

**INVESTIGATING
OFFICERS
GUIDE
FOR
LINE OF DUTY
INVESTIGATIONS**

Introduction

1. The Army's Line of Duty system stems from one basic premise: Every Soldier, who incurs an injury, illness, or disease not due to the Soldier's intentional misconduct or willful negligence, is entitled to certain benefits as a member of the National Guard. These benefits include pay and allowances and, in some instances, disability retirement. The Line of Duty process is utilized to determine the Soldier's eligibility to receive these benefits. AR 600-8-4, Line of Duty Investigation, 4 September 2008, prescribes the basic rules and procedures.

2. Basically, a line of duty determination is required whenever a Soldier incurs an injury, illness or disease, which incapacitates him/her from the performance of duty. It is important to realize that a line of duty determination involves two facts: the preponderance of evidence and the totality of the circumstances.

- a) The "preponderance of the evidence" that tends to prove one side of a disputed fact by outweighing the evidence to the contrary (that is more than 50 percent). Preponderance does not necessarily mean a greater number of witnesses or a greater mass of evidence; rather preponderance mean a superiority of evidence on one side or the other of a disputed fact. It is a term that refers to the quality, rather than the quantity, of the evidence.
- b) The "totality of the circumstances" suggests that there is no single deciding factor. One must consider all the facts and context and conclude from the whole picture whether there is probable cause. That means you would have to take all the facts into consideration and weigh them.

LINE OF DUTY INVESTIGATIONS

Line of duty investigations are conducted in order to conclude whether or not the Soldier was or was not at fault at the time of his/her injury or death.

A line of duty investigation is important in determining if an injury, illness or disease that occurs while the Soldier is in an authorized status, to be eligible to receive medical care at a military, civilian, or Veterans Administration (VA) treatment facilities upon departure from active duty. VA or other facilities will not treat Soldiers for injuries unless service connection is proven. This is done by the LOD investigation.

Line of Duty Determinations.

1. There are only three Line of Duty determination findings:

- a) **LD (In Line of Duty).** This finding is made where an injury, illness or disease was incurred, contracted, or aggravated while the Soldier was on an active duty, was training in an active or reserve status; was excused from duty or training; or was AWOL (absent without leave) and was mentally unsound at the inception of the absence; and (2) the injury or disease was not proximately caused by the Soldier's intentional misconduct or willful negligence. Most cases result in a determination of in line of duty. This is the most favorable determination and qualifies the Soldier involved for all available benefits. The other two possible determinations, both coming under the NLD (Not in Line of Duty) subheading, are considered adverse and result in diminished benefits.
- b) **NLD-NDOM (Not In Line of Duty--Not Due to Own Misconduct).** This finding is made where an injury or disease (1) was incurred, contracted, or aggravated while the Soldier was AWOL, unless he or she was mentally unsound at the inception of the absence and (2) the injury or disease was not proximately caused by the Soldier's intentional misconduct or willful negligence.
- c) **NLD-DOM (Not In Line of Duty--Due to Own Misconduct).** This finding is made where an injury or disease was proximately caused by the intentional or willful negligence of the Soldier. Note that a finding of misconduct leads automatically to a finding of NLD regardless of the Soldier's status at the time. If misconduct is not present, then the LOD status must be resolved on other grounds.

2. There are two procedures that may result in a line of duty determination: a formal investigation and an informal investigation.

- a) Depending on the status of the Soldier and the circumstances surrounding the injury, disease, or death determines which of these procedures to use. Since you have been appointed as a Line of Duty Investigating Officer (IO), you are following the formal investigation procedures under AR 600-8-4. Note that the procedures for formal boards of officers and investigations contained in **AR 15-6, Chapter 5**, are not applicable to formal line of duty investigations.

