

442
Headquarters,
Department of the Army
Washington, DC
30 March 1984

AR 600-33
Interim Change
No. 101
Expires 30 March 1986

S/S
by AR
600-8-1;
18 Sep 86
Immediate Action
INTERIM CHANGE

Personnel-General

Line of Duty Investigations

Justification. This interim change provides for the delegation of final approval authority of line of duty investigations by designated commanders to their Adjutant General, PERSCOM commander or major subordinate GCM authority and the further delegation of this authority to an officer on their respective staff. Further, it establishes the requirement that the approving headquarters Staff Judge Advocate Office review all line of duty investigations which are found not in the line of duty. These changes have been made to allow commanders to delegate authority on line of duty actions thereby enhancing processing time and further ensuring that the Army is protected against judicial rulings resulting from Line of Duty Investigations.

Expiration. This interim change expires 2 years from date of publication and will be destroyed at that time unless sooner rescinded or superseded by a permanent change.

1. AR 600-33, 15 June 1980, is changed as follows:

Page 1-2. The following sentence is added to the end of paragraph 1-4d: He may delegate this authority to his Adjutant General or other appropriate staff officer.

The second sentence of paragraph 1-4e(7)(a) is rescinded.

Subparagraph (8) is added to paragraph 1-4e.

(8) Commanders. Commanders designated in paragraph 1-4e(6) and (7), above, may delegate final approval authority to their Adjutant General, PERSCOM commander, or a subordinate GCM authority. A general officer delegated final approval authority may redelegate such authority to a major or higher officer on his staff. If the General Officer delegated final approval authority is also a reviewing authority (paragraph 1-4d) he may redelegate the reviewing authority and final approval authority to a major or higher officer(s) on his staff. If both functions are redelegated to different officer(s), the reviewing authority must be junior in rank to the final approval authority. Officers who have the authority to redelegate approval under this regulation may do so only if such authority has not been withheld by higher authority.

30 March 1984

Page 4-1. The following sentence is added to paragraph 4-8d. The Staff Judge Advocate Office of the approving headquarters will review all investigations which are found "not in line of duty".

Page 4-1. The first sentence of paragraph 4-8f is rescinded. The following sentence is added to the beginning of paragraph 4-8f:

f. Officers acting under a delegation of authority will take the actions prescribed in paragraph 4-8e, above, however a copy of the delegation document must be included in the LD case file to preclude irregularities in the processing and approval of LOD cases.

2. Post these changes per DA Pam 310-13.
3. File this interim change in front of the publication.

(DAAG-PES)

By Order of the Secretary of the Army:

JOHN A. WICKHAM, JR.
General, United States Army
Chief of Staff

Official:

ROBERT M. JOYCE
Major General, United States Army
The Adjutant General

Distribution:

Active Army, USAR, ARNG: To be distributed in accordance with DA Form 12-9A requirements for Personnel General--B.

BY 2

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No. 2 }

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, 15 January 1982

PERSONNEL—GENERAL
LINE OF DUTY INVESTIGATIONS

Effective 15 February 1982

This change changes the time limits required in tables 3-1 and 3-2 for processing line of duty investigations that have a direct and immediate impact on the individual service member. It also eliminates three requirements of a Disposition Form documenting minor injuries, common diseases, and death due to natural causes. This change has a direct impact and immediate impact on the individual service member.

AR 600-33, 15 June 1980 is changed as follows:

1. New material is indicated by a star.
2. Remove old pages and insert new pages as indicated below:

<i>Remove pages</i>	<i>Insert pages</i>
3-1 and 3-2 ✓	3-1 and 3-2 ✓
3-5 through 3-8 ✓	3-5 through 3-8.1 ✓
3-11 and 3-12 ✓	3-11 ✓

3. File this change sheet in the front of the publication for reference purposes.

The Proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) direct to HQDA(DAAG-PES), Alexandria, VA 22331.

By Order of the Secretary of the Army:

E. C. MEYER
General, United States Army
Chief of Staff

Official:
ROBERT M. JOYCE
Brigadier General, United States Army
The Adjutant General

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✓ This change supersedes Immediate Action Interim Change I01, 23 January 1981 and Immediate Action Interim Change I02, 31 March 1981.

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HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, 15 October 1980

PERSONNEL—GENERAL
LINE OF DUTY INVESTIGATIONS

Effective 15 November 1980

This change is forwarded to the field to correct printer error in table 3-2.

Interim changes are not official unless they are authenticated by The Adjutant General. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

AR 600-33, 15 June 1980 is changed as follows:

1. New material is indicated by a star.
2. Remove old pages and insert new pages as indicated below:

<i>Remove pages</i>	<i>Insert pages</i>
3-7 and 3-8	3-7 and 3-8

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) direct to HQDA(DAAG-PES) WASH, DC 20314.

By Order of the Secretary of the Army:

E. C. MEYER
General, United States Army
Chief of Staff

Official:
J. C. PENNINGTON
Major General, United States Army
The Adjutant General

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ARMY REGULATION }
No. 600-33

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, 15 June 1980

PERSONNEL—GENERAL
LINE OF DUTY INVESTIGATIONS

Effective 15 July 1980

This revision relocates and redefines important terms to allow for easier reading, provides for better protection of the rights of the servicemember (SM) and more clearly defines the duties of the investigating officer (IO). Local supplementation of this regulation is permitted, but is not required. If supplements are issued, CONUS Casualty Area Commands and Oversea Commands will furnish one copy to HQDA (DAAG-PES) WASH DC 20314; other commands will furnish one copy of each to the next higher headquarters.

Interim changes to this regulation are not official unless they are authenticated by The Adjutant General. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

As used throughout this regulation, the words "he," "him," and "his" include both the masculine and feminine genders, and the term "doctor" means a physician, unless otherwise specifically stated.

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This regulation supersedes AR 600-33, 16 December 1974, including all changes.

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CHAPTER 1

GENERAL

1-1. Purpose. This regulation sets forth policy and procedures for investigating the circumstances of the disease, injury, or death of a member. It provides standards and considerations in determining line of duty (LD) status.

1-2. Applicability. This regulation applies to—

- a. Army personnel on active duty.
- b. Members of ARNGUS in a federalized status, or while attending a service school, and members of Army Reserve on active duty for training (ADT), inactive duty training (IDT), initial active duty for training (IADT), annual training (AT), and full-time training duty (FTTD) (10 USC 1204, 1207, 3722).

Note. Active duty trainees who are injured while training or while traveling directly to or from ADT are covered by this regulation. Those on IDT are covered only when the injury occurs during the actual training period.

- c. Members of the Corps of Cadets, US Military Academy (USMA), and personnel assigned to the USMA.

- d. Members of other Services of the United States attached or assigned to an Army unit or being treated at an Army post.

- e. Persons who are either provisionally accepted for duty or are selected under the Military Selective Service Act of 1967. They must be traveling to or from, or are present at, a place for final acceptance or entry on active duty with the Army.

1-3. Importance of LD actions. LD determinations have far-reaching implications not only for the member, but also for the member's survivors in case of death. In case of injury or disease, the determination can establish whether the member is entitled to disability compensation. In death cases, the Veterans Administration (VA) uses the information to determine the benefits survivors are entitled to. A complete report is needed to support the following:

- a. Time lost under section 972 of title 10 US Code and paragraph 2-4, AR 635-200 and forfeiture of pay under section 802 of title 37 US Code; and rule 3, table 1-3-2, DODPM.

- b. Entitlement to benefits (e.g., physical disability retirement) under statutes managed by the Secretary of the Army.

- c. Entitlements to benefits under statutes managed by the VA and other Government agencies. The determinations made under this regulation are not conclusive as to the status of individuals concerned under statutes that confer benefits not administered by the Secretary of the Army. However, the Secretary of the Army gives the information needed to make a judgment to other agencies.

1-4. Responsibilities. a. *Secretary of the Army (SA).* The SA, or his designee, unless otherwise stated in this regulation, reserves all powers, functions, and duties of LD determinations. The authority conferred by the provision of this regulation is permissive and will not preclude referring any LD determination to the SA for consideration and final decision.

- b. *The Adjutant General (TAG).* TAG acts for the SA on all final LD determinations. These include appeals referred to HQDA. TAG takes final action on all LD investigations that involve death cases on receipt of the original and one copy of the report.

- c. *LD appointing authority.* LD appointing authority (for formal investigations only) is normally the special court-martial (SPCM) authority for the unit to which the person is assigned or attached at the time of the incident. He—

- (1) Is responsible for conducting the investigation. If the incident occurs while the person is away from his unit (i.e., on leave, AWOL, or intransit), the nearest Army unit with SPCM authority will conduct the investigation.

(2) Ensures that SIDPERS entries are made on the findings.

d. Reviewing authority. Reviewing authority reviews LD investigations before final approval. Normally, he is the general court-martial (GCM) authority for the unit responsible for the investigation.

e. Others. Besides TAG, the following may make final approval or determinations within their purview in the name of the SA:

(1) *Commanders of medical treatment facilities (MTF) or authorized representatives (attending physicians or patient administrators).* They insure that section I, DA Form 2173 (Statement of Medical Examination and Duty Status) is completed promptly when required. They will make determinations that involve—

(a) Total physical incapacitation for more than 24 hours because of the abuse of alcohol or other drugs (para 2-5).

(b) Diseases, and certain injuries (para 3-3a) not related to misconduct, negligence, or AWOL, and conditions that existed prior to entry service (EPTS).

(2) *Commanders with SPCM authority.* They will conduct informal investigation when—

(a) Injury or disease will not result in permanent physical disability.

(b) Both the MTF commander or designee and the member's unit commander agree on "In Line of Duty."

(3) *Commanders with GCM authority.* They will conduct informal investigations (except death cases) not completed by lower authorities.

(4) *Superintendent, US Military Academy.* He will conduct investigations of assigned cadets and personnel.

(5) *Chief, National Guard Bureau.* He will conduct investigations of ARNGUS personnel who are not federalized or are not attending Army service schools.

(6) *CONUS casualty area commanders with GCM authority.* The will—

(a) Conduct investigations of Army personnel in their areas for incidents which are not completed by the approving authorities above. When the commander does not have GCM authority, send the LD investigation to the installation having that authority for him. (See AR 600-10.)

(b) Designate a unit to investigate a person who is assigned outside his area and is injured, contracts a disease, or dies within their area of jurisdiction. When the member is in transit, the installation commander (with SPCM authority) nearest the incident should complete section II, DA Form 2173. The information will be based on that received from the losing and gaining units.

(7) *Major oversea commanders (CINCUSAREUR, US Army Western Command, Hawaii, USARJ, 172d Inf Bde (AK), Eighth US Army, and 193d Bde (CZ)).* They will—

(a) Conduct investigations of personnel in their areas in which approving authorities above have not completed the case. Major oversea commanders may delegate final approving authority to Major Generals (or higher) with GCM authority.

(b) Designate a unit to investigate a person who is assigned outside his area and is injured, contracts a disease, or dies within their area of jurisdiction. When the member is in transit, the installation commander with SPCM authority nearest the incident should complete section II, DA Form 2173. The information will be based on that received from the losing and gaining units.

f. Individuals. Each person involved in LD actions will act promptly and accurately. Those who appoint, review, and approve actions will insure that they are processed promptly.

g. Investigating officer (IO). The appointing authority must designate the IO, in writing, prior to initiating the investigation. The IO must be a disinterested, commissioned officer who is senior to the person being investigated. He will—

(1) Inform the service member, in writing, that he is being investigated.

(2) Investigate the circumstances and assemble and evaluate the evidence.

(3) Make LD findings.

(4) Complete the LD Report of Investigation (DD Form 261).

1-5. Reports control exemption. Reports required by this regulation are exempt from reports control under paragraph 7-2, AR 335-15.

CHAPTER 2

CONTROLLING FACTORS IN LD DETERMINATIONS

2-1. General. This chapter prescribes basic rules to be considered when determining whether the disease or injury was in line of duty. The appendix contains specific rules of misconduct by which an LD determination is made.

2-2. Line of duty determinations. *a.* The determinations or findings below are authorized. (For the purposes of this regulation, "findings" and "determination" are the same).

In line of duty ----- An injury or disease was incurred, contracted, or aggravated while the member—
 Was on active duty.
 Was training in an active or Reserve status.
 Was excused from duty or training or during a period of unexcused absence (AWOL) when it is determined that the member was mentally unsound at the inception of the AWOL, and the injury or disease was not proximately caused by intentional misconduct or willful negligence of the member.

Not in line of duty—not due to own misconduct (NLD-NDOM) An injury or disease was incurred, contracted, or aggravated while the member was AWOL, unless he was mentally unsound at the inception of the absence (para 2-7a), and was not proximately caused by intentional misconduct or willful negligence of the member (para 2-3b).

Not in line of duty—due to own misconduct (NLD-DOM). An injury or disease was proximately caused by intentional misconduct or willful negligence of the member (para 2-3b).

b. When a member dies, the Veterans Administration makes the LD finding. A finding will not be shown on LD reports on death cases.

2-3. Basic considerations. *a. Standard of proof.*

(1) Findings must be supported by substantial evidence and by a greater weight of evidence than supports any different conclusion. The evidence must establish a degree of certainty so that a reasonable person is convinced of the truth or falseness of a fact, considering—

(a) All reasonable inferences, deductions, and conclusions drawn from all facts presented.

(b) All the above elements in relation to each other.

(2) The weight of the evidence is not determined by the number of witnesses or exhibits, but by—

(a) Considering all the evidence.

