

PERSONNEL—GENERAL

LINE-OF-DUTY DETERMINATIONS

Effective 1 November 1964

CHANGE }

No. 3 }

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., 8 July 1964

AR 600-140, 28 October 1958, is changed as follows:

4. **Definitions.** a. For the purpose of this regulation any condition included in section XVII, chapter 2, AR 40-401, will be considered an injury. Any condition included in sections I through XVI, AR 40-401, will be considered a disease.

b. **Rescinded.**

c. (Added) The commanders of ZI armies, the Military District of Washington, major oversea commands, the Superintendent, U.S. Military Academy, and the Chief, National Guard Bureau (para. 13a) are hereinafter referred to as the final approving authority.

5. **Administrative determinations of line of duty**

* * * * *

b. This line-of-duty determination * * * records as follows:

(1) For all personnel for whom a Health Record is maintained—
(a) On the DA Form 8-275 (Clinical Record Cover Sheet) for members treated in an excused-from-duty status.

(2) For personnel for whom a Health Record is not maintained—
(a) On the DA Form 8-275 (Clinical Record Cover Sheet) for members treated in an excused-from-duty status.

(c) For cases handled * * * line of duty determinations. The DD Form 689 will be stapled to that copy of the DA Form 8-275 which will be filed as a part of the clinical records for the excused-from-duty and to the DA Form 8-255 for outpatients. The notation "See DD Form 689, attached," will be made on the form to which the Sick Slip is stapled.

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6. **Recording circumstances on Statement of Medical Examination and Duty Status (DA Form 2173) when formal report of investigation is not required.**

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c. (2) (Superseded) The original and duplicate copies for deaths and the original for injuries will be forwarded to the ap-

- appropriate *final approving authority*. The final approving authority will review the form for completeness of information and whether, in the case of injury, the finding of "in line of duty" is proper. In those cases where the final approving authority considers the information incomplete or disagrees with the finding of "in line of duty" he will return the form to the appropriate commander for a formal investigation or other required action. Upon approval of the form in the case of injury the final approving authority will annotate and authenticate the form on the reverse as set forth in paragraph 13a(3)(a). In death cases the forms will be annotated on the reverse and authenticated as indicated in paragraph 13b. Upon completion of action by the final approving authority the forms will be forwarded as follows:
- (a) In injury cases, original to The Adjutant General, ATTN: AGPF-F.
 - (b) In death cases, original and one copy to The Adjutant General, ATTN: AGRB-C.

* * * * *
7. Requirements for investigation. Commanders will be * * * * *
 below will govern.

a. Requires formal investigation.

(2) Death, injury, or disease:

(a) (Superseded) Apparently due to misconduct.

* * * * *
b. Requires Statement of Medical Examination and Duty Status (DA Form 2173) to the final approving authority (par. 6).

* * * * *
c. Does not require either formal investigation or submission of Statement of Medical Examination and Duty Status (DA Form 2173) to the final approving authority. Administrative determination is * * * * *
 above, to include—

* * * * *
10. Report of investigation.

* * * * *
h. (2) (Superseded) If the person has been transferred away from the station, the copy will be mailed to him. If the individual's forwarding address is unknown, this copy will be forwarded to The Adjutant General, ATTN: AGPF-F, by letter of transmittal, requesting that the copy of the report be transmitted to the service member. A notation that a copy has been

so forwarded will be made by the investigating officer on the original copy of the report.

* * * * *

11. Action by appointing authority.

* * * * *

f. Disposition of copies of report for members of other services. (Superseded) The appointing authority will retain one complete copy of a report of investigation pertaining to a member of another service and will forward the original and all other copies as indicated below:

- (1) *Navy and Marine Corps:*
The Judge Advocate General
Office of the Secretary of the Navy
Washington, D.C., 20350
- (2) *Air Force:*
Director of Military Personnel
ATTN: AFPMP-S-I
Headquarters, USAF
Washington, D.C., 20330
- (3) *Coast Guard:*
Chief Medical Officer
United States Coast Guard
Washington, D.C., 20226

* * * * *

h. Notification to organizational commander. (Added) Upon receipt of notification of determination by the final approving authority, the appointing authority will inform the organizational commander in order that any change in line-of-duty status may be entered in organizational records.

12. Action by reviewing authority.

* * * * *

e. Disposition of copies of report of investigation. One copy of each report of investigation, with exhibits, will be retained for file at the headquarters of the reviewing authority. The remaining copies (original for an injury; original and duplicate for a death) will be forwarded to the final approving authority. A letter of transmittal is not desired except to insure the simultaneous receipt of several reports of investigation pertaining to the same accident or incident.

f. Through major oversea command. Rescinded.

g. Reporting delay in completing investigation of death. (Superseded) If the report of investigation of a death has not been reviewed and forwarded, within 10 days after the date of death, the reviewing

authority will advise the final approving authority giving the reasons for the delay and the expected date the report will be forwarded.

13. Action by final approving authority. (Superseded) *a. Review and final action in cases involving disease or injury.*

- (1) Except those cases covered in (2) below the final approving authorities are designated to take final action in the name of the Secretary of the Army on cases coming within the purview of these regulations.
- (2) The Chief, National Guard Bureau, will take the final action in the name of the Secretary of the Army for cases involving Army National Guard personnel on training duty except—
 - (a) Those in Federal status for 6 months active duty for training under Reserve Forces Act of 1955.
 - (b) Those in State status attending service schools under the jurisdiction of the Army.
- (3) All tentative decisions of not in line of duty pursuant to this designation of authority will be referred to the Staff Judge Advocate or appropriate legal advisor of the final approving authority for an opinion prior to making a final determination in the case. The final approving authority will make a thorough review of all reports of investigation received and will enter on the report the approval or disapproval of the findings of the reviewing authority in the name of the Secretary of the Army. The following notations will be entered on DD Form 261, as appropriate:

(a) Approved. By authority of the Secretary of the Army, AR 600-140
Signature (Signature block) or:

(b) The findings of the reviewing authority are disapproved and the following substituted therefor: ----- Reasons for disapproval are -----

By authority of the Secretary of the Army, AR 600-140
Signature (Signature block)

b. Review in death cases. The final approving authority will review all reports on death cases to insure completeness of the investigation. The report will be annotated as follows, preceded by the official designation of the headquarters and the date:

Reviewed for completeness. No determination made.
By authority of the Secretary of the Army, AR 600-140.
Signature (Signature block)

c. Delegation of authority. Commanders designated in paragraph 4c are not authorized to delegate final action authority under this regulation. However, such commanders may designate an officer, assigned to their headquarters, not below the grade of colonel, of the Adjutant General's Corps or the Judge Advocate General's Corps, to authenticate DD Form 261. The Chief, National Guard Bureau may designate an officer, not below the grade of colonel, on duty with the National Guard Bureau, to authenticate DD Form 261.

d. Notification of findings. No findings are made in death cases. In all other cases the final approving authority will notify the following:

- (1) The appointing authority in any case acted upon in which the person investigated was on active duty for more than 30 days and the findings of the reviewing authority have been approved. A copy of this notification will be forwarded to the reviewing authority and to the member whose line of duty status has been determined. The member will be advised of his right to appeal in case of a determination of not in line of duty.
- (2) The reviewing authority in any case acted upon in which the person investigated was on active duty for more than 30 days and the findings of the reviewing authority have been disapproved. The reviewing authority will notify the appointing authority and the member, whose line of duty status has been determined, of the final decision. Member will be advised of his right to appeal in case of a determination of not in line of duty.
- (3) The appropriate Corps commander, in the case of a member of the Army Reserve, in any case in which the person investigated was on active duty for 30 days or less or on Reserve duty training. It will be the responsibility of the reviewing authority to notify or inform the appointing authority of the final action in this type case wherever the appointing authority is not the Corps commander. The appointing authority will notify the Reserve member of the final decision. The member will be advised of his right to appeal in case of a determination of not in line of duty.
- (4) The Chief, National Guard Bureau, in all cases involving a member of the Army National Guard in which the Chief, National Guard Bureau, is not the final approving authority.
- (5) A copy of the notification will be forwarded to the command-

ing officer of the treatment facility completing Part I of DA Form 2173.

- (6) A copy of the notification concerning officers and warrant officers on active duty for more than 30 days, in which the final determination of not in line of duty, due to own misconduct is made, will be forwarded to Chief of Personnel Operations, ATTN: appropriate career branch, Department of the Army, Washington, D.C., 20310.

e. Disposition of copies of report of investigation.

- (1) In case of injury or disease, the original to The Adjutant General, ATTN: AGPF-F.
- (2) In death cases, the original and one copy to The Adjutant General, ATTN: AGPB-C.

13.1. Appeal action to line-of-duty. (Added) If a member of the Army who has been the subject of a line-of-duty investigation of any injury or disease, in which a determination of not in line of duty is made, desires to appeal the action of the final approving authority he may file such appeal, in writing, through channels, to the officer who took such final action. If the final approving authority determines that there is no basis to change the original determination, he will so indicate by indorsement and forward the appeal to The Adjutant General, ATTN: AGPB-C. If a member is not within the command jurisdiction of the final approving authority at the time the appeal is filed, the member will forward the appeal with copies of all available reports and correspondence *directly* to The Adjutant General, ATTN: AGPB-C. The Adjutant General will cause the appeal to be reviewed and will advise the service member, through channels, of the final adjudication. The Adjutant General will advise the appropriate medical treatment facility of any change in final determination.

13.2. Revision or correction of line-of-duty determinations by the Secretary of the Army. (Added) The Secretary of the Army, or The Adjutant General, acting therefor, may revise or correct any determination made under this regulation at any time. Determinations, otherwise final, concerning rights and benefits administered by the Department of the Army under particular statutes are not affected by subsequent revision or correction of a line of duty determination.

13.3. Processing cases for physical disability separation. (Added) Agencies involved in processing cases for physical disability separation are not bound by line of duty findings previously made. The Adjutant General will make a final line of duty determination in each case which results in a physical disability separation.

19. Intentional misconduct or wilful neglect.

* * * * *
d. The following diseases * * * resulted from misconduct:
* * * * *

- (2) Rescinded.
- (3) Rescinded.

* * * * *
24. Psychoneurotic disorders. Illnesses listed in section V (B), chapter 2, AR 40-401. Unhealthy reactions to * * * of situational pressures. Ordinarily the following will be considered *in line of duty*:
* * * * *

24.1. Character and behavior disorders. (Superseded) The conditions listed in section V (C) (3200 to 3242), chapter 2, AR 40-401, are considered to be due to basic personality defects and to have existed prior to the individual's entry on active duty. Therefore, regardless of the length of service of the individual, these conditions are always held to have been incurred not in line of duty—not due to own misconduct.

29. Pregnancies. Pregnancy and associated diagnoses (section XI, chapter 2, AR 40-401) are exempt from line of duty determination, except that an induced nontherapeutic abortion and any complication or sequela thereof will be subject to line of duty determination in the same manner as diseases requiring a line of duty determination.

[AGPB]

By Order of the Secretary of the Army:

HAROLD K. JOHNSON,
*General, United States Army,
Chief of Staff.*

Official:

J. C. LAMBERT,
*Major General, United States Army,
The Adjutant General.*

Distribution:

Active Army, NG, and USAR: To be distributed in accordance with DA Form 12-9 requirements for Administration—A.

