

Declassified E.O. 12356 Section 3.3/NND No. 785016

10000/105/328

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PUBLICATIONS, NOTES FOR THE GUIDANCE OF OFFICERS
MAY 1946



HEADQUARTERS ALLIED COMMISSION

ARO 334
G-1 (B)

3 May 1946.

REFERENCE : G-1B/77/1.

SUBJECT : Court of Inquiry - Notes for the Guidance of Officers on.

TO : See Distribution Below.

1. The following notes are issued as a guide to officers who are called upon to act as President or members.

2. Responsible officers will ensure that all President of Courts of Inquiry have a copy of these notes in their possession before and during the proceedings.

3. All officers having to express opinions will have a copy of these notes at hand for reference.

4. The correct procedure for dealing with Courts of Inquiry is not always followed, resulting in loss of time, particularly in completing disciplinary and "white off" action.

Courts of Inquiry will be convened in the following cases:

- (a) Accidents resulting in death.
- (b) Injuries as required by GHO 40/44.
- (c) Fires or explosions resulting in injury or damage to property or equipment.
- (d) Loss of arms or equipment in cases where a Court is necessary to establish the cause of loss and in all cases of loss of revolvers.
- (e) Absence without leave - after 24 days.
- (f) When loss or damage to property exceeds £ 50 (K.M. 1940 para 762(c)).
- (g) When ordered by higher authority.

GENERAL INSTRUCTIONS.

1. Cases will be reported immediately they are discovered and except in such cases - particularly in financial matters - where corrected conclusions cannot be arrived at without it, a Court of Inquiry will be assembled and all action taken to dispose of the case as expeditiously as possible.

2. Responsible officers will ensure that all President of Courts of Inquiry have a copy of these notes in their possession before and during the proceedings.
 3. All officers having to examine opinions will have a copy of these notes at hand for reference.
 4. The current procedure for dealing with Courts of Inquiry is not always followed, resulting in loss of time, particularly in completing disciplinary and "write off" action.
- Courts of Inquiry will be convened in the following cases:
- (a) Accidents resulting in death.
 - (b) Injuries as required by GEO 40/44.
 - (c) Fires or explosions resulting in injury or damage to property or equipment.
 - (d) Loss of arms or equipment in cases where a Court is necessary to establish the cause of loss and in all cases of loss of revolvers.
 - (e) Absence without leave - after 21 days.
 - (f) When loss or damage to property exceeds £ 50 (K.R. 1940 para 769(a)).
 - (g) When ordered by higher authority.

5. GENERAL PROCEDURE.

Losses will be reported immediately they are discovered and except in such cases - particularly in financial matters - where correct inclusions cannot be arrived at without it, a Court of Inquiry will be assembled and all action taken to dispose of the case as expeditiously as possible. Thereover practically the Court will be ordered to assemble on a date within 14 days of the occurrence which is the subject of the inquiry. In every case where a Court of Inquiry does not sit within the period mentioned, the Comd Officer will, when forwarding the proceedings, include in his covering letter of explanation the delay. A Court of Inquiry may consist of one or two officers with one or two W.Os or N.C.Os. Courts of Inquiry at H.Q., A.C. will be convened by G-1 (Br); in Liaison Groups, etc., by the Commissioner or C.I.C.

The retention of normal loss procedure does not in any way relieve Commanding Officers of their responsibility for inquiring into a case in which it is not clear that the loss arose from causes outside the control of any individual or for assembling Court of Inquiry to investigate losses or damage where the circumstances render it desirable.

In all cases where officers of other ranks are offered an opportunity of paying for or towards the cost of articles lost as a result of their misconduct or negligence, certificates, in triplicate, must accompany the proceedings to the effect:-

- (a) In the case of officers - that the Officer is willing to pay.
- (b) In the case of other ranks - that the soldier does not elect trial by Court Martial.

The disciplinary action recommended in cases which have to be submitted to higher authority will not be put into effect until approved by higher authority, unless the whole of the loss is covered by the proposed action and no write off is called for. In this connection attention is drawn to the limit of £10 which is the maximum storage a Commanding Officer can award against a soldier to make good a loss against the public.

