicuous rings is permitted. No eccentricities in dress will be permitted.

510.40 Personal Effects

The command and individuals have a shared responsibility to safeguard the personal property of members of the unit.

a. No person will maintain personal belongings or other articles in any locker closet, peacoat locker, or space other than that regularly assigned to him/her or authorized by proper authority to use.

b. Each person is responsible for obtaining a lock and keeping his/her locker locked at all times. Any evidence of tampering with locks or unauthorized entry into a personal locker will be reported to the Chief Master-At-Arms immediately.

c. When any enlisted person on board a naval unit is declared a deserter or becomes mentally or physically incapacitated to the extent that he/she can no longer care for his/her personal effects, they will be collected, inventoried, and sealed by a division petty officer in the presence of the division officer and a master-at-arms and delivered to the Chief Master-At-Arms for safekeeping and disposition in accordance with current instructions. Only personnel designated will handle or disturb in any way the personal effects of another person.

d. The personal effects of an absent or incapacitated officer will be inventoried and packed by two officers designated by the Executive Officer and will be delivered to the supply office for safekeeping and disposition per current instructions.

510.44 Photographic Equipment

No person shall:

a. Possess or introduce on board a naval unit any camera or other photographic equipment capable of exposing a photographic plate or film without permission of the Commanding Officer or his authorized representative.

b. Make photographs of a naval unit or its equipment, or of objects from the unit, without permission of the Commanding Officer, and then only of the objects for which permission was specifically given.

c. While on watch or duty as a sentry or member of a patrol, knowingly permit the introduction of any camera or photographic equipment on board a naval unit unless such equipment is authorized by the Commanding Officer or authorized representative.

510.45 Plan of the Day

A plan of the day will be published daily by the Executive Officer or an authorized representative and will issue such orders and directives as the Executive Officer may issue. When the Executive Officer is absent from the unit it will be issued by the Command Duty Officer.

a. The Plan of the Day will be posted on all department and division bulletin boards.

b. All persons will read the Plan of the Day each day. They are responsible for obeying applicable orders contained therein. In port, the Plan of the Day will be read at quarters.

510.46 Profane Language

No person will use profane, obscene, or vulgar words or gestures on board a naval unit.

Additional Regulatory Articles of Interest

The following is a list of regulatory articles you should be familiar with:

510.47 Refuse, rubbish, trash, garbage, hazardous waste, oils, and oily waste disposal

510.48 Removal of equipment from ship

510.52 Safe combinations

510.54 Search and seizure

510.59 Smartness

510.61 Special clothing

510.68 Unauthorized articles

UNIT BILLS

Chapter 6 provides the guidelines for establishing administrative, operational, emergency, and special unit bills.

SAFETY

Chapter 7 provides for a safety program and covers the internal reporting of mishaps and hazards.

TRAINING

Chapter 8 establishes the elements and procedures for an effective training program,

SHIP MAINTENANCE AND MODERNIZATION

Chapter 9 explains the Ship Maintenance and Modernization program aimed at providing the maximum operational availability to fleet commanders.

UNIT DIRECTIVES SYSTEM

Chapter 10 sets forth and explains the procedures and purpose of the unit directives system the Navy uses to communicate plans and policies throughout the Navy.

STATUS OF FORCES AGREEMENTS

Many persons are under the impression that because they are attached to a ship visiting a foreign port, they are immune from jurisdiction of the local government. That is true as long as they remain aboard or go ashore only on official business. When they go ashore on liberty, however, they are subject to the jurisdiction of the foreign sovereign for any infractions of the law, whether criminal or civil. The Department of Defense protects your rights as much as possible if you are brought to criminal trial by foreign courts. To be allowed to protect your rights, the United States entered into agreements with several of our allied countries. The agreements are called the Status of Forces Agreements (SOFAs).

A Status of Forces Agreement contains a complex package of treaties, protocol, and executive agreements between the United States and the individual country involved. It defines the rights and duties of U. S. service personnel, civilian components, and their dependents while they are stationed in that foreign country.

The agreements are by no means identical in all countries. To a large measure, the differences in agreements resulted from the contrasting political realities that faced the negotiators of different countries.