3. Formal Investigations.

- a) Certain protections are available to the Soldier being investigated. Before questioning by an official investigator, the Soldier must be advised that he or she does not have to make any statement that is against his or her interests, that relates to the origin, incurrence, or aggravation of the injury or disease. Note that the Soldier has the right to remain silent regardless of whether he/she is suspected of having committed a violation of the UCMJ. Statements made without such warning will not be used as evidence for an unfavorable line of duty determination. The IO should

document in writing for the report that the required warning was given. Note that the Soldier also has the right to consult with legal counsel at any time. The Soldier is allowed to submit evidence for the IO's consideration regardless of whether the Soldier gives a statement. The Soldier's statement may be either sworn or unsworn. It is important to remember that the Soldier's injury or disease may have arisen or was aggravated by his participation in conduct which could be punishable under the UCMJ. In such cases, the IO must also advise the Soldier of his Article 31b rights and right to counsel. Good practice would dictate using DA Form 3881, Rights Warning Procedure/ Waiver Certificate. This form is available in Pure Edge.

- b) Although a loss of benefits may result from an adverse LOD determination, such determinations are entirely administrative, and not punitive, in nature. Although a Soldier may be subject to punishment under the UCMJ for the same act of misconduct, final action taken in a LOD investigation has no bearing on any issue in a court-martial or other disciplinary proceeding. Conversely, such a judicial or disciplinary proceeding is not determinative of the line of duty determination.
- c) The IO appointed to do a formal investigation will use DD Form 261, Report of Investigation Line of Duty and Misconduct Status, and append appropriate statements and other documents to support his findings. The IO must ascertain dates, places, persons, and events definitely and accurately in order to provide the appointing/approving authority with an accurate understanding or "word picture" of the incident being investigated. The IO must ensure that the investigation contains enough pertinent information (direct and/or indirect evidence) to support his findings of fact and enable later reviews to be made without more information. A convenient checklist of evidence that should be included (as applicable) is attached. In cases of death, the family suffers when the LOD is not completed on the Soldier.
- d) Effective 10 Sep 2001, Public Law 107-107, Section 642, (National Defense Authorization Act for Fiscal Year 2002), authorized additional benefits for the dependant family members of the deceased Soldier if the Soldier is found to be ILD. These benefits cannot be paid until the completion of the investigation. Also for non-dependant family members (i.e. mother/father) will not be able to collect the Soldiers education benefits unless the Soldier's line of duty is completed and found to be ILD.
- e) If an adverse finding is contemplated against the Soldier, based upon information obtained in the investigation, the IO will notify the Soldier, in writing, of the proposed adverse finding and provide a copy of the investigation and the supporting evidence. A sample notification letter is attached. Certified mail should be used and the signed receipt attached to the line of duty investigation. The Soldier will be warned of his right against self-incrimination and given a reasonable opportunity to submit a written rebuttal. If no response is received in a reasonable period of time, the IO may conclude the investigation and finalize his findings. If a response is received, the IO will review and evaluate the Soldier's response prior to making his findings. The investigation should be completed within 50 calendar days of the incident causing the injury or disease or provide a written

explanation for the delay which should be made a part of the IO's comments on DD Form 261. If there are any questions concerning line of duty investigations, you may contact your Administrative Law attorney in the Administrative/Civil Law Division, Office of the Staff Judge Advocate.

