INSPECTOR GENERAL
DEPARTMENT of DEFENSE

REVIEW OF DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES FOR DEATH INVESTIGATIONS

INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-2884

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MEMORANDUM FOR SECRETARY OF THE ARMY
SECRETARY OF THE NAVY
SECRETARY OF THE AIR FORCE
UNDER SECRETARY OF DEFENSE (PERSONNEL AND READINESS)
ASSISTANT SECRETARY OF DEFENSE (HEALTH AFFAIRS)
ASSISTANT SECRETARY OF DEFENSE (PUBLIC AFFAIRS)
DEPARTMENT OF DEFENSE GENERAL COUNSEL

SUBJECT: Report on Department of Defense Policies and Procedures for Death Investigations

The subject final report is provided for your use. It responds to Section 1185(a) of the National Defense Authorization Act for Fiscal Year 1994 (P.L. 103-160). The Act required the Secretary of Defense to review the Military Departments' procedures for investigating deaths of members of the Armed Forces that may have resulted from self-inflicted causes. The Act also required the Secretary to issue regulations for conducting investigations of these deaths. Management comments on a draft of this report were considered in preparing the final report.

As discussed in Chapter A of the report, the Army disagreed with our recommendation to develop an investigative aid, a pocket-size guide to assist investigators in processing crime scenes during death investigations. The Air Force already has such a guide, and the Navy is in the process of implementing one. The Army should reconsider its position on this recommendation and adopt a similar guide.

We appreciate the courtesies extended to our staff during this review. Should you have questions, please contact Mr. Jack Montgomery, telephone number 703-604-8700, Office of the Assistant Inspector General for Policy and Oversight, Room 725, 400 Army Navy Drive, Arlington, Virginia 22202-2884.

Eleanor Hill
Inspector General

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Office of the Inspector General,
Department of Defense

DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES FOR DEATH INVESTIGATIONS

Executive Summary

Introduction. The National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160) contained Section 1185 (codified at 10 United States Code, Section 113, note "Investigations of Deaths of Members of the Armed Forces from Self-Inflicted Causes") (the Act). The Act required the Secretary of Defense to review the Military Departments' procedures for investigating the deaths of Armed Forces members that may have been self-inflicted, and to report to the Committees on Armed Services of the Senate and House of Representatives.[1] Section 1185 also required the Secretary of Defense to issue regulations for such investigations. The Deputy Secretary of Defense directed that we conduct the review and prepare the regulations required in the statute.

Objectives. Our review focused on whether current policies and procedures are adequate to ensure thorough, appropriate and consistent investigations of possible self-inflicted death cases, and whether family questions and concerns following the deaths are properly addressed. Our review included assessing whether the individuals who conduct the investigations have been adequately trained. In addition, based on a congressional request, we assessed whether the Department of Defense's (DoD) press releases on several specific deaths prematurely classified the deaths as self-inflicted.

Review Results. The DoD had not adopted standard policy and procedures for death investigations and, instead, relied upon those of the individual Military Departments. While we identified some opportunities for improvement, the Military Departments had effective policies, procedures and training for the criminal investigations they conduct in death cases. This does not mean, however, that the guidelines are properly implemented in every death case. We are continuing to review individual death cases in accordance with Section 1185(b) of the Act and will address any implementation problems in our reports on the individual cases.

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1. The term "self-inflicted" is not normally used in determinations or classifications of the manner of death. The term encompasses both suicide and accidental deaths. Based on the Handbook of Forensic Pathology, Richard C. Froede, MD, Editor, College of American Pathologists, 1990, suicide is a manner of death that is caused by a purposeful action intended to result in one's own death, while accidental death is a manner of death that results inadvertently or where no harm was intended.

In addition, we found that a Military Department does not always have investigative jurisdiction and does not have control over the state, local, other Federal, or foreign law enforcement agency that does conduct the investigation. In those instances, the DoD cannot ensure that the criminal investigation will be conducted in the same manner as if conducted by a Military Criminal Investigative Organization (MCIO). The MCIOs should continue developing their working relationships and liaison with civilian law enforcement organizations. Improved cooperation in this area will help ensure that civilian investigations include MCIO advisory input and assistance to family members.

We found problems related to (1) psychological autopsies frequently conducted in death cases to help clarify why the deaths might have occurred, (2) administrative investigations the Military Departments also conduct in death cases, (3) the manner in which the Military Departments perform casualty notification, family assistance and personal property disposition following the deaths, and (4) the current policies and procedures for releasing information to the public when the deaths occur.

Summary of Recommendations. To comply with Section 1185 of the Act, we prepared a proposed DoD Instruction, requested and received comments, and are in the process of issuing DoD Instruction 5505.10, "Investigation of Noncombat Deaths of Active Duty Members of the Armed Forces," establishing DoD policy for death investigations. In addition, this report includes recommendations to:

- assist criminal investigators in processing crime scenes;

- improve the use of a Family Liaison Program to address family questions and concerns;

- improve procedures for requiring, conducting and reporting psychological autopsies;

- increase reliance on criminal investigations for administrative informational needs related to death cases to reduce the need for separate administrative investigations;

- improve training and procedures for administrative investigations when they are needed;

- improve procedures for casualty notification, family assistance and personal property disposition; and

- improve coordination and procedures for releasing information to the public.

Summary of Management Comments. On November 6, 1995, a draft report was distributed for comment. The comments received are included in this report at Part III. They are also summarized and considered in Part II of this report in connection with the individual recommendations to which they applied. Generally, the comments agreed with the draft report.

DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES FOR DEATH INVESTIGATIONS

PART I - INTRODUCTION

Section 1185 of the National Defense Authorization Act for Fiscal Year 1994 directed that the Secretary of Defense take certain actions regarding the investigations of possible self-inflicted deaths of active duty military members (Appendix A). The congressional action responded to questions and concerns by surviving family members who believed that the determination of cause or manner of death was incorrect, or that facts and circumstances surrounding the death were not adequately investigated.

Section 1185(a) of the Act directed the Secretary of Defense to review the procedures of the Military Departments for investigating self-inflicted deaths and issue a report to the Committees on Armed Services of the Senate and House of Representatives by July 15, 1994. The Secretary of Defense was also required to issue DoD-wide regulations for the investigation of possible self-inflicted deaths and to set a deadline for their implementation. Section 1185(b) directed the DoD Inspector General (DoDIG) to review certain individual investigations into the deaths of active duty Service members when the cause was determined to be self-inflicted and to issue a report on each review. The DoDIG was to perform a review when a family member made a request and presented evidence of a material deficiency in the original investigation done by a DoD investigative organization. According to Section 1185(b) of the Act, the death must have occurred between January 1, 1982, and the date for implementing the new DoD regulations required by Section 1185(a).

In a memorandum dated January 19, 1994, the Deputy Secretary of Defense directed the DoDIG to conduct the review, prepare the applicable report and prepare the DoD regulations required by Section 1185(a) (Appendix B). Subsequently, the DoD advised the Chairmen of the Committees on Armed Services of the Senate and the House that the study would be delayed until the 2nd quarter of fiscal year 1996.

BACKGROUND

Military Criminal Investigative Organizations

Each MCIO is responsible for investigating noncombat deaths of active duty members of the Armed Forces where medical authorities have not determined that death resulted from natural causes. The MCIOs are the U.S. Army Criminal Investigation Command (USACIDC), the Naval Criminal Investigative Service (NCIS),

and the Air Force Office of Special Investigations (AFOSI).[2] The MCIOs are DoD law enforcement organizations with agents who conduct investigations of suspected felony crimes.

Statistics Regarding Intentional Self-Inflicted Death[3]

During the period October 1979 through September 1994 (15 fiscal years), 28,395 military members died while on active duty. Of those deaths, 3,626 (12.8 percent of the total) died from causes determined to be suicide. Section 1185(b) of the Act permitted a family member to request a review of any death determined to be self-inflicted (accidental or suicide) that occurred after January 1, 1982. From that date to the end of Fiscal Year (FY) 1994, approximately 3,087 active duty Service member deaths were determined to be suicides. The DoDIG has received 51 requests under Section 1185b, 45 of which were reviewed for purposes of this report.

Data compiled by the U.S. National Center for Health Statistics show the rate at which military personnel die of suicide is about the same as the population at large. In 1993, the most recent year for which comparisons are available, there were 12.1 suicides per 100,000 among the total U.S. population, compared to 14.0 suicides per 100,000 in the active duty military. In 1992, there were 12.8 suicides per 100,000 among the general population and 12.1 per 100,000 in the active duty military. The comparable numbers for 1991 were 11.4 per 100,000 among the general population and 11.7 per 100,000 in the active duty military.

Prior Reviews

Prior to enactment of Section 1185, we completed six reviews of cases involving self-inflicted death. We found that the original investigations were properly conducted and adequate to support the determinations of cause and manner of death.

We also issued an Inspection Report, No. 94-INS-03, "Casualty Assistance and Mortuary Affairs," December 10, 1993. In the inspection, we identified several major deficiencies in the overall DoD and Military Department policies and procedures for casualty notification and assistance. The inspection found that: (1) coordination among the DoD medical, casualty and mortuary systems was not conducive to keeping the next of kin informed of the status and location of the casualty; (2) the Military Departments' casualty assistance and mortuary affairs processes were hampered by

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2. The U.S. Marine Corps Criminal Investigative Division (USMCCID) is not an MCIO, but has the same responsibilities when performing in a combat or contingency environment. To the extent that the USMCCID conducts the type of death investigation addressed in this report, the USMCCID is included as a MCIO for purposes of this report.

3. Similar statistics are not available for self-inflicted accidental deaths. In addition, fully comparable statistics are not available to compare, by age group, the suicide death rate in the military with that for the comparable age group in the population at large.

inadequate records maintenance, lack of standardization and inadequate training; and (3) the Office of the Secretary of Defense was not actively overseeing the DoD Casualty and Mortuary Programs. We also identified problems in the implementation of the existing policies and procedures and made appropriate recommendations for improvement. The DoD concurred with our recommendations and has implemented, or is in the process of implementing, the needed improvements.

OBJECTIVES, SCOPE AND METHODOLOGY

Section 1185(a) Review

Our objective was to determine whether the Military Departments' policies and procedures for investigating deaths of active duty military members from apparent self-inflicted causes were sufficient to ensure adequate criminal investigations. The MCIO policies and procedures require that they investigate all noncombat deaths from other than medically determined natural causes as potential homicides until evidence establishes otherwise. Therefore, we reviewed the policies and procedures for the conduct of all death investigations. We also evaluated the concerns expressed by the families in 45 of the requests for individual case review submitted under Section 1185(b) to identify common issues that might reflect a systemic weakness in policy, procedure, or agent training. In addition, based on published guidance by technical experts in the field, we developed a set of criteria upon which to compare MCIO investigative techniques and processes. We also compared the individual Military Department regulations to identify any particular "best practice" that all of the Military Departments should adopt. Finally, we reviewed the MCIO basic and advanced agent training programs to determine whether agents are properly trained to investigate death cases. As part of this process, we reviewed course outlines and materials, visited agent training academies and observed ongoing classes, and interviewed instructors and training department managers.

To develop a basis for assessing the Military Department policies and procedures, we contacted a wide range of law enforcement organizations to identify the authoritative sources that they use as references in death investigations. Our inquiries resulted in input from large agencies such as the New York City, Chicago, Baltimore and Philadelphia Police Departments. We also contacted moderately-sized police departments, such as those in Fairfax and Prince William Counties, Virginia, and Montgomery and Ann Arundel Counties, Maryland.

The police departments that we contacted identified a number of authoritative books and publications used as references in death investigations. The documents most frequently cited were the Police Investigation Handbook, Barton L. Ingraham and Thomas P. Mauriello, Matthew Bender & Co., 1993, and Practical Homicide

Investigation, Second Edition, Vernon J. Gebreth, CRC Press, June 1994.[4] Based upon the contents of these two authoritative sources, we developed a matrix of investigative processes or steps for death investigative procedures. These processes fell into the following seven categories that we used as a base line for comparison:

1. Jurisdiction and Authority.

2. Preliminary Investigative Procedures.

3. Processing the Crime Scene.

4. Searching for Physical Evidence.

5. Preserving Physical Evidence Through a Chain of Custody.

6. Identifying and Processing Evidence.

7. Identifying the Deceased and Developing Information on the Death.

We then reviewed each of the Military Department's policies and procedures to see the extent to which they addressed the investigative processes and steps included in the base line categories. The DoD policy and procedure documents that we reviewed and compared to the base line are listed in Appendix C.