PERSONNEL—GENERAL

LINE-OF-DUTY DETERMINATIONS

CHANGE }

No. 2 }

HEADQUARTERS,
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., 16 September 1963

AR 600-140, 28 October 1958, is changed as follows:

6. Recording circumstances on Statement of Medical Examination and Duty Status (DA Form 2173) when formal report of investigation is not required. (Superseded) *a.* Within 24 hours after the date of—

- (1) death or injury likely to result in future impairment (disability) received as the proximate result of the performance of duty when no misconduct is involved,
- (2) death or injury which is likely to result in future impairment (disability) occurring while a passenger in motor vehicle, aircraft, or other mode of transportation, when no absence without authority or misconduct is involved,

the commander of the medical treatment facility will initiate a DA Form 2173 and forward it through the unit commander of the individual concerned to the officer exercising special court-martial jurisdiction. An original and two copies will be prepared for deaths and an original and one copy for injuries.

b. The unit commander will complete section II, DA Form 2173, including circumstances in sufficient detail to show that no absence without authority or misconduct is involved and that a formal report of investigation is not required. The names of witnesses; details of the accident; if a vehicle accident is involved, the name of the driver of the vehicle, etc., will be furnished. The back of the form may be used if necessary to record the circumstances fully. Any available statements from witnesses, pertinent diagrams or photographs will be attached to the DA Form 2173 and forwarded. In injury cases the statement of circumstances will be followed by the statement, "Injury is considered to have been incurred in line of duty."

- c.* (1) The DA Form 2173 with attachments will be forwarded, in duplicate for injuries and in triplicate for deaths, to the officer exercising special court-martial jurisdiction, who will review the form for completeness of information and whether the finding of "in line of duty" is proper.
- (2) The original and duplicate copy for deaths and the original for injuries will be forwarded to The Adjutant General, ATTN AGPF-GE, Department of the Army, Washington, D.C. 20310.
- (3) One completed copy will be returned to the medical treatment facility which initiated it.

d. For Army National Guard personnel—

- (1) In Federal status performing 6 months' active duty for training under the Reserve Forces Act of 1955, an extra copy of

DA Form 2173 will be prepared for file in the personnel record file which is returned to the State adjutant general concerned at the end of active duty for training.

- (2) In State status attending service schools under the jurisdiction of the active Army, the DA Form 2173 will be furnished the State adjutant general concerned.
- (3) Performing all other training, determinations will be accomplished by National Guard authorities and recorded pursuant to instructions contained in National Guard Regulation No. 28.

e. For injuries covered in paragraphs 7 *b* and *c* incurred by reservists during inactive-duty training and treated by civilian physicians, DA Form 2173 should be completed by the civilian physician and the commanding officer. For injuries covered in paragraph 7 *c*, the original DA Form 2173 will be retained in the individual's personnel record file maintained by the organization after the DA Form 2173 has been reviewed by the officer exercising special court-martial jurisdiction.

f. It will be noted that the use of DA Form 2173 to record a line of duty finding is appropriate only for those injuries or deaths incurred beyond question in line of duty. Where misconduct or absence without leave is involved a formal report of investigation is required.

7. Requirements for investigation. (Superseded) Commanders will be guided by the following in deciding whether a formal line-of-duty investigation is necessary or that an administrative determination is sufficient. When there is any doubt as to whether a formal report is required, the provisions of *a* below will govern.

a. Requires formal investigation.

- (1) Injury likely to result in future impairment (disability) which was received *other than* either as the proximate result of the performance of duty or while a passenger in a vehicle.
- (2) Death, injury, or disease:
 - (*a*) Apparently due to misconduct or incurred during an act *malum in se*.
 - (*b*) Self-inflicted.
 - (*c*) Incurred while member is absent without authority, or in desertion, for *less than* 6 months.
- (3) Death of:
 - (*a*) Operator of a vehicle.
 - (*b*) Occupant of a stolen vehicle.
 - (*c*) Military senior in grade riding in a Government vehicle.
 - (*d*) Occupant of a vehicle when the operator cannot be determined.
 - (*e*) Army National Guard or Army Reserve personnel from any cause while on active duty for training or inactive-duty training.
- (4) Death or disabling injuries incurred by members of the Reserve Officers' Training Corps while traveling to or from or while at summer training camp or while undergoing flight instruction.

- (5) Death or disabling injury of member traveling to his home immediately following discharge or release from active duty.
- (6) Death due to injury or disabling injury incurred by Army National Guard and Army Reserve personnel traveling directly to or from inactive-duty training.
- (7) Disagreement regarding line-of-duty finding between commanding officer and medical officer which cannot be resolved by officer exercising special court-martial jurisdiction. (Report of investigation must show that disagreement was the cause for the investigation.)
- (8) A member of the Army National Guard of the United States, Army Reserve, or Reserve Officers' Training Corps alleges, subsequent to release from a tour of active duty for training, that he incurred an injury or contracted a disease during that tour.
- (9) Upon the request of the Adjutant General of Puerto Rico or the District of Columbia, or of the State concerned, with respect to an injury incurred or disease contracted by a member of the National Guard while training at a service school or otherwise with the active military establishment.

b. Requires Statement of Medical Examination and Duty Status (DA Form 2173) to The Adjutant General (see par. 6):

- (1) Death or injury likely to result in future impairment (disability) received as the proximate result of the performance of duty when no misconduct is involved.
- (2) Death or injury which is likely to result in future impairment (disability) occurring while a passenger in motor vehicle, aircraft, or other mode of transportation, when no absence without authority or misconduct is involved.

c. Does not require either formal investigation or submission of Statement of Medical Examination and Duty Status (DA Form 2173) to The Adjutant General. Administrative determination is made in those instances not described in paragraphs 7 a and b, above, to include—

- (1) Injury not likely to result in permanent impairment, or claim against the Government for future medical care, when no absence without authority or misconduct is involved. (See par. 6.)
- (2) Disease, nonfatal (unless commanding officer and medical officer are unable to agree on the finding, and the officer exercising special court-martial jurisdiction does not feel competent to make decision).
- (3) Death of active Army member from—
 - (a) Natural causes.
 - (b) Disease not involving misconduct.
 - (c) Cause previously subject to line-of-duty investigation.
- (4) Death or injury incurred after member is absent without authority or in a desertion status for 6 months or more, unless there is evidence that member may have been mentally unsound at the inception of absence without authority.

(5) Battle casualties (will be determined "in line of duty").

(6) Death as a result of hostile action.

d. Army National Guard personnel on active duty for training or on inactive-duty training.

(1) For individuals in Federal status attending 6 months' active duty for training under the Reserve Forces Act of 1955, investigations will be made as provided in *a*, *b*, and *c* above.

(2) For individuals in State status attending service schools under the jurisdiction of the active Army, investigations will be made as provided in *a*, *b*, and *c* above. Disposition of the report of investigation will be in accordance with paragraph 11e(3).

(3) For individuals performing all other training duty, investigations will be conducted by National Guard authorities for reasons outlined and in accordance with instructions contained in National Guard Regulations No. 28.

e. Members of Army National Guard, Army National Guard of the United States, Army Reserve, and Reserve Officers' Training Corps hospitalized beyond tour of duty. Liability for expenses or hospitalization after expiration of tour of duty for conditions held to be incurred "not in line of duty" are as set forth in paragraph 8, AR 40-3.

[AGPF]

By Order of the Secretary of the Army:

EARLE G. WHEELER,
General, United States Army,
Chief of Staff.

Official:

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

Distribution:

Active Army, NG, and USAR: To be distributed in accordance with DA Form 12-9 requirements for DA Regulations, Administration—A.

PERSONNEL—GENERAL

LINE-OF-DUTY DETERMINATIONS

CHANGES

No. 1

HEADQUARTERS,
DEPARTMENT OF THE ARMY
WASHINGTON 25, D.C., 7 November 1960

AR 600-140, 28 October 1958, is changed as follows:

2. Importance of determination and investigation. Line-of-duty * * *

* * * * *

c. The rights of * * * of the Army. While the determinations made under these regulations are not in themselves conclusive as to the status of the individual concerned under statutes **conferring benefits not administered by the Secretary of the Army**, the Secretary furnishes the information required to make a determination to the other agencies concerned.

4. Definitions. *a.* For the purposes of these regulations any condition included in class XXIII, SR 40-1025-1, will be considered an injury. Any condition included in **classes I through XXI** will be considered a disease.

* * * * *

5. Administrative determinations of line of duty.

* * * * *

c. (Superseded) (1) For Army National Guard personnel attending service schools under the jurisdiction of the Active Army or performing 6-months' active duty for training under the Reserve Forces Act of 1955, determinations will be made as provided in *b* (1) or (2) above, as appropriate. In these cases a brief description of the circumstances will be made on DA Form 2173 (Statement of Medical Examination and Duty Status) and filed in the individual's 201 file which is returned to the State adjutant general concerned at the end of service school or active duty for training.

(2) For National Guard personnel performing all other training, determinations will be accomplished by National Guard authorities pursuant to instructions contained in National Guard Regulations No. 28.

d. (Added) For injuries covered in paragraph 7*b* incurred by reservists during inactive duty training and treated by civilian physicians, DA Form 2173 should be completed by the civilian physician and the commanding officer. The form should include sufficient details of the accident to show clearly why the injury is held to have

been incurred in line of duty. The back of the form may be used if necessary to record the circumstances fully. The statement of circumstances should be followed by a statement that the injury is considered to have been incurred in line of duty.

6. (Superseded) Furnishing circumstances to the Adjutant General on Statement of Medical Examination and Duty Status (DA Form 2173) when formal investigation is not required. *a.* When a formal investigation is not required on injuries described in paragraph 7a(1) or for deaths (except those deaths due to natural causes or disease), the commander of the medical treatment facility will initiate a DA Form 2173 and forward it to the unit commander of the individual concerned within 10 days after the date of death or injury.

b. The unit commander will complete section II of the Form 2173, including circumstances in sufficient detail to show that no absence without authority or misconduct is involved and that a formal investigation was not required. Names of witnesses; details of the accident; if a vehicle accident is involved, the name of the driver of the vehicle, etc., will be furnished. Any available statements from witnesses, pertinent diagrams or photographs will be attached to the DA Form 2173 and forwarded. In death cases a copy of the sympathy letter to the next of kin will be attached. In injury cases the statement of circumstances will be followed by the statement: "Injury is considered to have been incurred in line of duty."

c. The DA Form 2173 will be forwarded in triplicate, to the officer exercising special court-martial jurisdiction, who will return one completed DA Form 2173 to the medical treatment facility which initiated it; the original and duplicate copy will be forwarded to The Adjutant General, ATTN: AGPS, Department of the Army, Washington 25, D.C.

7. Requirements for investigation. Commanders will be * * * determination is sufficient. When there is any doubt as to whether a formal report is required, the provisions of *a* below will govern. While payment of * * * for Army personnel.

a. Require formal investigation.

- (1) (Superseded) Injuries which will probably result in a future impairment (unless received as proximate result of performance of duty) which may form the basis at some future date for a physical evaluation board, a claim for Veterans Administration compensation, or other claim against the Government. It is not meant to be interpreted as rendering the individual unfit for further military service, and as re-

quiring retirement or discharge for disability, but that sufficient future impairment may result as to be considered in calculating percentage of disability by either the Army or Veterans Administration.