Cases against soldiers involving the loss or destruction of valuable stores, arms and ammunition, will not be dealt with summarily by Commanding Officers. A Summary of Evidence will be taken in every such case and if it appears that there is a "prima facie" against the accused, he will be tried by Court Martial. Any case which presents difficulty will be referred to the Legal Staff Officer at District HQ or Area/Sun Area for advice before trial and two copies of the Summary will accompany the application for advice. When a Summary of Evidence is ordered in the first instance a Court of Inquiry will not be held. Examples of such cases are:-

(a) The destruction by fire of vehicles and their loads through their drivers striking intakes or sucking near leaking petrol tins.

(c) The loss of vehicles by leaving them unattended.

Proceedings will always be submitted in triplicate, to G-1(3). In provinces Liaison Group, etc., proceedings will be submitted to the nearest Area or Sun/Area H.Q., with a copy to G-1(3) this H.Q. Where it is necessary to arrive at the value of a loss and a write off is called for, the proceedings will be accompanied by:-

Form C 996 submitted, in triplicate, certified by an Officer the R...O.C. or other service concerned.

6. INSTRUCTIONS ON CONDUCT OF COURT OF INQUIRY.

(a) The instructions governing a Court of Inquiry will be written. They will be full and specific and will state the general character of the information required or not. (Rules of Procedure 125(a).)

(b) If evidence is required on oath, the authority convening the Court will so direct. (Rules of Procedure 125(c).)

(c) Wherever possible Courts of Inquiry should be given a specific list of questions to answer with a view to eliciting:-

(1) That the ~~officer~~, stores or supplies, alleged to have been lost were actually in possession or held on charge and their value.

(11) who was responsible for their safe custody.

(111) what steps were taken to safeguard public property and circumstances.

drivers striking animals or sinking near looking patrol tins.

(a) The loss of vehicles by leaving them unattended.

Proceedings will always be submitted in triplicate, to G-1(p). In previous Liaison Group, etc., proceedings will be submitted to the nearest area or Sub/Area H.Q., with a copy to G-1(p) this H.Q. Where it is necessary to arrive at the value of a loss and a write off is called for, the proceedings will be accompanied by:-

As G 998 submitted, in triplicate, certified by an Officer the R.O.C. or other service concerned.

6. INSTRUCTIONS ON COMPLETING A COURT OF INQUIRY.

(a) The instructions on Procedure Court of Inquiry will be written. They will be full and specific and will state the general character of the information required or not. (Rules of Procedure 125(c).)

(b) If evidence is required on oath, the authority convening the Court will so direct. (Rules of Procedure 125(c).)

(c) Wherever possible Courts of Inquiry should be given a specific list of questions to answer with a view to eliciting:-

(i) That the accident, serious or supplies, alleged to have been lost were actually in possession or held on charge and their value.

(ii) Who was responsible for their safe custody.

(iii) What steps were taken to safeguard public property and whether they were adequate having regard to all circumstances.

(iv) How the loss occurred.

(v) What individual or individuals were responsible and whether due to gross negligence or not.

(vi) The degree of financial responsibility and penalty recommended to be inflicted on the person or persons found responsible. 468~

(vii) What other disciplinary action should be taken.

(viii) What steps can be taken to avoid a recurrence of such losses.

(d) The object of Court of Inquiry is to place responsibility and this responsibility must be individual. Responsibility cannot in law be placed

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on a Unit collectively except in the case of Barrack Davison. Only when full investigation has proved that no person or persons could be held responsible should there be a finding that the loss would be due to the public.

(c) Schedule of the articles lost, printed and subscribed in the form prescribed in Annex I, to these notes, should be produced as evidence in the inquiry and signed by the President of the Court. In the case of accounting units Annex G 998 certified by an Officer of the R.E., R.S.C., R.L.S.C. or R.E.R.N. will be used for these purposes.

