

# ***JAGINST 5830.1A Procedures for COI/BOI***

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## ***NCR TRAINING STAND-DOWN***

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## ***OBJECTIVES***

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- To explain procedures applicable to boards of inquiry and courts of inquiry
- To understand the differences between a board of inquiry for investigation and administrative separation

# ***Courts and Boards of Inquiry***

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## **Topic: Court of Inquiry (COI)**

- **Convened by a General Courts-Martial Convening Authority IAW Article 35 UCMJ (10 USC 935) and the JAGMAN (JAGINST 5800.7 (Series)) or any person designated by SECNAV.**
- **COI is a hold over from British Army and incorporated in Article of War 1786.**
- **Not a traditional court (most similar to a board of investigation).**

## ***Courts and Boards of Inquiry***

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### **Topic: Court of Inquiry (COI)**

- **Can be a substitute for Article 32 hearing, but subject matter of the offense must have been investigated by COI and accused present.**
- **RCM 405 procedures apply if used as a Article 32 substitute.**
- **COI has subpoena powers! Use DD Form 453.**
- **Can be Preliminary Inquiry under RCM 303. Coordinate with DOJ if they have investigative responsibilities.**

# ***Courts and Boards of Inquiry***

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## **Topic: Boards of Inquiry (BOI)**

- **Not the same as a Board of Inquiry convened for the purposes of an Administrative Separation of officers under SECNAVINST 1920.6C!**
- **Intended as intermediary step between investigation without hearing and COI.**
- **Convened by GCMCA, consist of one or more commissioned officers.**

# ***Courts and Boards of Inquiry***

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## **Topic: Boards of Inquiry (BOI)**

- **Can be a preliminary inquiry under RCM 303**
- **NO SUBPOENA POWER for civilians! (unless convened under Art. 135, UCMJ). Can order naval personnel to appear, testify and produce evidence.**

# ***Courts and Boards of Inquiry***

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## **Topic: Courts and Boards of Inquiry**

- **ONLY used for major incidents (defined by JAGMAN Appendix A-2-a) or serious or significant events.**
- **Transcript must be VERBATIM.**
- **Events usually involve considerable pressure to complete in limited period of time.**

## ***Courts and Boards of Inquiry***

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Convening Authority should provide the following types of support:

- Technical Advisor
- Court Reporter (required)
- Interpreter (when needed)
- Evidence Custodian
- Security (for classified matters) SECNAVINST 5510.36
- Messages (PLA Assignment)
- Public Affairs (Media)
- Administrative Support (Bailiffs, clerks, other support)
- NTSB Support? JAGMAN 1224(b)



## ***Courts and Boards of Inquiry***

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### Members:

- In all cases, senior member must be senior to any person whose conduct is subject to the inquiry.
- COI: At least 3 members (all commissioned officers)
- BOI: At least one member (all commissioned). Senior member must be at least an O-4.
- Note: If exigencies exist that require a junior officer to be a member, it will be stated on the appointing order, **OR** noted on the convening authority's action.

## ***Duties***

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### President:

- Preserve Order
- Decide Administrative Matters
- May recess, grant continuances or adjourn the court/board
- Set meeting time or place

### Members:

- Attendance is their primary duty. No member shall fail to attend unless properly excused or ill.

## ***Duties***

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### Counsel for the Court/Board:

- Call Witnesses
- Discover Evidence (Find it, not produce it to defense)
- Administer Oaths to witnesses, members, reporters, interpreters
- Advise of Article 31b Rights
- Ensure Privacy Act Warnings are provided
- Arrange for meeting place
- Must **NOT** assume the role of prosecution or advocate (defense).

# ***Parties***

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## Defined:

- Persons who have a direct interest
- Subject to Inquiry
- Designated by Court/Board, or Convening Authority

## ***Parties***

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### Rights:

- Entitled to Counsel (Only Parties are entitled)
- To be given notice of the designation
- To be present
- To be informed of the purpose
- To examine evidence
- Object to testimony
- Introduce evidence, make statements (incl. not self-incriminate)
- Article 31b Rights + JAGMAN 0220(c) (disease and injury rights)
- Challenge Members
- Make a voluntary statement, sworn or unsworn, oral or written.
- Make an argument at the conclusion of evidence

## ***Evidence***

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Administrative not judicial, similar to an admin board. **HOWEVER**, All M.R.E.s except MRE 301, 302, 303, 412, 501-507 will not be followed.

- See JAGMAN 0214
- Objections to evidence: Any member, counsel, designated party, or the president of the board may object to evidence.
  - President usually doesn't rule on objections, only notes for the record. JAGINST 5830.1A lays out exceptions

## ***Report of Board/Court***

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### Must include:

- All evidence, statements, and arguments
- Findings of Fact (preponderance of the evidence)
  - **UNLESS** member is deceased, or caused the loss of life, or the loss of property by intentional or criminal acts (use clear and convincing standard from JAGMAN 0214b(2)).
- Opinions
  - Cite FOF
- Recommendations
  - Not limited to just CA. Make recommendations to all those, in the board/courts view that are **appropriate and advisable.**
- **Non-concurring members shall append a minority report stating reason for non-concurrence.**

## ***Report of Board/Court***

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### Non-Disclosure:

- No member, or counsel, or other person connect with the inquiry shall disclose any findings, opinion or recommendations with approval of the **Echelon II Commander**
- No copies to be provided to any person, including parties, **without SECNAV approval**

### Authentication:

- Report authenticated by President and Counsel for Board. All concurring members shall sign under the Findings of Fact, Opinions and recommendations (if available).
- Minority report must be signed by all members (if available).



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***Thank you/Questions?***