

Information Paper

Subject: AR 15-6 Investigation procedures for the Investigating Officer (IO) of an informal AR 15-6 investigation

1. References.
 - a. AR 15-6 (see chapters 3 and 4), Procedures for Investigating Officers and Boards of Officers
 - b. AR 735-5, Policies and Procedures for Property Accountability
 - c. AR 385-10, The Army Safety Program
 - d. DA Form 1574-Record of Proceedings by Investigating Officer
 - e. DA Form 3881-Rights/Warning Procedure/Waiver Certificate
 - f. DA Form 2823-Sworn Statement
 - g. DA Form 1594-Daily Staff Journal or Duty Officer's Log
2. Purpose. This information paper will outline what procedures an AR 15-6 IO must follow in order to efficiently and effectively conduct an investigation using informal procedures.
3. Background. When commanders become aware of situations within their units that potentially violate the UCMJ they must investigate the underlying facts before taking action. For serious criminal misconduct (felonies) the investigation should be left to the Criminal Investigation Division (CID) or Military Police Investigations (MPI) branch. Less serious offenses like insubordination or fraternization are often investigated through an informal 15-6 investigation. In addition to using the informal investigation as a basis for punitive action, the commander can also use the informal investigation as fact finding tool such as when the command is trying to identify the underlying facts behind the loss, damage or destruction of a controlled item like a computer. (see paragraph 13-25, AR 735-5). AR 15-6 investigations can also operate as a fact finding tool when the commander wishes to preserve evidence from a class A Army Accident investigation. (see AR 385-10 paragraph 3-4a for definition). AR 15-6 informal investigations arm the commander with the necessary information to initiate UCMJ, administrative or to simply find out the facts of a given situation. Due to the fact that the commander takes action based on the IO's findings and recommendations it is imperative that they be conducted impartially and as prescribed by the regulation.

4. Getting Started. The first thing that IOs need to realize is that their purpose is to investigate the underlying circumstances of an incident **and make impartial findings and recommendations back to the commander** that are warranted based on the facts. First and foremost, IOs should comply with the instructions of the Appointing Authority which will be outlined on the appointment order. Typically the Appointing Authority will be the first O-5 in the chain-of-command but a commander at any level may appoint an IO. In some circumstances the GCMCA must appoint the IO. (see paragraph 2-1 of AR 15-6 for more information). The IO should be senior to everyone that is being investigated; this requirement can be waived by the Appointing Authority when military exigencies dictate otherwise. Additionally, the **IO should keep a written chronology of all actions taken during the course of the investigation.** This can be done and recorded on a DA form 1594 and should be included as enclosure when the investigation is turned-in.

5. Investigative Plan. Before questioning any witnesses or obtaining any physical evidence the IO should **map out a strategy for answering the Appointing Authority's questions.** This strategy should include what witnesses to talk to, in what order and what questions should be asked of each witness. It is helpful if the IO has his questions written out prior to beginning the interview of each witness.

The IO does not have to place a witness under oath unless the Appointing Authority directs otherwise or unless the IO reasonably believes the witness has committed some type of criminal misconduct. It is never a bad idea however to have each interested party (no respondents in informal investigations) to sign the DA form 3881 prior to questioning so that they can be apprised of their rights. When questioning witnesses as well as any interested party use the DA form 2823 to capture all statements made. These forms should be attached as exhibits in the investigation.

The IO may direct witnesses not to discuss their testimony with other witnesses until the investigation is complete. Privacy Act statements are not necessary when using the DA form 2823 (the statement is included on the form). All social security numbers should be omitted from the investigation, gathering this information serves no useful purpose.

6. Findings. The findings should be clear and concise statements readily deduced from the evidence in the record. The findings should specifically refer to the evidence that supports each finding. The standard of proof is the **preponderance of the evidence**, which means, based on the evidence, the conclusion is **more likely than not** to be true. The findings should answer all of the Appointing Authority's questions. The findings as well as the recommendations should be annotated on DA form 1574.

7. Recommendations. Recommendations must be supported by and be consistent with the findings. Recommendations should be guided by the IO's concept of fairness to the individuals involved. The Appointing Authority is not bound or limited by the IO's recommendations or findings.

8. Legal Review. Legal review is required on investigations that involve the following:
 - a. Any incident resulting in the death or serious bodily injury.
 - b. When the findings and recommendations result in adverse administrative action
 - c. When required by other directives and regulations.