(d) Written reports of the results of the inquiry by the Civil and Military Police S.I.B. reports, etc., should be forwarded with the proceedings of the Court.

(e) Wherever possible witnesses should attend in person but, if a witness is not available owing to the exigencies of the service, the original of his signed statement should be attached to the proceedings and asked by the President who should state the reason for the non-attendance of the witness.

(f) Whenever it appears possible that the character or military reputation (which includes allegations of negligence) of an officer or soldier may be affected as the result of a Court of Inquiry, the convening officer should take all necessary steps to ensure that the provisions of Rules of Procedure 1251(8) are complied with. In such the terms of reference should contain a clause to the following effect:-

"Care will be taken to ensure that the provisions of Rules of Procedure 1251(8) are complied with. Lieut., etc. will be present throughout the inquiry. They will also give evidence if required and will also be given an opportunity of cross-examining all witnesses on their own behalf".

(g) Attention is directed to R.E. (1940) paras 764(a) and 769 (a) in regard to the composition of Court of Inquiry.

7. SPECIAL PROCEDURE FOR CERTAIN LOSSES.

Loss by fire.

Attention is directed to GPO 193/3.

Losses in transit.

Whenever loss of stores or equipment takes place in transit and a Court of Inquiry is held, a representative of Mov. and Tr. will invariably be present throughout proceedings.

by the President who should state the reason in writing to the witnesses.

(b) Whenever it appears possible that the character or military reputation (which includes allegations of negligence) of an officer or soldier may be affected as the result of a Court of Inquiry, the convening officer should take all necessary steps to ensure that the provisions of Rules of Procedure 1254(B) are complied with. In such the terms of reference should contain a clause to the following effect:-

"Care will be taken to ensure that the provisions of Rules of Procedure 1254(B) are complied with. List..... They will also give evidence if required and will also be given an opportunity of cross-examining all witnesses on their own behalf".

(3) Attention is directed to K.R. (1940) paras 764(a) and 769 (a) in regard to the composition of Court of Inquiry.

7. SPECIAL PROCEDURE FOR CERTAIN LOSSES.

Loss of fire.

Attention is directed to GPO 199/43.

Losses in transit.

Whenever loss of stores or equipment takes place in transit and a Court of Inquiry is held, a representative of Mov. and Tr. will invariably be present throughout proceedings.

Loss of arms.

(a) Losses of arms, ammunition and explosives stores, Government or private, will be reported by signal immediately to H.Q. Area/Support, or at H.Q. A.C. to G-1 (Br.).

(b) Any Officer of other ranks who loses his arms, will be tried by Court Martial unless a formation Court, or Area/Support C-1, dispenses with trial.

Loss of public money due to Enemy action.

(a) Future losses of public money owing to Enemy action will be dealt with according to K.R.'s 1940, para 766 in the same manner as normal cash losses.

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- (b) All future cases of writes-off due to loss of public property through any cause whatsoever, will, when submitted to higher authority for approval, be accompanied by a statement in original from the Paymaster, who normally audits the account concerned. This statement will be obtained by the Paymaster and will indicate the sum which is deficient in the account.
- (c) No charge will be made by the Paymaster to the Special Lesson Suspense Account except on the request of the Financial Advisor.
- (d) It is notified that the above applies to losses of Public Funds only. Any losses of cash which are the unit's replacement funds will be borne by the Unit.

Theft.

In all cases of suspected theft, the following procedure will be adopted for reporting the matter:-

- (a) C.Os will report the loss to the nearest D.I.P.M.
- (b) The D.I.P.M. will be responsible for conveying the information to the S.I.B.
- (c) A witness from C.I.P. or S.I.B. will give evidence at the Court of Inquiry or a report from C.I.P. or S.I.B. will be attached to the proceedings.

Theft of Clothing.

The provisions of War Clothing Regulations, para 113, in respect of troops not quartered in permanent barracks have been relaxed. In deserving cases clothing lost by theft for which no person is convicted may be replaced free provided the consent of the Financial Advisor is obtained in each case.