REPORT OF INVESTIGATION LINE OF DUTY AND MISCONDUCT STATUS						1. REPORT DATE (YYMMDD)				
2. INVESTIGATION OF (X one) <input type="checkbox"/> INJURY <input type="checkbox"/> DISEASE <input type="checkbox"/> ILLNESS <input type="checkbox"/> DEATH						3. STATUS (X as applicable)				
4. TO (Major Army or Air Force Commander)						<input type="checkbox"/> a. REGULAR OR EAD				
						<input type="checkbox"/> b. CALLED OR ORDERED TO AD FOR <input type="checkbox"/> (1) MORE THAN 30 DAYS <input type="checkbox"/> (2) 30 DAYS OR LESS				
5. NAME OF INDIVIDUAL (Last, First, Middle Initial)			6. SSN		7. GRADE		<input type="checkbox"/> c. INACTIVE DUTY TRAINING (Type)			
8. ORGANIZATION AND STATION						<input type="checkbox"/> d. SHORT TOUR OF ACTIVE DUTY FOR TRAINING				
9. OTHER MILITARY PERSONNEL INVOLVED IN THE SAME INCIDENT						a. DURATION (Applies ONLY to 3.c. and d.)				
NAME (Last, First, Middle Initial) a.		SSN b.		GRADE c.		d. LOD INVESTIGATION MADE (X) YES NO		DATE (YYMMDD)	HOUR	
								(1) START		
								(2) FINISH		
10. BASIS FOR FINDINGS (As determined by investigation)										
a. CIRCUMSTANCES		(1) HOUR	(2) DATE (YYMMDD)	(3) PLACE						
(4) HOW SUSTAINED										
b. MEDICAL DIAGNOSIS										
c. PRESENT FOR DUTY? (X)		d. IF ABSENT: (X)		(Do not complete 10.e. and f. in death cases.)			e. WAS INTENTIONAL MISCONDUCT OR NEGLECT THE PROXIMATE CAUSE? (X)		f. WAS INDIVIDUAL MENTALLY SOUND? (X)	
<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> WITH AUTHORITY	<input type="checkbox"/> WITHOUT AUTHORITY				<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> YES	<input type="checkbox"/> NO
g. REMARKS										
11. FINDINGS (X one. Do not complete in death cases.)										
<input 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				
12. INVESTIGATING OFFICER										
a. TYPED NAME (Last, First, Middle Initial)					b. GRADE		c. BRANCH OF SERVICE		d. SSN	
e. ORGANIZATION AND STATION					f. SIGNATURE					
13. ACTION BY APPOINTING AUTHORITY										
a. HEADQUARTERS			b. DATE (YYMMDD)							
c. (X one. Indicate reasons and substituted findings on back.)										
<input type="checkbox"/> APPROVED			<input type="checkbox"/> DISAPPROVED							
14. ACTION BY REVIEWING AUTHORITY										
a. HEADQUARTERS			b. DATE (YYMMDD)							
c. (X one. Indicate reasons and substituted findings on back.)										
<input type="checkbox"/> APPROVED			<input type="checkbox"/> DISAPPROVED							
d. TYPED NAME (Last, First, Middle Initial)					d. TYPED NAME (Last, First, Middle Initial)					
e. GRADE		f. BRANCH OF SERVICE			g. SSN		e. GRADE		f. BRANCH OF SERVICE	
h. SIGNATURE					h. SIGNATURE					
15. FINAL APPROVAL (For action of office indicated in Item 4.)										

16. NAME OF INDIVIDUAL <i>(Last, First, Middle Initial)</i>	17. SSN	18. GRADE
19. APPOINTING AUTHORITY - REASONS AND SUBSTITUTED FINDINGS		
20. REVIEWING AUTHORITY - REASONS AND SUBSTITUTED FINDINGS		
21. APPROVING AUTHORITY - REASONS AND SUBSTITUTED FINDINGS		

4. Appointing an Investigating Officer

- a) Before beginning an investigation, an IO must be appointed by an Appointing Authority having Special Court Martial Convening Authority (SPCMCA), (usually a commander of at least a battalion or brigade-sized organization of the ARNG), of the unit to which the person was assigned or attached at the time of the incident.
- b) The IO must be senior in grade or position to the individual being investigated. Only a commissioned officer or warrant officer will be appointed as IOs, except when the appointing authority determines it is impracticable because of military exigencies. Inconvenience in obtaining an IO or the unavailability of senior persons within the appointing authority's organization would not normally be considered exigencies (but not because of mere inconvenience).
- c) All appointments will be in the form of a [memorandum of appointment](#) (See fig 2-1). The appointment will specify clearly the purpose and scope of the investigation, and the nature of the findings and recommendation required.
- d) A LOD determination is not a punishment tool. UCMJ and LOD investigation are completely separate issues. Because a Soldier violated a curfew does not constitute an adverse finding.

