Template: Script for IRO Proceeding CG-LMJ

6/7/2017

**1. Introduction And Recitation Of Offense(s)**

**IRO**: I am (NAME OF INITIAL REVIEW OFFICER), an Initial Review Officer designated by the (NAME OF OFFICER EXERCISING GENERAL COURT-MARTIAL JURISDICTION). The purpose of this review is to determine whether you should continue in pretrial confinement.

I have been informed that you are suspected of committing the following offense(s): (INSERT OFFENSE(S)).

Prior to coming here today, I have reviewed the Commanding Officer's (LETTER TO YOU/MEMORANDUM IN SUPPORT OF CONFINEMENT) dated (DATE) and other documents and reports pertaining to your service and the suspected offense(s). In addition, I have discussed your case with (NAME OF COMMAND REPRESENTATIVE). (NAME OF COMMAND REPRESENTATIVE), from your unit, is present here and will act as the command representative.

**2. Advisement of Rights**

**IRO**: Under the law, you have the right:

(a) To present information relative to the legality and appropriateness of your confinement;

(b) To be provided military counsel;

(c) To have civilian counsel obtained by you at no expense to the government;

(d) To have an opportunity for you, or your counsel to present information and make a statement on your behalf;

(e) To remain silent and make no statement;

(f) To receive a copy of my decision; and

(g) If confinement is continued, to petition for reconsideration based upon new circumstances which may arise after this initial review regarding the legality or appropriateness of the confinement.

**IRO**: Here is a form that explains your rights during the review. (PRESENT ACCUSED WITH RIGHTS FORM) Please read it and then sign at the bottom if you understand them fully. Do you have any questions concerning your rights?

**ACC**: (REPLY)

**IRO**: What have you decided about counsel?

**ACC**: (REPLY)

**IRO**: Please note that on the form I just gave you.

(IF THE ACCUSED WAIVES COUNSEL, CONDUCT A FURTHER INQUIRY TO ENSURE IT IS A KNOWING AND INTELLIGENT WAIVER)

**3. Explanation of Procedure**

**IRO**: At this review, I am to determine:

(a) Whether there is probable cause to believe that you committed the offense(s) alleged, and

(b) Whether, under the circumstances, you should remain in pretrial confinement because you are a flight risk or a danger to engage in serious criminal misconduct and lesser forms of restraint are inadequate. This review is not governed by any rules of evidence. However, it is my duty to evaluate the reliability of the evidence presented.

**4. Receipt of Additional Information From the Government**

**IRO**: You may present any information relative to the legality and the appropriateness of your confinement. I may also seek additional information. After the review is completed, I will prepare a written decision and will provide you with a copy. This decision will be final. However, you have the right to request a reconsideration if I do not order your release and new information arises that I did not consider here today. I will explain this right in greater detail, if it is necessary. You also have the right to contest the legality of your confinement at any subsequent court-martial proceeding. I am going to receive additional information from the Government at this time.

(THE IRO SHALL HEAR ANY WITNESSES WHO MAY BE ABLE TO GIVE INFORMATION WHICH IS NEEDED BEFORE A RULING CAN BE MADE. THIS MIGHT INCLUDE WITNESSES FROM THE ACCUSED'S UNIT AND ANY REQUESTED BY THE ACCUSED. OFTEN, LIVE WITNESSES ARE NOT NEEDED FOR THE PURPOSE OF ESTABLISHING THE LEGALITY OR PROPRIETY OF CONFINEMENT. HOWEVER, THEY MAY BE NEEDED IN RESPONSE TO THE EVIDENCE OFFERED BY THE ACCUSED. ONCE THE IRO HAS FINISHED RECEIVING SUCH ADDITIONAL INFORMATION, THE ACCUSED AND THE ACCUSED'S COUNSEL HAVE AN OPPORTUNITY TO PRESENT THEIR CASE.)

**5. Re-advisement Of Rights and Receipt Of Information from Accused**

**IRO**: Do you at this time remember the warning with respect to your rights I gave you earlier and the form you signed?

**ACC**: (REPLY)

**IRO**: Do you recall that I advised you that you have the right to produce information in your own behalf, including your own statement, written or oral? Anything said or submitted by you may be used against you at a subsequent proceeding. You also have the right to say nothing, and as I explained earlier, your silence will not be held against you. Do you understand these rights?

**ACC**: (REPLY)

(IF THE ACCUSED APPEARS UNCERTAIN OR CONFUSED CONCERNING THE RIGHTS ADVISEMENT, THE IRO SHOULD REITERATE THEM. REMIND THE ACCUSED THAT ANYTHING SAID CAN BE USED AGAINST HIM OR HER. ALSO, NOTE THAT THE IRO MAY ASK THE ACCUSED QUESTIONS IF THE ACCUSED VOLUNTARILY TALKS. IF THE ACCUSED DECIDES TO STOP TALKING AT ANY TIME, HOWEVER, THE IRO CANNOT COMPEL FURTHER ANSWERS.

**IRO**: Do you have any information which you would like presented to me relevant to whether your pretrial confinement should be ordered to continue?

**ACC**: (REPLY)

**6. IRO Determination and Conclusion**

(AT THE CONCLUSION OF THE REVIEW, OR AT A REASONABLE TIME AFTER CONCLUSION, THE IRO DETERMINES WHETHER CONTINUED CONFINEMENT IS APPROPRIATE AND ADVISES THE DETAINEE. INSERT THE FOLLOWING IF THE CONFINEMENT IS ORDERED TO CONTINUE.)

**IRO**: Finally, if circumstances change, or additional information develops that you believe would cause this decision to continue pretrial confinement to be reconsidered, you may request reconsideration. You would need to advise me, in writing, of your request for a reconsideration to be made. I want you to inform me if you are being required to perform duties with persons who have already been court-martialed and are being punished, or if you are being subjected to conditions which amount to pretrial punishment. Article 13, UCMJ, prohibits punishment prior to trial. Also, should you receive confinement at a court-martial the period of pretrial confinement will be credited to your sentence.