(b) Evaluating factors such as the witness' behavior, opportunity for knowledge, information possessed, and ability to recall and relate events.

(c) Other signs of truth.

b. Proximate cause. The presence of intentional misconduct or willful negligence supports a finding that the injury happened NLD-DOM only if substantial evidence and a greater weight of evidence than supports any different conclusion establishes that it was the *proximate cause*. Proximate cause is the connecting relationship between an act of a member and a disease or injury that results. It is a moving or direct cause, unlike a mere contributing cause. In general, it must appear that under the circumstances the member could have reasonably expected that the injury or disease might be caused by his conduct. When misconduct is only a contributing cause, as opposed to the proximate cause, the disease or injury should not be found to have been caused by misconduct. Thus, a member may be AWOL, which is misconduct, but that misconduct is not the proximate cause of his injury if it is inflicted by another person.

c. Medical statements. On NLD-DOM cases (except as noted in para 2-5d) a statement (SF 544, Clinical Record—Statement of Patient's Treatment, or other appropriate form) will be obtained from the MTF and attached to the report. It will show the period of incapacitation due to the injury or disease which resulted in the unfavorable LD finding.

d. Unlawful punishment. LD findings are wholly administrative and are nonpunitive. Adverse LD findings will not be employed as a means to discipline or to punish.

2-4. Intentional misconduct or willful negligence. *a. Intentional misconduct* is any wrongful or improper conduct which is intended or deliberate. Intent can be expressed or implied. Misconduct does not necessarily involve committing an offense under the Uniform Code of Military Justice.

b. Willful negligence is a conscious and intentional omission of the proper degree of care under the circumstances. A reckless disregard of the consequences of an act as they may affect life or property is presumed to be willfulness. Willfulness can be expressed or implied.

c. Simple negligence is the omission of that care which a person of ordinary prudence usually takes in the same or like situation. An injury or disease caused solely by simple negligence is in the line of duty, unless it happened during a period of AWOL (except when the member was mentally unsound at the inception of the unauthorized absence), or it existed prior to service.

2-5. Abuse of alcohol or other drugs. *a.* These and related terms are explained below:

(1) *Alcohol abuse.* The intentional use of alcohol which leads to misconduct, unacceptable social behavior, or impairment of a person's performance, health, or personal relationships with others.

(2) *Other drug abuse.* The intentional non-therapeutic or illegal use of any other drug.

(3) *Misuse.* Misuse is the unintentional improper use of a drug.

(4) *Alcoholism.* A treatable, progressive illness characterized by consumption of alcohol which impairs the individual's physical and mental health, personal relations, social conduct, or job performance.

b. Intoxication from alcohol or any other drug alone is not the subject for LD investigation. It is more properly handled by punitive or other administrative action.

c. Development of a disease which may be a result of the abuse of alcohol or other drugs, is not intentional misconduct or willful negligence within the meaning of section 1207, Title 10, US Code. It would be considered as in line of duty. Examples of such diseases are:

(1) Alcoholism.

(2) Laennec's cirrhosis.

(3) Fatty metamorphosis of the liver.

(4) Chronic brain syndrome.

(5) Subacute bacterial endocarditis with later valvular heart disease secondary to infection caused by intravenous injections of abuseable drugs.

d. That portion of time in the hospital that a doctor determines a member to be totally physically incapacitated for more than 24 consecutive hours solely because of alcohol or drug abuse will be NLD-DOM. Total physical incapacitation means the member is so disabled that he is comatose. The remainder of the period of hospitalization, treatment, or rehabilitation will be administrative absence from duty and does not require an LD finding. Hospitalization of less than 24 hours for abuse of alcohol or other drugs does not require an LD finding.

e. Any injury that results in incapacitation, as a proximate cause, to the specific intentional abuse of alcohol or other drugs is NLD-DOM (except as noted in *c* and *d* above).

f. To keep medical data confidential, the procedures below apply when the person is hospitalized and is incapacitated because of the abuse of alcohol or other drugs as outlined in *d* above. When there is no incapacitation, an LD finding is not appropriate.

(1) When the person is released from the MTF, the MTF commander, or his designee, will inform him and his unit commander, by DF, of the LD finding. To preclude unauthorized access to this information, the DF will be put in sealed envelopes. Suggested format of the DF is shown at figure 2-1.

(2) Medical, company, and other administrative personnel must complete and forward a DA Form 2173 or DD Form 261 on injury cases incurred because of or while under the influ-

ence of alcohol or other drugs. The initial LD finding may be appealed by using the DF shown at figure 2-1. (In these cases, the MTF will prepare DA Form 2173 when the unit commander requests.)

2-6. Self-destruction. *a.* Death is presumed to be caused by accidental self-destruction unless it is found to be intentional or willful negligence which is supported by substantial evidence and by a greater weight of evidence than supports any different conclusion. The taking of one's life through negligence rather than willful negligence is accidental self-destruction. If doubtful that death was or was not intentional, an inquest will be made (chap. 8, AR 600-10).

b. An investigation of intentional suicide will necessarily determine whether the decedent was mentally sound at the time. The question of sanity can only be resolved by inquiring into his character, behavior, and personal relationships. In suicide cases, mental unsoundness should be presumed unless there is positive evidence of mental soundness. When the evidence does not adequately show a motive for suicide, a determination of accidental self-destruction will be found.

c. If the decedent is found mentally unsound, the investigation should be expanded to determine whether his mental condition existed prior to service, was aggravated by service, or was due to his own misconduct.

d. In case of suicide or attempted suicide during AWOL, mental soundness at the inception of the absence without authority must also be determined.

e. An injury or disease intentionally self-inflicted, or ill effect that results from the attempt (including attempts by taking poison or pills), when mental unsoundness did not exist at the time, should be considered misconduct.

2-7. Unauthorized absence. *a.* Any injury or disease incurred while the member is AWOL is not in line of duty, unless he was mentally unsound at the inception of the unauthorized absence. If there is no further misconduct shown other than AWOL, the correct finding is NLD-NDOM. To establish that a person was AWOL for LD purposes, it must be shown that he—

(1) Voluntarily left his unit or organization or other place of duty without proper authority, or

(2) Was absent from a scheduled duty or restriction at the time of injury or disease.

b. A requirement that a person be present at a specific place and time is an administrative restriction for LD purposes. To confirm this, the pertinent part of the directive stating this requirement should be attached to the report of investigation.

c. If the driver of a Government vehicle on an authorized trip is injured during an unjustified deviation from his assigned route, he should be considered AWOL for LD purposes.

d. The immediate commander's (company equivalent unit or higher level) findings of the member's duty status at the time of the injury, disease, or death is final. An exception is provided in *e* below.

e. Absences which are initially considered AWOL, will be changed if they are excused by the proper authority (AR 630-10).

f. If a member has been granted leave or special pass, he will not be considered AWOL if he fails to sign out.

2-8. Existed prior to entry service (EPTS). *a.* The term EPTS is added to a medical diagnosis. It shows that there is substantial evidence and a greater weight of evidence than supports any different conclusion that the disease or injury, or underlying condition, existed before military service or it happened between periods of active service. Included in this category are chronic diseases and diseases with an incubation period which clearly precludes a finding that it started during IDT, short tours of active duty, or ADT.

b. The doctor, during examination and treatment of the member, usually determines an EPTS condition. He annotates the medical records as to whether the condition existed prior to service. If an LD finding is required, information from the medical records will be used to support a finding that an EPTS condition was or was not aggravated by military service. If necessary, a statement from the doctor will be included.

2-9. Mental and emotional disorders. The MTF must identify, evaluate, and document mental

and emotional disorders. These disorders are considered "In Line of Duty" unless they existed before service and were not aggravated by it. Personality disorders by their nature are considered as existing prior to service.

2-10. Venereal disease. An LD finding is not required for venereal disease diagnosis. As an exception, NLD-NDOM will be the finding when the condition existed before military service and was not aggravated by it.

2-11. Pregnancies. Pregnancy and related diagnoses are exempt from LD investigation. An induced abortion, any complication or after affects, that is not performed in accordance with local law will be subject to a formal LD finding.

2-12. Hernia. *a.* Members on active duty who develop a hernia will be considered to have acquired the hernia in line of duty unless it was noted on Standard Form 88 at the time of entry into the service.

b. Members of the Reserve Components on ADT, IDT, IADT, AT, or FTTD, will be considered to have acquired or aggravated the hernia in line of duty if—

(1) There was not evidence of hernia at time of medical examination, and

(2) There is evidence of accident or other circumstances occurring while on duty sufficient to cause the hernia or aggravation.

2-13. Operations and treatment. *a.* The LD findings for an operation or treatment of an injury or disease generally will be the same as that required for the initial injury or disease.

b. Any ill effect directly caused by treatment, anesthetic, or operation will be considered—

(1) "In Line Of Duty" if such treatment, anesthetic or operation was not a criminal offense under Federal or State law. It must have been administered or performed by an authorized person.

(2) "NLD-NDOM" if such treatment, anesthetic or operation was administered or performed while AWOL. If performed on a member of the Reserve Components, not on active duty, for a disease which was contracted while he was on ADT, IDT, IADT, AT, or FTTD, the finding is "NLD-NDOM."

2-14. Traveling directly to or from AD or ADT. In determining whether the disability or death of a member was caused by any injury while traveling directly to or from AD or ADT, consider—

a. Whether training was authorized or required (i.e., complying with orders).

b. The hour travel began.

c. The time when the member was scheduled to arrive for duty, or when the member ceased to perform such duty.

d. The method of travel.

e. Travel time authorized.

f. Whether the most direct route was used.

g. The immediate cause of injury or death.

h. If death was due to disease, whether it existed before discharge or release or whether it was contracted on or aggravated by AD or ADT.

2-15. Injury or disease while not on active duty or in training. *a.* A member of the Army is presumed to have been in sound physical and mental condition on entering active service or authorized ADT, IADT, AT, FTTD, or IDT. To overcome this, it must be shown by substantial evidence and by a greater weight of evidence than supports any different conclusion that the injury or disease, or condition causing it was sustained or contracted while neither on active duty nor ADT, IADT, AT, FTTD, or IDT. The following will be sufficient evidence of inception before service:

(1) Lesions or symptoms of chronic disease so near the date of entry on active duty that they could not have started after entry, or

(2) Disease within less than the minimum incubation period after entry on active duty.

b. It is further presumed that, even if the provisions in *a* above are overcome by such evidence, any other disability or death that result from the pre-existing injury or disease was caused by service aggravation. Only specific findings of natural progress of the pre-existing injury or disease, based upon well established medical principles, as distinguished from medical opinion alone, are enough to overcome the presumption of service aggravation.

c. The following will be service incurred or aggravated unless it can be shown by substantial evidence and by a greater weight of evidence than supports any different conclusion

15 June 1980

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that there was no increase in severity during service:

(1) Acute infections such as pneumonia, active rheumatic fever (even through recurrent), acute pleurisy or acute ear disease, or

(2) Sudden developments, like lung collapse, perforating ulcer, decompensating heart disease, or cerebral hemorrhage.

d. Any physical condition having its inception in LD during one period of service or authorized training in any of the Armed Forces which recurs or is aggravated during later service or authorized training, regardless of the time between, should be in LD. The aggravated condition must not be caused by misconduct or willful negligence.

15 June 1980

DISPOSITION FORM

For use of this form, see AR 340-15; the proponent agency is The Adjutant General's Office.

REFERENCE OR OFFICE SYMBOL	SUBJECT LD Determination
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TO (Ind conc) (Ind CO)	FROM (CO MTF conc)	DATE	CMT 1
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1. (For the individual concerned). You are hereby informed that your hospitalization during the period, _____ to _____ resulted from your incapacitation. This incapacitation was caused by your intemperate use of alcohol or other drugs and is considered "Not in Line of Duty - Due to Own Misconduct", and will be considered as lost time with no pay entitlement due. Any appeal of this finding may be submitted in writing IAW the provisions of para 3-8, AR 600-33, to your commander.

2. (For the unit Commander). You are hereby informed of the above hospitalization and line of duty findings concerning a member of your command. Action should be taken to ensure that the individual's personnel officer and the custodian of his finance records are informed and that necessary SIDPERS input is accomplished.

CHAPTER 3

PROCESSING LD ACTIONS

3-1. Types of determinations and investigations. *a. General.* Presumptive LD findings and informal and formal LD investigations are authorized under this regulation. The types of actions will depend on the case. The availability of facts; legal interpretations (of rules in appropriate regulations); and the degree of investigation needed to establish circumstances surrounding the death, injury, or disease will be considered. Usually a simple case can be resolved by an informal investigation or presumptive determination. A complex case may require a formal investigation. See paragraph 3-3 for listing of LD action requirements.

b. Presumptive line of duty determination. This is a determination of line of duty status on an injury, disease, or death incurred under such circumstances as to imply that it was in the line of duty. This presumption does not apply when there is evidence to the contrary that would warrant an informal or formal investigation. A presumptive determination can be made on cases in paragraph 3-3a when the commander and medical officer have no evidence of misconduct, negligence, or unauthorized absence.

c. Informal line of duty investigation. An informal investigation consists of the unit and MTF commanders (or doctor or patient administrator) gathering enough evidence so the authorities can make an LD finding (para 1-4). The final determination of an informal investigation can result in a finding of in line of duty only, except on cases in paragraph 2-5f(1). Other informal investigations will be recorded on DA Form 2173 prepared by the MTF and unit commanders and approved by the SPCM or higher authority. When DA Form 2173 is used, only those documents needed to support the finding should be attached. Table 3-1 shows the steps for an informal investigation.

d. Formal line of duty investigation. A formal investigation is a detailed investigation ordered by a SPCM or higher authority. It may be demanded by the person affected by the LD finding to get the facts of the death, injury, or disease of the member. This investigation consists of a

completed DD Form 261 (Report of Investigation—Line of Duty and Misconduct Status) (fig. 3-1). Documents (para 3-6d) needed to support the finding and provide a complete investigation will be attached.