Our review included visits to all the MCIO Headquarters and numerous MCIO field operating elements, including the U.S. Army Criminal Investigation Laboratory (USACIL) and the Naval Criminal Investigative Service Forensic Laboratory. We also visited the Office of the Armed Forces Medical Examiner, Armed Forces Institute of Pathology (AFIP); the Federal Bureau of Investigation (FBI) Training Academy; the Federal Law Enforcement Training Center (FLETC); the Air Force Office of Special Investigations Academy (USAFSIA); and the U.S. Army Military Police School. Also visited or contacted were the Maryland State Police, the New York City Police Department, the Chicago Police Department, the Philadelphia Police Department and the Baltimore Police Department, and police departments in Ann Arundel, Montgomery and Prince George's Counties, Maryland, and Arlington, Fairfax and Prince William Counties, Virginia. (See Appendix D for a complete listing of the locations visited or contacted.)

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4. The New York City Police Department advised that these publications are used extensively for reference and in the Department's Academy Training Program, and that Mr. Gebreth personally provides in-service training for the New York Police Department. The Chicago and Philadelphia Police Departments advised that these publications are both on file for reference and are used in training. The Chicago Police Department indicated that the Gebreth book is used extensively. The Chicago and Baltimore Police Departments specifically referred to these two publications as their "basic bibles for instruction."

Section 1185(b) Reviews

During our review, we analyzed 45 requests for individual review under Section 1185(b): 19 Army, 12 Navy, 7 Marine Corps, and 7 Air Force. Twenty one of the 45 cases involved U.S. civilian or foreign authority, not DoD, determinations of the cause and manner of death. Seventeen of the 45 requests raised concerns about how the investigators conducted their work, what tests were done and how the "crime scenes" were handled. All 17 of these cases involved investigations that initially were conducted by local, state, other Federal, or foreign law enforcement organizations, rather than by an MCIO.

In reviewing the reasons why families requested individual reviews under 1185(b), we found that most family concerns that involved cases within the Military Departments' investigative jurisdictions dealt with the use of psychological autopsies, administrative investigations, casualty notification and assistance, and property disposition. Accordingly, we expanded our review to cover those areas.

Release of Information to the Public

During the review, we received correspondence from a congressional member expressing concerns that the DoD was prematurely classifying certain deaths as suicides. Therefore, we also reviewed the DoD and Military Department policies and procedures for releasing information to the public.

PART II - RESULTS OF REVIEW AND RECOMMENDATIONS

The MCIOs currently have adequate policies and procedures for death investigations. However, we identified areas for improvement in the MCIOs' implementation of policies and procedures. For instance, the AFOSI should implement a comprehensive Family Liaison Program similar to those employed by the USACIDC and the NCIS. The USACIDC and NCIS also should issue a crime scene handbook similar to the one used by the AFOSI. Further, we identified problems associated with jurisdictional issues. Because other authorities may have jurisdiction to investigate the deaths of Service members or decide whether an autopsy will be performed, the DoD cannot always ensure that it will be in a position to address family concerns and questions based on the investigative results.

We also identified deficiencies and improvements needed in various DoD and Military Department policies and procedures relating to psychological autopsies, administrative investigations, casualty notification and assistance, property disposition, and release of information to the public. Of particular importance is the need for an overall DoD policy on psychological autopsies that assures they are adequately performed and used only when needed.

In addition, we identified inconsistencies among the Military Departments' requirements as to when administrative investigations should be conducted to determine the appropriateness of extending housing benefits for dependents. We also identified opportunities for improvement in the policies and procedures for (1) selecting and training the officers who conduct the administrative investigations, (2) requiring consultation with a judge advocate during administrative investigations, and (3) ensuring proper coordination with the MCIO during the administrative investigation to preclude interference, or what families may perceive as conflicts, with the criminal investigative process.

Improvements are also needed in the areas of selecting and training casualty assistance program personnel, using consistent, understandable terminology, and disposing of personal property of the deceased, as well as for releasing investigative documents redacted under the Freedom of Information Act. Finally, we found that the phrase "from apparent self-inflicted causes," as used in some DoD press releases, may be wrongly interpreted by the press and the public to mean suicide when the phrase was also intended to encompass the possibility of an accidental death.

It is important to note that the fact we did not find significant problems in policies and procedures for criminal investigations during this review does not mean the guidelines are properly implemented in every death case. We are continuing to review individual death cases in accordance with Section 1185(b) of the Act and will address any implementation problems in our reports on the individual cases.

To comply with Section 1185(a), we prepared a DoD Instruction, requested comments, and are in the process of issuing DoD Instruction 5505.10, "Investigation of Noncombat Deaths of Active Duty Members of the Armed Forces," to establish standard policy for DoD death investigations. In addition, this report includes specific recommendations to address problems or opportunities for improvement that we identified.

To comply with Section 1185(a), we prepared a DoD Instruction, requested comments, and are in the process of issuing DoD Instruction 5505.10, "Investigation of Noncombat Deaths of Active Duty Members of the Armed Forces," to establish standard policy for DoD death investigations. In addition, this report includes specific recommendations to address problems or opportunities for improvement that we identified.

A. Criminal Investigations

The MCIOs are responsible for investigating noncombat deaths of active duty members of the Armed Forces where medical authorities have not determined that death resulted from natural causes. This responsibility is carried out under the authority of the Secretaries of the Military Departments to maintain good order and discipline in the Armed Forces as required by Title 10 of the United States Code.

The Military Departments have criminal investigative policies and procedures for conducting death investigations, including deaths from possible self-inflicted causes, that fully satisfy the requirements for such investigations as described by current authorities in the field (see Part I, Objectives, Scope and Methodology). In addition, if properly implemented, their review processes and quality assurance techniques for death investigations are sufficiently thorough and timely to ensure adequate oversight of each case. Similarly, the criminal investigators responsible for conducting death investigations in the DoD are adequately and appropriately trained.

However, we found that the DoD's lack of investigative jurisdiction in some cases could adversely impact the DoD's ability to: (1) ensure an investigation into a possible self-inflicted death case will be conducted in the same manner as if carried out by an MCIO; and (2) provide all information requested by the family of a deceased Service member. The MCIOs should continue developing the working relationships and liaison that they currently have with civilian law enforcement agencies with whom they deal on a daily basis. Greater cooperation should be sought wherever possible to ensure that civilian investigations of military deaths include specific MCIO advisory input and assistance to family members.

Furthermore, the fact that we did not find significant problems in the policies and procedures for criminal investigations does not mean the guidelines are properly implemented in every death case. We are continuing to review individual death cases in accordance with Section 1185(b) of the Act and will address any implementation problems in our reports on the individual cases.

Background

The MCIOs all have policy, plans and training divisions and Forensic Technical Units that enable them to remain abreast of changes affecting the manner in which investigations are conducted. These organizational elements are responsible for formulating up-to-date policies and procedures based on changes in the law, investigative techniques, or forensic equipment. The regulations promulgated at the Military Department level are coordinated with the respective Offices of General Counsel, Service Judge Advocate General,

Surgeon General, Military Department Inspector General, and individual Offices of the Secretary of Defense, as appropriate. Policies and procedures adopted by the individual MCIOs are likewise drafted, coordinated and published only after extensive staffing with the various MCIO technical staffs, senior attorneys, or staff judge advocates. Further, to ensure that they remain current and are in a position to adopt changes on a timely basis, the MCIOs maintain ongoing dialogues with organizations such as the International Association of Chiefs of Police, the American Academy of Forensic Sciences, the American Society of Crime Laboratory Directors, the FBI National Academy Associates, and other organizations whose goals are to foster professionalism and modernization of law enforcement agencies at all levels of government. The Commanders and Director of the MCIOs and members of their staffs sit on the technical committees of a number of these organizations.

In accordance with established policies and procedures, and subject to jurisdictional limitations, the MCIOs initially investigate as potential homicides all noncombat deaths from other than natural causes. Procedures specific to self-inflicted deaths have been incorporated into their overall death investigation policies. In accordance with these policies, senior special agents experienced in investigating deaths are usually assigned as lead investigators for such investigations. These lead agents are assisted by other agents from their local and headquarters offices as needed and are assigned investigative resources based on the complexity of the investigative case.

The investigative team collects and processes evidence, interviews witnesses and uses other investigative techniques as needed to provide information to the appropriate authority, usually a medical examiner, for use in determining cause and manner of death. The senior special agent who supervises the investigative team reviews the investigative report(s) and case file information before the case is closed. At the MCIO headquarters, agents with advanced degrees in forensic science review all death case investigative files, both while the case is underway and upon its closure. All death cases are then provided to the Office of the Armed Forces Medical Examiner (OAFME), a component of the AFIP, where consultative and quality assurance reviews may include not only reports of investigation, autopsy and toxicologic examinations, but also pathologic materials, scene and autopsy photographs and x-rays.

The OAFME is the central medical examiner system for the DoD. It is a tri-Service organization that is subject to the authority, direction and control of the Assistant Secretary of Defense (Health Affairs). The Director of the AFIP is responsible for OAFME day-to-day operations. All OAFME medical examiners, both military and civilian, are medical doctors and are specifically certified in forensic pathology by The American Board of Pathology. Regional medical examiners are assigned, with concurrences of the Military Department Surgeons General, in strategic military hospital locations to support the medicolegal and investigative agencies of the Armed Forces. The OAFME is a Federal Government resource and, in addition to supporting DoD organizations on a continuing basis, has agreements with and supports other departments and

agencies such as the FBI, the National Transportation Safety Board, the National Aeronautics and Space Administration, the U.S. Coast Guard, the Drug Enforcement Administration, the Department of Justice, the Department of State, the Federal Aviation Administration, the National Security Agency, the Central Intelligence Agency and the U.S. Secret Service.

The OAFME and the organization referring information may have different opinions concerning the cause or manner of death, or the facts in a particular case may indicate a need for further special studies. In such cases, the OAFME requires the MCIO and the pathologist at the installation medical treatment facility to resolve the differences, or arranges for further special studies as needed. In addition to the OAFME resources, the entire AFIP staff, including specialists in the forensic sciences, law, medicine and special pathology fields are available to the MCIO for further consultative support. None of the police departments that we visited had a more extensive case review process.

The MCIOs, in accordance with DoDIG policy, receive forensic science support from the USACIL, which is located at Fort Gillem in Atlanta, Georgia and the NCIS Regional Forensic Laboratories located at Norfolk, Virginia and San Diego, California. The USACIL is accredited by an independent certifying body, the American Society of Crime Laboratory Directors, and is a state-of-the-art facility with full-service forensic science analytical capabilities. The USACIL has seven separate operating divisions--(1) Serology, including DNA analysis, (2) Drug Chemistry, (3) Trace Evidence, (4) Latent Print Identification, (5) Imaging, (6) Questioned Documents, and (7) Firearms and Toolmark Identification. The organization also has a formal 2 year training course for its technicians and examiners, many of whom are members of the American Academy of Forensic Science, the International Association for Identification, and numerous other professional forensic science organizations. Similarly, the NCIS Regional Forensic Laboratories are certified and staffed with highly trained personnel who support DoD and other law enforcement organizations in fingerprint identification, narcotics analysis, questioned document examination, forensic photography and imaging.

All of the laboratory technicians and examiners are qualified to testify in court proceedings as expert witnesses and do so on a regular basis. Further, the laboratories conduct thousands of examinations each year and control tens of thousands of pieces of evidence. Their staff members routinely participate in forensic research and publish their findings in professional journals.

Comparison of Policies and Procedures to Criteria

The MCIOs treat each death investigation as a potential homicide until the evidence establishes otherwise. The Police Investigation Handbook includes death investigations as a specific subject, while the Practical Homicide Investigation, Second Edition, deals entirely with death investigations. Both texts discuss the investigative processes and steps involved in the investigations.

They cover:

- the elements of criminal death offenses, including jurisdictional considerations;

- preliminary investigative procedures, including specific investigative steps related to (1) receiving notification of a suspicious death, (2) responding to the notification, (3) assigning the investigative team, and (4) locating, classifying and interviewing witnesses;

- processing the crime scene, including (1) an appropriate checklist for processing the scene, and (2) photographing the scene and the deceased, and recording both on videotape;

- searching for physical evidence, including steps for (1) establishing search location, (2) identifying the types of physical evidence at the scene, (3) conducting bloodstain pattern analysis, (4) using search teams, and (5) using mapping systems to establish the location of evidence;

- identifying the deceased and developing information concerning when, where, how and what may have caused the death. These efforts involve cooperative actions among the investigator, the medical examiner/coroner, forensic investigators and forensic scientists at crime laboratories. The criminal investigative steps involved are used to assist or support the medical authorities in (1) performing medicolegal investigations into the cause and manner of death, (2) establishing the manner, time and location of death, (3) identifying whether death resulted from a gunshot wound, a cutting or stabbing wound, a blunt force wound, or from poison, chemical substance, asphyxia, or fire; and

- identifying possible criminal offenders through homicide and suicide patterns, offender profiles, the FBI Violent Criminal Apprehension Program, and the Multi-Agency Investigative Team Manual developed for the National Institute of Justice.