PURPOSE OF SOFA

The main purpose of SOFAs is to clearly define the status of one country's military personnel stationed in the territory of another. The SOFAs say, in part, that the country we are visiting will give up some jurisdiction to the visiting country in some criminal and civil cases. Some topics covered by the Status of Forces Agreements are as follows:

- Freedom of troop movements within the host country
- Passport requirements
- Criminal jurisdiction
- Taxes
- Imposition of customs duties
- Regulations covering driver's license
- Exchange privileges

The development of a collective defense in peacetime requires that forces of various countries be stationed in the territory of other treaty countries. Those forces form an integrated force for the defense of those countries involved. The forces must be free to move from one country to another under the demands of strategy. Therefore, uniformity of arrangements and procedures governing the status of such forces in countries other than their own and their relationship to the civilian authorities is essential. The Status of Forces Agreements, accordingly, try to regulate that relationship in two ways. First, they guarantee the armed forces adequate legal protection without infringing on the authority of the military command. Second, they fully recognize the peacetime rights and responsibilities of the civilian authorities in the host countries.

The United States must receive consent from the host country to station troops on that foreign soil. We must also agree to the conditions under which our troops may remain.

The original intent of the Status of Forces Agreements by the United States was to get the most favorable conditions from the host country for our own forces.

The agreements apply to personnel belonging to the land, sea, and air armed forces, as well as civilian personnel accompanying an armed force. Article II of the NATO Status of Forces Agreement sets forth the basic principle to be observed by any force in a country other than its own:

It is the duty of a force and its civilian component and the members thereof as well as their dependents to respect the law of the receiving State, and to abstain from any activity inconsistent with the spirit of the present Agreement, and in particular, from any political activity in the receiving State. It is also the duty of the sending State to take necessary measures to that end.

DEVELOPMENT OF SOFA

Why does the United States station large contingents of forces in foreign countries, and why does the status of these forces have to be defined by agreements?

The United States has accepted the fact that the only true security available in this modern world is collective security. Congress has demonstrated time and again its recognition of this proposition. We have entered into alliances

with many countries throughout the world, not just to protect other nations, but to protect ourselves. Our NATO allies have raised sizable military forces. They are producing military equipment and supplies in significant quantities. They provide many important ports and bases for common defense. They are supplying more military power to supplement and reinforce American defense efforts than we can find anywhere else in the world. NATO represents our first line of defense; the degree of its effectiveness has a tremendous impact upon the dependability of our own national defense system.

As part of our contribution to the NATO partnership, we have stationed a large number of United States military forces in Europe. While those forces are a minority of the total, their presence is indispensable to NATO. In political and psychological terms, they represent a body of trained and skilled persons for which no substitution from European sources is practical. They operate ports and air bases and other technical facilities that are vital to effective defense in modern warfare. Our allies want these troops to stay in Europe. We recognize the need to have them there. They are part of an overall pattern of defense that could not be disrupted without injury to the entire structure.

The important point for us to remember is that American troops are not in Europe as a favor to our allies. They are there because we know we can get more total protection by combining our strength with that of other nations than by standing alone. They are there because we want to prevent war altogether—to stop it before it starts. If war comes despite our best efforts to prevent it, those military forces are in the place where they can do the most good—where they can help to halt an enemy attack and to retaliate with immediate effect. No credit is given today to the idea that American armed forces can best protect American citizens by staying at home and waiting for an enemy to strike the United States.

JURISDICTIONAL ARRANGEMENTS

In peacetime, before 1939, many troops were stationed in colonies and territories of their own countries, but military forces were not stationed in sovereign foreign countries on a large scale.

During World War II, unprecedented numbers of military persons were stationed in foreign countries, particularly those of the Western powers; but jurisdiction over their alleged criminal offenses seemed relatively unimportant

to hard-pressed nations. For example, when the fate of Britain was at stake, England was in no position to argue over criminal jurisdiction; and when a sending state, such as the United States, insisted on exclusive jurisdiction over all criminal offenses of its forces and accompanying civilians, Britain quickly agreed. The same has been true in other countries.

After the war, large numbers of United States military forces remained in foreign countries. At first, they remained as occupying forces. Later, with the permission of the foreign governments, they remained while these countries recovered, economically and politically, from the aftereffects of the war. Once these countries regained their independence and sovereignty, the United States no longer could claim it was entitled to exclusive jurisdiction over the members of our own-armed forces.

Today, a basic principle of international law is that a country has a right to try all offenders for crimes committed within its territory. There are a few exceptions to that rule, the best known one being the immunity of diplomatic personnel from the jurisdiction of the host country. Some other exceptions are based on special treaties and agreements.

We object to trial of United States personnel in foreign courts. We feel that a member of our forces, tried in a foreign court under a different legal system and in a language he or she may not understand, might not receive a fair trial.