3-2. Nature of evidence to be considered. *a.* Statements of witnesses and documentary evidence will be considered. The weight given to any item of evidence rests with the investigating officer.

b. Before questioning by an official investigator (civilian or military), the member will be advised that he does not have to make any statement that is against his interest that relates to the origin, incurrence, or aggravation of any injury or disease he suffered. The member's statement, if any, will be recorded on DA Form 2823 (Witness Statement) and will show that the above warning was given. Any written statement signed by the member that does not contain the above warning will not be used as evidence for an unfavorable LD determination. If the member also is suspected or accused of any offense under the Uniform Code of Military Justice, (e.g., AWOL, damage to military or civilian property, drunk driving, malingering, or negligent homicide), he will sign DA Form 3881 (Rights Warning Procedures/Waiver Certificate). Before a statement is taken, he will also be advised of his rights under Article 31, Uniform Code of Military Justice, or the Fifth Amendment of the Constitution of the United States, as appropriate.

c. Statements by witnesses will be recorded on DA Form 2823. However, if a witness is also suspected or accused of an offense under the Uniform Code of Military Justice, or if he is also being investigated, the provisions of *b* above will apply.

d. A copy of a statement taken in another investigation may be used as an exhibit to an LD investigation under the conditions below. Such statements will be clearly identified as to type of investigation from which they were taken and the source.

(1) The information must be material to the LD investigation.

(2) The person being investigated must be allowed to examine the statement and refute any unfavorable testimony before the investigating officer makes any LD findings.

(3) The applicable provisions of *b* above were complied with at the time the statement was taken. This does not apply to statements made to persons who were not acting in an official capacity at that time.

e. Accident reports listed in AR 385-40, which are safeguarded information, may not be used as evidence or to obtain evidence in determining the misconduct or LD status of a member.

f. Medical records should not be used as documentary evidence in completing LD reports of investigation. Information in these records can be obtained from the MTF commander or patient administrator, on written request, when there is evidence to show that a medical condition warrants consideration. For example, when a blood-alcohol test was taken during medical care and degree of intoxication is an issue, the results of the blood alcohol test should be requested. The information will be provided on SF 544 (Clinical Record—Statement of Patient's Treatment) or other form as appropriate (e.g., autopsy and laboratory reports).

3-3. Requirements for line of duty actions. *a.* Presumptive determination. Unless the person's commander or medical officer has evidence to the contrary (misconduct, AWOL, or willful neglect), the MTF commander will prepare and send a DA Form 2173 (Statement of Medical Examination and Duty Status) to the unit commander in each case below.

(1) Injury involving admission to a hospital.

(2) Injury when an individual is being evaluated by a Medical Evaluation Board for determination of physical and mental fitness for retention on active duty.

(3) When the injured patient was not previously hospitalized for the same condition or for a previous condition which led directly to the current one.

(4) Death due to natural causes.

(5) Injury or death which was the direct result of the performance of duty (except for *b*(1) and (3) below).

(6) Death while a passenger in an aircraft.

(7) A disease, unless it was the result of misconduct, contracted while AWOL, or contracted under doubtful or strange circumstances.

Note. When any doubt exists on the above, a report of investigation will be completed.

b. Informal investigation. An informal investigation to determine line of duty status will be conducted when there is no AWOL, misconduct, or willful negligence, in the cases below.

(1) Injury or death caused by a motor vehicle accident (nonhostile or nonbattle only).

(2) Death while taking part in military athletics or a military athletic program.

(3) Injury or death while pilot or co-pilot of a military aircraft (nonhostile or nonbattle only).

(4) Injury or death while traveling directly from AD.

(5) Injury of a USAR member while on ADT or IDT.

(6) Injury, disease, or death for which a presumptive determination is inappropriate and formal investigation is not required.

c. Formal investigation. A formal line of duty investigation will be completed in cases that involve:

(1) Injury or death incurred while AWOL for 120 or fewer days and there is no proof of mental unsoundness at the inception of the unauthorized absence. No investigation is required on cases that involve AWOL of more than 120 days unless there is evidence of mental unsoundness at the inception of the unauthorized absence.

(2) Injury, disease, death, or medical condition apparently due to misconduct or willful negligence.

(3) Injury, disease, or death that occurs under strange or doubtful circumstances.

(4) Injury or death involving the abuse of alcohol or other drugs.

(5) Self-inflicted injuries or suicide.

(6) Injury or death that occurs while member was en route to final acceptance in the Army.

(7) Death of a USAR member while on ADT or IDT or while traveling to or from such duty.

(8) Injury incurred while traveling directly to or from ADT.

(9) Injury, disease, or death of a member when his commander or medical officer has evidence which refutes the presumption of "In Line of Duty" and an informal investigation is inadequate.

(10) An appeal of an unfavorable finding of abuse of alcohol or other drugs (para 2-5).

(11) Other cases when directed by SPCM or higher authority.

d. Others.

(1) The provisions of paragraph 2-5 apply to cases that involve the abuse of alcohol or other drugs.

(2) The provisions of NGR 600-3 apply to injuries, disease, or deaths incurred or contracted by members of the Army National Guard while on IDT or ADT.

(3) The provisions of AR 145-1 apply to injuries, diseases, or deaths incurred by members of the ROTC. This includes applicants for membership in that Corps, while—

(a) Traveling directly to or from, or while at summer camp, field training, or

(b) Taking flight instruction.

(4) Death from a cause previously subject to an LD investigation requires no further investigation, unless it was—

(a) Self-inflicted, or

(b) Due to misconduct or negligence, or

(c) Incurred while AWOL.

(5) In death cases, the Missing Persons Board may be used to determine line of duty status.

(6) The completed section I, DA Form 2173 prepared on a member of another branch of the armed services should be sent to his commander.

(7) A doctor usually determines an EPTS condition during examination or treatment. He annotates the medical records as to whether the condition existed before service. If an LD finding is required, information from these records and, if necessary, a statement from the doctor will be used to support a finding that an

EPTS condition was or was not aggravated by military service.

3-4. Time limits for processing LD actions. LD actions should be completed within the time limits given in tables 3-1 and 3-2. When an investigation or action on an investigation is not completed within that time, a resume will be sent with the investigation. It will contain the reasons for the delay and a chronology of actions, by date, from the time of the incident until the date the investigation is forwarded. Only the final approving and reviewing authorities may delegate authority to sign the resume. The designee will not be below the grade of lieutenant colonel. Whether the LD investigation is completed within the time limits in tables 3-1 and 3-2 has no bearing on the outcome of the finding.

3-5. Completion of DA Form 2173 (Statement of Medical Examination and Duty Status). *a.* The MTF commander, patient administrator, or doctor will complete section I, DA Form 2173 and send the original and four copies to the member's unit commander. This section will show the nature and extent of the injury or disease. In the case of death, it will show the presumptive medical cause of death. A DA Form 2173 must be prepared when an informal or formal investigation is required (para 3-3).

b. The unit commander will complete section II, DA Form 2173 to show duty status at the time and circumstances surrounding the incident. If the member was AWOL at the time of death, injury, or onset of disease, the information below will be included in the remarks section of DA Form 2173:

(1) Normal duty assignment.

(2) The scheduled hours of duty (including length of duty week).

(3) If absent because of breaking restriction, the date and hour the member was informed of the restriction.

(4) If the member's pass privileges were revoked, when and why and for how long.

(5) If reported absent for overstaying leave or pass, the hours and effective dates of the leave or pass and the time unauthorized absence began.

(6) If reported absent because of taking another route, explain the authorized route and the deviation.

(7) When a person must be at a specific location between given hours, the part of the directive that sets the requirements will be extracted and attached to DA Form 2173.

c. If the DA Form 2173 is to be used in completing an informal investigation, the "thru" and "to" addressees must approve and sign on the back of the form.

d. A completed DA Form 2173 is shown at figures 3-3 and 3-4.

3-6. Completion of DD Form 261 (Report of Investigation—Line of Duty and Misconduct Status). *a.* The investigating officer will prepare his report on DD Form 261. The original and four copies of the report will be prepared.

b. The report will be unclassified when possible. Classified information will not be attached unless it is material to the investigation.

c. The information below will be included in item 9g, DD Form 261, when appropriate.

(1) Summary of circumstances and basis for findings, if made.

(2) Clarification of any discrepancy in the date and place of injury or death or in the evidence as to the duty status of the member.

(3) Reason for not interviewing the person whose LD status is being investigated or any witnesses whose testimony may be material.

(4) Comments of the investigating officer on the credibility of statements of witnesses.

(5) List of inclosures or exhibits.

d. Documentary exhibits will be attached to DD Form 261 in the order below (such as exhibits A and B).

(1) Instrument that appointed the investigating officer.

(2) DA Form 2173.

(3) Copy of orders to active duty or periodic advance training schedule for guardsmen and reservists on active duty or Reserve duty training.

(4) Report of autopsy findings. This includes blood alcohol results and toxicology studies, if completed.

(5) Report of inquest.

(6) Statements of witnesses and person being investigated.

(7) Photographs which are relevant to the case (such as highway markings and terrain).

(8) Copy of letter of sympathy written to the next of kin in death cases.

(9) Statement from medical authorities (SF 544 or other appropriate form), on period of hospitalization because of injury or disease. This form should be used only when the information in section 1, DA Form 2173 is inadequate to complete a formal LD investigation.

(10) Summary of any report by Army CID agents (only if necessary to provide a complete investigation). For a noncombat death in which doctors cannot determine that death was from natural causes, the LD report will include a statement (oral or written) from CID which will give the manner of death (e.g., suicide, murder, accidental, or undetermined).

(11) Any other exhibits material to the case.

e. A completed DD Form 261 is shown at figure 3-1.

3-7. Notification of completed actions. Reports of investigation will be disposed of as shown in tables 3-1 and 3-2.

a. In death cases, no notification is necessary.

b. In injury or disease cases, the final approving authority will inform the individuals below of the results.

(1) The person who was investigated. The report will be mailed to the commander of the station or unit where the member was last known to be assigned. Request that it be forwarded to him if he has been transferred. The person's station or unit commander will insure that he signs for the delivered LD investigation. When appropriate, registered mail should be used. The signed receipt will be filed with LD investigations maintained by the final approving authority. The approving authority will withdraw exhibits that contain classified information and CID reports before it is sent. He will note on DA Form 261 that the member's copy has been furnished and include the date. The member's copy will be sent by letter. It will inform him—

(*a.*) Of his right to appeal an adverse finding as provided in paragraph 3-8.

(*b.*) If certain documents have been withdrawn, why it was done, and who is the releasing authority. The releasing authority for CID

reports is the Commander, US Army Criminal Investigating Command, 5611 Columbia Pike, Falls Church, VA 22041.

(2) The appropriate assignment division (see AR 640-10 for addresses) for all officers and warrant officers on active duty for more than 30 days when the final determination is "Not In Line of Duty."

(3) In the case of USAR members who have returned home after completion of ADT, IADT, AT, FTTD, or IDT, to the individual through the Commander, US Army Reserve Components Personnel and Administration Center, 9700 Page Blvd, St. Louis, MO 63132.

c. Notification letters returned to the final approving authority undelivered, will be forwarded by letter, as shown below. The letter will request that the notification letter, including the copy of line of duty report of investigation, be sent to the member:

(1) *For officers.* HQDA(DAPC-PSR-R), Alexandria, VA 22332.

(2) *For enlisted personnel.* Commander, US Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249.

3-8. Appeals. a. The member may appeal, in writing, within 30 days after receipt of notice of the finding. For appeals not submitted within this time limit, he must fully explain the reason for the delay. If he is—

(1) Assigned within the geographic area of responsibility of the final approving authority, the appeal will be sent through channels to him. If the final approving authority determines that there is no basis for a change in the finding, he will so state, by indorsement, and send the appeal to HQDA(DAAG-PES).

(2) No longer in the geographic area of responsibility of the final approving authority, he may send the appeal directly to HQDA(DAAG-PES), Alexandria, VA 22331.

b. Any change in the finding of the investigation, based on an appeal, requires the same notification as the first investigation.

3-9. Revision or correction of LD findings.

The Secretary of the Army, or The Adjutant General acting for the Secretary, may at any time change a finding made under this regulation. The correct conclusion based on the facts must be shown. However, if the change is from in "line of duty" to "not in line of duty," or other evidence is considered which supports a NLOD finding, the member must be informed of the proposed change and its basis and be given a chance to respond in writing. Any statement or evidence that the member submits must be considered before taking corrective action. When a determination is changed after final action has been taken to award or not award statutory benefits (such as entitlement to disability pay), it does not necessarily change the finding on the statutory award. Final statutory determinations which are otherwise regular and approved by competent authority, may not normally be reopened or revoked. Exceptions may be made—

a. In cases of fraud, mistake of law, mathematical miscalculations, or substantial new evidence which could not have been discovered at the same time or shortly after the determination, or

b. When reopening or revocation is permitted by the law granting the authority for the statutory determination in question.