(b) Courts of Inquiry held on such losses should express an opinion as to whether soldiers are deserving of free replacements and in other cases the Commanding Officer should make a recommendation giving his reasons.

- (c) All action will be taken direct to the Financial Advisor by the Commander giving financial power to deal with the loss.

Losses - Vehicles & Spare Wheels.

(c) With losses of this nature, full particulars of the vehicles, including engine number and any other registered numbers, will be reported to the nearest D.I.P.M.

to the nearest D.I.P.M.

Declassified E.O. 12356 Section 3.3/NND No. 785016

- (a) C.O.s will report the loss to the nearest D.I.P.M.
- (b) The D.I.P.M. will be responsible for conveying the information to the S.I.B.
- (c) Witnesses from C.I.P. or S.I.B. will give evidence at the Court of Inquiry or a report from C.I.P. or S.I.B. will be attached to the proceedings.
- Theft of Clothing.
- (a) The provisions of War Clothing Regulations, para 113, in respect of troops not quartered in permanent barracks have been relaxed. In deserving cases clothing lost by theft for which no person is convicted may be replaced free provided the consent of the Principal Advisor is obtained in each case.
- (b) Courts of Inquiry held on such losses should express an opinion as to whether soldiers are deserving of free replacements and in other cases the Commanding Officer should make a recommendation giving his reasons.
- (c) All action will be taken direct to the Principal Advisor by the Commander involving financial power to deal with the loss.

Losses - Vehicles & Spare Wheels.

- (a) With losses of this nature, full particulars of the vehicles, including engine number and any other registered numbers, will be reported to the nearest D.I.P.M.
- (b) Commissioners, C.I.O.s, etc, will maintain a register of the numbers of V.D. tyres, and in case of loss, full particulars will be given when reporting the loss.
- (c) The fact that para (a) and (b) have been complied with will be recorded at any subsequent Court of Inquiry.
- (d) Witnesses from the C.I.P. or S.I.B. will give evidence at the Court of Inquiry or a report from C.I.P. or S.I.B. will be attached to the proceedings.

Traffic Accident.

- (a) Court of Inquiry need NOT be held to investigate a traffic accident, unless:-
- (1) Service personnel have been injured or killed, and a Court of Inquiry is required by GRC 40/44, para 2. (These particularly apply to certain Battle accidents).
- or (ii) The C.C. is satisfied that it is the sole means of ascertaining the true facts.
- or (iii) It is ordered by higher authority or requested by the Claimant.

(c) Only one Court of Inquiry will be held in respect of an accident. There are no three Service drivers, belonging to different units are involved, the Court of Inquiry will be held under arrangements to be made jointly between the Commanding Officers concerned.

Evidence.

Examination of witnesses.

(i) Do not record a verbatim statement of the witness's evidence.

Hear his whole statement and extract further evidence by question - answer - process the whole and write down.

(ii) Do not record individual questions and answers except in the case of vitally important questions and answers which go to the root of the matter under inquiry.

(iii) Be inquisitive - ask searching questions - If the Court feels that a witness is not telling what he knows, it must continue examining him - recalling him as often as further facts become available of which it considers he must be able to speak.

(iv) The witness's statement must be read out to him and he must understand what he has said and agree to the record before signing it.

(v) Relevant Evidence.

(i) Confine the statement of evidence that is finally recorded to what is relevant to the terms of reference. Bring out all relevant facts.

(ii) The degree of negligence has to be decided by superior officers who will very often be unacquainted with local conditions. The evidence recorded must bring out the facts relating to local conditions or it may be found silly for the Court in its opinion to include an agreed statement containing useful local information.

(iii) Lots are often found not to be so negligent as they at first appeared, if the full circumstances are brought to light. viz - no lock-up accommodation available and could not be provided though asked for, heavy guards duties at night involving loss of sleep, etc. Particulars of such extenuating circumstances must be brought out.

(iv) Orders on a particular subject are relevant evidence. The Court must investigate fully what were the existing orders. These should be produced in evidence and if Unit, etc., orders exist, copies should be attached to the proceedings. Such orders must be getting orders, fire orders, orders re refereeing signals, etc. Investigate whether these orders were properly posted and could reasonably be known to persons concerned.