The Military Departments and their subordinate MCIOs have policies and procedures that set forth comprehensive and specific guidance in each of these areas, as described below.

1. Investigative Jurisdiction and Authority

An investigative agency must have, and its investigators must be able to determine, the legal authority to conduct a criminal investigation. Each of the Military Departments has thorough and current regulations, directives, or instructions setting forth guidance on how to determine jurisdiction and

authority.[5] In addition, the DoD has a Memorandum of Understanding (MOU) with the Department of Justice (DOJ) that governs the investigation and prosecution of criminal matters over which both Departments have jurisdiction. The MCIOs have, or are subject to policies that include specific guidance for: (1) determining investigative responsibility and jurisdiction; (2) determining how to proceed when it is determined that another agency has primary jurisdiction; and (3) assisting another investigative agency during an investigation, or conducting a joint or collateral investigation. Further, each of the MCIOs includes detailed instruction on authority and jurisdiction in their Basic Training Courses for new agents. Overall, the MCIO policies and procedures related to investigative authority and jurisdiction are clear and adequate.

2. Preliminary Investigative Procedures

Law enforcement organizations that conduct death investigations must have a duty investigator or special agent immediately available to receive notification when a death occurs and to ensure proper response to the notification. It is critical that the duty agent receiving the notification obtain and record all possible information from the individual providing the initial information, the location of the crime scene and any other information pertinent to the subsequent investigation. It is also critical that the agents responding to the crime scene do so promptly, and that they immediately secure and protect the crime scene to preserve all potential evidence related to the crime.

a. **Initial Notification and Response.** The MCIOs have specific guidelines for assigning duty agent responsibilities to their investigative personnel. These guidelines are comprehensive and designed to ensure that MCIO duty agents promptly and accurately record information resulting from the notification. They also have guidelines for (1) satisfying coordination requirements relating to jurisdictional matters, (2) notifying other individuals or organizations, including coroners, medical examiners, forensic science personnel, local police departments (if the MCIO does not have exclusive jurisdiction), and installation commanders, (3) securing and protecting the death scene, and (4) recognizing potential dangers at the death scene, including contaminated blood, body fluid, body tissue and other biohazards, as well as objects or conditions that could expose or subject either the agent or other personnel to biohazard contamination with the potential to jeopardize the individual, as well as evidence at the crime scene. Additionally, they have comprehensive policies and procedures requiring the wearing of protective equipment, such as booties, double gloves and full body garments to protect individuals or crime scenes should a biohazard exist. Each MCIO has specially trained agents at the intermediate and headquarters levels who are available, or

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5. There are, however, issues involved in DoD death cases where an MCIO does not have investigative jurisdiction. These jurisdictional issues are particularly important in the self-inflicted death cases being reviewed under Section 1185(b) and are discussed later in this report.

who can be quickly assigned, to provide guidance, case review and on-site assistance. Overall, the MCIO policies and procedures for receiving notifications and responding to death scenes are as well defined as those of the police departments that we visited, and meet or exceed the prescribed doctrine found in the referenced texts.

b. **Interviews and Interrogations.** The MCIOs have extensive guidance for ensuring that relevant information is gathered from both witnesses and suspects, while protecting individual rights and taking the well-being of witnesses into consideration. They require extensive investigative steps to protect each individual's constitutional rights in conducting oral interviews and interrogations, and in taking written statements from each witness. These procedures include detailed guidance on reading military personnel their rights under Article 31 of the Uniform Code of Military Justice.

3. **Processing the Crime Scene**

The MCIO policies and procedures addressing the investigative processes and steps under this criterion are thorough and current. They adequately address crime scene evaluation and processing. For example, the MCIOs have similar requirements for identifying, cordoning and isolating the crime scene. These policies and procedures require the MCIOs to secure the overall crime scene as quickly as possible and to establish a command post where the lead agent can control the scene and brief attending officials. In addition, they have specific instructions for preserving the crime scene and preventing destruction, loss, or contamination of evidence. They also have in-depth requirements for establishing a holding or storage area close to, but outside of, the actual crime scene for equipment and supplies, evidence collection and processing, and any other temporary storage requirement. The MCIO guidance documents include checklists for agents to use during crime scene processing. While these checklists were all viewed as being adequate, the AFOSI version seemed better formatted and more useful for the investigating agent.

The MCIOs have requirements for proper note taking at the crime scene, and for identifying and interviewing witnesses while processing the scene. Similarly, they all have extensive and specific requirements to ensure the proper use of photographic equipment, including the types of film and lighting that must be used and the camera techniques required, to fully record and document the crime scene. Additionally, they all have detailed policies designed to ensure that evidence at a crime scene is photographed before it is moved. The policies and procedures require MCIO agents to be trained in the proper operation of photographic equipment. The MCIO agents have manuals, checklists and procedural guides for use that replicate or exceed the guidelines found in the authoritative law enforcement texts used as standards in our review. None of the police departments that we visited had the detailed formal manuals that the MCIOs have for conducting crime scene evaluation and processing.

4. Searching for Physical Evidence

The MCIOs have suitable policy and procedural requirements for ensuring thorough and proper crime scene search and seizure of physical evidence. Their guidelines are well defined for identifying and ensuring the use of specific investigative techniques and steps necessary to identify, preserve and process individual search locations and physical evidence at a death scene. Further, their rules are sufficient for (1) search and seizure of evidence in accordance with legal doctrine, (2) protection of crime scene evidence from contamination or disturbance in accordance with accepted techniques, and (3) use of the zone, grid, spiral or strip evidence search methods, and identification of individual physical evidence locations by measurement and triangulation. As compared to the police departments contacted and the base-line texts used in our review, the MCIOs have thorough and proper policies and procedures in this area.

5. Preserving Physical Evidence Through a Chain-of-custody

The MCIO regulations and procedural methods include detailed requirements for establishing an unbroken and uncontaminated "chain-of-custody" for each item of physical evidence, thereby preserving the item's evidentiary and prosecutorial value. Their chain-of-custody requirements span the total process for identifying, collecting and preserving physical evidence, and include in-depth guidance to ensure proper handling and storage. For example, the regulations include comprehensive guidance on collecting wet or dry blood samples at the crime scene, and for ensuring the use of sterile containers to protect the samples for laboratory examination. They also have detailed guidance for ensuring security and chain-of-custody from the time of collection until evidence is sent to the laboratory and returned to the submitting office after analysis. The guidance covers wrapping, packaging and transmitting of evidence. The chain-of-custody records include accountability by the use of individual evidence releases and receipts. The MCIO physical evidence chain-of custody procedures comply with established standards and criteria.

6. Identifying and Processing Evidence

The MCIOs have thorough policies and procedures for identifying and processing evidence, including processes for lifting and preserving latent fingerprints, firearms and other weapon identification, expended ammunition identification, gunshot residue collection, tool marks, tire tracks, shoe prints, glass fracture patterns and bite marks. These policies and procedures are current and detailed. They require thorough and proper procedures for photographing and collecting fingerprints. The requirements include, for example, the use of state-of-the-art techniques such as (1) powders and chemicals to preserve prints, (2) fiberglass, camel hair and feather brushes, where warranted, in taking prints, and (3) ultraviolet or magnetic powders in cases where warranted by different circumstances. The investigative techniques and steps required in this area are clear and sufficient to ensure the proper lifting of prints with rubber lifters and

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transparent or opaque lifting tapes, and for requiring proper documentation of lifted prints.

a. **Questioned Document Examination.** The MCIOs have extensive policies and procedures for collecting and preserving questioned document evidence, such as an alleged suicide note. Their procedures for protecting questioned documents include requiring that (1) the documents be placed immediately into the appropriate protective covering and not be handled unnecessarily, (2) the documents be properly packaged and forwarded to the crime laboratory for examination or analysis on a timely basis, and (3) the investigators collect writing samples and other standards of comparison to assist laboratory authorities in determining authenticity.

b. **Transfer and Trace Evidence.** The MCIOs have current, state-of-the-art procedures for collecting, identifying, handling and transporting trace evidence, including human or animal hair, fiber, soil, paint, glass, cosmetics, dust and body fluids.

7. **Identifying the Deceased and Developing Information on the Death**

As noted previously, the investigator's efforts in this area are generally to assist the medical authorities and crime laboratories. The MCIO policies and procedures are fully sufficient to support medical authority efforts to establish the manner, time, location and mode of death. The MCIO policies require the same investigative processes and techniques in death cases, regardless of the apparent manner of death.

Other Considerations Related to Criminal Investigations

As discussed above, the MCIO policies and procedures for conducting death investigations satisfy each of our base line criteria. There are, however, differences in the MCIO policies and procedures relating to noninvestigative matters connected with the investigation of deaths.

For instance, since 1985, the USACIDC has had a Family Liaison Program under which a criminal investigator is appointed as the Casualty Liaison Officer (CLO) for each death investigation the USACIDC initiates. The CLO is responsible for coordinating and collecting information and responding to the concerns of the family without impeding or compromising the successful completion of the investigation. The CLO services continue for the family until all investigative issues and concerns are reasonably resolved. The NCIS recognized the benefits of such procedures and adopted a similar program in January 1995. The NCIS Family Liaison Agent is stationed at Headquarters, NCIS, and is the sole point of contact for concerns a family may have regarding the death investigation. Similarly, the AFOSI is currently drafting policy to establish a point of contact program for the families. As envisioned, however, the AFOSI program will only apply to suspected self-inflicted death

investigations and will last only until the investigation is completed. We believe that each of the MCIO programs should offer the families the same services. As a minimum, the programs should cover all death investigations and last until all reasonable criminal investigative concerns and questions have been answered. Additionally, the individuals selected for this duty should have experience in death investigations and receive any additional training needed in dealing with the families, such as how the respective Military Department Casualty Assistance Program works.

As noted previously, we identified a difference in the manner in which the MCIOs have chosen to present, for special agent use, their crime scene processing procedures. The USACIDC uses Field Manual 19-20 as its basic text. The NCIS uses a manual referred to as NCIS-3 and the AFOSI uses its Handbook 71-106, Volume 1. In our judgment, the AFOSI handbook format is the most functional, as it is designed to be carried to the crime scene and used as a full scope checklist while processing the crime scene. The handbook provides for on-scene reference to written guidance, thereby supplementing the knowledge and experience of the agents on the scene. We believe that the USACIDC and the NCIS should adopt the same or similar format for their crime scene procedures.

Military Criminal Investigative Organizations Death Investigation Training

The MCIOs have training programs for their criminal investigators that contain all the coverage needed for the investigators to acquire the skills and knowledge necessary to conduct thorough criminal investigations in death cases. They also offer follow-on and advanced criminal investigator training. All agents receive death investigation training as part of their basic agent course. They also may attend courses provided by local, state, Federal, or foreign agencies, or non-Government vendors. For example, both the New York and Chicago Police Departments told us that MCIO agents regularly participate in in-service training provided to their homicide investigators. Investigators from each MCIO may also be selected to participate concurrently in the Fellowship in Forensic Medicine conducted by the Office of the Armed Forces Medical Examiner, AFIP, while attending the George Washington University's Master of Forensic Science Degree Program. Investigative personnel who graduate from this program are utilized either directly or as consultants in death investigations and also in connection with the MCIO death investigation review process. Currently, there are 40 agents who are graduates of the George Washington University program. These agents are assigned throughout the MCIOs to provide consultative, case review and on-site case support.

The Basic Training Programs for criminal investigators are summarized below. Appendix E includes an in-depth review of the basic programs, as well as information on the additional training available for criminal investigators. Overall, the MCIO Basic Training Programs are comprehensive, doctrinally

correct and up-to-date, and favorably compare with the training given to criminal investigators of the law enforcement agencies we contacted during this review.

1. USACIDC Basic Training

New USACIDC agents must attend the U.S. Army Military Police School (USAMPS) Apprentice Special Agents Course. This training is 15 weeks in length and includes sufficient instruction for agents to attain needed proficiency in criminal law, crime scene processing, testimonial and physical evidence collection, and investigative techniques, including the use of forensic support services such as the USACIL, the AFIP and polygraph examination. The students must complete several practical exercises to demonstrate their proficiency in areas such as latent fingerprint processing, casts and molds, photography, and crime scene processing. For example, students are required to complete the lifting of a footprint from the ground using the spray paint and dental plaster method. They must lift latent prints using the super-glue fuming method, and using powders and lifters. They are also required to participate in a practical exercise in which they process a death scene. The students are required to demonstrate the knowledge and skills developed during the previous courses. The practical exercise is graded and successful completion is compulsory for graduation from the school. Included in the graded material is a 20-step outline of techniques for crime scene processing. Students are required to demonstrate success in accurate note taking, recording details such as initial notification, arrival at the crime scene, weather conditions, physical location and the identification of anyone at the scene. The notes must record each step the agent took to process the scene, including identification and processing of all evidence, and preparing a crime scene sketch identifying the exact location of evidence and important items by triangulation. The sketch must include the additional triangulation required in all death scenes. Students must record photographic data, identify steps taken by medical personnel if medical personnel are required at a crime scene, and identify steps taken to examine locations beyond the crime scene, such as the living quarters of the deceased.