3-10. Processing cases for physical disability separation.

The agencies that process cases for physical disability separation are not bound by prior line of duty findings. When a Physical Evaluation Board (PEB) or the US Army Physical Disability Agency (USAPDA) believes that a prior LD finding may be incorrect for any reason, a request for a review should be sent to The Adjutant General.

★ TABLE 3-1

PROCESSING INFORMAL INVESTIGATIONS (see para 3-1 and 3-5)

Line	This person	will perform these actions	within ¹
1	MTF commander ²	Complete five copies of section I, DA Form 2173. Send the original and four copies to the member's unit commander. ^{3,4,5}	7 calendar days after incident or initial treatment.
2	individual's unit commander	Request DA Form 2173 from MTF, if not previously received. Complete section II, DA Form 2173, attach support documents, and send original and three copies to the officer having special court-martial authority for units in area in which the incident occurred.	14 calendar days after incident
3	special court-martial authority	Review the investigation for completeness and required documents. (1) If approved, annotate form as follows (preceded by official designation of headquarters and date, and followed by signature and signature block): (a) For disease or injury (when special court-martial authority is final approving authority). "Reviewed for completeness. In Line of Duty." ⁶ Retain one copy, send original to OMPF ⁷ and one copy each to persons listed in lines 2 and 4. ^{3,6} (b) For disease or injury (when special court-martial authority is not final approving authority) "Reviewed for completeness, In Line of Duty," followed by appropriate command line. Send original and two copies to the final approving authority. (c) For deaths: "Reviewed for completeness. No determination made," followed by appropriate command line. Send original and two copies to the final approving authority. (2) If disapproved, direct a formal investigation.	21 calendar days after incident
4	final approving authority	Review the investigation for completeness and required documents. (1) If approved, anotate as in line 3(1)(a) or (c) above. (a) For disease or injury. Retain one copy, send original to OMPF and one copy to member's unit commander. ^{3,6,9} (b) For deaths. Retain one copy and send original and one copy through casualty reporting channels to HQDA(DAAG-PES) Alexandria VA 22331. (2) If disapproved, return to the special court-martial authority and direct a formal investigation.	28 calendar days after incident

Notes.

¹ If investigation extends beyond time limits, see paragraph 3-4

² Commander having physical or administrative responsibility for MTF in which individual is treated or pronounced dead.

³ An extra copy of DA Form 2173 will be prepared for National Guard personnel attending service school under the jurisdiction of the Army or on ADT under REP-63. This copy will be filed in the individual's field MPRJ which is returned to the State adjutant general at the end of service school or ADT.

⁴ For Reserve personnel who are injured during IDT and are treated by a civilian doctor, the doctor and the unit commander should complete DA Form 2173.

⁵ If incident occurred in an area other than that to which the member is assigned, or while he was in transit between units of assignment, one copy of the completed section I, DA Form 2173 should be sent to the installation commander having special court-martial jurisdiction for units in the area of the MTF.

⁶ Followed by command line of BY AUTHORITY OF THE SECRETARY OF THE ARMY (AR 600-33). See figure 3-4 for example.

⁷ For officer: HQDA(DAPC-PSR-R), Alexandria, VA 22332

For enlisted: Commander, US Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249

USAR Personnel: Commander, US Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St. Louis, MO 63132

ROTC cadets: In accordance with AR 145-1.

⁸ Accomplish notification actions required by paragraph 3-7.

⁹ An approved copy of LD investigation should be returned to the initiating MTF on all injuries on National Guard and Reserve members of AD for 30 days or less, or IADT, when they are patients.

★TABLE 3-2

PROCESSING INFORMAL INVESTIGATIONS (see para 3-1 and 3-6)

Line	This person	will perform these actions	within ¹
1	MTF commander ²	Complete five copies of section I, DA Form 2173. Send original and four copies to the member's unit commander. ^{3,4,5}	5 calendar days after incident or initial treatment.
2	individual's unit commander	Request DA Form 2173 from MTF if not previously received. Complete section II, attach supporting documents, and send original and three copies to the LD appointing authority.	14 calendar days after incident
3	appointing authority (SPCM authority)	Appoint a disinterested commissioned officer, by letter or DF, to conduct the investigation. ⁶	17 calendar days after incident
4	investigating officer	Conduct a formal investigation as outlined in this regulation, make a report on DD Form 261, and send original and three copies to the appointing authority.	40 calendar days after incident
5	appointing authority	Review the investigation, complete the block titled "Action by the Appointing Authority" on DD Form 261. Retain one copy of the report and send the original and two copies to reviewing authority. ^{7,8}	47 calendar days after incident
6	reviewing authority	Review the investigation, complete the block titled "Action by the Reviewing Authority" ^{8,9} on DD Form 261, and send the original and two copies to final approving authority.	54 calendar days after incident
7	final approving authority	<p>a. Review the investigation and enter the official designation of the headquarters, the date, approval or disapproval of the findings (see below), signature, and signature block.⁹</p> <p>(1) For disease or injury, one of the following:</p> <p>(a) Approved BY AUTHORITY OF THE SECRETARY OF THE ARMY (AR 600-33);</p> <p>(b) Disapproved, Substitute the following: Reasons for disapproval are: _____ BY AUTHORITY OF THE SECRETARY OF THE ARMY (AR 600-33)⁸</p> <p>(2) For death cases: "Reviewed for completeness. No determination made." BY AUTHORITY OF THE SECRETARY OF THE ARMY (AR 600-33);</p> <p>b. Distribute as follows:</p> <p>(1) Death Retain one copy and send the original and one copy to HQDA</p>	60 calendar days after incident

★TABLE 3-2—Continued

PROCESSING INFORMAL INVESTIGATIONS (see para 3-1 and 3-6)

Line	This person	will perform these actions	within ¹
		(DAAG-PES) Alexandria VA 22331 ¹⁰ (2) Disease or injury Retain one copy and send original to the custodian of the member's OMPF ¹¹ and one copy to the member being investi- gated. ^{10,12,13,14}	

Notes:

¹ If investigation extends beyond time limits, see paragraph 3-4.

² Commander having physical or administrative responsibility for MTF in which member is treated or pronounced dead.

³ An extra copy of DA Form 2173 will be prepared for National Guard personnel attending service school under the jurisdiction of the Army or on ADT under REP-63. This copy will be filed in the member's field MPRJ which is returned to the State adjutant general at the end of service school or ADT.

⁴ For Reserve personnel who are injured during IDT and are treated by a civilian doctor, the doctor and the unit commander should complete DA Form 2173.

⁵ If incident occurred in an area other than that to which the member is assigned, or while the member was intransit between units of assignment, one copy of the completed section I, DA Form 2173 should be forwarded to the installation commander having special court-martial jurisdiction for units in the area of the MTF.

⁶ The same officer should be appointed to investigate all injuries or deaths which occurred as a result of a single incident. Officers who can offer evidence in the case and member's unit commander will not be appointed as the *investigating officer*. (The *investigating officer* may also be appointed to investigate a claim or possible future claim(s) in accordance with AR 27-20 if a separate claims investigation is required. The LD investigation will be in lieu of the investigation by a claims officer required by AR 27-20 if the injury or death of the person whose LD status is being investigated is the only basis for claim against the Government of other party or agency.)

⁷ If the member was a National Guardsman on duty under section 503, 504, or 505 title 32, US Code, the appointing authority will send the original and two copies of the report of investigation to the State adjutant general from which the individual was ordered to duty rather than the reviewing authority (see NGR 600-3).

⁸ The appointing, reviewing, and final approving authorities may change a previous finding. When a finding is changed, the reasons for that change will be shown on the back of DD Form 261, if there is not enough room on the front.

⁹ If the same officer acts as reviewing authority and final approving authority, enter "SAME AS FINAL APPROVING AUTHORITY" in the block title "Action by Reviewing Authority."

¹⁰ Accomplish notification actions required by paragraph 3-7.

¹¹ For officer: HQDA (DAPC-PSR-R), Alexandria, VA 22332

For enlisted: Commander, US Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249

USAR personnel: Commander, US Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St. Louis, MO 63132

ROTC cadets: In accordance with AR 145-1.

¹² CID reports will not be included in the copy sent to the member.

¹³ If finding is NOT IN LINE OF DUTY, final approving authority must also take appeal action in paragraph 3-8.

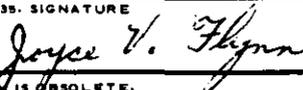
¹⁴ An approved copy of LD investigation should be returned to the initiating MTF on all injuries concerning National Guard and Reserve members on AD for 30 days or less, or IADT, when they are patients.

15 June 1980

REPORT OF INVESTIGATION LINE OF DUTY AND MISCONDUCT STATUS (AR 600-33 or AFR 35-67)						DATE 25 Oct 79		
1. INVESTIGATION OF <input checked="" type="checkbox"/> INJURY <input type="checkbox"/> DISEASE <input type="checkbox"/> DEATH						3. STATUS		
2. TO: (Major Army or Air Force Commander) Commander Fort George G. Meade, Maryland 20755						6. <input checked="" type="checkbox"/> REGULAR OR EAD (1) <input type="checkbox"/> MORE THAN 90 DAYS (2) <input type="checkbox"/> 90 DAYS OR LESS		
4. LAST NAME - FIRST NAME - MIDDLE INITIAL Jones, John J.				5. SERVICE NO./SSAN 000-00-0000	8. GRADE SSG (E6)		7. ORGANIZATION AND STATION OF INDIVIDUAL USA RMS, Baltimore, Maryland	
8. OTHER MILITARY PERSONNEL INVOLVED IN THE SAME INCIDENT (Last Name - First Name - Middle Initial)						9. DURATION (Applies ONLY to 3c and 3d)		
SERVICE NUMBER OR SSAN						LOD INVESTIGATION MADE		
GRADE						YES		
						NO		
						START		
						FINISH		
9. BASIS FOR FINDINGS (As determined by investigation)								
a. CIRCUMSTANCES		(1) HOUR		(2) DATE		(3) PLACE		
		1535		4 Sep 79		Baltimore, Maryland		
(4) HOW SUSTAINED				b. MEDICAL DIAGNOSIS				
Attempted Suicide				Brain Syndrome				
c. <input type="checkbox"/> WAS <input checked="" type="checkbox"/> WAS NOT PRESENT FOR DUTY						(Do not complete e and f in death cases)		
d. ABSENT <input type="checkbox"/> WITH <input checked="" type="checkbox"/> WITHOUT AUTHORITY						e. INTENTIONAL MISCONDUCT OR NEGLECT		
						<input checked="" type="checkbox"/> WAS <input type="checkbox"/> WAS NOT THE PROXIMATE CAUSE		
						f. <input type="checkbox"/> WAS <input type="checkbox"/> WAS NOT MENTALLY SOUND		
6. REMARKS On 4 Sep 79, SM was admitted to Kimbrough Army Hospital, Baltimore, MD. Following an apparent suicide attempt, SSG Jones was reported to have swallowed 2 bottles of sleeping pills, inflicted multiple lacerations on his left arm with a razor blade, and then jumped from a 4th floor window of the hotel in which he was registered. Investigation reveals SSG Jones was undergoing psychiatric treatment at Kimbrough hospital and psychiatrist states he was not mentally sound. However, since SM was AWOL at time of suicide attempt, my findings must be NOT IN LINE OF DUTY. SM unable to be questioned. (Mentally unsound) Inclosures: 1. Apt Inst; 2. DA Form 2173; 3. Psychiatric Report; 4. Witness statement (Wells).								
10. FINDINGS (Do not complete in death cases)				ORGANIZATION AND STATION OF INVESTIGATING OFFICER				
<input type="checkbox"/> IN LINE OF DUTY				HQ, USA RMS, Baltimore, Maryland				
<input checked="" type="checkbox"/> NOT IN LINE OF DUTY - NOT DUE TO OWN MISCONDUCT				SIGNATURE AND TYPED NAME OF INVESTIGATING OFFICER				
<input type="checkbox"/> NOT IN LINE OF DUTY - DUE TO OWN MISCONDUCT				<i>Ruth Wilson</i> Ruth Wilson				
				GRADE		SERVICE NO./SSAN		
				2/LT		AGC 000-00-0000		
ACTION BY APPOINTING AUTHORITY				ACTION BY REVIEWING AUTHORITY				
HEADQUARTERS		DATE		HEADQUARTERS		DATE		
				HQ, USA RMS, Baltimore, MD		5 Nov 79		
<input checked="" type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED (Reasons and substituted findings are on reverse)				<input checked="" type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED (Reasons and substituted findings are on reverse)				
SIGNATURE AND TYPED NAME				SIGNATURE AND TYPED NAME				
SAME AS REVIEWING AUTHORITY				<i>F. E. Steuck</i> F. E. STEUCK				
GRADE		BRANCH		GRADE		SERVICE NO./SSAN		
				MAJOR		AGC 000-00-0000		
FOR ACTION OF OFFICE INDICATED IN ITEM 2								
Commander Fort George G. Meade, Maryland 20755 10 Nov 79								
Disapproved. Changed to IN LINE OF DUTY, Per Rule 10, Appendix								
SM not mentally sound at inception of AWOL.								
BY AUTHORITY OF THE SECRETARY OF THE ARMY (AR 600-33);								
cy fur Ind by mail 11 Nov 79								
<i>Joseph E. Nickens Sr.</i> J. E. NICKENS, SR. COL, FA Commanding								

DD FORM 261
1 OCT 66REPLACES EDITION OF 1 AUG 66. EXISTING SUPPLIES
OF WHICH WILL BE USED UNTIL EXHAUSTED

★Figure 3-2. Rescinded.