- * * * * *
- (3) Death or injury as described in (1) above of driver of motor vehicle.
 - (4) Death or injury as described in (1) above to passenger who interferes with the operation of a motor vehicle or who is riding in a stolen vehicle.
 - (5) Death or injury as described in (1) above to the senior officer or enlisted person riding in military vehicle.
 - (6) Death or injury as described in (1) above incurred while individual is traveling to his home immediately following discharge or release from active duty.
 - (7) Death due to injuries or injury described in (1) above incurred by Army National Guard or Army Reserve personnel traveling directly to and from Reserve duty training.

* * * * *

b. Do not require formal investigation (administrative determination made).

- * * * * *
- (2) Injuries not likely to result in permanent impairment or claim against the Government (unless self-inflicted).
 - * * * * *
 - (4) (Superseded) Death or injury described in a(1) above received as the proximate result of performance of duty when no misconduct is involved (complete Statement of Medical Examination and Duty Status, see par. 6).
 - (5) (Superseded) Death from cause previously subject to line-of-duty investigation; i.e., individual injured in automobile accident and later dies of such injuries.
 - * * * * *
 - (7) (Superseded) Death or injuries described in (2) above while passenger in motor vehicle, aircraft, or other mode of transportation (except under circumstances stated in a (4) and (5) above. (Complete Statement of Medical Examination and Duty Status on deaths, see par. 6).
 - (8) Death or injury * * * absence without authority. **If there are no indications of mental unsoundness, a finding of**

misconduct or not misconduct need not be made. It is sufficient for line-of-duty purposes to establish the fact that injury or death occurred after the individual was in a desertion status for 6 months.

c. (Superseded) *Army National Guard personnel on active duty for training or on Reserve duty (inactive duty) training.*

- (1) For individuals in Federal status attending 6-months' active duty for training under the Reserve Forces Act of 1955, investigations will be made as provided in *a* and *b* above.
- (2) For individuals in State status attending service schools under the jurisdiction of the Active Army, investigations will be made as provided in *a* and *b* above. Disposition of the report of investigation will be in accordance with paragraph 11e(3).
- (3) For individuals performing all other training duty, investigations will be conducted by National Guard authorities for reasons outlined and in accordance with instructions contained in National Guard Regulations No. 28.

d. (Superseded) *Members of Army National Guard, Army National Guard of the United States, Army Reserve, and Reserve Officers' Training Corps hospitalized beyond tour of duty.* Liability for expenses of hospitalization after expiration of tour of duty for conditions held to be incurred "not in line of duty" are as set forth in section III, AR 40-101.

9. Conduct of investigation.

* * * * *

c. The investigating officer * * * completed as follows:

- (1) (Superseded) *Section I*—by the Service hospital registrar or the attending doctor, showing the nature and extent of the injury or disease.

* * * * *

- (2.1) (Added) If the individual's commanding officer and the medical officer are located at different installations, one copy of DA Form 2173 may be forwarded to each for completion of their respective sections.

* * * * *

10. Report of investigation.

* * * * *

- h.* (Superseded) (1) With the exception of the report mentioned in *g*(11) above, the investigating officer will furnish one complete copy of the report of investigation to the person

whose line-of-duty status was investigated. The fact that the military police report of investigation is excluded will be noted on this copy of the report and, in addition, a comment will be made that The Provost Marshal General is the releasing authority for information contained in military police reports of investigation.

- (2) If the person has been transferred away from the station, the copy will be mailed to him. If the individual's forwarding address is unknown, this copy will be forwarded to The Adjutant General, with the original, and notation made in the "Remarks" section of the report.
- (3) If the next of kin of deceased personnel makes a request of field authorities for copies of statements contained in the report of investigation, the request will be transmitted promptly to The Adjutant General and the next of kin advised of such referral.

* * * * *

11. Action by appointing authority.

* * * * *

e. Disposition of copies of report for members of the Army.

* * * * *

- (4) (Superseded) One complete carbon copy will be forwarded to the medical treatment facility of initial admission.

* * * * *

12. Action by reviewing authority.

* * * * *

b. Entering findings.

* * * * *

- (3) (Superseded) Care will be taken that the identity of the reviewing headquarters is clear, including complete address. If the address includes an APO, the city of the appropriate U.S. Post Office will be indicated; i.e. New York, San Francisco, etc.

* * * * *

13. Action by headquarters, Department of the Army.

* * * * *

b. Notification of findings. No notification to field authorities will be made in death cases. In all other cases The Adjutant General will notify the following:

* * * * *

- (5) (Added) A copy of the notification will be forwarded to the commanding officer of the medical treatment facility completing part I of DA Form 2173.

* * * * *

d. (Superseded) *Notification of organization commander.* Upon receipt of notification of final determination by the Department of the Army, the appointing authority will inform the organization commander in order that any change in line-of-duty status may be entered in organizational records.

17. Nature of evidence to be considered.

* * * * *

c. (Added) Accident reports referred to in paragraph 22 *c* and *d*, AR 385-40, may not be used as evidence or to obtain evidence in determining the misconduct or line-of-duty status of any personnel.

19. Intentional misconduct or willful neglect.

* * * * *

c. (1) A violation of * * * that basis alone.

(2) (Added) The use of a Government vehicle or other Government conveyance without authority will not be sufficient *in itself*, without other evidence of misconduct, to sustain a finding that any injury incurred during such unauthorized use was incurred not in line of duty. Such unauthorized use is considered on the same basis as a violation of orders, and further evidence of misconduct either in handling vehicle or of intent not to return vehicle is to be evaluated with other evidence in determining misconduct status.

d. The following diseases and injuries, and the effects directly attributable thereto, should be considered as having resulted from misconduct:

(1) Any disease or injury directly resulting from the intemperate use of intoxicating liquor or habit-forming drugs.

* * * * *

(*c*) (Added) *Simple (alcoholic) drunkenness.* This is not a disease (nor a symptom of disease) requiring a line-of-duty determination. Any period of hospitalization after the individual has recovered from simple (alcoholic) drunkenness will require a change in diagnosis. Unless the diagnosis is directly related to or can be proved to be the direct result of alcoholic intoxication, the later period of hospitalization should be shown as in line of duty unless the condition existed prior to service.

* * * * *

20. Unauthorized absence.

* * * * *

h. (Added) If the individual is shown as absent without leave in item 19 of DA Form 2173, items 20 and 21 will be completed, and the following information will be furnished in item 30 or on the back of the form:

- (1) Normal duty assignment.
- (2) Hours of duty at time of absence without authority.
- (3) Length of duty week at time of absence without authority (days and hours of beginning and end).
- (4) Any extra duty requirement, such as "subject to call at any time."
- (5) A statement by his commanding officer as to whether the absence without leave interfered with the performance of military duties, and, if so, how.

24. Psychoneurotic disorders. Illnesses listed in class V(C) (3100 to 3180 incl), SR 40-1025-1. Unhealthy reactions to * * * of situational pressures. Ordinarily the following will be considered to be *in line of duty*:

* * * * *

24.1 (Added) Character and behavior disorders. The conditions listed in class V (D) (3200 to 3270 incl), SR 40-1025-1 are considered to be due to basic personality defects and to have existed prior to the individual's entry on active service. Therefore, regardless of the length of service of the individual, these conditions are always held to have been incurred *not in line of duty not due to own misconduct*.

29. (Superseded) Pregnancies. Pregnancy and associated diagnoses (class XVI, SR 40-1025-1) are exempt from line-of-duty determination, except that an induced nontherapeutic abortion and any complication or sequela thereof will be subject to line-of-duty determination in the same manner as diseases requiring a line-of-duty determination.

[AG 201.3 (29 Jun 60) AGPS]

By Order of *Wilber M. Brucker*, Secretary of the Army:

G. H. DECKER,
General, United States Army,
Chief of Staff.

Official:

R. V. LEE,
Major General, United States Army,
The Adjutant General.

Distribution:

Active Army, NG, and USAR: To be distributed in accordance with DA Form 12-4 requirements for DA Regulations—Administration—A.

ARMY REGULATIONS
No. 600-140

HEADQUARTERS,
DEPARTMENT OF THE ARMY,
WASHINGTON 25, D. C., 28 October 1958

PERSONNEL—GENERAL
LINE-OF-DUTY DETERMINATIONS *See changes*

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*These regulations supersede AR 600-140, 10 August 1956; and paragraph 5, SR 140-180-15, 3 February 1950, including so much of C 1, 8 January 1952, as pertains to paragraph 5.

SECTION I

CONDUCT OF INVESTIGATION

1. Purpose. These regulations prescribe the procedures for making line-of-duty determinations and conducting investigations in connection with injuries incurred or diseases contracted by personnel on active duty, active duty for training, and Reserve duty (inactive duty) training. The regulations also prescribe the procedures for making any necessary investigations in connection with the deaths of such personnel.

2. Importance of determination and investigation. Line-of-duty and misconduct determinations and the records relating to the facts and circumstances necessary to such determinations are extensively used in determining—

a. Time lost to be made good under Title 10, U. S. Code, Section 3638 (AR 635-200, par. 12).

b. Recommendations of Physical Evaluation Boards for retirement of individuals.

c. The rights of individuals under statutes administered by Veterans Administration and other Government agencies. Consequently, these determinations whether made administratively or after a formal investigation should be made as soon after an incident as possible, thus insuring the availability of all witnesses and the recording of the facts and circumstances while fresh in the minds of the witnesses. A complete and thorough investigation and report is of great value in furnishing the Department of the Army with the information necessary for the proper determination of entitlement to benefits under statutes administered by the Secretary of the Army. While the determinations made under these regulations are not in themselves conclusive as to the status of the individual concerned under statutes conferring benefits or imposing disabilities not administered by the Secretary of the Army, the Secretary furnishes the information required to make a determination to the other agencies concerned.

3. Requirement. Line-of-duty and misconduct determinations, whether made by the Department of the Army or the Veterans Administration are required for—

a. Injuries, diseases, and deaths incurred by personnel on active duty and while traveling to their homes immediately following discharge or release from active duty.

b. Injuries, diseases, and deaths incurred by Army National Guard and Army Reserve personnel while on active duty for

training and while traveling to and from such training during the period authorized.

c. Injuries or deaths incurred by Army National Guard and Army Reserve personnel while performing Reserve duty (inactive duty) training, and disabling injuries or deaths resulting from injuries of these personnel incurred while proceeding directly to or directly from Reserve duty training.

d. Injuries, diseases, and deaths incurred by cadets of the United States Military Academy.

e. Injuries, diseases, and deaths incurred by members of the advanced Reserve Officers' Training Corps while attending summer training camp or while traveling to or from such training.

f. Injuries resulting in disability or death incurred by members of the Reserve Officers' Training Corps while engaged in flight instruction.

g. Injuries or diseases resulting in disability or death incurred by personnel who have been provisionally accepted for duty, or have been selected for active service under the Universal Military Training and Service Act, and who are traveling to or from or are at a place for final acceptance or entry on active duty in the Army.

h. Injuries, diseases, and deaths incurred by members of other branches of the Armed Forces, when the Army is required or requested to make such determination.

4. **Definitions.** a. For the purposes of these regulations any condition included in Class XXIII, SR 40-1025-1, will be considered an injury. Any condition not included in Class XXIII will be considered a disease.

b. The term *malum in se* is defined as an act which is criminal by its inherent nature, or a crime which is inherently immoral or wrong, or a crime which springs from wickedness of character. Common examples of acts *malum in se* are burglary, larceny, robbery, arson, adultery, rape, manslaughter, murder, and mayhem.