2. NCIS Basic Training

The NCIS is one of only two Federal law enforcement organizations with a general crimes investigative mission that uses the Federal Law Enforcement Training Center (FLETC) program to train its agents. The standard FLETC training program for criminal investigators is the 8 week Criminal Investigator Training Program (CITP). The CITP is only partially applicable to the general crimes mission. The applicable portion includes a 2 hour laboratory session during which students have an opportunity to learn the methods for identifying and lifting latent fingerprints, and how to cast tire and foot wear impressions at crime scenes. The CITP also has a 4 hour classroom instruction session on crime scene processing and a 4 hour session on proper use of a 35mm camera.

In addition to the CITP, in 1990, the NCIS worked with the FLETC to develop an add-on 6 week Basic Special Agent Training Course specific to the NCIS general crimes mission. The course is based upon specific areas of knowledge, skill and ability that the NCIS determined its agents must have to be successful. The add-on course concentrates on the military criminal justice system, the Navy Judge Advocate system, the NCIS report writing procedures and Navy protocol. New NCIS agents have a total of 14 weeks of general crimes training.

The NCIS basic agent training includes (1) 16 hours of instruction on the NCIS reporting system, consisting of 2 hours of lecture and 14 hours of practical exercises on how to prepare reports to meet administrative, investigative and operational requirements, (2) 4 hours of instruction on the NCIS evidence custody system, consisting of a 2 hour lecture and 2 hour practical exercise that cover the proper collection, storage and transfer or shipment of evidence, and the requirements involved in properly disposing of evidence, (3) 2 hours of practical exercise to reinforce the legal aspects involved in evidence collection under the Manual for Courts-Martial, and the legal aspects of evidence collection, protection and presentation in court, (4) 24 hours of instruction on the NCIS Regional Forensic Laboratories and crime scene processing, consisting of 6 hours of lecture and 18 hours of practical exercises in which students are instructed on the responsibilities, capabilities and functions of the NCIS Regional Forensic Laboratories and their examination capabilities that assist criminal investigations. The students are also taught proper procedures for identifying, packaging and submitting evidence to the laboratories.

The NCIS basic agent training also includes 16 hours of instruction in various techniques for interviewing witnesses and interrogating suspects. This instruction utilizes various case scenarios and practical exercises with role players, and consists of 9 hours of lecture and 7 hours of practical exercises. An additional 8 hours of instruction introduces students to death investigations. This instruction consists of 7 hours of lecture and a 1 hour practical exercise that emphasize special requirements at the crime scene, forensic applications, wound interpretations and case studies. The training includes 40 hours of practical exercises on crime scene search. This instruction is conducted at the Kings Bay Submarine base, Georgia, and the military community at Kings Bay supports the training. Base residents often participate as victims, witnesses and suspects. Several scenarios depicting different crime scenes are devised and the exercise may begin at any time during a predefined 24 hour period. In other words, the student does not know when a call reporting a "crime" will come in to his "office." The exercises are monitored by experienced field office agents who supplement the full time instructors.

3. AFOSI Basic Training

The AFOSI uses the United States Air Force Special Investigations Academy (USAFSIA) at Andrews Air Force Base, Maryland to train its agents. The USAFSIA Special Investigators Course is 11 weeks in duration and uses

lectures, discussions, demonstrations, student performance measurement, audiovisual (TV/film/slide) presentations, seminar sessions, laboratories and field exercises as instruction techniques. Each student's progress is evaluated through comprehensive written examinations on each major area of instruction, report writing performance tests, performance evaluations, practical field exercises, applied techniques laboratory exercises, faculty observation, and participation in and successful completion of all firearms, defensive tactics and physical training activities. In addition, the USAFSIA has classrooms and interview/interrogation rooms with state of the art audio-visual equipment. There are six "mock crime scene" rooms based on different crime scenarios, including death case scenarios. There are also several interview/interrogation rooms equipped with microphones and video cameras so individual students can review their own performance during mock interviews/interrogations.

The AFOSI students must complete several practical exercises to demonstrate proficiency in areas such as latent fingerprint processing, casts and molds, photography and crime scene processing. For example, each student is given three latent prints, dusting powders and lifting material, and must successfully develop, lift and apply identification markings to identifiable prints using a hinge lifter, tape, or rubber lifter. Students are taught where to look for latent prints and where latent prints cannot be developed or lifted. They are also instructed on processing and sending evidence to the crime laboratory. Further, they are required to participate in a practical exercise in which they process a death scene. They must completely process the crime scenes by the end of the 11 week course, are graded and evaluated on their proficiency, and must attain specified proficiency levels to complete the course successfully.

Jurisdictional Considerations for the Military Criminal Investigative Organizations

Where the Military Department lacks jurisdiction or, in those instances where there is concurrent jurisdiction but the local, state, other Federal, or foreign authority does not cede jurisdiction, the investigation will be conducted by an investigative organization other than an MCIO (the MCIO may or may not be permitted to participate in the investigation in a cooperative role). In those instances, the DoD has no authority or control over the lead investigative agency and cannot ensure that the criminal investigation will be conducted in the same manner as if conducted by an MCIO. Jurisdictional limitations may restrict the DoD's ability to address a family's concerns and answer questions about a Service member's death.

We analyzed 45 of the requests for case review under Section 1185(b) of the Act received as of April 12, 1995. These requests included 17 questioning how the investigators conducted their work, what tests were or were not done, and how the "crime scene" was handled. However, the MCIOs were not initially involved in any of the 17 investigations. All 17 cases were initially handled by local, state, other Federal, or foreign law enforcement organizations that had primary investigative jurisdiction. In 4 of the 17 cases, an MCIO

provided some assistance to, or later did additional investigative work to supplement the primary investigating agency efforts. In addition, 16 of the 45 requests included questions about autopsy results, autopsy procedures and whether an autopsy was conducted. Jurisdiction also affects the decision as to whether an autopsy should be performed. In nine of these cases, either the autopsies were performed by local, state or foreign pathologists, or a non-DoD organization had jurisdiction and determined that an autopsy was unnecessary. Therefore, whether the DoD has investigative jurisdiction impacts its ability to control investigations of death cases and responses to family concerns. For example, the lack of an autopsy may impact a family's perception of the investigation performed but could be outside DoD jurisdiction.

There are several factors that govern the DoD's authority to investigate the death of a Service member. On military installations, the Federal Government generally has either exclusive or concurrent investigative jurisdiction. However, different parts of an installation may have been acquired at different times and, therefore, one part may be governed by exclusive jurisdiction and another by concurrent jurisdiction. Under exclusive jurisdiction, only the Federal Government has authority to investigate. Where there is concurrent jurisdiction, both the state, including local governments, and the Federal Government have authority to investigate. In another location, the Federal Government may have acquired the property on which the military installation is located, but lacks any investigative jurisdiction. In foreign locations, status-of-forces agreements that may vary from country-to-country and with NATO membership usually determine investigative authority. Families may not understand why a particular law enforcement organization other than an MCIO investigates a death case. Some families mistakenly believe that the DoD always has primary investigative jurisdiction when a Service member dies, regardless of where the death takes place.

The location at which either the body of the deceased is found or the death took place normally determines which law enforcement organization(s) has investigative jurisdiction. Currently, an MCIO or other Federal investigative agency is solely responsible for investigating a noncombat death only if it occurs on a military installation with exclusive jurisdiction. In all other instances, the MCIOs either have concurrent or no jurisdiction, and can be excluded from investigating or participating in the investigation. However, the MCIO may be asked or allowed to assist, or to work jointly with the civilian, and sometimes foreign country, law enforcement organization conducting the investigation. When the MCIO does not actively participate, it normally monitors the investigation being conducted by the other law enforcement organization. Under such circumstances, the MCIO usually prepares a report summarizing or transmitting a copy of the other organization's report of investigation and providing it to the cognizant command of the deceased Service member.

The MCIOs should continue developing and improving their working relationships and liaison with the civilian law enforcement agencies with whom they normally deal on a daily basis. Improved cooperation in this area should

help ensure that civilian investigations of Service member deaths include MCIO advisory input and assistance to family members.

RECOMMENDATIONS, MANAGEMENT COMMENTS AND OUR EVALUATION

Overall, the Military Departments have comprehensive policies and procedures in place to govern death investigations that are conducted by their criminal investigators. The USACIDC and the NCIS, however, would benefit from an easy-to-use crime scene reference book similar to AFOSI Handbook 71-106, Volume 1. Similarly, we believe that the NCIS and the AFOSI would benefit from a Family Liaison Program similar to the one USACIDC has had in place for a number of years. While both agencies are already implementing or developing programs, we believe that all of the programs should afford families the same types and levels of service.

Recommendations to the Military Departments:

1. Require the USACIDC and the NCIS to create and issue a crime scene processing guide similar to the AFOSI Handbook 71-106, Volume 1, that can be easily used by agents in the field.

Management Comments and Our Evaluation:

Army Comments: The Army did not concur with the recommendation. According to the Army, Army Field Manual 19-20, "Law Enforcement Investigations," is a more comprehensive investigative guide than AFOSI Handbook 71-106 and, though slightly larger in overall size, is just as exportable. In addition, the Army stated that its field manual has detailed explanations of every known investigative technique, including those used in crime scene processing, as well as bulleted comments for quick reference. In comparison, the Army states that the AFOSI handbook has bulleted comments for only those issues generally applicable to crime scene processing. Further, the Army advised that its field manual is updated periodically by subject matter experts and is used extensively in Army training programs. Finally, the Army indicated that the AFOSI Handbook was not designed as a crime scene processing checklist as the draft report suggested, and cautioned against any requirement to develop or use such a checklist since, "..[w]hile crime scenes should be processed thoroughly, in our view, it is more important that they be processed thoughtfully."

Navy Comments: The Navy generally concurred with the recommendation, advising that the NCIS complies with both current and proposed policy. According to the Navy, the NCIS is developing a crime scene checklist as part of its revision of the NCIS-3, "Manual for Investigations," and

has developed a Crime Scene Field Guide, which includes Death Scene Processing, that should be ready for field agent use in early 1996.

Evaluation of Management Comments: We recognize that the USACIDC, like the AFOSI, has a complete investigative manual to guide investigative efforts. However, we do not believe it is realistic to expect an investigator to carry the investigative manual to each crime scene. The pace and complexities inherent in many crime scene searches warrant ready reference material for the investigator, not to control the process, but to aid the investigator in ensuring that all appropriate investigate steps are considered and completed when warranted. The AFOSI pocket-size guide book is easily transportable to the crime scene and is a beneficial aid for AFOSI investigators. Therefore, while we recognize a crime scene processing guide or checklist should be modified or expanded as necessary based on the individual circumstances, the need to ensure that key investigative procedures are not overlooked is clearly urgent. Since the USACIDC investigative manual already has bulleted comments for investigator reference, the USACIDC should be able to readily issue a crime scene processing guide.

The crime scene checklist and Crime Scene Field Guide that the NCIS is adopting should fully satisfy our recommendation as it pertains to the Navy.

2. Require the MCIOs to adopt policies and procedures similar to the USACIDC Family Liaison Program to ensure family members are kept abreast of and have open communications with an MCIO point-of-contact until all investigative issues and concerns are reasonably resolved.

Management Comments and Our Evaluation:

Navy Comments: The Navy advised that the NCIS implemented a family liaison program in October 1995.

Air Force Comments: The Air Force advised that the AFOSI codified its Family Liaison Program in a Policy Memorandum, "Death Investigations," on July 26, 1995. According to the Air Force, the AFOSI (1) now has a comprehensive family interface policy for all death investigations, (2) the detachment commander with investigative responsibility for the case personally selects the representative based on experience, sensitivity and maturity, and (3) this representative, an agent, will remain as the family's point of contact until all investigative concerns have been resolved, and (4) training programs are being developed to support this policy.

USD(P&R) Comments: The Under Secretary of Defense (Personnel and Readiness) strongly endorsed our recommendation.

Evaluation of Management Comments: The management comments are responsive.

The draft report also included a recommendation that the Secretary of Defense, to comply with Section 1185, issue a DoD Instruction addressing investigations of Service member deaths. In distributing the draft report for comment, we also requested comments on a proposed DoD Instruction prepared to enable the Secretary to comply with this aspect of the Act. Based on the comments received, the Inspector General, Department of Defense, is in the process of issuing DoD Instruction 5505.10, "Investigation of Noncombat Deaths of Active Duty Members of the Armed Forces." This action is in accordance with the Deputy Secretary of Defense's guidance (see Appendix B) designating the DoDIG as proponent for the new guidance. Accordingly, there was no need to include the recommendation in the final report, and it has been dropped.