STATEMENT OF MEDICAL EXAMINATION AND DUTY STATUS			
For use of this form, see AR 600-33; the proponent agency is The Adjutant General's Office.			
THRU: (Include ZIP Code) Commander HQ Co, USA Ft Myer, VA 22211	TO: (Include ZIP Code) Commander US Army MDW Ft McNair, Wash DC 20319	FROM: (Include ZIP Code) Commander Rader Army Clinic Ft Myer, VA 22211	
1. NAME OF INDIVIDUAL EXAMINED (Last, First, and Middle Initial) Doe, John F.		2. SSN 378-54-5048	3. GRADE SFC (E7)
4. ORGANIZATION AND STATION HQ Co, USA, Ft Myer, VA 22211		5. ACCIDENT INFORMATION a. DATE 3 Nov 79 b. PLACE (City and State) Alexandria, Virginia	
SECTION I - TO BE COMPLETED BY ATTENDING PHYSICIAN OR HOSPITAL PATIENT ADMINISTRATOR			
6. INDIVIDUAL WAS <input type="checkbox"/> OUT PATIENT <input type="checkbox"/> ADMITTED <input checked="" type="checkbox"/> DEAD ON ARRIVAL	7. NAME OF HOSPITAL OR TREATMENT FACILITY <input type="checkbox"/> CIVILIAN <input checked="" type="checkbox"/> MILITARY Rader Army Clinic, Ft Myer, VA 22211		
8. HOUR AND DATE ADMITTED 0055, 3 Nov 79		9. HOUR AND DATE EXAMINED 0055, 3 Nov 79	
10. NATURE AND EXTENT OF <input checked="" type="checkbox"/> INJURY <input type="checkbox"/> DISEASE <input checked="" type="checkbox"/> RESULTING IN DEATH (Explain) Fractured Skull			
11. MEDICAL OPINION: a. INDIVIDUAL <input checked="" type="checkbox"/> WAS <input type="checkbox"/> WAS NOT UNDER THE INFLUENCE OF <input checked="" type="checkbox"/> ALCOHOL <input type="checkbox"/> DRUGS (Specify): b. INDIVIDUAL <input checked="" type="checkbox"/> WAS <input type="checkbox"/> WAS NOT MENTALLY SOUND (Attach Psychiatric evaluation if appropriate). c. INJURY <input type="checkbox"/> IS <input checked="" type="checkbox"/> IS NOT LIKELY TO RESULT IN A CLAIM AGAINST THE GOVERNMENT FOR FUTURE MEDICAL CARE. d. INJURY <input checked="" type="checkbox"/> WAS <input type="checkbox"/> WAS NOT INCURRED IN LINE OF DUTY. BASIS FOR OPINION: Medical records and blood alcohol test.			
12. THE FOLLOWING DISABILITY MAY RESULT <input type="checkbox"/> TEMPORARY <input type="checkbox"/> PERMANENT PARTIAL <input checked="" type="checkbox"/> PERMANENT TOTAL		13. BLOOD ALCOHOL TEST MADE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	14. NO. OF MG ALCOHOL/100 ML BLOOD .04 mg/100 ml
15. DETAILS OF ACCIDENT OR HISTORY OF DISEASE (how, where, when) Patient was driver in an automobile involved in an accident on Duke Street in Alexandria, VA.			
16. DATE 5 Nov 79	17. TYPED OR PRINTED NAME OF ATTENDING PHYSICIAN OR PATIENT ADMINISTRATOR ISABELLE J. SAUNDERS Major, MSC	18. SIGNATURE 	
SECTION II - TO BE COMPLETED BY UNIT COMMANDER OR UNIT ADVISER			
19. DUTY STATUS <input type="checkbox"/> PRESENT FOR DUTY <input type="checkbox"/> ABSENT WITHOUT AUTHORITY <input checked="" type="checkbox"/> ABSENT WITH AUTHORITY: <input checked="" type="checkbox"/> ON PASS <input type="checkbox"/> ON LEAVE		20. HOUR AND DATE OF ABSENCE a. FROM 0001 hrs 30 Oct 79 b. TO 0055 hrs 3 Nov 79	
21. ABSENCE WITHOUT AUTHORITY MATERIALLY INTERFERED WITH THE PERFORMANCE OF MILITARY DUTY (Explain in item 30 type of duty missed, hours of duty, and how it did or did not interfere with performance) <input type="checkbox"/> YES <input type="checkbox"/> NO NA			
22. INDIVIDUAL WAS ON <input checked="" type="checkbox"/> ACTIVE DUTY <input type="checkbox"/> ACTIVE DUTY FOR TRAINING <input type="checkbox"/> INACTIVE DUTY TRAINING		23. HOUR AND DATE TRAINING a. BEGAN NA b. ENDED	
24. RESERVIST DIED OF INJURIES RECEIVED PROCEEDING <input type="checkbox"/> DIRECTLY TO TRAINING <input type="checkbox"/> DIRECTLY FROM TRAINING			
25. MODE OF TRANSPORTATION NA	26. HOUR BEGINNING TRAVEL NA	27. DISTANCE INVOLVED NA	28. NORMAL TIME FOR TRAVEL NA
29. DUTY STATUS AT TIME OF DEATH IF DIFFERENT FROM TIME OF INJURY OR CONTRACTION OF DISEASE <input type="checkbox"/> PRESENT FOR DUTY <input type="checkbox"/> ABSENT WITH AUTHORITY <input type="checkbox"/> ABSENT WITHOUT AUTHORITY			
30. DETAILS OF ACCIDENT - REMARKS (If additional space is needed, continue on reverse) (Attach inclosures as necessary) SFC Doe was the driver of a POV, which was involved in an accident at 0030 hours, 3 Nov 79, with a car driven by Mr. James Jones, on Duke Street, Alexandria, VA. Mr. Jones made a left turn suddenly and without signaling, directly in front of SFC Doe's car who could not avoid striking Mr. Jones' car. Mr. Jones was cited for a number of violations. Police report is attached.			
31. FORMAL LINE OF DUTY INVESTIGATION REQUIRED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		32. INJURY IS CONSIDERED TO HAVE BEEN INCURRED IN LINE OF DUTY (Not applicable on deaths) <input type="checkbox"/> YES <input type="checkbox"/> NO Death (no detm necessary)	
33. DATE 9 Nov 79	34. TYPE NAME AND GRADE OF UNIT COMMANDER OR UNIT ADVISER JOYCE V. FLYNN, CPT, AGC	35. SIGNATURE 	

DA FORM 1 OCT 72 2173

REPLACES DA FORM 2173, 1 JUNE 66, WHICH IS OBSOLETE.

Figure 3-3

15 June 1980

AR 600-33

Doe, John F., SFC (E7), SSN 378-54-5048
HQ, Ft. Myer, VA 22211 1 Nov 79
Reviewed for completeness. No determination made.

FOR THE COMMANDER:

2 Incl JESSIE WORTHY
 Major, ORD
 Adjutant

Commander, US Army Military District of Washington, Washington, DC 20319 7 Nov 79
Reviewed for completeness. No Determination made.

BY AUTHORITY OF THE SECRETARY OF THE ARMY (AR 600-33):

2 Incl FRANCIS STEUCK
nc LTC, AGC
 Adjutant General

Figure 3-4

CHAPTER 4

CONDUCT AND REVIEW OF AN LD INVESTIGATION

4-1. General. *a.* Formal LD investigations will be conducted according to this chapter. See table 4-1. AR 15-6 may also be used as a guide.

b. The investigating officer will insure that pertinent sections of DA Form 2173 are completed as shown in paragraph 3-5.

4-2. Informing the individual. An individual being investigated, or his representative, must be informed, in writing, of the impending investigation and its purpose. The member will be allowed to submit evidence or sworn or unsworn statements. If a statement is not obtained, the reason will be given in the LD report. If practicable, the person investigated will be allowed to be present at the examination of witnesses if it goes beyond examining documentary evidence. When the individual is mentally incompetent or in such physical condition that he is unable to act for himself, an officer of mature judgment will be appointed to act in his behalf.

4-3. Getting evidence. Primary effort should be made in getting evidence from persons who have personal knowledge of the incident or material conditions and circumstances leading up to it. So far as practicable, all known witnesses who know the facts will be interviewed. Although spontaneous statements are preferable to questions and answers, they are often ambiguous or obscure on material points. In such cases, the investigating officer will develop the testimony further by recorded questioning. If the testimony conflicts, the witness will be questioned again to determine the facts. If it is not practical or appropriate to interview a witness, a copy of a statement taken from the witness in another investigation may be used. The requirements of paragraph 3-2*d* must be met. If statements are not taken from persons who know about the incident, the reason will be given in the LD report.

4-4. Exhibits. *a.* A copy of each exhibit will be attached to each copy of the LD report. Normally, the original copy of each exhibit will be attached to the original of the report. If necessary to type a copy of the original for any reason (e.g., illegibility, additional copies, or translation), it will also be attached. Copies of exhibits may be attached to the original of a report only when the original exhibit is required to be filed elsewhere, or the documents are the personal property of individuals or estates (e.g., personal letters or suicide notes addressed to certain persons). When possible, these documents should be photocopied or duplicated.

b. All exhibits attached to the LD report that are not originals must be good enough to reproduce legible copies by photocopy or duplication.

c. The investigating officer will attach exhibits, diagrams, or photographs pertinent to the case, if practicable.

4-5. Action when finding cannot be reached. If the investigating officer cannot arrive at a finding based on the policies and guidance in this regulation, he should contact his local staff judge advocate.

4-6. Completion of item 10, DA Form 261. When the investigating officer has completed his investigation and prepared his report (para 3-6), he will mark the appropriate line of duty finding in item 10, DD Form 261 only in injury and disease cases. He will complete the box to the right of item 10, and send the report to the appointing authority. A line of duty determination is not made in death cases.

4-7. Checklist for processing LD investigations. See sample at figure 4-1.

4-8. Review of LD Investigations. *a.* After the report of investigation has been prepared, the appointing, reviewing, and final approving authorities will review it.

b. LD determinations will be based on the information in the investigation and this regulation. LD authorities are not to influence the decision of other LD authorities in the conduct of LD investigations.

c. At any stage of review, the report of investigation may be returned through review channels for corrective action.

d. The opinions of the command surgeon and staff judge advocate should be obtained when appropriate.

e. The appointing and the reviewing authorities will complete their blocks on the DD Form 261, "Action by Appointing Authority," and "Action by Reviewing Authority." The appointing authority will approve or disapprove the finding of the investigating officer. The reviewing authority will approve or disapprove the finding of the appointing authority. The final approving authority will approve or disapprove the finding of the reviewing authority. A clear, concise explanation will be given when an LD

determination is disapproved. The identity of the headquarters (appointing, reviewing, or final approving authority) must be clear and include a complete address. If the address includes an APO, the city of the US Post Office and the APO number will be given. The final approving authority will make his entry in the space at the extreme bottom of the DD Form 261 or on the back of DA Form 2173 (fig. 3-1 or 3-4).

f. Commanders may not delegate authority granted in paragraph 1-4; however, they may name officers assigned to their headquarters to authenticate (sign for commander) LD reports of investigation. The Chief, National Guard Bureau, may name an officer not below field grade, on duty with the National Guard Bureau, to authenticate DD Form 261. He may further name an alternate to any officer to authenticate DD Form 261 if the principal designee is absent. The alternate will be an officer not below field grade or a civilian employee of the National Guard Bureau whose regularly assigned duties are equal to the duties normally assigned to officers not below field grade.

TABLE 4-1

CONDUCT OF LINE OF DUTY DETERMINATION

Step	A	B	C
	If the case being investigated is—	and—	the investigating officer will—
1	disease -----	-----	determine whether the illness was due to any condition or disease that existed before AD.
2	alcohol and drug abuse -----	it is known, suspected, or alleged that the person was under the influence or intoxicants, hallucinogens, or drugs the person is hospitalized because of total incapacitation. when appropriate ----- narcotics or dangerous drugs is suspected	attempt to determine the extent of influence. It may be vital in determining his misconduct. get testimony of witnesses as to general behavior, rationality of speech, or muscular coordination as compared to when he was not under the influence. get a statement from the MTF that shows only that portion of hospitalization during which SM was totally incapacitated. get blood alcohol and other test for intoxicants. have laboratory test made so that a medical officer can interpret the results. When obtained, add as an exhibit to the report.
3	alleged resistance to law enforcement officers	-----	determine whether lighting conditions, uniforms and other similar factors were such that he should have— a. Recognized the agents. b. Understood any instructions or commands. c. Understood the degree of restraint.
4	cause of death -----	there is doubt as to the medical cause and there has been no autopsy	ask the installation commander to have an autopsy made. If a medical officer is not available, a civilian doctor should be employed.
5	accidental death, foul play, or suicide	it is not well established by a coroner's inquest, or other means (Chap. 8, Ar 600-10)	request that an officer be appointed to hold an inquest.
6	apparent or attempted suicide	mental competency is questionable, the person was AWOL at the time of suicide	give psychiatrist all available information and request his opinion on the mental condition of the person. include all evidence on the mental competency of the person during and before the incident which might disclose the cause, nature, and extent of mental soundness. get evidence which will describe his mental condition both at the start of AWOL and at the time of the incident.
7	death caused by another person who is still alive,	-----	in the report, show the disciplinary action taken or will be taken against him.