APPOINTMENT ORDERS

(Appropriate Letterhead)

OFFICE SYMBOL

MEMORANDUM FOR (IO's Name and unit)

SUBJECT: Appointment Order for Line of Duty Investigation

1. Effective (DATE), (RANK, NAME, and SSN) is hereby appointed as the Investigating Officer.
2. AUTHORITY: AR 600-8-4, Line of Duty Policy, Investigation, and Procedures
3. PURPOSE: To perform a Line of Duty investigation IAW AR 600-8-4, obtaining details pertaining to the injuries/death of (Soldier's Name, SSN, Soldier's unit,) that occurred in (Place) on (date occurred).
4. PERIOD: Until the investigation is completed and not further investigation is required, unless released sooner by the appointing authority.
5. SPECIAL INSTRUCTIONS: Conduct of this investigation will be your PRIMARY duty until the investigation is submitted to the appointing authority. Your findings will be supported by substantial evidence and by a greater weight of evidence than supports any different conclusion.
6. Your report of investigation will be submitted to this headquarters NLT (SUSPENSE DATE).
7. POC this action is (Line of Duty Case Manager), (xxx) xxx-xxxx. APPOINTING AUTHORITY

Fig. 2-1

TIPS FOR INVESTIGATING OFFICER SUICIDES AND SUICIDE ATTEMPTS

Refer to AR 600-8-4, Chapter 4, Para 11 for general guidance on gathering information and conducting investigations into circumstances leading up to suicides or suicide attempts.

Consider the following during conduct of investigation:

1. Contact the Criminal Investigation Division field office at the installation with geographic responsibility for the area in which the Soldier's death occurred as well as the support military staff judge advocate for guidance prior to and during conduct of the LOD investigation.
2. Find out with which the Soldier had spent time prior to the incident and interview them to see if the Soldier's behavior had changed from the usual behavior. Ask for changes for up to a month prior to the incident in an attempt to uncover changes in personality. Ask family members, friends, supervisors, and subordinates. Contact chaplains and mental health personnel at the supporting military medical treatment facility to see if the Soldier had been seen for counseling. Although these two sources may not be able to reveal the information disclosed during counseling sessions because of confidentiality, they will at least be able to advise if the Soldier sought counseling and if he or she was considered suicidal.
3. Always determine if Blood Alcohol Test (BAT) was conducted. If not done, indicate why not. If intoxication is suspected as a contributing factor to the incident, but a BAT was not conducted, on what was the suspected intoxication based, slurred speech, staggering gait, incoherent thought patterns?
4. If alcohol or drug use is suspected, interview witnesses who saw the Soldier prior to the incident to determine physical state or behavior. Ascertain how many hours before incident Soldier had started and stopped drinking.
5. If an overdose of medication, determine whether prescription or non-prescription was used, determine when and how the Soldier obtained the medicines and how many he took.
6. Find out if the Soldier asked for help or advised someone of what he had done immediately after the action and if so.
7. Was there a possibility that an apparent motor vehicle accident was actually a suicide attempt made to look like an accident for insurance purposes? If either the military or civilian police conducted an investigation, determine whether these indicate possible suicide gestures on the part of the victim and upon what basis this determination was made:

8. Driving at a high rate of speed
9. Walking down the middle of a road running out between parked cars?
10. What was the state of mind (anger, excited, depression) of the Soldier prior to the suicide/suicide attempt?
11. For incidents involving firearms, determine how the Soldier got the weapon and what his level of expertise was in handling that type of weapon.
12. Did the Soldier leave a note indicating that he or she wanted to end his or her life or to get out of a distressing situation?
13. Check to determine if local authorities have done an investigation or were involved in any way. Translated legible copies of their investigations or reports must be provided.
14. Include a mental health assessment with LOD investigation for all suicides and suicide attempts. LOD determinations of suicide or attempted suicide must determine whether the Soldier was mentally sound at the time of the incident. The question of sanity can only be resolved by inquiring into and obtaining evidence of the Soldier's social background, actions and moods immediately prior to the suicide or suicide attempt, troubles that may have motivated the incident and examinations or counseling by specially experienced or trained persons. In all cases of suicides or suicide attempts, a mental health officer must review the evidence collected to determine the biopsychosocial factors that contributed to the Soldier's desire to end his or her life. The mental health officer will render an opinion as to probable causes of the self destructive behavior and whether the Soldier was mentally sound or unsound at the time of the incident and on what basis was this determination founded.

TIPS FOR INVESTIGATING OFFICER DRIVERS INVOLVED IN MOTOR VEHICLE ACCIDENTS

Refer to AR 600-8-4, Chapter 4, Para 14 for detailed guidance on line of duty investigations of vehicular accidents.