B. Psychological Autopsies

In November 1994, the Assistant Secretary of Defense for Health Affairs established a DoD task force to analyze how to standardize the psychological autopsy process. The DoD did not have an overall policy for performing psychological autopsies. The DoD needed consistent guidance for conducting, reporting and using psychological autopsies. Criminal investigators and mental health officers interviewed during our review agreed that this type of guidance was imperative. In addition, the DoD did not routinely perform management oversight or quality control reviews of psychological autopsies. As a result, there were significant differences in how the Military Departments performed and used psychological autopsies. Responsibility for conducting psychological autopsies, and the qualifications of the individuals who perform them, varied among the Military Departments. The Military Departments also had different criteria for when psychological autopsies were needed. Furthermore, there was limited assurance that psychological autopsies were adequately performed when needed.

Background

The psychological autopsy is a process designed to assess a variety of factors including behavior, thoughts, feelings and relationships that may have contributed to the Service member's death. In effect, a psychological autopsy is an attempt to clarify why the death may have occurred. Making such a determination may then have a bearing on the determination of cause and manner of death. In addition to helping clarify the manner of death in specific cases, information drawn from psychological autopsies may also be used in preparing and conducting suicide prevention programs. Information on behavior changes, stressors, and possible "warning signs" identified in specific cases can assist Military Department efforts to identify and prevent self-inflicted deaths.

The individual(s) who perform psychological autopsies use information gathered from relatives, friends, associates, coworkers and others who had contact with or observed the deceased prior to death. Some of the information is gathered through first-hand contact with relatives and other individuals. Other information is obtained by reviewing the results of criminal investigative activities concerning the death and documentary files such as medical records containing information about the deceased.

The Committee on Armed Services, U.S. House of Representatives Report, U.S.S. Iowa Tragedy: An Investigative Failure," March 5, 1990, pointed out concerns with the Navy's use of psychological autopsies in its investigation of the explosion on the USS Iowa. In its hearings on that investigation, the Congress raised questions regarding the quality of the material on which the psychological autopsies were based, the degree of certainty of the

opinions and the qualifications of some of the personnel performing the analyses. The Report of the Advisory Board on the Investigative Capability of the DoD, January 1995, also recommended that the DoD establish standards on performing psychological autopsies. The Report identified some of the same issues that our review has noted.

As a result of the findings of the Advisory Board but prior to the Advisory Board publishing its final report, in November 1994, the Office of the Assistant Secretary of Defense (Health Affairs) assembled a task force to focus on the issues of stress in the military and standardization of psychological autopsies. The task force concluded in its first meeting that one area requiring further attention was a standard policy for psychological autopsies in cases of suspected suicide and other violent deaths. At an April 1995 meeting, the task force decided to review existing procedures to determine how best to standardize the psychological autopsy process. The review was conducted and the Office of the Secretary of Defense (Health Affairs) (OASD(HA)) has completed a draft DoD directive on this subject. In December 1995, the OASD(HA) forwarded the draft to the Military Departments for comment. The final standards should be issued early in 1996.

Criteria For Performing Psychological Autopsies

The Army is the only Military Department with formal written guidance and criteria for using psychological autopsies during investigations of possible self-inflicted deaths. The Army generally performs psychological autopsies where there are (1) confirmed or suspected suicides, (2) single car accidents for which there is no apparent cause, (3) unusual or suspicious accidents, (4) cases in which the manner of death cannot be readily established, and (5) requests by the Commander or Special Agent in Charge of the local USACIDC office. The Air Force has written guidance covering the use of psychological autopsies when (1) the manner of death is known to be suicide, but the reason for the suicide is not clear, and (2) the circumstances of the death appear equivocal and a psychological examination would assist in determining the manner of death. The Air Force leaves the manner in which psychological autopsies are conducted to the AFOSI psychologist. The Navy has only informal guidance prepared by an NCIS staff psychologist on when a psychological autopsy should be done.

The other law enforcement organizations contacted during our review generally do not use psychological autopsies; however, they advised us that this was due to limited personnel and fiscal constraints rather than a lack of confidence in the process. Officials from the FBI Behavioral Science Unit (BSU), National Center for the Analysis of Violent Crime in Quantico, Virginia, and the Washington, D.C., Metropolitan area law enforcement agencies (listed in Appendix D) that we contacted advised that, in their cases, the medical examiner makes cause and manner of death determinations normally without the assistance of a mental health professional. Members of the BSU staff advised that they conduct "think tank" conferences using physical evidence and information from the investigation to reach conclusions and make determinations

about the manner of death in equivocal cases. That process is used to support law enforcement agencies nationwide, including the MCIOs, when requested.

The current authorities regarding procedures for investigating death cited earlier in this report, Practical Homicide Investigation, Second Edition, and Police Investigation Handbook, both describe the need for the psychological autopsy process as one of many investigative tools. Additionally, The Suicide Case: Investigation and Trial of Insurance Claims, James L. Nolan, Editor, Tort and Insurance Practice Section, American Bar Association (ABA), 1988, contains a series of articles which address establishing suicidal intent and the role of the psychological autopsy. Each of these sources recognizes the psychological autopsy as a legitimate and sometimes necessary technique in determining whether a death may have been self-inflicted.

Since psychological autopsies contain conclusions based on very personal information, their use should be controlled. The conclusions reached can easily be misunderstood and produce a highly emotional reaction from those close to the deceased. For instance, 6 of the 45 Section 1185(b) requests analyzed during our review expressed concerns relating to psychological autopsies. These requests included family concerns that information in psychological autopsy reports was inadequate, untrue, or obtained under false pretense.

Qualifications and Training

Responsibility for performing psychological autopsies varies among the Military Departments. The Navy and Air Force use licensed psychologists on the staffs of the NCIS and the AFOSI to conduct psychological autopsies. The Army, however, uses mental health officers from local installations to conduct psychological autopsies for the USACIDC. Those individuals are not part of the USACIDC staff, but are trained mental health professionals who are credentialed or licensed in a wide range of professions such as psychiatry, clinical or counseling psychology, social work, or a psychiatric clinical nurse speciality. None of the Military Departments require or provide formal training courses specifically addressing how to perform psychological autopsies. In general, the assigned mental health personnel learn how to conduct psychological autopsies and prepare reports through informal on-the-job training. The lack of training and the variety of mental health professionals the Army uses may lead to inadequately performed psychological autopsies with inconsistent conclusions.

There is a need for overall DoD policy that specifies the qualifications, specific training and certification needed for mental health professionals who perform psychological autopsies. There is also a need for formal training to assure psychological autopsies are properly performed. Individuals who have not been appropriately trained should not be allowed to perform psychological autopsies.

Quality Assurance or Management Oversight Reviews

None of the Military Departments has a comprehensive quality assurance review program for psychological autopsies, even though the Army has processes that would partially meet the need. At Fort Bragg, North Carolina, for example, command officials ensure that psychological autopsies performed in connection with the Fort Bragg installation fully comply with Army policy and procedures before the reports become part of the investigative file. In addition, the Office of the Surgeon General of the Army, Washington, D.C., is supposed to receive a copy of all Army psychological autopsy reports and review them for adherence with Army policy and procedure. We were advised, however, the Office of Surgeon General receives only about 50 percent of the reports, and only after the reports are a part of the investigative file. The Army also uses the Deputy Chief of Staff for Personnel and the Walter Reed Army Institute of Research staff to review psychological autopsy reports from a suicide prevention perspective and to identify systemic issues or trends. The Navy and the Air Force, on the other hand, have peer reviews performed by military and civilian mental health consultants with forensic training, but not quality assurance reviews. Because of the nature and uses of psychological autopsies, management oversight is needed to ensure appropriate guidelines are established and followed.

Psychological Autopsy Reports

We found that two of the Military Departments include comments in psychological autopsy reports to help put report conclusions into perspective. Navy reports generally contain a disclaimer within the body of the report, i.e., "... results should be considered speculative and based on the opinion of this clinician...," but not specifically labeled as a disclaimer and not readily apparent to the reader. The Air Force, however, explains the purpose of its psychological autopsy report on the front cover of all such reports to reduce confusion about the contents. One Air Force report reviewed, for example, explained that:

> "This is a psychological review of information received concerning the death of [name deleted] and an effort to understand the individual's personality, state of mind and probable intent at the time of death. Because this is a review of available information only, it is speculative in nature and is based upon information drawn from multiple sources including interviews of associates, friends, family members and coworkers as well as a review of the AFOSI Report of Investigation and pertinent records."

We believe that every psychological autopsy report should contain an explanation of its purpose on the front cover to avoid confusion about the report's use and conclusions. This explanation would help family members better understand the purpose of the report and how it was prepared.

RECOMMENDATIONS, MANAGEMENT COMMENTS AND OUR EVALUATION

The DoD needs an overall policy for conducting and using psychological autopsies. This policy should address when a psychological autopsy is to be performed, who performs it, qualifications standards for the individuals who perform it, how the results should be used, and a quality assurance review process. Without an overall policy, there is a greater risk of presenting inadequate or inappropriate information or conclusions. Because psychological autopsies are sometimes used by medical examiners to assist in determining the manner of death, it is of utmost importance that uniform procedures and quality controls be established.

Recommendations to the Assistant Secretary of Defense (Health Affairs):

1. Expedite the issuance of an overall DoD policy for conducting and using the results of psychological autopsies. The policy should, at a minimum, address when a psychological autopsy is to be performed, who performs it (including qualifications standards) and how the results should be used, and should establish a quality assurance review process. The policy should also provide for appropriate management oversight to ensure proper implementation of the policy.

Management Comments and Our Evaluation:

ASD(HA) Comments: The ASD(HA) concurred with the recommendation and advised that in December 1995, a draft DoD Directive was forwarded to the Military Departments for comment. In addition, the ASD(HA) advised that the directive specifically addresses (1) when a psychological autopsy is to be performed, (2) who performs it (including the qualification standards), (3) how the results should be used, (4) the establishment of a quality assurance review process, and (5) appropriate management oversight to ensure implementation of policy.

Evaluation of Management Comments: The ASD(HA) comments are responsive to the recommendation.

Recommendations to the Military Departments:

2. Develop implementing procedures on performing and using psychological autopsies in accordance with the DoD policy.

3. Develop and implement, in coordination with the respective medical commands, quality assurance criteria and procedures for reviewing

psychological autopsy reports to ensure they meet appropriate standards before they become part of investigative reports.

4. The Army and Navy explain the nature and purpose of each psychological autopsy report on the front cover of all such reports to reduce the likelihood of confusion about the report contents.

Management Comments and Our Evaluation:

Army Comments: The Army did not concur with any of the recommendations pertaining to psychological autopsies. According to the Army, it has well defined policy in this area, which specifies when a psychological autopsy is necessary and who is qualified to render the report. In addition, the Army advised that: (1) the military psychiatry residency training programs offer practical and didactic experience; (2) absent detailed and recurring problems, developing and implementing a quality assurance review process of the magnitude suggested seems unwarranted; (3) if greater oversight is needed, the Office of Surgeon General psychiatric or forensic consultant could conduct periodic random sampling and review; and (4) any systemic issues identified could be effectively handled through Continuing Medical Education instruction at related military conferences, clinical emphasis by the psychiatric or forensic consultant, and updates to electronic message policy and practices.

Navy Comments: The Navy presented clarifying information related to psychological autopsies in the Navy. According to the Navy: (1) the NCIS conducts psychological autopsies in conjunction with routine case reviews of medically unattended deaths with forensic pathologists at the AFIP, and they follow a multi-disciplinary case review where it is determined a psychological autopsy will provide additional insight for the forensic pathologist making the final cause and manner of death determination; (2) policy and guidance for the autopsies is promulgated in the NCIS Manual of Investigative Procedures and supplemented in outlines given to the investigators; (3) NCIS policy and procedure have been published in forensic and policy psychology literature as well as presented at professional conferences to ensure professional peer review and quality assurance; and (4) its psychological autopsy reports contain definitions of purpose and methodology, as well as a disclaimer regarding validity and reliability of techniques as recommended by the American Psychological Association.

Air Force Comments: The Air Force did not object to the recommendations, but did suggest that quality assurance reviews be done by similarly credentialed professionals who have experience conducting psychological autopsies.

Evaluation of Management Comments: We recognize the extent to which the individual Military Departments' have guidance for the psychological autopsies they conduct. However, for the reasons set forth in this report, we continue to believe that the Military Departments need to establish detailed

procedures for complying with the forthcoming DoD Directive. Since the ASD(HA) concurred with our recommendation to issue DoD-wide policy embodying the intent of our Recommendations 2, 3 and 4, further comments by the Military Departments are not required. We expect the Military Departments to comply with the DoD Directive, once issued.