5. **Administrative determinations of line-of-duty.** a. An administrative determination of line-of-duty status may be made by the organization commander with the concurrence of the medical officer in all cases not requiring a formal investigation under the provisions of paragraph 7a.

b. This line-of-duty determination and the fact that it was agreed upon by the commanding officer of the member and the medical officer will be shown on the records as follows:

- (1) For all personnel for whom a Health Record is maintained—
 - (a) On the DD Form 481 (Clinical Record Cover Sheet) for members treated in an excused-from-duty status.
 - (b) On the SF 600 (Health Record—Chronological Record of Medical Care) for members treated in an outpatient status.
- (2) For personnel for whom a Health Record is not maintained—
 - (a) On the DD Form 481 for members treated in an excused-from-duty status.
 - (b) On the DA Form 8-255 (Outpatient Medical Record) for members treated as outpatients.
 - (c) For cases handled at military sick call the entries shown on the DD Form 689 (Individual Sick Slip) will constitute the line-of-duty determination. The DD Form 689 will be stapled to that copy of the DD Form 481 which will be filed as a part of the clinical records for the excused-from-duty and to the DA Form 8-255 for outpatients. The notation "See DD Form 689, attached," will be made on the form to which the Sick Slip is stapled.

c. For Army National Guard personnel attending service schools under the jurisdiction of the Active Army, line-of-duty determinations will be accomplished as provided in *b* (1) above. A report with a brief description of the circumstances will be forwarded to the appropriate State adjutant general. For National Guard personnel performing all other training, determinations will be accomplished by National Guard authorities pursuant to instructions contained in National Guard Regulations No. 28.

6. Statement of Medical Examination and Duty Status (DA Form 2173). When a formal investigation is not required, complete circumstances surrounding deaths (except those deaths due to natural causes or disease) or disabling injuries will be forwarded on DA Form 2173 (Statement of Medical Examination and Duty Status fig. 1), in duplicate, to The Adjutant General, Department of the Army, Washington 25, D. C., ATTN: AGPS, through the officer exercising special court-martial jurisdiction, within 10 days after the date of death or injury. A copy of the sympathy letter to the next of kin will be attached in death cases.

7. Requirements for investigation. Commanders will be guided by the following in deciding whether a formal line-of-duty investigation is necessary or that an administrative determination is

sufficient. While payment of the death gratuity is no longer contingent on the line-of-duty findings, the Veterans Administration is dependent on the Army for information upon which to base its determination of line of duty for Army personnel.

a. Require formal investigation.

- (1) Injuries likely to result in permanent disability (unless received as proximate result of performance of duty).
- (2) Self-inflicted injury, attempted suicide, death by self-destruction.
- (3) Death or disabling injury of driver of motor vehicle.
- (4) Death or disabling injury to passenger who interferes with the operation of a motor vehicle or who is riding in a stolen vehicle.
- (5) Death or disabling injury to the senior officer or enlisted person riding in military vehicle.
- (6) Death or disabling injuries incurred while individual is traveling to his home immediately following discharge or release from active duty.
- (7) Death due to *injuries* or disabling injuries incurred by Army National Guard and Army Reserve personnel traveling directly to and from Reserve duty training.
- (8) Death of Army National Guard and Army Reserve personnel due to injury received while on active duty for training for 30 days or less or while performing Reserve duty (inactive duty) training.
- (9) Death, injury, or disease incurred while member is absent without authority, or in desertion, for less than 6 months.
- (10) Death, injury, or disease which is apparently due to misconduct or which occurred during an act of malum in se. See paragraph 19.
- (11) Disagreement regarding line-of-duty finding between commanding officer and medical officer which cannot be resolved by officer exercising special court-martial jurisdiction. (Report of investigation must show that disagreement was the cause for investigation.)
- (12) A member of the Army National Guard of the United States, Army Reserve, or Reserve Officers' Training Corps alleges, subsequent to release from a tour of active duty for training, that he incurred an injury or contracted a disease during that tour.
- (13) Upon request of another Armed Service, when a qualified officer of that service is not available to conduct a line-of-duty investigation required for a member of such service.

- (14) Upon the request of the Adjutant General of Puerto Rico or the District of Columbia, or of the State or Territory concerned, with respect to an injury incurred or disease contracted by a member of the National Guard while training at a service school or otherwise with the active establishment.

b. Do not require formal investigation (administrative determination made).

- (1) Battle casualties (see AR 600-65 for definition) will be determined "in line of duty."
- (2) Injuries not likely to result in permanent disability or claim against the Government (unless self-inflicted).
- (3) Disease, nonfatal (unless commanding officer and medical officer are unable to agree on finding, and officer exercising special court-martial jurisdiction does not feel competent to make decision).
- (4) Injury or death received as proximate result of performance of duty when no misconduct is involved (complete Statement of Medical Examination and Duty Status, see par. 6).
- (5) Death from cause previously subject of line-of-duty investigation. Line of duty will be the same as for investigation (i. e., individual injured in automobile accident and later dies of such injuries).
- (6) Death from natural causes, or from disease involving no misconduct.
- (7) Death or injuries incurred while passenger in motor vehicle, aircraft, or other mode of transportation (except under circumstances stated in *a*(4) and (5) above).
- (8) Death or injury incurred after member is in a desertion status for more than 6 months, unless there is evidence that member may have been mentally unsound at inception of absence without authority.

c. Army National Guard personnel on active duty for training or on Reserve duty (inactive duty) training.

- (1) For individuals attending Army service schools under jurisdiction of the Active Army, investigations will be accomplished as provided in *a* and *b*, above. A report of the findings with a brief description of the circumstances will be forwarded to the appropriate State or Territory adjutant general.
- (2) For individuals performing all other training duty, investigations will be conducted by National Guard au-

thorities for reasons outlined and in accordance with instructions contained in National Guard Regulations No. 28.

d. Members of Army National Guard, Army National Guard of the United States, Army Reserve, and Reserve Officers' Training Corps hospitalized beyond tour of duty. Whenever a member of a Reserve component on active duty for training, a member of the ROTC attending summer training, or a member of the Army National Guard attending a service school seems likely to be hospitalized beyond the expiration of his tour of duty, and it appears that a finding of "not in line of duty" may be appropriate, the hospital commander will request the appropriate authority to make a formal investigation. If as a result of this formal investigation findings of "not in line of duty" are recommended, the member will be immediately advised that, if he remains in a Department of Defense medical facility, he will be liable for the expenses of his hospitalization as set forth in section III, AR 40-101, from the date of relief from duty as stated in his orders.

8. Appointment of investigating officer. *a.* When circumstances require a formal investigation, an officer exercising special court-martial jurisdiction will appoint a *disinterested commissioned* officer as investigating officer. This officer will report the facts and make findings as to line-of-duty and misconduct status.

b. In cases involving the death or injury of members of the Army Reserve while participating in Reserve duty training, the commanding general of the U. S. Army Corps (Reserve) having jurisdiction over the area in which the reservist resides or the chief of the appropriate military district will appoint an investigating officer. This authority may be delegated to the sector command.

c. For injuries and deaths of Army National Guard personnel under the jurisdiction of National Guard authorities on active duty for training, other than those attending service schools, or on inactive duty training, investigating officer will be appointed by National Guard authorities in accordance with instructions contained in National Guard Regulations No. 28.

d. The *same* officer should be appointed to investigate all injuries or deaths which occurred as the result of a single accident or incident.

e. The investigating officer also may be appointed to conduct an inquest, to dispose of effects in accordance with AR 643-50 or AR 643-55, or to investigate a claim or possible future claims in accordance with AR 25-20 if a separate claims investigation is

required. The line-of-duty investigation will be in lieu of the investigation required by a claims officer (AR 25-20) if the injury or death of the person whose line-of-duty status is being investigated is the only basis for subsequent claim against the Government or other party or agency.

f. The unit commander of the individual concerned, or any other officer who is in a position to offer evidence in a case, will not be appointed to conduct the investigation.

g. Under some conditions it will be desirable to have the line-of-duty investigation conducted by an officer not assigned or attached to the same station as the individual subject to the investigation. In such cases, direct communication between installation commanders is necessary. Conditions under which such action may be appropriate are as follows:

(1) If any member of the Armed Forces is injured or contracts disease away from his station, the commander of the Army installation where the member is taken for initial hospitalization or of the medical treatment facility charged with administrative responsibility (AR 614-60) will, at the same time that he reports the injury or disease to the member's home station, ascertain which agency is to conduct the line-of-duty investigation.

(2) If any member of the Armed Forces dies away from his home station, the commander of the Army installation to which the deceased is taken or the commander who is assigned responsibility for disposition of remains (AR 638-45) will, at the same time that he reports the death to the member's home station, ascertain which agency is to conduct the line-of-duty investigation when investigation is required.

(3) If all material witnesses are located at a distant installation and it is impracticable to secure evidence by correspondence.

(4) If there is no Army installation within a reasonable distance of the place where injury or death occurred to a member of the Army and there is an Air Force or Naval installation in the vicinity, provided the Air Force or Naval installation agrees to conduct the investigation.

(5) If other factors exist which indicate that it is in the interest of the Government or of the individual concerned to have the investigation conducted at another installation.

9. **Conduct of investigation.** a. An individual subject to a line-of-duty investigation will be notified of the impending investiga-

tion. The individual will be permitted to submit evidence or statements, sworn or unsworn. Before his statement is taken he should be advised of his rights under the Uniform Code of Military Justice, Article 31, and of the purpose of the investigation. Reason for failure to obtain a statement from the individual will be noted.

b. If practicable, the individual will be permitted to be present at the examination of witnesses if the investigation is to be continued beyond the examination of documentary evidence. If not present, he will be permitted to meet adverse allegations.

c. The investigating officer will have the pertinent sections of DA form 2173 (Statement of Medical Examination and Duty Status) completed as follows:

- (1) *Section I*—by the first attending doctor, showing the nature and extent of the injury or disease.
- (2) *Section II*—by the organization commander as to duty status at time of the incident. In the case of a reservist participating in Reserve duty training the unit adviser or, in his absence, the unit commander will complete this section.
- (3) If a member is absent without authority the following information will be included in the remarks section of the form:
 - (a) If absent during normal duty hours, the type of duty missed and the scheduled hours for such duty.
 - (b) If absent from a scheduled duty or restriction, the nature of the duty or restriction, the date scheduled or imposed, duration, the reason for restriction, and the hour and date the individual was notified of the scheduled duty or restriction.
 - (c) If an individual's pass privileges were revoked, when and why revoked and for how long.
 - (d) If hospitalized as a result of injuries received or disease contracted prior to termination of unauthorized absence, the hour and date of admission to the hospital.
 - (e) If reported absent without authority for overstaying leave or pass, the hours and effective dates of the leave or pass, and the time that the period of absence without authority began.
 - (f) If reported absent without authority for deviating from an authorized route, the authorized route and the deviation should be diagramed or otherwise explained.

d. The investigating officer will attempt to determine all facts and circumstances leading to and connected with the injury or

death in order to render a report which will be comprehensive as to every feature of the case. Particular attention will be given to the accuracy of times, dates, places, identity of persons, and sequence of events.

e. (1) Before the testimony of witnesses is taken, they should be advised of their rights under the Uniform Code of Military Justice, Article 31, or the Fifth Amendment to the United States Constitution (incriminating and degrading statements).