	YES	NO	NA
1. Are all entries on DD Form 261 completed?	[]	[]	[]
a. Does item 9g include a summary of the incident and a list of inclosures?	[]	[]	[]
b. Has item 10 been completed?	[]	[]	[]
c. Has action by the appointing authority been completed and signed?	[]	[]	[]
d. Has action by reviewing authority been completed and signed?	[]	[]	[]
2. Is the document that appointed the investigating officer included?	[]	[]	[]
3. Is DA Form 2173 included and have all entries been completed?	[]	[]	[]
a. Is item 11 completed with other than "unknown"?	[]	[]	[]
b. Does item 15 contain circumstances?	[]	[]	[]
c. Does item 30 contain full details, including time and place of incident, length of hospitalization, type of injury, and all circumstances?	[]	[]	[]
4. If there are major differences between DD Form 261 and DA Form 2173, are they explained or resolved?	[]	[]	[]
5. Has the individual been informed, in writing, of the LD investigation and its purpose?	[]	[]	[]
a. Has servicemember been permitted to submit evidence or sworn or unsworn statements?	[]	[]	[]
b. Has IO obtained statements from the main (personal knowledge) witnesses?	[]	[]	[]
c. If no to a or b, have reasons for failure to get statements been given in the LD report?	[]	[]	[]
d. Have statements of witnesses been recorded on DA Form 2823?	[]	[]	[]
e. Does the written statement of the individual who is being investigated show that he has been advised of his right not to make a statement?	[]	[]	[]
6. In cases that involve actual or suspected use of alcohol or other drugs:			
a. Is an SF 544 attached that shows the period of hospitalization for total physical incapacitation caused by abuse of alcohol or other drugs?	[]	[]	[]
b. Have blood alcohol and other test results for intoxication been included?	[]	[]	[]
c. Have statements of witnesses as to the general behavior, rationality, and coordination of the person been included?	[]	[]	[]
7. In cases that involve apparent or attempted suicide or any case in which mental capacity is questioned:			

Figure 4-1. Checklist for Processing Line of Duty Investigations.

	YES	NO	NA
a. Has statement (SF 544) of mental status been included?	[]	[]	[]
b. Have statements from associates who know the member and who could attest to normal behavior and state of mind been included?	[]	[]	[]
8. In death cases:			
a. Was an autopsy and toxicology performed by military or civilian authorities?	[]	[]	[]
b. Is a copy of the autopsy protocol (report) and toxicology report (drug and alcohol cases) included?	[]	[]	[]
9. In formal investigations, are the items below included and completed as cited above?			
a. DD Form 261	[]	[]	[]
b. Instrument appointing IO	[]	[]	[]
c. DA Form 2173	[]	[]	[]
d. Blood alcohol test (BAT) results	[]	[]	[]
e. MP report, civilian police report, or summary of CID report	[]	[]	[]
f. Statement from person investigated	[]	[]	[]
g. Other witness statements	[]	[]	[]
h. SF 544	[]	[]	[]
i. Autopsy and toxicology report	[]	[]	[]
j. Copy of letter of sympathy in death cases.	[]	[]	[]
k. Civilian death certificate, if there is one.	[]	[]	[]
10. Are reasons and explanations furnished for all "NO" answers given above?	[]	[]	[]
11. Has the subject of a formal LD investigation been furnished a copy of the completed investigation and notification letter?	[]	[]	[]
12. Has a signed receipt been placed in the file maintained by the final approving authority, or has disposition been indicated on DD Form 261 of the member's copy if undeliverable?	[]	[]	[]

Figure 4-1. Checklist for Processing Line of Duty Investigation—continued

APPENDIX.

**PRINCIPLES GOVERNING LINE OF DUTY AND
MISCONDUCT
DETERMINATIONS IN THE ARMY**

In every formal investigation, the purpose is to find out whether there is evidence of intentional misconduct or willful negligence which is substantial and of a greater weight than supports any different conclusion so as to rebut the presumption of "in line of duty." To arrive at such decisions, several basic rules can be applied to various situations. The specific rules of misconduct are—

Rule 1. Injury or disease proximately caused by the intentional misconduct or willful negligence is not in line of duty. It is due to misconduct. This is a general rule and must be considered in every case in which misconduct or willful negligence appears to be involved. Generally, two issues must be resolved when a member is injured (or contracts a disease), whether the injury or disease was incurred in line of duty and whether it was due to misconduct. Normally, the two issues are resolved at the same time under the same facts and same rules.

Rule 2. Mere violation of military regulations, orders, or instructions, or of civil or criminal laws, if there is no further sign of misconduct, is no more than simple negligence. Simple negligence is not misconduct. Therefore, a violation under this rule alone is not enough to determine that the injury or disease resulted from misconduct. Although the rules were broken, even of a criminal nature, the facts must still be weighed to determine if there was intentional misconduct or willful negligence which was the proximate cause of the injury or disease. However, the violation is one factor to be examined and weighed with the other circumstances.

Rule 3. Injury or disease that results in incapacitation because of the abuse of alcohol and other drugs is not in line of duty. It is due to misconduct. This rule is on the effect of the drug on the member's conduct, as well as the physical effect on his body. Any erratic or reckless conduct caused by the effect of the drug, which proximately causes his injury or disease is misconduct. The fact that the member may have a pre-existing physical condition which caused him to be susceptible to the effects of the drug does not excuse such misconduct. However, the use or taking of a drug by mistake or accident is not misconduct.

Rule 4. Injury or disease that results in incapacitation because of the abuse of intoxicating liquor is not in line of duty. It is due to misconduct. The principles in *Rule 3* also apply here. While the mere drinking of alcoholic beverages is not misconduct, one who voluntarily becomes intoxicated is held to as high a standard of conduct as one who is sober. Intoxication does not excuse his conduct. Whether a person was intoxicated at the time of an

incident is often difficult to prove. While normally there are behavior patterns common to persons who are intoxicated, some, if not all, of these characteristics may be caused by other conditions. For example, an apparent drunken stupor might have been caused by a blow on the head. Consequently, when the fact of intoxication is not clearly fixed, care should be taken to determine the actual cause of any irrational behavior which is like or the same as that of intoxication.

Rule 5. Injury incurred while knowingly resisting a lawful arrest, or while attempting to escape from a guard or other lawful custody, is incurred not in line of duty. It is due to misconduct. One who resists arrest, or who attempts to escape from custody, can reasonably expect that necessary forces, even that which may be excessive under the circumstances, will be used to restrain him and, is acting with willful negligence.

Rule 6. Injury incurred while tampering with, attempting to ignite, or otherwise handling an explosive, firearm, or highly flammable liquid in disregard of its dangerous qualities is incurred not in line of duty. It is due to misconduct. Unexploded ammunition, highly flammable liquids, and firearms are inherently dangerous. Their handling and use require a high degree of care. A member who knows the nature of such an object or substance and who voluntarily or willfully handles or tampers with such materials without authority or in disregard of their dangerous qualities, is willfully negligent. This rule does not apply when a member is required by assigned duties or authorized by appropriate authority to handle the explosive, firearm, or liquid, and reasonable precautions have been taken. The fact that the member has been trained or worked with the use or employment of such objects or substances will have an important bearing on whether reasonable precautions were observed.

Rule 7. Injury caused by wrongful aggression, or voluntarily taking part in a fight or like encounter, in which one is equally at fault in starting or continuing the fight, is not in line of duty. It is due to misconduct. An injury received by a member in an affray in which he is the aggressor is caused by his own misconduct. The rule does not apply when a person is the victim of an unprovoked assault and he sustains injuries in an attempt to defend himself. However, provocative actions or language by the member used under circumstances in which a reasonable man would expect retaliation is a willful disregard for personal safety, and injuries proximately resulting therefrom are due to misconduct. When an adversary uses excessive force or means that could not reasonably have been foreseen under the circumstance, the injury is not considered as having been proximately caused by misconduct. However, except for self-defense, for a member to persist in a fight or other encounter after his adversary produces a dangerous weapon is to act in willful disregard for safety and is willful negligence.

Rule 8. Injury caused by driving a vehicle when in an unfit condition, and the member knew or should have known about it, is not in line of duty. It is due to misconduct. A member involved in an automobile accident caused by his having fallen asleep while driving is not, guilty of willful negligence solely because he fell asleep. The test is whether a reasonable person, under circumstances like those under which he was driving, would undertake the

trip without falling asleep while driving. Unfitness to drive may be caused by voluntary intoxication or use of drugs.

Rule 9. Injury because of erratic or reckless conduct, or other deliberate conduct without regard for personal safety or the safety of others, is not in the line of duty. It is due to misconduct. This rule has its chief application in the operation of a vehicle, but may be applied with any deliberate conduct which risks the safety of self or others. "Thrill" or "dare-devil" type activities also are examples in which this rule may be applied.

Rule 10. A wound or other injury deliberately self-inflicted by a member who is mentally sound is not in line of duty. It is due to misconduct. Although a line of duty or misconduct determination in death cases is not required, the suicide or attempted suicide is so related to the self-infliction of wounds or other injuries that it should be discussed. Suicide is the deliberate and intentional destruction of one's own life by a person of years of discretion and a sound mind. The law presumes that a sane man will not commit suicide (or make a bona fide attempt to commit suicide). This presumption prevails until overcome by substantial evidence and a greater weight of the evidence than supports any different conclusion. Evidence which merely establishes the possibility of suicide, or merely raises a suspicion that death is due to suicide, is not enough to overcome the general line of duty presumption. However, in some cases, a determination that death was caused by a deliberately self-inflicted wound or injury may be based on circumstances surrounding the finding of a body. These circumstances should be clear and unmistakable and there should be no circumstances to the contrary.

Rule 11. Intentional misconduct or willful negligence of another person is charged to a member if the latter has control over and is thus responsible for the former's conduct, or if the misconduct or neglect shows enough planned action to establish a joint enterprise. The mere presence of the member is not a basis for charging him with the misconduct or willful negligence of another, even though by speaking up he may have had some influence over the circumstances. However, even though a member is not the principal actor in acts which constitute misconduct, if he has substantially participated with others in such venture, his conduct will be misconduct.

Rule 12. The line of duty and misconduct status of a member injured or incurring disease while taking part in outside activities, such as business ventures, hobbies, contests, professional or amateur athletic activities, is determinable as any other case under the applicable rules and facts presented in the case. To determine whether an injury is due to willful negligence, the nature of the outside activity should be considered with the training and experience of the member.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) direct to HQDA(DAAG-PES) WASH, DC 20314.

By Order of the Secretary of the Army:

E. C. MEYER
General, United States Army
Chief of Staff

Official:

J. C. PENNINGTON
Major General, United States Army
The Adjutant General

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S/S

Pages

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HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, 31 March 1981

S/S Ch. 2 15 Jan 82
Immediate Action
INTERIM CHANGE

AR 600-33
INTERIM CHANGE
NO. 102
Expires 31 March 1982

PERSONNEL-GENERAL

LINE OF DUTY INVESTIGATIONS

This interim change is forwarded to the field to eliminate the requirements of a Disposition Form documenting minor injuries, common diseases and deaths due to natural causes. This change has a direct and immediate impact on the individual service member; expires 1 year from date of publication and will be destroyed at that time unless sooner superseded by a formal printed change; is being distributed by 1st class mail through the publications pinpoint distribution system to all holders of AR 600-33; is, as an interim measure, issued in other than page-for-page format; and will be included in change 2, AR 600-33.

Page 3-2, paragraph 3-3a, is changed as follows:

a. Presumptive determinations: Unless the person's commander or medical officer has evidence to the contrary (e.g. misconduct, AWOL, or willful neglect), a DA Form 2173 (Statement of Medical Examination and Duty Status) will be initiated to the unit commander by the MTF commander for every case of injury involving admission to a hospital. DA Form 2173 will also be initiated in each case of injury when an individual is being evaluated by a Medical Evaluation Board for a determination of physical/mental fitness for retention on active duty; when the injured patient was not previously hospitalized for that same condition, or for an antecedent condition which led directly to the current condition.

Page 3-11, Figure 3-2 is rescinded.

(DAAG-PES)

By Order of the Secretary of the Army:

E. C. MEYER
General, United States Army
Chief of Staff

Official:

J. C. PENNINGTON
Major General, United States Army
The Adjutant General

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HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, 23 January 1981

Immediate Action INTERIM CHANGE

AR 600-33
INTERIM CHANGE
NO. 101
Expires 23 January 1982

PERSONNEL-GENERAL

LINE OF DUTY INVESTIGATIONS

This interim change is forwarded to the field to change the time limits required for processing line of duty investigations that has a direct and immediate impact on the individual service member; expires 1 year from date of publication and will be destroyed at that time unless sooner superseded by a formal printed change; is being distributed by 1st class mail through the publications pinpoint distribution system to all holders of AR 600-33; is, as an interim measure, issued in other than page-for-page format; and will be included in change 2, AR 600-33.