C. Administrative Investigations

When a Service member dies from self-inflicted causes, the Military Department generally conducts an administrative investigation as well as a criminal investigation. The inconsistent presentation of information from these parallel investigations has caused confusion for the families of deceased Service members. The MCIOs should strive to provide commanders with as much information as possible to satisfy their administrative needs in order to avoid, to the maximum extent possible, the need to gather additional information for the purposes of an administrative inquiry. Further, administrative investigations should be closely coordinated with the cognizant MCIO and military staff judge advocate. Finally, the Military Departments should improve their policies and procedures with respect to the selection and training of those officers who conduct administrative investigations into death cases.

Background

The Military Departments have established varying requirements for conducting administrative investigations into the death of a Service member. Generally, an administrative investigation is initiated for purposes of making a determination as to whether the death occurred in the line of duty or to gather information about the circumstances surrounding the death, which may be used for various purposes including suicide prevention programs. The Military Department may conduct a Line of Duty (LOD) investigation or a commander's inquiry.

The Army requires a LOD investigation for deaths occurring from certain circumstances, including deaths from self-inflicted injuries and suicides. Army Regulation (AR) 600-8-1, "Army Casualty and Memorial Affairs and Line of Duty Investigations," September 18, 1986 (currently being revised) includes specific requirements for these investigations. In addition, a commander may also direct an inquiry under AR 15-6, "Procedure for Investigating Officers and Boards."

The Navy and Marine Corps conduct administrative investigations in accordance with the provisions of the Judge Advocate General (JAG) Instruction 5800.7C, "Manual of the Judge Advocate General." These investigations (commonly referred to as JAGMAN investigations) into the facts surrounding a possible self-inflicted death will normally be a command investigation, as the JAGMAN provides that LOD and misconduct determinations will not be made with respect to a deceased member. Pursuant to a 1995 revision, a command investigation, or a litigation report to the Navy JAG, may be directed. However, where the death occurred off-base and there is no nexus to military service, the command must obtain the civilian authority's investigation and maintain it as an internal report. The JAG Manual provides specific guidance

requiring coordination with NCIS prior to conducting a JAGMAN investigation in any case that the NCIS is already investigating in order to ensure that there is no interference with the criminal investigation. Additionally, the JAGMAN investigating officer is generally advised to seek the advice of the local Staff Judge Advocate before initiating a complex investigation.

The Air Force conducts a formal LOD investigation only where the Service member is survived by dependents who are entitled to government quarters; otherwise, a commander's inquiry may be conducted.

Line of Duty Investigations

An administrative investigation may be conducted to determine whether a death occurred in the line of duty. Generally, a self-inflicted death is considered to be in the line of duty unless it results from gross negligence or willful misconduct on the part of the Service member (such as during the commission of a felony). A LOD determination may be needed for purposes of ascertaining whether the Service member's survivors are entitled to certain benefits, such as benefits from the Department of Veterans Affairs, Dependency and Indemnity Compensation, and extended housing benefits.

Extended housing benefits are authorized under 37 U.S.C. 403, DoD Instruction 7000.14-R, "The DoD Financial Management Regulation" and Volume I of the Joint Federal Travel Regulations. Under those provisions, a Service member's survivors may receive either (1) payment of Survivor's Basic Allowance for Quarters and Variable Housing Allowance, or (2) extension of authority to remain in Government housing, for up to 180 days. These extended housing benefits are authorized only if the Service member's death occurred in the line of duty.

As discussed above, only the Air Force completes and approves a LOD determination before authorizing extended housing benefits for survivors. The other Military Departments generally approve the extended housing benefits using preliminary information available in the initial personnel casualty report. In those rare instances where the final investigation reveals that the death was not in the line of duty, the dependents are not asked to refund any payments they may have received.

Because the extended housing benefit was intended as a compassionate gesture to survivors during the difficult period immediately following the death of the Service member, we believe that consideration should be given to eliminating the statutory requirement that the benefit be authorized only where the death occurs in the line of duty. This would eliminate the need to complete a formal LOD investigation prior to authorizing the benefit. It would also eliminate the need to recoup payments should the final investigative results differ from the initial information used to make the housing extension decision.

Other Issues Relating to Administrative Investigations into Possible Self-Inflicted Deaths

Of the 45 requests for review under section 1185(b) that we analyzed, 10 included concerns relating to administrative investigations. These concerns included: (1) inaccurate, inadequate, incomplete, or unfounded administrative investigations and findings; (2) confusion as to why both criminal and administrative investigations were conducted; (3) whether there may have been improper command influence over the administrative investigations; (4) inconsistencies between the information presented during the administrative investigation and the criminal investigation; and (5) delays in appointing the administrative investigating officers.

Because of the sensitivity and complexity involved in conducting an investigation involving the death of a Service member, we believe that the administrative investigating officer should receive adequate training in this area and have appropriate guidelines. To this end, we believe the administrative investigating officer in a death case should be carefully selected, taking into account his or her abilities and experience on a case by case basis, and that selections based solely on availability or duty roster sequence should be prohibited. Recommendations related to selecting and training administrative investigation officers were made in the Report of the Advisory Board on Investigative Capabilities of the Department of Defense. We agree with these recommendations, particularly as they apply to the investigation of death cases.

Whenever possible, the MCIO criminal investigations should be conducted so as to provide as much information as possible to the commanders to satisfy the administrative needs relating to Service member deaths. This might eliminate the need for separate administrative investigations in many death cases. We note that current policies differ regarding the requirement for the administrative investigating officer to coordinate with the MCIO and with military judge advocate offices. Such coordination would help reduce the instances of inconsistent presentations of information resulting from criminal and administrative investigations.

RECOMMENDATIONS, MANAGEMENT COMMENTS AND OUR EVALUATION

Recommendations to the Military Departments:

1. Issue guidance to ensure that commanders inform the MCIOs of their information requirements in the matter of death cases requiring an MCIO investigation and that the MCIOs ensure the criminal investigative report furnishes commanders as much information as possible relating to facts, circumstances and motivation in cases of possible self-inflicted deaths. Additionally, the guidance should provide that commanders avoid requiring

administrative inquiries to gather additional information whenever possible. Certainly, except in cases requiring separate safety investigations, no more than one administrative inquiry should be conducted in each death case.

Management Comments and Our Evaluation:

Army Comments: The Army did not object to this recommendation.

Navy Comments: The Navy did not object to this recommendation.

Air Force Comments: The Air Force did not object to this recommendation.

USD(P&R) Comments: The Under Secretary of Defense (Personnel and Readiness) concurred with the recommendation, but stated a concern that the DoD should be careful not to limit a commander's authority to direct administrative investigations in self-inflicted deaths. In addition, the USD(P&R) indicated that appropriate policy guidance could be used to encourage the accomplishment of administrative investigations in a professional and timely manner.

Evaluation of Management Comments: Our recommendation was not intended to, and should not, limit a commander's authority to direct administrative investigations when they are needed. It should, however, increase the extent to which a commander can rely upon criminal investigations to produce the information needed for command purposes and, thereby, reduce the need for separate administrative investigations. As discussed in this report, the different presentations of information in criminal and administrative investigative reports has confused and caused concerns for family members of deceased Service members. Our recommendation cannot be expected to prevent such confusion and concern in total, but should prevent them in cases where separate administrative investigations can be avoided.

2. Review their existing regulations and instructions regarding administrative investigations to ensure that, in death cases, the administrative investigating officer for line of duty investigations coordinates with the cognizant MCIO and the military staff judge advocate prior to and during the investigation.

3. Require that administrative investigation officers conducting investigations into death cases be adequately trained in the investigative process and selected based on their abilities and experience and not solely on availability or duty roster sequence.

Management Comments and Our Evaluation:

Army Comments: The Army advised that, while it is desirable not to assign an investigative officer based on availability, military exigencies may require appointing any available officer who is senior to the subject of the

investigation in order to complete the LOD investigation timely. As an example, the Army cites a unit preparing to deploy for contingency operations or a long term training exercise. According to the Army, to preclude delays in completing the investigation, it is often more prudent to appoint an officer assigned to the rear detachment, or an officer with a physical profile preventing him or her from deploying, as the investigating officer.

Navy Comments: The Navy did not object to the recommendation.

Air Force Comments: The Air Force did not object to the recommendation.

Evaluation of Management Comments: We recognize that there may be a need for exception to any general guideline. This is why the recommendation provides for selections on a case-by-case basis. The general guideline, however, should be that administrative investigating officers will not be selected based on availability alone.

The draft report included a recommendation that the Secretary of Defense consider requesting a legislative change to 37 U.S.C. 403 to delete the requirement that extended housing benefits be provided to a Service member's survivors only where the death occurs in the line of duty. This would eliminate the need for a formal line of duty determination prior to authorizing the benefits, or for action to recoup such benefits after they have been paid or received.

Management Comments and Our Evaluation:

Army Comments: The Army advised that this recommendation would apply to the Air Force only. According to the Army, it does not make an LOD investigative finding on deceased soldiers, and its regulations allow 75 days from the date of death to complete a formal LOD investigation. In addition, the Army advised that requiring completion of a LOD investigation before a decision on benefits would be impracticable for the Army and could impose an undue hardship on the families who are already stressed because of the death. The Army concluded that, if the intent is to provide housing benefits no matter how a soldier dies, this would be acceptable from an LOD investigation perspective, but the Comptroller of the Army would have to assess the financial impact before such a decision is made.

Navy Comments: The Navy did not object to this recommendation.

Air Force Comments: The Air Force did not object to this recommendation.

USD(P&R) Comments: The Under Secretary of Defense (Personnel and Readiness) concurred with the recommendation, but stated concerns. The USD(P&R) advised that, without a more comprehensive review of how LOD determinations relate to a variety of entitlements and benefits, it might be

premature to recommend amendments related to 37 U.S.C. 403 only. The USD(P&R) suggested that his office could undertake a review of administrative investigations to ensure consistent application of Section 403 among the Military Departments, and that we could recast the recommendation to provide for such a study.

Evaluation of Management Comments: We have decided to delete this recommendation from the final report and, instead, to include it as a request in the Secretary's correspondence transmitting this report to the Congress. With respect to the comments received, in accordance with current statutory requirements, a family is not entitled to certain benefits unless the death occurred in the line of duty. We found, however, that only the Air Force awaited its formal LOD investigative findings before authorizing those benefits for the family. Our recommendation, if adopted, would allow the Army, Navy and Marine Corps to continue their current practices and would also preclude the possibility of the Military Departments being required to recover benefits already afforded to the families in rare instances when the LOD investigation revealed the death did not occur in the line of duty. The recommendation should not have any significant financial impact since the Army, Navy and Marine Corps already follow the practices provided for in our recommendation.

In addition, even though our review did not reveal any other such impact on family members, we recognize the possibility that LOD determinations might impact upon other entitlements and benefits under other statutory provisions. We also agree that it would be beneficial for the USD(P&R) to look into that matter to see if any other statutory change should be pursued based upon our findings in this area. However, pursuing the statutory change that we believe is necessary should not be delayed pending the outcome of a further study.

The draft report also adopted, in summary form, recommendations from the report of the Advisory Board on Investigative Capabilities of the Department of Defense. Specifically, in the draft report, we recommended that the Military Departments ensure training for administrative investigations that included:

a. blocks of instruction on commander-directed investigations in the curricula of the Service Academies, in ROTC programs, at Officer Candidate Schools and in officer professional development courses; and

b. the development of an Administrative Investigating Officer Manual to guide the conduct of administrative investigations.

Management Comments and Our Evaluation:

Army Comments: The Army advised that its Medical Command had recently developed a self-paced text on LOD investigations for medical personnel required to initiate LOD investigations when solders are treated in military medical treatment facilities. According to the Army, in addition to general

premature to recommend amendments related to 37 U.S.C. 403 only. The USD(P&R) suggested that his office could undertake a review of administrative investigations to ensure consistent application of Section 403 among the Military Departments, and that we could recast the recommendation to provide for such a study.

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Management Comments and Our Evaluation:

Army Comments: The Army advised that its Medical Command had recently developed a self-paced text on LOD investigations for medical personnel required to initiate LOD investigations when solders are treated in military medical treatment facilities. According to the Army, in addition to general

instruction on LOD investigations in the officer basic, advanced and continuing education programs, the Army Judge Advocate General School now includes a practical exercise on LOD investigations in the officer basic course. In addition, the Army advised that information on the LOD investigation topic has been provided to the Army Command and General Staff College for inclusion in appropriate courses. Finally, the Army indicated that AR 600-8-4, which is scheduled for publication in 1996, contains extensive guidance for investigative officers assigned to conduct LOD investigations.