(2) Primary effort should be directed toward procuring evidence from persons who have a personal knowledge of an incident or of material conditions leading up to the incident. So far as practicable, all known witnesses who have personal knowledge of the facts and whose testimony may be material will be interviewed and their testimony recorded in full. A deposition should be obtained from witnesses who are not located in the immediate area.

(3) Although spontaneous statements are preferable to questions and answers, such statements are often ambiguous or obscure on material points, and in such cases the testimony will be developed further by recorded questioning by the investigating officer. If the testimony is conflicting, the witnesses will be reinterrogated to determine the facts. Any injury or death involving the testimony of a group of individuals who may be suspected of giving partial testimony, such as members of the same organization as the injured or deceased person, will be carefully investigated to determine whether there are any other witnesses who may be disinterested and impartial.

(4) DA Form 19-24 (Statement) will be used to record the statements of witnesses (fig. 2).

f. If it is *not* well established by a coroner's inquest or other means that a death was accidental or the result of foul play or self-destruction, the investigating officer will recommend to the appointing authority that an officer be appointed as a summary court to conduct an inquest as required by AR 600-65.

g. In cases of disease, particular consideration will be given to the question of whether the illness was due to any condition or disease which existed prior to entry upon active duty.

h. (1) If the sobriety of the injured or deceased may be a material point in determining the extent of misconduct, or if it is known, suspected, or alleged that the person was

under the influence of intoxicants or narcotics, an attempt will be made to determine the extent of the influence. Testimony of witnesses will be secured as to the general behavior, rationality of speech, and muscular coordination of the individual as compared to similar factors at a time when it was known that the individual was not under such influence.

- (2) Blood alcohol and other tests for intoxicants will be obtained whenever appropriate and feasible. When obtained, the results thereof will be added as Exhibit B-1 to the line-of-duty investigation.
 - (3) Laboratory tests may be obtained if narcotic intoxication is in question. Such tests constitute a medical officer's aid to a diagnosis and will not be interpreted by non-professional individuals.
- i. (1) In a case of self-destruction, attempted self-destruction, or any other case in which mental competency is questioned, the investigating officer will obtain the opinion of a psychiatrist as to the mental condition of the deceased or injured person. If a psychiatrist is not available he will obtain the opinion of the attending doctor or any other physician who may be competent to testify concerning the mental condition of the individual. This opinion will be attached as a part of the medical statement, Exhibit B.
- (2) In addition, the investigating officer will extend his investigation to include all available evidence concerning the mental condition of the individual, during and prior to the events leading up to self-destruction or attempted self-destruction, which might disclose the cause, nature, and extent of any mental unsoundness. Every clue pointing to a possible source of evidence that may be material on any of the points will be pursued to the extent that all available individuals having close contact with the individual will be interviewed for evidence of characteristics which may have been indicative of mental unsoundness, although not recognizable or apparent to close associates at the time. It is within the competency of any individual without medical or psychiatric training to describe in lay terms the personality, reactions, and adjustment of an individual with whom associated.
 - (3) If the individual was absent without authority at the time of self-destruction or attempted self-destruction, evidence will be obtained which will describe the factors

associated with the individual's mental condition both at commencement of absence without authority and at the time of self-destruction or attempted self-destruction.

j. If resistance to custody by law enforcement agents is alleged, the investigation will be extended to determine whether lighting conditions, uniforms, and other facts were such that the individual concerned should have recognized the agents as such, should have understood any instructions or commands given, and should have understood the degree of any restraint imposed.

k. If death resulted from the actions of another person who is still alive, a statement of the disciplinary action to be taken or expected to be taken against the other person will be obtained.

l. Copies of report of autopsy and report of coroner's inquest, if conducted, will be secured. If an autopsy has not been conducted and there is any doubt as to the medical cause of death, the investigating officer will request the commander of the medical treatment facility to have an autopsy conducted under the conditions set forth in paragraph 9, AR 40-103. If a medical officer is not available, the investigating officer may request the commanding officer to authorize the employment of a civilian physician to conduct the autopsy. A statement concerning the circumstances will be prepared and submitted to the medical officer or physician conducting the autopsy, if death occurred outside a hospital and inquest is not conducted.

m. Diagrams and photographs pertinent to the case will be obtained if practicable.

n. Investigation of an injury or death will be completed, if possible, within 7 days from the date of injury or death. The appointing authority will establish the control procedures to insure that investigating officers are appointed immediately following an incident requiring investigation and that any delay in completing the investigation is reduced to the minimum.

10. Report of investigation. *a.* The investigating officer will prepare his report on DD Form 261 (Report of Investigation—Line-of-duty and Misconduct Status) (fig. 3) in quintuplicate (in quadruplicate when the appointing and reviewing authority are the same):

b. The report will be unclassified unless the circumstances involve security or are derogatory to the individual concerned, or classified exhibits are attached. Classified security information will not be attached unless it is material to the determination of line of duty.

c. A copy of each exhibit will be attached to each copy of the report of investigation. The original copies of the exhibits will normally be attached to the original of the report of investigation. If it is necessary to make a typewritten copy of the original for any reason, i. e., illegibility, additional copies, translation, the typed copy will be attached in addition. Copies of exhibits in lieu of the original exhibits may be attached to the original of a report of investigation only when there is a requirement that the original exhibits are to be filed elsewhere, or such documents are the personal property of individuals or estates; for example, personal letters or suicide notes addressed to particular persons. When possible, these documents should be reproduced by auto-stat or similar means of duplication.

d. Copies of exhibits, properly authenticated may be prepared for attachment to copies of a report of investigation.

e. A copy of a statement taken in another investigation for a different purpose may be used as an exhibit of a line-of-duty investigation if the information contained is material to a determination of line of duty and the person whose line of duty is being investigated has been permitted to examine the statement and to refute any unfavorable testimony.

f. The following information will appear under item 9g, DD Form 261, "Remarks." whenever appropriate:

- (1) Reasons for failure to interview a living person whose line-of-duty status is being investigated or any witnesses whose testimony may have been material.
- (2) Clarification of any discrepancy in the evidence as to the duty status of the individual or in the date of injury or death.
- (3) The statement that one copy of the report of investigation has been furnished either in person or by mail to a living individual whose status is under investigation or that the individual was not available to receive a copy.
- (4) The comments of the investigating officer concerning the creditability of statements of witnesses.

g. Documentary exhibits, *as appropriate*, will be attached to DD Form 261 (Report of Investigation) in the following order:

- (1) Orders appointing the investigating officer, Exhibit A (fig. 4).
- (2) Statement of Medical Examination and Duty Status (DA Form 2173) Exhibit B (fig. 1).
- (3) Report of autopsy and autopsy protocol in death cases.
- (4) Report of inquest in death cases.

- (5) Laboratory reports.
- (6) Copy of orders to active duty or periodic advance training schedule for reservists on active duty or Reserve duty training.
- (7) Copy of sympathy letter written to the next of kin in death cases.
- (8) Testimony of witnesses or other persons on DA Form 19-24.
- (9) Photographs which are relevant to the case (highway markings, showing condition of highway, terrain, etc.).
- (10) Any other exhibits which are material to a proper determination in the opinion of the investigating officer.
- (11) A copy of any report conducted by criminal investigators.

h. The investigating officer will furnish one complete copy of the report of investigation to the person whose line-of-duty status was investigated. If the person has been transferred away from the station, the copy will be mailed to him. If the individual's forwarding address is unknown, this copy will be forwarded to The Adjutant General, with the original, and notation made in the "Remarks" section of the report.

i. The original and three copies of each report concerning an injury or disease, or the original and four copies in each death case, will be transmitted to the appointing authority.

j. All reports of investigation pertaining to injuries or deaths resulting from the same accident or incident will be forwarded simultaneously by *one* letter of transmittal.

k. The investigating officer will review and evaluate the evidence under the general policies outlined in these regulations and make a finding as to the line-of-duty and misconduct status of the member. Findings must be expressed in one of the following terms:

- (1) In line of duty.
- (2) Not in line of duty—not due to own misconduct.
- (3) Not in line of duty—due to own misconduct.

No findings will be shown on reports of investigation pertaining to deaths.

l. If the investigating officer cannot readily arrive at a finding based on the policies outlined herein, or is doubtful as to the proper findings, he should refer to the opinions of The Judge Advocate General of the Army as published in JAG bulletins or in the latest JAG Digest of Opinions, or opinions citing authority as "JAGA" in the Digest of Opinions, Judge Advocates General of the Armed

Forces and DA Pam 27-6. Primary consideration should be given to the opinion in which the basic principles of the case involved most nearly conform to those of the case being considered, provided that Department of the Army policy at the time the opinion was rendered has been substantially unchanged.

m. In arriving at a finding, the investigating officer should note that paragraph 17 authorizes consideration of any evidence except as specifically prohibited therein; therefore, circumstantial evidence should be evaluated.

11. Action by appointing authority. *a. Review of report.* The appointing authority will not attempt in any way to influence the investigating officer in arriving at his finding in a report of investigation. He, or a designated representative, will review the report. If the review reveals that the report is incomplete or is not based upon a thorough investigation, the appointing authority will require further investigation before indicating his action.

b. Entering findings. The appointing authority or a designated representative will indicate his approval or disapproval of the findings in the appropriate space on the original and all copies of DD Form 261. If the appointing authority is the same person as the reviewing authority, "Same as Reviewing Authority" will be entered on all copies of the report in the space provided for the appointing authority's action. No findings will be shown on reports pertaining to deaths, but reports will be reviewed to insure completeness and accuracy of information furnished.

c. Entering disapproval of investigating officer's findings. Whenever the appointing authority disapproves the findings of the investigating officer, in addition to indicating his disapproval on DD Form 261, the reasons for his disapproval and the appointing authority's substituted findings will be entered on the reverse of all the copies of DD Form 261, using the bottom of the form as the top of the reverse, so that the remarks can be read by turning back the bottom of the form (i. e., "head to foot".)

d. Reporting delay in completing investigation. If the investigation of an injury or death cannot be completed within 7 days, the appointing authority will so notify the officer exercising general court-martial jurisdiction over the command, giving the reasons for the delay and the expected date that the report will be submitted. Control procedures will be established by commanders exercising special court-martial jurisdiction (appointing authorities) to insure that investigations are initiated as soon after an incident as possible. Hospital Admission and Disposition Reports, Morning Reports, and Accident Reports will be utilized as a means of checking incidents which may require investigation.

e. Disposition of copies of report for members of the Army.

- (1) The appointing authority will retain one complete carbon copy of the report of investigation, with exhibits, when the investigation pertains to a member on active duty or on active duty for training for more than 30 days.
- (2) The Commanding General, United States Army Corps (Reserve) or the chief of the military district concerned will be furnished one complete carbon copy of all reports of investigation pertaining to members of the Army Reserve on active duty for training for 30 days or less or on Reserve duty training.
- (3) The Adjutant General of the state from which the guardsman was ordered to duty will be furnished all copies of reports of investigation pertaining to National Guard personnel performing duty under 32 U. S. Code, Section 503, 504, or 505 (See NGR 28).
- (4) One complete carbon copy will be retained to be forwarded to the medical facility in which the member is being treated at the time the appointing authority is notified of the findings of the Department of the Army.
- (5) The original report and remaining copies will be forwarded to the headquarters exercising general court-martial jurisdiction over the installation of the appointing authority.

f. Disposition of copies of report for members of other Armed Forces. The appointing authority will retain one complete carbon copy of a report of investigation pertaining to a member of another Armed Service and will forward the original and all other copies as indicated below:

- (1) *Navy and Marine Corps personnel.* Forward to the Secretary of the Navy, Washington 25, D. C., ATTN: The Judge Advocate General, through the commanding officer of the person whose line-of-duty status was investigated.
- (2) *Coast Guard personnel.* Forward direct to the Commandant (L), United States Coast Guard, Washington 25, D. C.
- (3) *Air Force personnel.* Forward direct to the Director of Military Personnel, Headquarters USAF, Washington 25, D. C., ATTN: Casualty Branch, Special Activities Group.

g. Disposition of copies of reports pertaining to ROTC cadets.