(iv) The witness's statement that he read out to the Court and he must understand what he has said and agree to the record before signing it.

(b) Relevant Evidence.

- (i) Confine the statement of evidence that is finally recorded to what is relevant to the terms of reference. Bring out all relevant facts.
- (ii) The degree of negligence has to be decided by superior officers who will very often be unopposed lined with local conditions. The evidence recorded must bring out the facts relating to local conditions or it is not found at all for the Court in its opinion to include an agreed statement containing useful local information.
- (iii) Lots are often found not to be so negligent as they at first appeared, in the full circumstances are brought to light.
viz - no lock-up accommodation available and could not be provided though asked for, heavy guards during at night involving loss of sleep, etc. Particulars of such extenuating circumstances must be brought out.
- (iv) Orders on a particular subject are relevant evidence. The Court must investigate fully what were the existing orders. These should be produced in evidence and if Unit, etc., orders exist, copies should be attached to the proceedings. Such orders must be certain orders, fire orders, orders re safeguarding weapons, etc. Investigate whether these orders were properly tested and could reasonably be known to persons concerned.

8. COMMON RULES IN COURTS OF HONOUR.

- (a) The inquiry is perfunctory and rarely includes written statements of witness's evidence. Witnesses should be questioned on doubtful points if their evidence does not give the full facts.
- (b) One copy only of the proceedings is submitted. Original and two copies will be sent to nearest Head or San. Hon., one copy to this H.Q.
- (c) Proceedings are submitted.
 - (i) In the case of Non-Recording Units, without a Schedule of the articles lost piloted and submitted in the form prescribed.
 - (ii) In the case of Recording Units without A.F. 69-3, certified on Order of the R.H., R.H. 3.6., R.H. 3.6., or R.H. 3.6.

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(144) The printed list of LPS G 998 are not submitted in triplicate.

(d) The Court finds that certain stores are deficient without first having resolved any evidence that they were over in possession.

(a) I do not intend to use the information in any way that would be likely to cause harm to the individual or the organization.

(1) Documents are attached to the proceedings without color aimed at the President or referred to in the proceedings.

(a) In cases of fire, no sketch of the relative position of building or bents attached to the wreckage.

(n) The proceedings reach higher formations later after the incident inquired factors taken place, thus in many cases rendering futile the decision to effect recovery from individuals owing to the hazy and quagga even of units.

(1) the filing in appropriate cases, to observe the provisions of rules of procedure 125A (b).

(3) President and/or members of the Court are connected with the matter under examination. Provisions of R.R. (1945) para 764, (a) and 769 (a) in regard to composition of Court, totalling of officers may not apply to unit, concerned, not having been complied with.

(K) No evidence or report from C.I.D. or S.I.B. is included in the preceding.

If the foregoing instructions are closely followed no difficulty should arise in the conduct of Courts of Inquiry or the rendering of a decision.

PHOTO TAKEN AT WYOMING #3 OUTFALLS IN

R. L. Smith,
R. L. Smith, Capt,
S/Sgt,
for Brigadier,
Executive Commissioner.

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ingulred into the take place, thus in any cases rendering futile any decision to affect recovery from individuals owing to the many and sundry waves of units.

(1) The failure in appropriate cases, to observe the provisions of rules of procedure 125A (B).

(3) President and/or member of the Court are connected with the matter under examination. Provisions of R.R. (1940) para 764 (a) and 769 (c) in regard to composition of Court, detailing of officers not adhering to unit, concerned, not having being complied with.

(k) No evidence or report from C.M.P. or S.I.B. is included in the proceedings.

If the foregoing instructions are closely followed no difficulty should arise in the conduct of Courts of Inquiry or the rendering of proceedings.

BY COMMAND OF HER MAJESTY THE QUEEN.

R. A. L. L. L.

R. A. L. L. L., Capt,
S/Capt,
for Brigadier,
Executive Commissioner.

/s/.

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