Navy Comments: The Navy did not object to the recommendation.

Air Force Comments: The Air Force did not object to the recommendation.

Evaluation of Management Comments: We have decided not to include this recommendation in our final report since the DoD established a Board of Investigations to address matters in the Advisory Board report and the inclusion could cause duplicative efforts. With respect to the comments received, the new Army guidance was not in effect at the time we conducted our field work and was not included in our review. The new guidance should be very helpful to the Army in satisfying the recommendations of the Advisory Board on Investigative Capabilities of the Department of Defense.

D. Casualty Notification and Assistance, and Disposition of Personal Property

The purpose of the DoD Casualty Assistance Program is to provide notification and support to the next of kin following a military casualty. We identified instances where weaknesses in the implementation of the procedures has caused misunderstandings between families and the Military Departments during the casualty notification and assistance process.

In DoDIG Inspection Report 94-INS-3, "Casualty Assistance and Mortuary Affairs," December 1993, we stated that the Military Departments were effectively providing notification, assistance and support to the next of kin. However, we identified a number of deficiencies in the supporting procedures that needed attention. Specifically, we found that improvements were needed in (1) coordination among the DoD medical, casualty assistance and mortuary affairs functional elements, (2) records maintenance, records maintenance training and records standardization in the Military Department casualty assistance and mortuary affairs operations, and (3) Office of the Secretary of Defense oversight of the Casualty Assistance and Mortuary Affairs Programs. We also identified problems in the implementation of existing policies and procedures, and made appropriate recommendations for improvements. The DoD concurred with, and is currently implementing recommendations from the inspection.

During the present review we found that clearer guidance is needed to ensure proper completion of the Report of Casualty, DD Form 1300. Further, instruction is needed concerning the information provided the family by the notification officer. We also found that families do not understand why the reports they receive are redacted under the Freedom of Information Act (FOIA). When information is redacted from criminal and administrative investigation reports, families view the redactions as concealing information, or removing classified information or other information that could be embarrassing to the Government. We believe the Military Departments should provide families an easy-to-understand explanation for the redaction process as required by the FOIA. Also, to ensure timeliness and accuracy of information to families, casualty notification and assistance representatives, as well as individuals selected as burial escorts, should be instructed to refer all questions relating to the cause and manner of death to Family Liaison Officers within the appropriate MCIO (see Section A of this report). Finally, revised procedures for disposing of a deceased Service member's personal property would alleviate or prevent some family concerns.

Background

The Casualty Assistance Program covers a much broader range of situations than just death cases since a military casualty can be classified in one

of several categories: deceased; missing; duty-status whereabouts unknown; very seriously ill or injured; seriously ill or injured; incapacitating ill or injured; and not seriously injured.

The DoD Instruction 1300.18, "Military Personnel Casualty Matters, Policies and Procedures," provides overall policy for casualty assistance. It includes specific procedures for notifying the next of kin of a casualty, assisting them with applications for survivors' benefits and advising them on personal matters, such as financial and housing assistance. The instruction prescribes uniform reporting requirements, describes standard terms and definitions for classifying casualties, and establishes a Military Services Policy Board. The purpose of the Board is to develop policy guidance, propose program goals and ensure consistency in the quality of care to Service members and their families.

Casualty Notification and Assistance

The Army, the Navy and the Marine Corps use a decentralized system that relies on military representatives who perform all casualty notification and assistance as an additional duty assignment. The Air Force assigns specific case responsibility to the Air Force installation nearest the place of death, and casualty assistance to the Air Force base nearest the primary next of kin. Casualty assistance services are performed by trained personnel specialists as part of their regular duties. Another Air Force military representative is assigned to make the initial casualty notification. The Army also assigns two different individuals to make the casualty notification and provide casualty assistance. The Navy and Marine Corps assign the same individual for both duties. The personnel assigned notification duties and casualty assistance duties in the Army, Navy and Marine Corps, and those assigned notification duties in the Air Force, are usually from an occupational field other than administration and personnel, and may have no prior experience performing casualty assistance duties.

Training

The Military Departments could improve their training for personnel involved in the casualty notification and assistance processes. Casualty notification responsibilities are generally assigned as an additional duty. The personnel designated as notification officers receive initial training at the time they are assigned the duties. The training consists of self-help guides, visual aids, videos and other documents intended to enable the notification officers to understand their responsibilities and acquaint them with common-sense "do's and don'ts" involved in notifications. Commanders are then supposed to give additional training based on their knowledge acquired from having casualty assistance and notification procedures included in their overall developmental training.

Checklists for Consistent Assistance

Each Military Department has a checklist that includes the specific steps to be accomplished during each phase of the assistance process. When completed, the checklist reflects the assistance that was provided, difficulties encountered and recommendations made. The checklist helps ensure that the assistance afforded the next of kin is consistent within the Military Department.

Timely Notification and Assistance

The Military Departments all attempt to notify the next of kin within 24 hours after the death of a Service member, and the Military Department casualty assistance representatives try to meet with the next of kin within 24 hours after the initial notification to begin the assistance process. Casualty assistance includes aiding the next of kin in matters pertaining to military pay, veterans pay, Social Security, other allowances and benefits, and income taxes. Counseling services are made available to family members through Family Service Offices or Support Centers located on military installations. In addition to counseling, Army and Marine Corps Casualty Assistance Representatives distribute pamphlets to survivors with guidance and helpful information on matters such as survivor benefits, miscellaneous information and contacts for additional help. The Marine Corps also sends a letter to the next of kin approximately 45 days after the death asking for comments or recommendations based on the family assistance provided.

We found that the Military Department processes for notifying the next of kin did not take place in a number of cases where the deaths occurred outside the military installation, and the civilian authorities responsible for the investigations released information to the family prior to the Military Department's involvement. We also noted cases in which families were not notified within 24 hours, in accordance with the stated Military Department policy. Some of the delays were caused by the substantial time differences between the U.S. location of the next of kin and the overseas location where the Service member's death occurred. Other notification problems occurred because the Service members did not update information on the Emergency Data Card, DD Form 93, to include the home address of the next of kin, or the next of kin could not be located when the notification was attempted. In some instances, the Emergency Data Card had not been updated for recent events such as marriage or divorce, or the Service member had not listed a specific individual, such as a child from a previous marriage, as a next of kin.

The Emergency Data Card lists the various next of kin by relationship or beneficiary status. The Military Departments use the card to identify the next of kin for notification purposes, as well as to determine eligibility for specific benefits such as extended housing allowances. Each Service member is responsible for updating the information on the form as events in their lives change, and supervisors are responsible for reminding Service members to keep their forms updated. If the Service member does not properly update or include

information on the form, the Military Department does not have the current, accurate information needed for the notification and assistance processes.

Burial Escorts

The Military Departments have policies and procedures for providing burial escorts to accompany the remains of the deceased. In the Army, Navy and Marine Corps the deceased Service member's commander generally selects active duty members from within the command for the escort duty. The Air Force provides two options. The first is to offer the family a "special escort" who can be anyone, military or civilian, that the next of kin selects. The second option is for the installation mortuary officer to select an escort from Air Force military personnel on active duty assigned to the activity arranging for shipment of the remains. Each Military Department requires that the escort be of equal or higher rank than the deceased and, if possible, from the deceased Service member's unit. In the Army and the Air Force, the Mortuary Office is responsible for instructing escorts on their duties and appropriate conduct. In the Navy and the Marine Corps, the commander who appoints the escorts is responsible for providing the necessary guidance as contained in appropriate headquarters instructions.

The burial escorts are typically given a pamphlet or manual that explains their duties and responsibilities. Also, each Military Department has a policy that escorts will not address questions about the circumstances of death, benefits, or funeral expenses. The escort is supposed to refer the next of kin to the casualty assistance representative or mortuary officer for assistance. In some cases reviewed, however, we found that burial escorts had made comments to family members that caused the family members to question the investigative results or cause and manner of death determinations.

Inaccurate or Incomplete Information Provided

In possible self-inflicted death cases, more accurate and detailed information is usually available from the MCIO than from the casualty assistance representative. Occasionally, the casualty assistance representative inadvertently gives out inaccurate information. We believe the casualty assistance representative should not provide any information relating to the cause and manner of death in cases still under investigation unless the information is already included in the Personnel Casualty Report or has been cleared by the MCIO investigating the death. Since the MCIOs either have or are in the process of establishing a Family Liaison Program, the casualty assistance representative should be instructed to inform the family that the case is under investigation and provide them a MCIO point of contact from whom they can get additional information as it becomes available. This will help ensure that the family receives the best available information in a timely manner.

The ability of the Military Departments to provide accurate information is further complicated by the overseas locations of some deaths. If an autopsy is required overseas, delays in transporting the deceased to the U.S. may arise. (Although the Military Departments have established timeframes for the conducting autopsies, unexpected circumstances can cause delays.) When implemented, the recommendations in our Inspection Report on Casualty Assistance and Mortuary Affairs will help resolve some of these issues. We recommended, for example, that the Military Departments establish an integrated system to track casualties and the remains of the deceased through the DoD medical and mortuary processes. The Military Departments concurred with our recommendation.

We believe that many concerns raised by the families in self-inflicted death cases result from the inexperience of casualty assistance officers or burial escorts. With the exception of the Air Force, casualty assistance and burial escort duties may be a one-time experience. In addition, administrative errors indicate inattention to detail, such as not proofreading letters for accuracy before mailing them to the next of kin. Although training is provided in the form of a video or briefing, unintentional errors, misinterpretation of policies and omissions of tasks made in carrying out the duties cause family members to question the investigative findings and casualty assistance policies and procedures.

Casualty Assistance Process Operates Under Different Functional Managers

We believe that many of the problems associated with casualty assistance and notification are caused by the complexity of receiving and integrating information from multiple Military Department organizations that all play important roles in providing assistance. Casualty offices and various other components, such as medical, mortuary and transportation, operate under different functional policies. Lack of communication and coordination between components can cause various problems. The employee performance measures that the Military Departments are considering in response to our previous Inspection Report should be helpful in this area, if the measures take into account both timeliness of actions and reporting accuracy.

Inconsistent Use of Terminology

Another area of concern is the inconsistent terminology that the Military Departments use in initial casualty notifications. When unit or installation commanders first learn of a casualty, Military Department policy requires them to report certain information to the Headquarters Casualty Office. The information is provided in a Personnel Casualty Report (PCR), which is generally transmitted by priority message, and contains standard information elements for each casualty. Receipt of the PCR by Casualty Assistance Officers activates the Military Department processes established for notifying the

designated next of kin. In addition, public affairs officials use the information in the reports for press releases, when needed.

A PCR contains factual and sometimes graphic information concerning the discovery of the Service member's body. For example, in describing probable cause of death, a commanding officer may state, "suspected suicide." The commanders are not precluded from reporting such speculative information as cause of death even though the investigation has not been completed and the actual cause and manner of death have not been determined. However, Casualty Assistance Officers are instructed to, and normally do, use the exact wording in the report when notifying the family. The family may then question how the Military Department concluded the death may have been suicide before an investigation was completed, and become confused when conflicting information about the circumstances of the death is released later based on the criminal investigation(s), administrative investigation(s) and medical examiner's determination(s).

Speculative statements such as "suspected suicide" used during the notification can confuse the next of kin and imply that the Military Department drew premature conclusions regarding the cause of death. Notification and assistance officers need information from the PCR to notify and help the family. However, specific guidance is needed to distinguish between known facts and mere speculations, and family notifications should be based only on the known facts.

Report of Casualty

Following the submission of the PCR, an initial DD Form 1300, "Report of Casualty," is issued to the next of kin for use in settling matters where proof of death is required. The DoD Instruction 1300.18 requires the statement "determination pending" on the form when addressing the cause of death in cases under investigation, including possible self-inflicted deaths.

The Army is not consistent with the other Military Departments in listing the cause of death on the initial DD Form 1300. The Navy and the Air Force use "determination pending" in block 5f, Cause and Circumstances, of the form. The Marine Corps has recently changed its policy directing use of the same statement in future reports. However, the Army continues to use speculative terminology, such as "suspected self-inflicted wound" or "possible suicide," in referring to cause or manner of death in the form. We believe the most appropriate wording would be "determination pending," without additional comments that might confuse the families or cause them to question the integrity of either the Military Department or the accuracy of the information provided.

The Military Departments should provide consistent information pertaining to deceased members where cause and manner of death is being investigated. The information included in next of kin notifications, initial DD Forms 1300 and press releases should not contain terms that represent

suppositions or premature conclusions regarding the cause or manner of death. They should include only factual information from the PCR and advise that the case is under investigation. The initial DD Form 1300, block 5f, should report "determination pending" to be consistent with the MCIO advice to the family and others that the case is under investigation. All the Military Department representatives involved in processes relating to casualties should reiterate that all noncombat deaths due to other than natural causes are routinely investigated as a homicide until the actual cause and manner of death are established.