- (1) *Cadets attending summer training camp.* Copies will be distributed the same as for members of Army on active duty.

- (2) *Cadets engaged in flight training.* Reports will be made and distributed in accordance with the provisions of AR 145-124.

12. Action by reviewing authority. *a. Review of report.* The officer exercising immediate general court-martial jurisdiction over the installation of the appointing authority will cause a careful review to be made of the entire proceedings.

b. Entering findings.

- (1) He will indicate, or have an authorized representative indicate, his approval or disapproval of the findings of the appointing authority in the appropriate space on the original DD Form 261 and all copies of the report received in his headquarters. *No findings* will be shown on reports of investigation pertaining to *deaths*, but reports will be reviewed to insure that complete and accurate information is included.
- (2) If the reviewing authority is the same person as the appointing authority, "Same as Reviewing Authority" will be entered on all copies of DD Form 261 in the space provided for the signature of the appointing authority. The signature will be entered in the space provided for the signature of the reviewing authority.
- (3) Care will be taken that the headquarters is completely identified, with address if an APO number is used.
- (4) The reviewing authority's approval or disapproval of the findings is held to constitute approval or disapproval of the appointing authority's findings.

c. Entering disapproval of appointing authority's findings. Whenever the reviewing authority disapproves the findings of the appointing authority, his reasons for disapproval with his findings will be entered on the reverse of DD Form 261, using the bottom of the form as the top of the reverse, so that the remarks can be read by turning back the bottom of the form (i. e., "head to foot"). Failure by the reviewing authority to state his findings will result in the absence of findings.

d. Technical advice. The reviewing authority should freely seek the advice of the command surgeon or judge advocate whenever he disagrees with the findings of the appointing authority or the investigating officer, or both. He should seek advice whenever, in his opinion, there is any question as to the mental competency of the injured or deceased person and obtain a written psychiatric evaluation from a qualified psychiatrist.

e. Disposition of copies of report of investigation. One copy of each report of investigation, with exhibits, will be retained for file at the headquarters of the reviewing authority. The remaining copies (original only for an injury; original and duplicate for a death) will be forwarded to The Adjutant General, Department of the Army, Washington 25, D. C., ATTN: AGPS. A letter of transmittal is not desired except to insure the simultaneous receipt of several reports of investigation pertaining to the same accident or incident.

f. Through major oversea command. A major oversea commander may require reports of investigation to be forwarded through his headquarters if he deems it desirable and it does not involve excessive delay.

g. Reporting delay in completing investigation of death. If the report of investigation of a death has not been reviewed and forwarded to The Adjutant General within 10 days after the date of death, the reviewing authority will notify The Adjutant General, ATTN: AGPS, giving the reasons for the delay and the expected date the report will be forwarded.

13. Action by Headquarters, Department of the Army. *a. Review.* The Adjutant General will make a thorough review of all reports of investigation received and will enter on the report of investigation in the name of the Secretary of the Army the approval or disapproval of the findings of the reviewing authority. Where disapproval is noted, the corrected findings will be indicated.

b. Notification of findings. No notification to field authorities will be made in death cases. In all other cases The Adjutant General will notify the following:

- (1) The appointing authority in any case acted upon in which the person investigated was on active duty for more than 30 days and the findings of the reviewing authority have been approved. A copy of this notification will be forwarded to the reviewing authority.
- (2) The reviewing authority in any case acted upon in which the person investigated was on active duty for more than 30 days and the findings of the reviewing authority have been disapproved. The reviewing authority will notify the appointing authority of the final determination.
- (3) The Commanding General, United States Army Corps (Reserve) or the chief of the military district in any case in which the person investigated was on active duty for 30 days or less or on Reserve duty training. A copy of this notification will be forwarded to the area com-

mander and to the reviewing authority, if other than the area commander. It will be the responsibility of the reviewing authority to notify or inform the appointing authority of the final action by the Secretary of the Army in this type case whenever the appointing authority is not the Commanding General, United States Army Corps (Reserve) or the chief of the military district.

- (4) A copy of the notification will be forwarded to the Chief, National Guard Bureau in all cases involving a member of the National Guard on active duty for training for more than 30 days.

c. Disposition of copies of report of investigation.

- (1) The original of every report of investigation will be filed by The Adjutant General following completion of necessary action.
- (2) Duplicate copies of reports of investigation of deaths are forwarded to the Veterans Administration. The Administrator of Veterans Affairs makes a determination of line-of-duty and misconduct status, under standards and criteria applicable under disability compensation laws administered by the Veterans Administration, for the purpose of determining the eligibility of survivors for dependency and indemnity compensation payments.

d. Notification of organization commander. Upon receipt of notification of final determination by the Department of the Army, the appointing authority will inform the organization commander in order that any change in line-of-duty status may be entered in organizational and medical records.

14. Exemption from reports control. Reports required by these regulations are exempt from reports control under paragraph 17t, AR 335-15.

SECTION II

CONTROLLING FACTORS IN LINE-OF-DUTY AND MISCONDUCT DETERMINATION

15. Presumptions. Injury or disease will be presumed to have been incurred in line of duty and not because of the member's own misconduct.

16. Evidence required to rebut presumption. *a. Line of duty.* The presumption favoring line of duty may be overcome only by

substantial evidence that injury or disease, or condition causing injury or disease, was—

- (1) Proximately caused by the intentional misconduct or willful gross neglect of the individual (par. 19).
- (2) Incurred or contracted during a period of unauthorized absence.
- (3) Incurred or contracted while neither on active duty nor engaged in authorized training in an active or Reserve duty status and was not aggravated by the service.

b. Misconduct. The presumption against misconduct may be overcome only by substantial evidence that the injury or disease, or condition causing injury or disease, was proximately caused by the intentional misconduct or willful gross neglect of the individual.

17. Nature of evidence to be considered. *a.* In general, any evidence may be considered in making line-of-duty and misconduct determinations, with the exception that any *signed* statement of a person in the Armed Forces, against his interest, relating to the origin, incurrence, or aggravation of any injury or disease suffered by him may not be considered in making determinations as to such injury or disease, unless he has first been advised that he need not make such a statement and also has been advised of his rights under the Uniform Code of Military Justice, Article 31 (b).

b. Standard Forms 89 (Report of Medical History) which were signed prior to the time the individual subject to investigation became a member of the Armed Forces and Standard Forms 88 (Report of Medical Examination) are admissible in evidence in line-of-duty investigations.

18. Medical records. *a.* Care should be utilized in the evaluation of medical records as evidence in line-of-duty investigations. This is necessary inasmuch as medical records are prepared primarily with a view toward assisting the physician in discharging his responsibilities to his patients and not necessarily with a view toward formulating a record admissible for evidentiary purposes. Further, the technical terminology frequently employed in such records is susceptible of being properly interpreted only by a person completely versed in such terminology. Accordingly, advice and assistance should be freely sought from medical officers in connection with utilizing medical records as evidence in line-of-duty investigations.

b. Whenever the sources of the entries for the information con-

tained in medical records are not clearly identified, the sources should be ascertained, if possible. If the sources cannot be identified or appear to be of dubious value, this factor should be considered in whatever weight, as evidence, this information is given in the investigation. Those individuals preparing medical records are encouraged to verify and note down the source of entries whenever possible. If verification is not possible, an entry to this effect should be made; e. g., "According to the patient _____," or "The enlisted man says," etc.

SECTION III

INTERPRETATION OF BASIC FACTORS

19. **Intentional misconduct or willful neglect.** *a.* Misconduct for line-of-duty purposes must be intentional; however, intent may be expressed or implied. Negligence (i. e., neglect) to constitute misconduct within the purview of these regulations must be willful; however, the willfulness likewise may be expressed or implied. Negligence so gross as to evidence a reckless or wanton disregard of the consequences thereof should be regarded as willful. Simple negligence is not misconduct for line-of-duty purposes.

b. The presence of misconduct does not of itself fix misconduct as the producing cause of the injury or disease. A finding that disease or injury resulted from misconduct is proper and sustainable only when it has been established by substantial evidence that misconduct was the moving or direct (proximate) cause thereof. When misconduct is only a contributing cause, the disease or injury should not be determined to have resulted from misconduct.

c. A violation of military regulations, orders, or instructions, or of civil laws, in itself, *and in the absence of a further showing of misconduct*, should be deemed to establish no more than simple negligence. As simple negligence does not constitute misconduct for line-of-duty purposes, injury or disease resulting from such a violation may not be held not in line of duty on that basis alone.

d. The following diseases and injuries, and the effects directly attributable thereto, should be considered as having resulted from misconduct:

(1) Any disease or injury directly resulting from the intemperate use of intoxicating liquor or habit-forming drugs.

(a) *Intemperate use of intoxicating liquor.* The term "intemperate use of intoxicating liquor" is defined as a use which is excessive under all the circumstances of

the case (considering, for example, the amount, type, and relative intoxicating effect of the liquor used; the period of time over which it was consumed; the physical condition of the user and whether he was a habitual user of intoxicants; whether the use of the liquor was such as to reflect discredit upon the military service, etc.).

- (b) *Intemperate use of habit-forming drugs.* The term "intemperate use of habit-forming drugs" is defined as the willful, unauthorized use of such drugs as cocaine; opium and its derivatives such as morphine and heroin; marijuana and its derivatives; or any other habit-forming drugs when their use results directly in absence from regular duty. Any use of such drugs will be considered "unauthorized" within the meaning of this paragraph, except when their use is specifically authorized by a qualified civilian or military authority for specific medical treatment. Absence from regular duty resulting from symptoms due to the withdrawal of the habit-forming drugs is within the purview of this provision, regardless of whether such withdrawal constitutes treatment or is the result of inability by the patient to obtain the habitually used drugs.
- (2) Disease or injury incurred during an act of commission or omission which is wrong in itself (*malum in se*).
- (3) Disease or injury resulting from an act contrary to good morals as established by society.
- (4) Disease or injury deliberately self-inflicted, or ill effect resulting from attempted self-destruction, when mental unsoundness does not exist.