Page 3-6, Table 3-1, Processing Informal Investigations, is changed as follows:

Line 1 change 3 working days to 7 calendar days
Line 2 change 9 working days to 14 calendar days
Line 3 change 14 working days to 21 calendar days
Line 4 change 20 working days to 28 calendar days

Page 3-8, Table 3-2, Change 1, Processing Formal Investigations, is changed as follows:

Line 1 change 3 working days to 5 calendar days
Line 2 change 9 days to 14 calendar days
Line 3 change 12 days to 17 calendar days
Line 4 change 30 days to 40 calendar days
Line 5 change 37 days to 47 calendar days
Line 6 change 44 days to 54 calendar days
Line 7 change 50 days to 60 calendar days

(DAAG-PES)

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Major General, United States Army
The Adjutant General

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S/S Ch. 2
pat 15-Jan-82

CHAPTER 3

PROCESSING LD ACTIONS

3-1. Types of determinations and investigations. *a. General.* Presumptive LD findings and informal and formal LD investigations are authorized under this regulation. The types of actions will depend on the case. The availability of facts; legal interpretations (of rules in appropriate regulations); and the degree of investigation needed to establish circumstances surrounding the death, injury, or disease will be considered. Usually a simple case can be resolved by an informal investigation or presumptive determination. A complex case may require a formal investigation. See paragraph 3-3 for listing of LD action requirements.

b. Presumptive line of duty determination. This is a determination of line of duty status on an injury, disease, or death incurred under such circumstances as to imply that it was in the line of duty. This presumption does not apply when there is evidence to the contrary that would warrant an informal or formal investigation. A presumptive determination can be made on cases in paragraph 3-3a when the commander and medical officer have no evidence of misconduct, negligence, or unauthorized absence.

c. Informal line of duty investigation. An informal investigation consists of the unit and MTF commanders (or doctor or patient administrator) gathering enough evidence so the authorities can make an LD finding (para 1-4). The final determination of an informal investigation can result in a finding of in line of duty only, except on cases in paragraph 2-5f(1). Other informal investigations will be recorded on DA Form 2173 prepared by the MTF and unit commanders and approved by the SPCM or higher authority. When DA Form 2173 is used, only those documents needed to support the finding should be attached. Table 3-1 shows the steps for an informal investigation.

d. Formal line of duty investigation. A formal investigation is a detailed investigation ordered

by a SPCM or higher authority. It may be demanded by the person affected by the LD finding to get the facts of the death, injury, or disease of the member. This investigation consists of a completed DD Form 261 (Report of Investigation—Line of Duty and Misconduct Status) (fig. 3-1). Documents (para 3-6d) needed to support the finding and provide a complete investigation will be attached.

3-2. Nature of evidence to be considered. *a.* Statements of witnesses and documentary evidence will be considered. The weight given to any item of evidence rests with the investigating officer.

b. Before questioning by an official investigator (civilian or military), the member will be advised that he does not have to make any statement that is against his interest that relates to the origin, incurrence, or aggravation of any injury or disease he suffered. The member's statement, if any, will be recorded on DA Form 2823 (Witness Statement) and will show that the above warning was given. Any written statement signed by the member that does not contain the above warning will not be used as evidence for an unfavorable LD determination. If the member also is suspected or accused of any offense under the Uniform Code of Military Justice, (e.g., AWOL, damage to military or civilian property, drunk driving, malingering, or negligent homicide), he will sign DA Form 3881 (Rights Warning Procedures/Waiver Certificate). Before a statement is taken, he will also be advised of his rights under Article 31, Uniform Code of Military Justice, or the Fifth Amendment of the Constitution of the United States, as appropriate.

c. Statements by witnesses will be recorded on DA Form 2823. However, if a witness is also suspected or accused of an offense under the Uniform Code of Military Justice, or if he is also

being investigated, the provisions of *b* above will apply.

d. A copy of a statement taken in another investigation may be used as an exhibit to an LD investigation under the conditions below. Such statements will be clearly identified as to type of investigation from which they were taken and the source.

(1) The information must be material to the LD investigation.

(2) The person being investigated must be allowed to examine the statement and refute any unfavorable testimony before the investigating officer makes any LD findings.

(3) The applicable provisions of *b* above were complied with at the time the statement was taken. This does not apply to statements made to persons who were not acting in an official capacity at that time.

e. Accident reports listed in AR 385-40, which are safeguarded information, may not be used as evidence or to obtain evidence in determining the misconduct or LD status of a member.

f. Medical records should not be used as documentary evidence in completing LD reports of investigation. Information in these records can be obtained from the MTF commander or patient administrator, on written request, when there is evidence to show that a medical condition warrants consideration. For example, when a blood-alcohol test was taken during medical care and degree of intoxication is an issue, the results of the blood alcohol test should be requested. The information will be provided on SF 544 (Clinical Record—Statement of Patient's Treatment) or other form as appropriate (e.g., autopsy and laboratory reports).

3-3. Requirements for line of duty actions. *a. Presumptive determination.* Unless the person's commander or medical officer has evidence to the contrary (misconduct, AWOL, or willful neglect), the conditions listed below will be presumed to have been "In Line of Duty" and not require a LD investigation. The MTF commander will write to the commander (using a DF) about the presumptive LD finding. A sample is shown at figure 3-2.

(1) Death due to natural causes.

(2) Injury or death which was the direct result of the performance of duty (except for b(1) and (3) below).

(3) Injury or death while a passenger in an aircraft.

(4) A disease, unless it was the result of misconduct, contracted while AWOL; or contracted under doubtful or strange circumstances.

(5) An injury which is only temporarily disabling and will not cause a future physical impairment.

(6) Injury incurred while taking part in military athletics or a military athletic program.

Note. When any doubt exists on the above, a report of investigation will be completed.

b. Informal investigation. An informal investigation to determine line of duty status will be conducted when there is no AWOL, misconduct, or willful negligence, in the cases below.

(1) Injury or death caused by a motor vehicle accident (nonhostile or nonbattle only).

(2) Death while taking part in military athletics or a military athletic program.

(3) Injury or death while pilot or co-pilot of a military aircraft (nonhostile or nonbattle only).

(4) Injury or death while traveling directly from AD.

(5) Injury of a USAR member while on ADT or IDT.

(6) Injury, disease, or death for which a presumptive determination is inappropriate and formal investigation is not required.

c. Formal investigation. A formal line of duty investigation will be completed in cases that involve:

(1) Injury or death incurred while AWOL for 120 or fewer days and there is no proof of mental unsoundness at the inception of the unauthorized absence. No investigation is required on cases that involve AWOL of more than 120 days unless there is evidence of mental unsoundness at the inception of the unauthorized absence.

(2) Injury, disease, death, or medical condition apparently due to misconduct or willful negligence.

(3) Injury, disease, or death that occurs under strange or doubtful circumstances.

(4) Injury or death involving the abuse of alcohol or other drugs.

(5) Self-inflicted injuries or suicide.

reports is the Commander, US Army Criminal Investigating Command, 5611 Columbia Pike, Falls Church, VA 22041.

(2) The appropriate assignment division (see AR 640-10 for addresses) for all officers and warrant officers on active duty for more than 30 days when the final determination is "Not In Line of Duty."

(3) In the case of USAR members who have returned home after completion of ADT, IADT, AT, FTTD, or IDT, to the individual through the Commander, US Army Reserve Components Personnel and Administration Center, 9700 Page Blvd, St. Louis, MO 63132.

c. Notification letters returned to the final approving authority undelivered, will be forwarded by letter, as shown below. The letter will request that the notification letter, including the copy of line of duty report of investigation, be sent to the member:

(1) *For officers.* HQDA(DAPC-PSR-R), Alexandria, VA 22332.

(2) *For enlisted personnel.* Commander, US Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249.

3-8. Appeals. a. The member may appeal, in writing, within 30 days after receipt of notice of the finding. For appeals not submitted within this time limit, he must fully explain the reason for the delay. If he is—

(1) Assigned within the geographic area of responsibility of the final approving authority, the appeal will be sent through channels to him. If the final approving authority determines that there is no basis for a change in the finding, he will so state, by indorsement, and send the appeal to HQDA(DAAC-PES), WASH DC 20314.

(2) No longer in the geographic area of responsibility of the final approving authority, he may send the appeal directly to HQDA (DAAG-PES), WASH DC 20314.

b. Any change in the finding of the investigation, based on an appeal, requires the same notification as the first investigation.

3-9. Revision or correction of LD findings.

The Secretary of the Army, or The Adjutant General acting for the Secretary, may at any time change a finding made under this regulation. The correct conclusion based on the facts must be shown. However, if the change is from in "line of duty" to "not in line of duty," or other evidence is considered which supports a NLOD finding, the member must be informed of the proposed change and its basis and be given a chance to respond in writing. Any statement or evidence that the member submits must be considered before taking corrective action. When a determination is changed after final action has been taken to award or not award statutory benefits (such as entitlement to disability pay), it does not necessarily change the finding on the statutory award. Final statutory determinations which are otherwise regular and approved by competent authority, may not normally be reopened or revoked. Exceptions may be made—

a. In cases of fraud, mistake of law, mathematical miscalculations, or substantial new evidence which could not have been discovered at the same time or shortly after the determination, or

b. When reopening or revocation is permitted by the law granting the authority for the statutory determination in question.

3-10. Processing cases for physical disability separation.

The agencies that process cases for physical disability separation are not bound by prior line of duty findings. When a Physical Evaluation Board (PEB) or the US Army Physical Disability Agency (USAPDA) believes that a prior LD finding may be incorrect for any reason, a request for a review should be sent to The Adjutant General.

TABLE 3-1

PROCESSING INFORMAL INVESTIGATIONS (see para 3-1 and 3-5)

Line	This person	will perform these actions	within ¹
1	MTF commander ²	Complete five copies of section I, DA Form 2173. Send the original and four copies to the member's unit commander. ^{3,4,5}	3 working days after incident or initial treatment.
2	individual's unit commander	Request DA Form 2173 from MTF, if not previously received. Complete section II, DA Form 2173, attach support documents, and send original and three copies to the officer having special court-martial authority for units in area in which the incident occurred.	9 days after incident
3	special court-martial authority	Review the investigation for completeness and required documents. (1) If approved, annotate form as follows (preceded by official designation of headquarters and date, and followed by signature and signature block): (a) For disease or injury (when special court-martial authority is final approving authority). "Reviewed for completeness. In Line of Duty." ⁶ Retain one copy, send original to OMPF ⁷ and one copy each to persons listed in lines 2 and 4. ^{3,8} (b) For disease or injury (when special court-martial authority is not final approving authority). "Reviewed for completeness, In Line of Duty," followed by appropriate command line. Send original and two copies to the final approving authority. (c) For deaths: "Reviewed for completeness. No determination made," followed by appropriate command line. Send original and two copies to the final approving authority. (2) If disapproved, direct a formal investigation.	14 days after incident
4	final approving authority	Review the investigation for completeness and required documents. (1) If approved, anotate as in line 3(1)(a) or (c) above. (a) For disease or injury. Retain one copy, send original to OMPF and one copy to member's unit commander. ^{3,8,9} (b) For deaths. Retain one copy and send original and one copy through casualty reporting channels to HQDA(DAAG-PES) WASH DC 20314. (2) If disapproved, return to the special court-martial authority and direct a formal investigation.	20 days after incident

Notes.

¹ If investigation extends beyond time limits, see paragraph 3-4.

² Commander having physical or administrative responsibility for MTF in which individual is treated or pronounced dead.

15 October 1980

C. 1, AR 600-33

³ An extra copy of DA Form 2173 will be prepared for National Guard personnel attending service school under the jurisdiction of the Army or on ADT under REP-63. This copy will be filed in the individual's field MPRJ which is returned to the State adjutant general at the end of service school or ADT.

⁴ For Reserve personnel who are injured during IDT and are treated by a civilian doctor, the doctor and the unit commander should complete DA Form 2173.

⁵ If incident occurred in an area other than that to which the member is assigned, or while he was intransit between units of assignment, one copy of the completed section I, DA Form 2173 should be sent to the installation commander having special court-martial jurisdiction for units in the area of the MTF.

⁶ Followed by command line of BY AUTHORITY OF THE SECRETARY OF THE ARMY (AR 600-33). See figure 3-4 for example.

⁷ For officer: HQDA(DAPC-PSR-R), Alexandria, VA 22332

For enlisted: Commander, US Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249

USAR personnel: Commander, US Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St. Louis, MO 63132

ROTC cadets: In accordance with AR 145-1.

⁸ Accomplish notification actions required by paragraph 3-7.

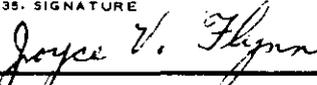
⁹ An approved copy of LD investigation should be returned to the initiating MTF on all injuries on National Guard and Reserve members on AD for 30 days or less, or IADT, when they are patients.