The purpose of the Status of Forces Agreements is not to grant jurisdiction to foreign courts over cases not normally under their jurisdiction. On the contrary, in some cases the objective of the agreement is to gain the same right of jurisdiction as the foreign court. This equal right of jurisdiction is called concurrent jurisdiction. In other cases, the objective of the agreement is to acquire waiver of jurisdiction by the foreign court.

Most countries generally yield jurisdiction to our military courts because of the Status of Forces Agreements. Therefore, we cannot object too strongly to the trial of those Americans who have committed offenses which that country believes should be under their jurisdiction. We cannot expect to gain concessions to criminal jurisdiction within a foreign country nor to obtain guarantees beyond those available to the citizens of that country.

Military commanders of overseas commands have reported that the jurisdictional arrangements in the countries under their responsibility have

worked well in practice. They have had no adverse effect upon the military mission of the armed forces or the morale and discipline of its members.

PUNISHMENTS IMPOSED

When we hear the term *Status of Forces Agreements*, many of us think of the trial of our military personnel by foreign courts for crimes committed overseas. That association of thought is natural. Criminal jurisdiction is one of the most important aspects of the Status of Forces Agreements, and certainly the one that has always received the most publicity. Each publicized report of an American service member being tried for a serious crime by a foreign court brings public outcry from Americans. Most Americans believe the offender should be tried by United States military authorities.

Comparisons have shown that normally a sentence imposed by a foreign court has been extremely lenient. There have been no instances of cruel or unusual punishment. If you consider the large number of United States personnel stationed overseas and the small number of persons confined in foreign jails at any one time, you can see that the number confined is minimal. In all but the most serious offenses, confinement is suspended and the offender is returned to the United States for reassignment or discharge.

CONFINEMENT AND CUSTODY

Equally lenient has been the attitude of the foreign governments with regard to confinement and custody. Most SOFAs provide that the United States military authorities may retain custody of an accused military member until all judicial proceedings, including the appeal, have been completed. If a person is eventually sentenced to confinement in a foreign prison, American authorities are permitted frequent visits to ensure the person is being well treated. In addition, the person is allowed to receive health-benefitting items, items of comfort, and food items considered a necessary part of an American's diet.

RIGHTS OF SERVICE MEMBERS

The Department of Defense protects to the maximum extent possible the rights of American personnel who may be subject to trial by foreign courts and imprisonment in foreign prisons. One of the most significant safeguards afforded a military member is the right of the United States

to have an official observer (legal representative) at the trial. (The legal representative's duty is to determine whether the accused military member received all the rights guaranteed by the Status of Forces Agreement.) The legal representative also determines if the member received all other rights of due process of law that the person would have had if tried in a U.S. state court.

A military member tried in a foreign court has one significant advantage over fellow military members facing trial in the United States. Congress has passed legislation that allows the armed services to pay attorney fees and court costs as well as to provide bail in appropriate cases. The Department of Defense has liberally followed that statute, and large numbers of military members have taken advantage of its provisions.

When you are in a foreign port, remember you are a guest in that country and are subject to that country's laws and legal procedures. Also remember that whatever privileges service members possess, as compared with ordinary visitors or tourists in that country, they possess them only by special consent of the host country. Because of the host country's special consent, you are allowed to drive in that country based on your U.S. driver's license. You do not have to pay customs duty or taxes when bringing household goods and personal belongings, including your car, into the host country. You are allowed to enter and leave the country on military orders alone without a passport or visa.

Remember that as a guest in a foreign country, you are subject to that country's criminal laws and procedures. If you violate those laws, you may find yourself on trial before a foreign court. Only by the consent of the host country can you be tried by the courts of your own service for offenses committed on foreign soil. That is permitted only because of the Status of Forces Agreements, not as a matter of absolute right.

SUMMARY

The preliminary inquiry is an important part of the premast procedure. You are an impartial investigator and should seek to find all the relevant facts of the case. Your job is to provide the commanding officer with all the information so that he or she can make a decision concerning the accused.

United States Navy Regulations, 1990 describes the procedures, authority, and command of offices within the Department of the

Navy. It also discusses honors and ceremonies, the rights and responsibilities of persons in the Navy, and the purpose and force of the regulations.

Standard Organization and Regulations of the U.S. Navy contains regulations to supplement *Navy Regs* and provides standard administrative and organizational guidelines for naval units. The regulations and guidelines are designed to increase the organizational and administrative effectiveness of naval units.

Status of Forces Agreements clearly define the status of one country's military personnel stationed in the territory of another country. The host country usually gives up some jurisdiction to the visiting country in some criminal and civil cases.

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