1. How was it determined that the driver was in fact the driver and not a passenger? This is especially important if one or more persons were thrown from the vehicle or were outside the vehicle in a dazed condition when help arrived.
2. Always determine if a Blood Alcohol Test (BAT) was conducted for both the driver and the passenger and provide a copy of the written results. If not done, indicate why not. If intoxication is suspected, but a BAT was not conducted, on what was the suspected intoxication based, e.g., smell of alcohol on breath, slurred speech, staggering gait, incoherent thought patterns? A Copy of the Autopsy report will determine drugs and alcohol.
3. If alcohol or drug use is suspected, attempt to interview witnesses who saw the Soldier prior to or just after the incident to determine physical state or behavior. Besides drinking buddies, try to find other witnesses. Ascertain how many hours before incident the Soldier had started and stopped drinking.
4. If a police report indicates a motor vehicle was speeding, upon what basis was this determination made: radar gun, measured skid marks, car overturning?
5. Check to determine if local authorities have done an investigation or were involved in any way. Legible copies of their investigations or reports must be provided.
6. What was the conduct of passengers and their effect on the driver? If the passenger felt the driver was in an unfit condition, did he or she say or do anything to get the driver to pull over and stop driving?
7. Describe the make, model, and year of the vehicle(s) involved.
8. What were the traffic conditions at the scene of the accident?
9. Describe the road factors including all road characteristics, natural and man-made obstructions to the operator's vision and traffic signs and signals.
10. Describe the light and weather conditions.
11. What was the posted speed limit and how far from the sign did the accident occur?
12. What was the physical condition of the driver including sobriety, fatigue, or exhaustion, and the contributing effect, if any, of the physical condition to the

accident?

13. Determine the state of mind (anger, excitement, depression, etc.) of the driver.
14. Verify the driver's driving experience. Does the license match the type of vehicle being driven at the time of the accident?
15. What was the conduct of passengers and their effect on the driver?
16. Consider the possibility of mechanical defects, faulty brakes, badly worn tires, recent repair work done to vehicle, whether work was done by certified mechanic, possibility of any manufacture defects or recall notices as contributing factors.
17. Ascertain whether the operator of the vehicle or others involved in accident were charged or cited by law enforcement officials for the incident and the disposition of the charges. If any charges were dismissed or dropped, provide the reason for this.
18. For single car accidents, always ask if there was a possibility that the accident was a suicide attempt made to look like an accident for insurance purposes. If so, a mental health assessment must be included with the line of duty investigation.
19. The use of seat belts may have a direct bearing on the severity of injuries sustained in an accident. But not wearing a seat belt, though a violation of military and possibly state laws is not a proximate cause of an accident and should not be used as a sole cause for an adverse finding for a passenger involved in a motor vehicle accident.
20. Verify the driver's driving experience. Does the license match the type of vehicle being driven at the time of the accident?
21. Consider the possibility of mechanical defects, faulty brakes, badly worn tires, recent repair work done to vehicle, whether work was done by certified mechanic, possibility of any manufacture defects or recall notices as contributing factors.
22. Ascertain whether the operator of the vehicle or others involved in accident were charged or cited by law enforcement officials for the incident and the disposition of the charges. If any charges were dismissed or dropped, provide the reason for this.

Rules Governing Line of Duty and Misconduct Determinations.

The specific rules of misconduct contained in AR 600-8-4 are restated as follows:

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

Rule 2. Mere violation of military regulation, orders, or instructions, or of civil or criminal laws, if there is no further sign of misconduct, is no more than simple negligence. Simple negligence is not misconduct. Therefore, a violation under this rule alone is not enough to determine that the injury or disease resulted from misconduct. However, the violation is one factor to be examined and weighed with the other circumstances.

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

Rule 4. Injury or disease that results in incapacitation because of the abuse of intoxicating liquor is not in line of duty. It is due to misconduct. The principles in Rule 3 apply here. While the mere drinking of alcoholic beverages is not misconduct, one who voluntarily becomes intoxicated is held to as high a standard of conduct as one who is sober. Intoxication does not excuse his conduct. While normally there are behavior patterns common to persons who are intoxicated, some, if not all, of these characteristics may be caused by other conditions. For example, an apparent drunken stupor might have been seen caused by a blow on the head. Consequently, when the fact of intoxication is not clearly fixed, care should be taken to determine the actual cause of any irrational behavior, which is like or the same as that of intoxication.