20. **Unauthorized absence.** *a.* In order to establish that an individual was in a period of unauthorized absence for the purpose of line-of-duty determinations, it must be shown that he voluntarily absented himself from his unit or organization or other place of duty without proper authority, or was absent from a scheduled duty or restriction, at the time the injury or disease was incurred.

b. If a member is entitled to a normal off-duty or other pass, he will not be considered to be in a period of unauthorized absence merely because of failure to "sign out" or to pick up his pass upon departure on authorized pass or leave, or because he was in an area beyond the geographic limits specified in his pass or other

authority to be absent at the time the injury or disease was incurred. Merely exceeding the geographic limits of a pass is not sufficient to place a member in an unauthorized absence status for line-of-duty purposes.

c. When there is a requirement that an individual be present in barracks or within the bounds of his station between specified hours at night, such as between bedcheck and reveille, such a requirement establishes an administrative restriction for line-of-duty purposes. In order to corroborate this restriction, the pertinent part of the directive establishing the requirement should be extracted and attached following DA Form 2173.

d. If a member is required to remain within the bounds of his station because of limitations placed on the number of persons allowed passes or required to be available for duty, he is considered to be under administrative restriction for line-of-duty purposes. The pertinent part of the directive establishing the requirement should be extracted and attached as required in *c*, above.

e. If the driver of a Government vehicle on an authorized trip is injured during a material deviation from his assigned route, he should be considered as absent without authority for line-of-duty purposes.

f. Two passes may not be combined to permit a member to be absent from his organization for more than 72 hours. If a member is absent on a normal off-duty pass, he must return to his unit before the provisions of a special pass become effective. Likewise he must return to his organization from special pass or leave before the provisions of his ordinary pass again become operative. See AR 630-20.

g. In cases of self-destruction or attempted self-destruction when there is a question of mental soundness, mental soundness at the beginning of the absence without leave must also be determined.

21. Injury or disease incurred while not on active duty or training status. *a.* A member of the Army will be presumed to have been in sound physical and mental condition upon entering active service or authorized training in an active duty for training or Reserve duty training status. In order to overcome this presumption, it must be shown by substantial evidence that the injury, disease, or condition causing injury, or disease, was sustained or contracted while the individual was neither on active duty nor engaged in authorized training in an active duty for training or Reserve duty training status. Manifestations of lesions or symptoms of chronic disease so close to the date of the

patient's entry into active service that they could not have originated after such entry, or manifestations of disease within less than the minimum incubation period after the patient's entry into active service will be "substantial evidence" of inception prior to service.

b. It is further presumed that, even if the foregoing provision is overcome by such evidence, any additional disability or death resulting from the preexisting injury or disease was caused by service aggravation. Only specific findings of "natural progress" of the preexisting injury or disease based upon well established medical principles, as distinguished from medical judgment alone, are sufficient to overcome the presumption of service aggravation.

c. Any disability having its inception "in line of duty" during one period of service or authorized training in any of the Armed Services which recurs or is aggravated during a subsequent period of service or authorized training, regardless of the intervening time, should be determined to have recurred or have been aggravated in line of duty, unless such recurrence or aggravation is determined to fall within the purview of paragraphs 19 and 20.

d. Acute infections, such as pneumonia, active rheumatic fever (even though recurrent), acute pleurisy, acute ear disease; and sudden developments, like hemoptysis, lung collapse, perforating ulcer, decompensating heart disease, coronary occlusion, thrombosis, or cerebral hemorrhage, occurring while in service, will be regarded as service-incurred or service-aggravated, unless it can be clearly and unmistakably shown that there was no increase in severity during active service.

22. **Self-destruction.** a. When there is nothing to show whether death was caused by accident or intentional self-destruction, substantial evidence of intentional self-destruction is required to overcome the presumption that accident rather than intentional self-destruction was the cause of death. The unintentional taking of one's own life through gross negligence or simple negligence will be termed accidental self-destruction.

b. When there is reasonable doubt whether death was caused by intentional self-destruction, determination will be made by inquest. See paragraph 8, AR 600-65.

c. (1) An investigation of intentional self-destruction will necessarily include a determination of whether the decedent was mentally sound at the time of the act. The question of sanity is one of fact, the correct resolution of which is dependent on a searching inquiry into the char-

acter, behavior, and personal relationships of the decedent. Although the mere act of self-destruction is not alone sufficient to overcome the legal presumption that every person is sane and intends the natural and probable consequences of his acts, any affirmative evidence that the member was so mentally unsound as to be unable to realize the direct physical or moral consequences of his act, or having such realization was unable to refrain from the act, overcomes the presumption. In cases where no reasonably adequate motive for self-destruction is supplied by the evidence, a finding of mental unsoundness will be made.

- (2) If the decedent is determined to be mentally unsound, the investigation should be expanded to determine whether his mental unsoundness existed prior to service or was aggravated by service, or was due to his own misconduct.

23. Psychoses. Schizophrenic and manic depressive reactions and other psychoses of a similar nature are characterized by a tendency toward chronicity with remissions and exacerbations. Disorganization occurring in an unfamiliar environment may at times simulate illness of recent origin, when, in fact, the process has existed unrecognized for a considerable period of time. In the absence of unusual stress such exacerbation represents the natural course of the illness. Careful differentiation should be made between acute psychotic reactions of recent origin and exacerbations of chronic psychoses. The time of inception of a psychotic reaction may be established by consideration of all pertinent factors, including a careful evaluation of the past history in the light of subsequent developments. Ordinarily the following will be considered to be *in line of duty*:

a. Psychoses in individuals in whom evidence of the disorder in question did not manifest itself prior to entry into service or was manifested long enough after entry to contraindicate its existence prior to service.

b. Cases where evidence exists that a preexisting condition was aggravated by unusual stress in the service.

24. Psychoneuroses. Unhealthy reactions to situations and emotions are not necessarily psychoneurotic and can be seen in individuals who have no psychiatric disease. Psychoneuroses are illnesses characterized primarily by internalized conflicts which may be quite evident or controlled by various psychological defense mechanisms. These illnesses result from the exclusion from

consciousness of powerful emotional charges usually attached to childhood experiences. Symptoms appear with or without stimulations from external situations. In the military setting apparent psychoneurotic symptoms are often seen in individuals with a basic personality defect and disappear with the removal of situational pressures. These individuals have character and behavior disorders. Ordinarily the following will be considered to be *in line of duty*:

a. Psychoneurotic reactions occurring after the entry into military service of an individual in whom no evidence of the actual disorder in question existed prior to entry into service.

b. Those occasional cases where there is definite evidence to show that unusual stress or prolonged hazardous duty aggravated an individual's psychoneurosis which existed prior to entry into service.

25. 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 Reserve components on active duty for training or Reserve duty training will be considered to have acquired or aggravated the hernia in line of duty if there was no evidence of hernia at time of medical examination and there *is evidence* of accident or other circumstances sufficient to cause the hernia or aggravation.

26. Operations and treatments. a. The line-of-duty determination for an operation or treatment of an injury or disease will generally be the same as that of the injury or disease for which the operation or treatment was instituted, except as noted in b below.

b. Any ill effect *directly* attributable to treatment, anesthetic, or operation will be considered—

(1) *In line of duty* if the administration or performance of such treatment, anesthetic, or operations was not a criminal offense under Federal or State law and it was administered or performed by an authorized person of the medical service of a Government agency or by other properly licensed medical person.

(2) *Not in line of duty* if it was administered or performed during a period of unauthorized absence or if performed for a member of the Reserve components not on active duty for a *disease* which was contracted while he was engaged in Reserve duty training.

27. Proceeding directly to or from training. In determining whether disability or death was the result of an injury incurred while proceeding directly to or directly from active duty for training or Reserve duty training, consideration will be given to the following factors:

- a. Whether member was authorized or required to perform such training; that is, was he complying with competent orders?
- b. The hour on which the member began to so proceed or return.
- c. The hour on which he was scheduled to arrive for duty, or on which he ceased to perform such duty.
- d. The method of travel employed.
- e. His route to and from such training duty.
- f. The manner in which travel was performed.
- g. The immediate cause of death.

28. Proceeding to home following active duty. In determining whether an individual died or was injured while traveling to his home after discharge or release from active duty, consideration will be given to the following factors:

- a. Whether the individual was traveling by the most direct route from the place of discharge or release from active duty to his home.
- b. The method of travel employed.
- c. The time required to perform the travel.
- d. The manner in which the travel was performed.
- e. The immediate cause of death.
- f. If death is due to disease, whether disease existed prior to discharge or release and whether it was incurred on active duty or aggravated by active duty.
- g. If death or injury occurred prior to midnight on the day of discharge or release.
- h. Date and hour travel began; that is, how soon after discharge.

29. Pregnancies. Pregnancy is not within the category of conditions requiring a determination as to line-of-duty or misconduct status, nor will such determinations be made for the natural complications and sequelae of such condition; however, in the event of unnatural complications or sequelae of a pregnancy, such as the effects of an illegal abortion, line-of-duty and misconduct status will be determined in the same manner as for any other case, in accordance with the basic factors outlined in paragraph 16.

STATEMENT OF MEDICAL EXAMINATION AND DUTY STATUS (AR 600-140)			
TO: The Adjutant General Department of the Army Washington 25, D. C. ATTN: AGPS		FROM: Commanding Officer Fort Myer, Virginia	
1. NAME OF INDIVIDUAL EXAMINED (Last, First, and Middle Initial) Doe, John F.		2. SERVICE NUMBER RA 17 000 000	3. GRADE SGT
4. ORGANIZATION AND STATION Co Z, 3d Inf Bgt, Ft Myer, Va.		5. PLACE OF ACCIDENT (City and State) Alexandria, Virginia	
SECTION I - TO BE COMPLETED BY MEDICAL OFFICER OR PHYSICIAN			
6. INDIVIDUAL WAS <input type="checkbox"/> ADMITTED <input checked="" type="checkbox"/> DEAD ON ARRIVAL		7. NAME OF HOSPITAL <input type="checkbox"/> CIVILIAN <input checked="" type="checkbox"/> MILITARY DeWitt Army Hospital, Ft Belvoir, Va.	
8. HOUR AND DATE ADMITTED		9. HOUR AND DATE EXAMINED	
10. NATURE OF <input checked="" type="checkbox"/> INJURY <input type="checkbox"/> DISEASE <input checked="" type="checkbox"/> RESULTING IN DEATH (Explain) Fractured skull; multiple injuries, extreme.			
11. THE INDIVIDUAL IN MY OPINION (State basis for opinion under remarks) <input type="checkbox"/> WAS <input checked="" type="checkbox"/> WAS NOT UNDER THE INFLUENCE OF <input type="checkbox"/> ALCOHOL <input type="checkbox"/> DRUGS (Specify) <input type="checkbox"/> WAS <input type="checkbox"/> WAS NOT MENTALLY SOUND (Attach psychiatric evaluation if appropriate)			
12. IT IS POSSIBLE THE FOLLOWING DISABILITY MAY RESULT <input type="checkbox"/> TEMPORARY <input type="checkbox"/> PERMANENT PARTIAL <input type="checkbox"/> PERMANENT TOTAL		13. BLOOD ALCOHOL TEST MADE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	14. NO. OF MG ALCOHOL PER CC OF BLOOD (If known) 05 mm/CC
15. REMARKS			
16. DATE 2 Jan 0000		17. TYPED OR PRINTED NAME OF MEDICAL OFFICER Richard Martin, Major, MC	18. SIGNATURE OF MEDICAL OFFICER <i>Richard Martin</i>
SECTION II - TO BE COMPLETED BY COMMANDING OFFICER OR UNIT INSTRUCTOR			
19. DUTY STATUS <input type="checkbox"/> PRESENT FOR DUTY <input checked="" type="checkbox"/> ABSENT WITH AUTHORITY <input type="checkbox"/> ABSENT WITHOUT AUTHORITY (See Item 21)		20. HOUR AND DATE OF ABSENCE FROM 0001 hrs 30 Dec 00 TO 0045 hrs 2 Jan 00	
21. ABSENCE WITHOUT LEAVE MATERIALLY INTERFERED WITH THE PERFORMANCE OF MILITARY DUTY <input type="checkbox"/> YES <input type="checkbox"/> NO (If YES, explain in item 30 type of duty missed, hours of duty, and how it interfered with performance.)			
22. INDIVIDUAL WAS ON <input checked="" type="checkbox"/> ACTIVE DUTY <input type="checkbox"/> ACTIVE DUTY FOR TRAINING <input type="checkbox"/> RESERVE DUTY TRAINING		23. HOUR AND DATE TRAINING BEGAN NA ENDED NA	
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	28. NORMAL TIME FOR TRAVEL
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. REMARKS (When formal report of investigation not required, summarize events, using the bottom of this form as the top of the reverse, if additional space is required.) Sergeant Doe was a passenger in a civilian automobile driven by Private Robert Young, which was struck at 0030 hours, 2 January 0000 by a car driven by Mr. James Jones, on Duke Street, Alexandria, Va. Mr. Jones made a left turn suddenly and without signalling, directly in front of the car driven by Private Young, who turned sharply to the right to avoid colliding, but could not avoid striking the left rear of Mr. Jones' car. Private Young was not injured, but Sergeant Doe was thrown out of the car and sustained the injuries resulting in his death. (See reverse)			
31. DATE 4 Jan 00	32. TYPED NAME AND GRADE OF COMMANDING OFFICER OR UNIT INSTRUCTOR David S. Johnson, Capt.		33. SIGNATURE OF COMMANDING OFFICER OR UNIT INSTRUCTOR <i>David S. Johnson</i>