★ TABLE 3-2

PROCESSING FORMAL INVESTIGATIONS (see para 3-1 and 3-6)

Line	This person	will perform these actions	within ¹
1	MTF commander ²	Complete five copies of section I, DA Form 2173. Send original and four copies to the member's unit commander. ^{3,4,5}	3 working days after incident or initial treatment.
2	individual's unit commander	Request DA Form 2173 from MTF if not previously received. Complete section II, attach supporting documents, and send original and three copies to the LD appointing authority.	9 days after incident
3	appointing authority (SPCM authority)	Appoint a disinterested commissioned officer, by letter or DF, to conduct the investigation. ⁶	12 days after incident
4	investigating officer	Conduct a formal investigation as outlined in this regulation, make a report on DD Form 261, and send original and three copies to the appointing authority.	30 days after incident
5	appointing authority	Review the investigation, complete the block titled "Action by the Appointing Authority" on DD Form 261. Retain one copy of the report and send the original and two copies to reviewing authority. ^{7,8}	37 days after incident
6	reviewing authority	Review the investigation, complete the block titled "Action by the Reviewing Authority" ^{8,9} on DD Form 261, and send the original and two copies to final approving authority.	44 days after incident
7	final approving authority	<p>a. Review the investigation and enter the official designation of the headquarters, the date, approval or disapproval of the findings (see below), signature, and signature block.⁹</p> <p>(1) For disease or injury, one of the following:</p> <p>(a) Approved. BY AUTHORITY OF THE SECRETARY OF THE ARMY (AR 600-33);</p> <p>(b) Disapproved. Substitute the following: Reasons for disapproval are: _____ BY AUTHORITY OF THE SECRETARY OF THE ARMY (AR 600-33)"</p> <p>(2) For death cases: "Reviewed for completeness. No determination made." BY AUTHORITY OF THE SECRETARY OF THE ARMY (AR 600-33);</p> <p>b. Distribute as follows:</p> <p>(1) Death Retain one copy and send the original and one copy to HQDA (DAAG-PES) WASH DC 20314.¹⁰</p> <p>(2) Disease or injury Retain one copy and send original to the custodian of the member's OMPF¹¹ and one copy to the member being investigated.^{10,12,13,14}</p>	50 days after incident

DISPOSITION FORM			
For use of this form, see AR 340-15, the proponent agency is TAGCEN.			
REFERENCE OR OFFICE SYMBOL	SUBJECT		
	Line of Duty Determination		
TO Commander Co. C, 3d Bn, 1st Bde Fort Jackson, SC 29207	FROM Moncrief Army Hospital Patient Admin Div, Box 490 Fort Jackson, SC 29207	DATE 2 Mar 79	CMT 1
<p>1. <u>Richard E. Roe, 000-00-0000</u>, a member of your command was injured while performing basic training on the obstacle course on approximately 28 Feb 79 at Fort Jackson, SC. C-3-1</p> <p>and admitted to Moncrief Army Hospital, Fort Jackson, SC on <u>1 Mar 79</u>.</p> <p>This office feels that this injury meets the criteria for a presumptive finding of Line of Duty Yes. The criteria for making a presumptive finding is stated below for your information (Para 3-3a, AR 600-33). The meeting of any one of the six criteria is all that is required.</p> <p>2. Unless the individual's commander or medical officer has evidence to the contrary (misconduct, AWOL, or willful negligence), the following will be presumed to have been incurred "In Line of Duty," and will not require a LD investigation: (1) Death due to natural causes. (2) Injury or death which was the direct result of the performance of duty except for injury or death caused by a motor vehicle accident (nonhostile or nonbattle only) or incurred while a pilot or co-pilot of a military aircraft (nonhostile or nonbattle only). (3) Injury or death which was incurred while a passenger in an aircraft. (4) A disease, unless it was the result of misconduct, occurred while absent without authority, or occurred under doubtful or peculiar circumstances. (5) An injury which is only temporarily disabling and will not result in a future physical impairment. (6) Injury which occurred while participating in military athletics or a military athletic program. <u>NOTE:</u> When there is any doubt on the above, a report of investigation will be completed.</p>			
JOHN R. DOE LTC, MSC Ch, Patient Admin. Div			
TO: Moncrief Army Hospital Patient Admin Div, Box 490 Fort Jackson, SC	FROM: Commander Co. C, 3d Bn, 1st Bde Fort Jackson, SC 29207	DATE:	CMT 2
<p><input checked="" type="checkbox"/> I concur with a presumptive Line of Duty finding of Yes.</p> <p><input type="checkbox"/> I request an (Informal) (Formal) Line of Duty Investigation, and I understand that your office will initiate a Line of Duty investigation by completing DA Form 2173 and sending to my headquarters.</p>			
A. B. SMITH CPT, FA Commander			

STATEMENT OF MEDICAL EXAMINATION AND DUTY STATUS			
For use of this form, see AR 600-33; the proponent agency is The Adjutant General's Office.			
THRU: (Include ZIP Code) Commander HQ Co, USA Ft Myer, VA 22211	TO: (Include ZIP Code) Commander US Army MDW Ft McNair, Wash DC 20319	FROM: (Include ZIP Code) Commander Rader Army Clinic Ft Myer, VA 22211	
1. NAME OF INDIVIDUAL EXAMINED (Last, First, and Middle Initial) Doe, John F.		2. SSN 378-54-5048	3. GRADE SFC (E7)
4. ORGANIZATION AND STATION HQ Co, USA, Ft Myer, VA 22211		5. ACCIDENT INFORMATION a. DATE 3 Nov 79 b. PLACE (City and State) Alexandria, Virginia	
SECTION I - TO BE COMPLETED BY ATTENDING PHYSICIAN OR HOSPITAL PATIENT ADMINISTRATOR			
6. INDIVIDUAL WAS <input type="checkbox"/> OUT PATIENT <input type="checkbox"/> ADMITTED <input checked="" type="checkbox"/> DEAD ON ARRIVAL		7. NAME OF HOSPITAL OR TREATMENT FACILITY <input type="checkbox"/> CIVILIAN <input checked="" type="checkbox"/> MILITARY Rader Army Clinic, Ft Myer, VA 22211	
8. HOUR AND DATE ADMITTED 0055, 3 Nov 79		9. HOUR AND DATE EXAMINED 0055, 3 Nov 79	
10. NATURE AND EXTENT OF <input checked="" type="checkbox"/> INJURY <input type="checkbox"/> DISEASE <input checked="" type="checkbox"/> RESULTING IN DEATH (Explain) Fractured Skull			
11. MEDICAL OPINION: a. INDIVIDUAL <input checked="" type="checkbox"/> WAS <input type="checkbox"/> WAS NOT UNDER THE INFLUENCE OF <input checked="" type="checkbox"/> ALCOHOL <input type="checkbox"/> DRUGS (Specify): b. INDIVIDUAL <input checked="" type="checkbox"/> WAS <input type="checkbox"/> WAS NOT MENTALLY SOUND (Attach Psychiatric evaluation if appropriate). c. INJURY <input type="checkbox"/> IS <input checked="" type="checkbox"/> IS NOT LIKELY TO RESULT IN A CLAIM AGAINST THE GOVERNMENT FOR FUTURE MEDICAL CARE. d. INJURY <input checked="" type="checkbox"/> WAS <input type="checkbox"/> WAS NOT INCURRED IN LINE OF DUTY. BASIS FOR OPINION: Medical records and blood alcohol test.			
12. THE FOLLOWING DISABILITY MAY RESULT <input type="checkbox"/> TEMPORARY <input type="checkbox"/> PERMANENT PARTIAL <input checked="" type="checkbox"/> PERMANENT TOTAL		13. BLOOD ALCOHOL TEST MADE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	14. NO. OF MG ALCOHOL/100 ML BLOOD .04 mg/100 ml
15. DETAILS OF ACCIDENT OR HISTORY OF DISEASE (how, where, when) Patient was driver in an automobile involved in an accident on Duke Street in Alexandria, VA.			
16. DATE 5 Nov 79	17. TYPED OR PRINTED NAME OF ATTENDING PHYSICIAN OR PATIENT ADMINISTRATOR ISABELLE J. SAUNDERS Major, MSC		18. SIGNATURE 
SECTION II - TO BE COMPLETED BY UNIT COMMANDER OR UNIT ADVISER			
19. DUTY STATUS <input type="checkbox"/> PRESENT FOR DUTY <input type="checkbox"/> ABSENT WITHOUT AUTHORITY <input checked="" type="checkbox"/> ABSENT WITH AUTHORITY: <input checked="" type="checkbox"/> ON PASS <input type="checkbox"/> ON LEAVE		20. HOUR AND DATE OF ABSENCE a. FROM 0001 hrs 30 Oct 79 b. TO 0055 hrs 3 Nov 79	
21. ABSENCE WITHOUT AUTHORITY MATERIALLY INTERFERED WITH THE PERFORMANCE OF MILITARY DUTY (Explain in item 30 type of duty missed, hours of duty, and how it did or did not interfere with performance) <input type="checkbox"/> YES <input type="checkbox"/> NO NA			
22. INDIVIDUAL WAS ON <input checked="" type="checkbox"/> ACTIVE DUTY <input type="checkbox"/> ACTIVE DUTY FOR TRAINING <input type="checkbox"/> INACTIVE DUTY TRAINING		23. HOUR AND DATE TRAINING a. BEGAN NA b. ENDED	
24. RESERVIST DIED OF INJURIES RECEIVED PROCEEDING <input type="checkbox"/> DIRECTLY TO TRAINING <input type="checkbox"/> DIRECTLY FROM TRAINING			
25. MODE OF TRANSPORTATION NA	26. HOUR BEGINNING TRAVEL NA	27. DISTANCE INVOLVED NA	28. NORMAL TIME FOR TRAVEL NA
29. DUTY STATUS AT TIME OF DEATH IF DIFFERENT FROM TIME OF INJURY OR CONTRACTION OF DISEASE <input type="checkbox"/> PRESENT FOR DUTY <input type="checkbox"/> ABSENT WITH AUTHORITY <input type="checkbox"/> ABSENT WITHOUT AUTHORITY			
30. DETAILS OF ACCIDENT - REMARKS (If additional space is needed, continue on reverse) (Attach inclosures as necessary) SFC Doe was the driver of a POV, which was involved in an accident at 0030 hours, 3 Nov 79, with a car driven by Mr. James Jones, on Duke Street, Alexandria, VA. Mr. Jones made a left turn suddenly and without signaling, directly in front of SFC Doe's car who could not avoid striking Mr. Jones' car. Mr. Jones was cited for a number of violations. Police report is attached.			
31. FORMAL LINE OF DUTY INVESTIGATION REQUIRED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		32. INJURY IS CONSIDERED TO HAVE BEEN INCURRED IN LINE OF DUTY (Not applicable on deaths) <input type="checkbox"/> YES <input type="checkbox"/> NO Death (no detm necessary)	
33. DATE 9 Nov 79	34. TYPE NAME AND GRADE OF UNIT COMMANDER OR UNIT ADVISER JOYCE V. FLYNN, CPT, AGC		35. SIGNATURE 

DA FORM 1 OCT 72 2173

REPLACES DA FORM 2173, 1 JUNE 66, WHICH IS OBSOLETE.

S/S CH 1 15 OCT. 80

15 June 1980

AR 600-33

³ An extra copy of DA Form 2173 will be prepared for National Guard personnel attending service school under the jurisdiction of the Army or on ADT under REP-63. This copy will be filed in the individual's field MPRJ which is returned to the State adjutant general at the end of service school or ADT.

⁴ For Reserve personnel who are injured during IDT and are treated by a civilian doctor, the doctor and the unit commander should complete DA Form 2173.

⁵ If incident occurred in an area other than that to which the member is assigned, or while he was in transit between units of assignment, one copy of the completed section I, DA Form 2173 should be sent to the installation commander having special court-martial jurisdiction for units in the area of the MTF.

⁶ Followed by command line of BY AUTHORITY OF THE SECRETARY OF THE ARMY (AR 600-33). See figure 3-4 for example.

⁷ For officer: HQDA(DAPC-PSR-R), Alexandria, VA 22332

For enlisted: Commander, US Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249

USAR personnel: Commander, US Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St. Louis, MO 63132

ROTC cadets: In accordance with AR 145-1.

⁸ Accomplish notification actions required by paragraph 3-7.

⁹ An approved copy of LD investigation should be returned to the initiating MTF on all injuries on National Guard and Reserve members on AD for 30 days or less, or IADT, when they are patients.



TABLE 3-2

PROCESSING INFORMAL INVESTIGATIONS (see para 3-1 and 3-6)

Line	This person	will perform these actions	within ¹
1	MTF commander ²	Complete five copies of section I, DA Form 2173. Send original and four copies to the member's unit commander. ^{3,4,5}	3 working days after incident or initial treatment.
2	individual's unit commander	Request DA Form 2173 from MTF if not previously received. Complete section II, attach supporting documents, and send original and three copies to the LD appointing authority.	9 days after incident
3	appointing authority (SPCM authority)	Appoint a disinterested commissioned officer, by letter or DF, to conduct the investigation. ⁶	12 days after incident
4	investigating officer	Conduct a formal investigation as outlined in this regulation, make a report on DD Form 261, and send original and three copies to the appointing authority.	30 days after incident
5	appointing authority	Review the investigation, complete the block titled "Action by the Appointing Authority" on DD Form 261. Retain one copy of the report and send the original and two copies to reviewing authority. ^{7,8}	37 days after incident
6	reviewing authority	Review the investigation, complete the block titled "Action by the Reviewing Authority" ^{9,9} on DD Form 261, and send the original and two copies to final approving authority.	44 days after incident
7	final approving authority	<p>a. Review the investigation and enter the official designation of the headquarters, the date, approval or disapproval of the findings (see below), signature, and signature block.¹⁰</p> <p>(1) For disease or injury, one of the following:</p> <p>(a) Approved. BY AUTHORITY OF THE SECRETARY OF THE ARMY (AR 600-33);</p> <p>(b) Disapproved. Substitute the following: Reasons for disapproval are: _____ BY AUTHORITY OF THE SECRETARY OF THE ARMY (AR 600-33)¹⁰</p> <p>(2) For death cases: "Reviewed for completeness. No determination made." BY AUTHORITY OF THE SECRETARY OF THE ARMY (AR 600-33);</p> <p>b. Distribute as follows:</p> <p>(1) Death Retain one copy and send the original and one copy to HQDA (DAAG-PES) WASH DC 20314.¹⁰</p> <p>(2) Disease or injury Retain one copy and send original to the custodian of the member's OMPF¹¹ and one copy to the member being investigated.^{10,12,13,14}</p>	50 days after incident