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

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

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

Rule 8. Injury caused by driving a vehicle when in an unfit condition, and the Soldier knew or should have known about it, is not in line of duty. It is due to misconduct. A Soldier involved in an automobile accident caused by his having fallen asleep while driving is not guilty of willful negligence solely because he fell asleep. The test is whether a person, under the same circumstances, would undertake the trip without falling asleep while driving. Unfitness to drive may have been caused by voluntary intoxication or use of drugs.

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

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

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

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

Line of Duty Formal Investigation Checklist

NOTE: Not every enclosure is required nor must every issue be addressed

DA FORM 261 (Required for ALL) DA FORM 2173 (Required for ALL) Exhibits

List of all enclosures:

1. Witness Statements
2. Miranda Warning: (Statement or Written) Police Reports (Required for ALL)
3. Medical Documentation (death certificate, autopsy, clinical records) Toxicology
4. Reports (police or medical) Graphics (maps, photos)
5. Appointment Orders
6. Delegation of Authority
7. Notification to Soldier for Adverse Findings only. (Not Death Cases) Appeal rights signed by Soldier (Not Death)
8. Mental Health Assessment (REQUIRED For Suicides and Attempted Suicides)
9. Legal Review
10. Orders
11. Training Schedule
12. IO Findings Memo

NOTICE OF PENDING ADVERSE ACTION

OFFICE SYMBOL

MEMORANDUM FOR

SUBJECT: Election of Rights

I have received a copy of the Line of Duty Investigation, and I have been advised of my rights. (Initial your election below).

INT I will submit a statement on my behalf within 30 days after I received notice of this action. I understand that my case will be closed without further notice if I do not appeal within this time limit.

INT I will not submit a statement on my behalf.

Signature, SSN _____ Date

Signature of Investigating Officer _____ Date

APPEAL RIGHTS NOTIFICATION

OFFICE SYMBOL

MEMORANDUM FOR

SUBJECT: Election of Rights

I have received a copy of the Line of Duty Investigation, and I have been advised of my rights. (Initial your election below).

INT I will submit an appeal on my behalf within 30 days after I received notice of this action. I understand that my case will be closed without further notice if I do not appeal within this time limit.

INT I will not appeal the finding of

Signature _____, SSN _____ Date

NOTE: Date this notice, elect one of the options, sign it, and mail it immediately

INVESTIGATING OFFICER FINDINGS

OFFICE SYMBOL

MEMORANDUM FOR JFHQ, Any State, ATTN: AZT-RC, 1234 Old Main Street,
Anytown, US 12345-0123

SUBJECT: Line of Duty Determination (SMITH, JODY C., SSG, 123-45-6789)

Investigating Officer Findings:

The Investigating Officer will describe, as accurately and definitively as possible, dates, places, people, and events. Per AR 600-8-4, paragraphs 3-3 and 3-8, be sure to include the complete name, grade, social security number, organization, and station of the soldier, copies of military or civilian police reports, pertinent hospitalization or clinical records, autopsy reports, records of coroner's inquests or medical examiner's reports, pathological and toxicological studies, and boards of inquiry for missing persons. All findings of fact must be supported by exhibits.

The IO should include the following evidence (as applicable): incident site and terrain, facts pertaining to duty status, travel to and from duty, any state of intoxication and extent of physical or mental impairment, general appearance or behavior, results of any lab test performed, any evidence pertaining to mental competence or impairment.

In all cases of suicide or attempted suicide, include all possible evidence describing mental condition, social background, and his/her actions prior to the incident. Paragraph 3-8h provides more detail regarding suicides and attempted suicides.

Provided that there's compliance with paragraph 3-3b, the IO will include statements from an injured soldier as it relates to the incurrence or aggravation of his/her disease or injury. Additional information in Chapter 4 should also be considered in the investigation.

Signature _____, SSN _____ Date

NOTE: Date this notice, elect one of the options, sign it, and mail it immediately