DA FORM 1 NOV 66 2173

Figure 1.

30. REMARKS (Continued)

Neither Sergeant Doe nor Private Young had been drinking and there was no evidence that misconduct on their part caused the accident.

Figure 1—Continued.

STATEMENT <small>(SR 190-45-1)</small>		
Explain the nature of the investigation. If deponent is accused or suspected of an offense he must be so informed and this fact affirmatively shown.		
PLACE <u>Danville, Virginia</u>	DATE <u>3 July 0000</u>	FILE NO.
DEPONENT (Last Name—First Name—Middle Initial) <u>Johnson, David R.</u>	SERVICE NO. <u>ER 26 893 476</u>	GRADE <u>Pvt-2</u>
ORGANIZATION (If deponent is a civilian, give address) <u>Co C, 180th Abn Inf Regt, USAR</u>		
TO BE COMPLETED PRIOR TO MAKING STATEMENT		
THE UNIFORM CODE OF MILITARY JUSTICE, ARTICLE 31 (AND THE FIFTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES) (Strike out only if person making statement IS a member of the Armed Forces) (HAS) (HAVE) BEEN READ TO ME AND MY RIGHTS THEREUNDER HAVE BEEN EXPLAINED TO ME BY <u>Captain James A. Jones</u> WHO INFORMED ME THAT HE IS (A) (AN) <u>officer</u> OF THE UNITED STATES (ARMY) (NAVY) (AIR FORCE). HE HAS INFORMED ME THAT THIS STATEMENT IS BEING TAKEN IN CONNECTION WITH THE INVESTIGATION OF <u>the death of Sergeant John C. Smith and injuries of PFC Robert H. James on 28 June 0000</u> (OF WHICH I AM (ACCUSED) (SUSPECTED)) (Strike out words between brackets, if inapplicable). THE FOREGOING HAVING BEEN EXPLAINED TO AND BEING UNDERSTOOD BY ME, I VOLUNTARILY MAKE THE FOLLOWING STATEMENT.		
		<u>David R. Johnson</u> <small>(SIGNATURE OF DEPONENT)</small>
STATEMENT BEGINS:		
<p>We were driving north on Route 29 about 5 miles from Danville in Sergeant Smith's car when a large trailer-truck coming from the opposite direction crossed over the center line of the highway and forced us off the road. Our car ran into a large tree and was almost completely demolished. The men in the car behind us pulled me out of the wreck, but Sergeant Smith and Private James were pinned in the wreckage. It wasn't until a wrecker came from Danville that they could be removed.</p> <p>Q. Was Sergeant Smith driving the car? A. No sir, Private James was driving. Sergeant Smith had said he was too tired to drive.</p> <p>Q. Was James responsible in any way for the accident? A. No sir. He was in line in the convoy and the truck suddenly crossed the road in front of us. He couldn't avoid being hit.</p> <p>////////////////////////////////// END OF STATEMENT //////////////////////////////////////</p>		
EXHIBIT	DEPONENT'S INITIALS <u>DRJ</u>	Page 1 of 1 Pages
<small>Additional pages must contain the heading "STATEMENT OF _____ TAKEN AT _____ DATED _____ CONTINUED." The bottom of each additional page must bear the initials of the person making the statement and be identified as "PAGE _____ OF _____ PAGES."</small>		

DA FORM 1 JUN 54 19-24

Figure 2.

REPORT OF INVESTIGATION LINE OF DUTY AND MISCONDUCT STATUS (AR 600-140 or AFR 35-67)					DATE 5 July 0000	
1. INVESTIGATION OF <input checked="" type="checkbox"/> INJURY <input type="checkbox"/> DISEASE <input type="checkbox"/> DEATH					3. STATUS a. <input type="checkbox"/> REGULAR OR LEAD	
2. TO: <input checked="" type="checkbox"/> The Adjutant General, Department of the Army, Washington 25, D. C. <input type="checkbox"/> (Major Air Command)					b. CALLED OR ORDERED TO AD FOR (1) <input type="checkbox"/> MORE THAN 30 DAYS (2) <input checked="" type="checkbox"/> 30 DAYS OR LESS	
4. LAST NAME - FIRST NAME - MIDDLE INITIAL James, Robert H.			5. SERVICE NUMBER ER 52 756 879	6. GRADE PFC	c. <input type="checkbox"/> INACTIVE DUTY TRAINING (7276)	
7. ORGANIZATION AND STATION OF INDIVIDUAL Co C, 180th Abn Inf Regt, USAR, Fort Bragg, North Carolina					d. <input checked="" type="checkbox"/> SHORT TOUR ACTIVE DUTY OR INACTIVE DUTY TRN	
8. OTHER MILITARY PERSONNEL INVOLVED IN THE SAME INCIDENT (Last Name - First Name - Middle Initial)					DATE	HOUR
Smith, John G.			SERVICE NUMBER ER 35 268 732	GRADE Sgt	14 June 00	0001
Johnson, David R.			SERVICE NUMBER ER 26 893 476	GRADE Pvt		
					DATE	HOUR
					28 June 00	2400
9. BASIS FOR FINDINGS (As determined by investigation)						
a. CIRCUMSTANCES	(1) HOUR 1600	(2) DATE 28 June 0000	(3) PLACE 5 miles south of Danville, Va., on U. S. Route 29.			
(4) HOW SUSTAINED While driver of civilian car which collided with a trailer truck.			(5) MEDICAL DIAGNOSIS Crushed right femur; multiple lacerations and contusions.			
c. <input checked="" type="checkbox"/> WAS <input type="checkbox"/> WAS NOT PRESENT FOR DUTY					d. INTENTIONAL MISCONDUCT OR NEGLIGENCE <input type="checkbox"/> WAS <input checked="" type="checkbox"/> WAS NOT THE PROXIMATE CAUSE	
e. ABSENT <input type="checkbox"/> WITH <input type="checkbox"/> WITHOUT AUTHORITY					f. <input checked="" type="checkbox"/> WAS <input type="checkbox"/> WAS NOT MENTALLY SOUND	
4. REMARKS Private James was driving the personal car of Sergeant Smith in convoy returning to home station from two-weeks active duty for training at Fort Bragg, N. C. Sergeant Smith, Private James, and Private Johnson were authorized to travel by privately-owned automobile. The car was forced from the highway by a trailer-truck coming from the opposite direction on the wrong side of the highway. Sergeant Smith was killed in the accident, Private James was severely injured, and Private Johnson received minor scratches and bruises. Private James has been furnished a full copy of the report of investigation. All witnesses to the accident were interrogated.						
10. FINDINGS <input checked="" type="checkbox"/> IN LINE OF DUTY <input type="checkbox"/> NOT IN LINE OF DUTY - NOT DUE TO OWN MISCONDUCT <input type="checkbox"/> NOT IN LINE OF DUTY - DUE TO OWN MISCONDUCT					ORGANIZATION AND STATION OF INVESTIGATING OFFICER HQ and Hq Co, 84d Abn Div, Fort Bragg, North Carolina	
ACTION BY APPOINTING AUTHORITY					SIGNATURE AND TYPED NAME OF INVESTIGATING OFFICER James A. Jones <i>James A. Jones</i>	
HEADQUARTERS					GRADE Captain	SERVICE NUMBER 01-268 476
ACTION BY REVIEWING AUTHORITY					SIGNATURE AND TYPED NAME OF REVIEWING AUTHORITY LOUIS J. JACKSON <i>Louis J. Jackson</i>	
HEADQUARTERS XVIII Abn Corps Fort Bragg, North Carolina					DATE 10 July 0000	
<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED (Reasons and substituted findings are on reverse)					<input checked="" type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED FOR THE COMMANDER (Reasons and substituted findings are on reverse)	
SIGNATURE AND TYPED NAME Same as Reviewing Authority					SIGNATURE AND TYPED NAME	
GRADE	BRANCH	SERVICE NUMBER	GRADE	BRANCH	SERVICE NUMBER	
			Colonel	AGC	0 29 479	
FOR ACTION OF OFFICE INDICATED IN ITEM 2						

DD FORM 261. AUG 52. PREVIOUS EDITION OF THIS FORM IS OBSOLETE.

Figure 3.

HEADQUARTERS 82d INFANTRY DIVISION
Fort Bragg, North Carolina

SPECIAL ORDERS }
NUMBER 217 }

29 June 0000

EXTRACT

8. UP AR 600-140 Captain James A. Jones, 01 268 472, Inf Hq and Hq Co, 82d Abn Div is apptd investigating officer for the purpose of investigating the facts and circumstances surrounding the accident resulting in the death of Sgt John C. Smith, ER 35 268 732, and injuries of PFC Robert H. James, ER 52 756 879, Co C, 180th Abn Inf Regt USAR near Danville, Va., on 28 June 0000. O will be guided by the provisions of AR 600-140. Report will be submitted by 5 July 00.**

FOR THE COMMANDER:

GEORGE GIBBS
Capt. AGC
Asst Adj Gen

OFFICIAL:

George Gibbs
Capt AGC
Asst Adj Gen

**Add authority for any additional investigation to be conducted concurrently. Whenever an inquest is to be conducted, the authority therefor should be stated before the authority for the line of duty investigation, inasmuch as an inquest precedes the line-of-duty investigation.

EXHIBIT "A"

Figure 4.

[AG 201.3 (17 Jul 58) AGPS]

By Order of *Wilber M. Brucker*, Secretary of the Army:

MAXWELL D. TAYLOR,
General, United States Army,
Chief of Staff.

Official:

HERBERT M. JONES,
Major General, United States Army,
The Adjutant General.

Distribution:

Active Army, NG, and USAR: A

To be distributed as needed to all units and headquarters down to and including companies and batteries and to units and headquarters of comparable size, as indicated.