Disposition of Personal Property

We found that the Military Departments generally have adequate procedures for handling and disposing of deceased Service members' personal property. The procedures include inventorying the property, safeguarding it to avoid theft, damage, or loss, and returning it to the next of kin in a timely manner. They also have procedures for handling complaints or concerns about the property shipments or nonshipments.

The Military Departments assign installation commanders full responsibility for handling and disposing of the personal property of their personnel. They are also responsible for initiating inquiries into complaints about missing items or items damaged in transit, and for assisting the families in filing claims for compensation if an item is lost or damaged. In the Army and the Air Force, the commanders assign individuals known as summary court officers to perform the tasks involved in satisfying the responsibilities. The Navy and the Marine Corps assign the responsibilities to a supply officer.

Current regulations allow the commanders to turn over all personal property not being held as evidence to the deceased member's surviving spouse or legal representative. In cases where a surviving spouse or legal representative is unable to come to the military installation, the commanders appoint an individual(s) to collect all the property, including money, and ship it to the person eligible to receive the personal effects, with a complete inventory listing, as soon as possible.

Destruction of Personal Property

All the Military Departments give their commanders discretion to destroy an item of personal property that might be embarrassing to the family or cause additional sorrow if included in property returned to the family. These items include mutilated, burned, bloodstained, obnoxious, or unsanitary personal items. Destruction determinations are frequently based on judgment when packaging the deceased personal belongings for shipment to the family.

We believe the Military Departments should provide the family a listing of all personal property items and the condition of each item initially deemed to be inappropriate for return, and then allow the family reasonable time to decide

if an item should be returned for sentimental reasons despite its condition. Absent compelling factors that outweigh the family's wishes, such as prohibited shipment of potential biohazard items, the family's decision should be honored.

Personal Property Retained as Evidence

The Army has general guidance for retaining and disposing of personal property initially held as evidence for use during an investigation. The Army provides for releasing and disposing of these items, following an investigation, in accordance with its overall guidance for disposing of personal property. The Air Force has general guidance for retaining and subsequently releasing and disposing of personal property. In addition, a June 26, 1995, AFOSI Policy Memorandum has specific guidance on retaining records and physical evidence as it relates to Section 1185 of the Act. The Navy and Marine Corps do not have policy specifically addressing personal property items retained as evidence. However, we found that they have processes for disposing of evidence, when no longer needed, in accordance with their overall guidance for handling and disposing of a Service member's personal property.

To lessen negative family perceptions that personal effects are missing or not effectively safeguarded, each of the Military Departments has in effect or has initiated liaison programs to work with the next of kin during the death investigation. These programs, when fully implemented, will help ensure that the Casualty Assistance Officers work closely with the next of kin and that the next of kin receive current and accurate information throughout the investigation.

Redactions under the Freedom of Information Act

We noted inconsistencies in the manner in which the Military Departments respond to family requests for investigative reports. They each have implemented the FOIA differently. For instance, one Military Department responds to a family FOIA request by providing a redacted copy of the administrative investigative report. However, if the administrative report contains a copy of an autopsy or criminal investigative report, the request is passed to the Military Department's Surgeon General (if the family member requested the autopsy report) and the MCIO for the investigative report. If the family member did not request the autopsy report, information is provided that an autopsy report exists and the family member is given an address and contact at the Surgeon General's office to request the autopsy report. Another Military Department, in releasing the administrative report, releases the autopsy report included as part of the administrative report, but advises the requestor to contact the MCIO to obtain the criminal investigative report. This type of inconsistency should be eliminated in processing family requests under the FOIA.

In addition, many families are unaware of the provisions of the FOIA, and view the redaction of information from documents they are provided as an

attempt to conceal information from them. An experienced casualty assistance representative should inform the families that certain types of information in the reports will be redacted. However, in addition to a verbal explanation, we believe the Military Departments should provide an easily understood explanation for the redaction process in the transmittal letter accompanying any requested report. Both a verbal explanation of possible redactions from the casualty assistance representative or the MCIO Family Liaison Officer and the detailed written explanation should dispel most families' perceptions that information is being withheld because of a cover-up by the Military Department.

RECOMMENDATIONS, MANAGEMENT COMMENTS AND OUR EVALUATION

Additional guidance is needed to emphasize the importance of performing the various duties associated with assisting the next of kin in death cases, especially those involving self-inflicted deaths. There is also a need to clarify the current guidance for notifying families and completing DoD forms to prevent the use of improper or inconsistent terminology from causing misunderstandings or confusion. Improved guidance in these areas should facilitate and improve communications with the families and prevent simple questions or issues from becoming major concerns.

Recommendation to the Under Secretary of Defense (Personnel and Readiness):

1. Incorporate the actions and improvements recommended in Inspection Report 94-INS-03, "Casualty Assistance and Mortuary Affairs," into a revised DoD Instruction 1300.18 to improve the notification and assistance process. Those recommended improvements include developing an integrated system for tracking casualties and remains, standards for records maintenance and record-keeper training, and oversight processes for identifying and monitoring key performance measurements.

Management Comments and Our Evaluation:

USD(P&R) Comments: The Under Secretary of Defense (Personnel and Readiness) concurred with the recommendation. The Under Secretary advised that a revised DoD Instruction 1300.18 incorporating our recommendations for improved casualty notification and assistance processes will be issued in 1996.

Evaluation of Management Comments: The comments are responsive to the recommendation.

Recommendations to the Military Departments:

2. Emphasize to all personnel involved in casualty assistance and personal property disposition the importance of attention to detail when performing notification and casualty assistance tasks.

3. Revise current guidance to require that:

a. Notification officers use only known facts from the overall information contained in personnel casualty reports in notifications to the next of kin, and not use suppositions or preliminary determinations as to the cause or manner of death.

b. Casualty assistance offices, burial escorts and any other representative not discuss cause or manner of death with a family member until the investigation is completed and a medical official has determined the actual cause and manner of death.

c. The family of the deceased Service member is provided a listing of all personal property items, and the condition of each item, initially deemed to be inappropriate for return to the family, and then allow reasonable time to decide if an item should be returned for sentimental reasons despite its nature or condition. The guidance should specifically provide that the family's decision should be honored, unless there are compelling factors which outweigh the family's wishes. Compelling factors that would outweigh a family's wishes include restrictions such as a Federal or state prohibition on shipping potential biohazardous items.

d. In coordination with the Office of the Secretary Defense, review the Freedom of Information Act procedures to ensure maximum practicable uniformity in policies relating to the release of information in death cases.

Management Comments and Our Evaluation:

Army Comments: The Army nonconcurred with paragraph 3.c. of our recommendation and the underlying conclusion. The Army advised that we assumed the primary next of kin is the person eligible to receive the personal effects, and that the primary next of kin is the person who has doubts about the cause of death. According to the Army, (1) a decedent's personal effects must be shipped to the person eligible to receive effects (PERE), who may or may not be a family member, (2) the PERE order of precedence as established in 10 U.S.C. 4712--a decedent's minor child has precedence over the decedent's parents--would not ensure the person with concerns about the death is the person receiving the personal effects, (3) it would not be practical for the summary court to hold items scheduled for destruction for an indefinite period awaiting a PERE decision on destruction items, and (4) the rules for destruction of personal effects are the same regardless of the cause of death and the recommendation

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would cause changes based on a minute subsection of overall deaths. In effect, the Army pointed out that the recommendation might not achieve the intended result. In addition, the Army provided clarifications regarding its procedures for releasing LODs and autopsy reports to family members.

Navy Comments: The Navy did not object to the recommendation.

Air Force Comments: The Air Force presented comments similar to the Army comments and proposed a compromise change, that questionable items be retained for 90 days and destroyed thereafter if the next of kin had not inquired about them.

Marine Corps Comments: The Marine Corps partially concurred with paragraph 3c, advising that it was modifying its current regulations to give commanders less latitude in deciding disposition of individual items. The Marine Corps also expressed concerns, similar to those of the Army and Air Force, about returning obscene or sexually explicit items to surviving family members.

OGC Comments: The Office of General Counsel (OGC) expressed reservations about paragraph 3.d. of the recommendation. The OGC advised that differences might result from different organizational structures and functions in the Military Departments, and FOIA releases should not force functional or organizational changes that are less efficient or less satisfactory for other reasons. In addition, the OGC advised that privacy concerns of surviving families should be considered when making FOIA redactions.

Evaluation of Management Comments: The Army, Air Force and Marine Corps comments raise valid considerations. Our initial assessment did not take into account that the PERE might not be a family member or legal representative. However, we continue to believe that the family of a deceased Service member should have an opportunity to decide whether any particular item of personal effects would be so embarrassing or otherwise cause further grief as to warrant destruction. While we recognize that the Military Departments' efforts in this area are intended to protect the families from further grief, family concerns that the destructions might be "cover-ups" dictate that they be afforded this opportunity. Accordingly, we have amended the basis for our recommendation to acknowledge the PERE reality, but are continuing our recommendation. With respect to the Army clarifications concerning its procedures for releasing LOD and autopsy reports to family members, we have included the clarifications in the text of the report.

We agree with the OGC comments. It was not our intention to cause functional or organizational changes as a means of producing uniform releases under the FOIA. We have added the words "maximum practicable" to the recommendation to clarify our intention. In addition, our recommendation addresses uniform releases under the FOIA.

Our draft report also included a recommendation that the Assistant Secretary of Defense (Public Affairs) direct the development and issuance of a DoD publication to explain in lay terms the redaction procedures under the FOIA and PA, and require the Military Departments' Casualty Assistance Officers or equivalents to provide the publication to families when they are informed initially about the procedures for requesting investigative reports and other documents under the FOIA.

Management Comments and Our Evaluation:

ASD(PA) Comments: The Assistant Secretary of Defense (Public Affairs) (ASD(PA)) disagreed that a new publication is needed and indicated the ASD(PA) could not require Casualty Assistance Officers to use the publication even if needed. In addition, the ASD(PA) advised that DoD Regulation 5400.7-R already requires a FOIA exemption and adequate explanation for its use to be provided to requesters. The ASD(PA) concluded that, since the FOIA is the primary statute by which information is denied to the public in this instance, it is logical for reviews to be made under the provisions of that ACT, and appropriate reasons for redactions provided as required by DoD regulation.

OGC Comments: The OGC also disagreed with our recommendation. According to the OGC, a new publication is unnecessary and could cause problems in FOIA litigation. In addition, the OGC advised that informal publications such as pamphlets and information sheets are already available, and paragraph 5-204 of DoD Regulation 5400.7-R already requires citation to a FOIA exemption and adequate explanation when information is denied in response to a FOIA request. On the other hand, the OGC indicated that the Military Departments perhaps could provide more information, including existing materials, to the families through the casualty affairs representatives, and this could include information about what to expect when the families file a FOIA request. The OGC concluded that the OASD(PA) could help with this, but it should not be seen as a FOIA matter.

Evaluation of Management Comments: Based on the additional information provided, we agree with the nonconcurrences and have dropped this recommendation. The remaining recommendations have been renumbered accordingly.

E. Release of Information to the Public

We examined the policies of the DoD and the Military Departments regarding release of information to the media about noncombat deaths of Service members from other than natural causes. The DoD, the Military Departments, commands and installations all have written guidance, as well as practices, that address the release of information to the family of a deceased Service member and the public. The existing guidance does not specifically deal with possible self-inflicted deaths or mandate that a Public Affairs Officer (PAO) coordinate with the cognizant MCIO prior to all releases of information in such cases; nor does the guidance contain specific examples of language to be used in press releases regarding such cases. We also found a need for improved PAO personnel training that specifically deals with release of information in cases involving the death of a Service member.

We found instances in which the press releases provided by Military Department PAO personnel characterized the deaths as being from "apparent self-inflicted causes which were under investigation." Although the term "self-inflicted" includes accidental deaths, the phrase was misinterpreted by the media and the public to mean the deaths were being investigated as suicides. Written guidance issued by the Military Departments and unwritten practices cited during our interviews all indicate that PAOs should not speculate about the cause or manner of death in an ongoing investigation.

The DoD needs to issue more detailed overall policy on the type and extent of information that can be released to the media to preclude premature and inaccurate conclusions.

Background

The DoD Instruction 1300.18, "Military Personnel Casualty Matters, Policies and Procedures," dated December 27, 1991, includes some general guidance on the release of information on Service member deaths. The Instruction states that the Military Departments shall "record and report, to the most realistic extent possible," a full and accurate accounting of the death of all active duty military personnel. The Instruction also cautions against release of information before the next of kin have been notified. Except for military operations outside the United States (discussed later in this report), specifics regarding the release of information to the media and the public are independently controlled by each Military Department.

All the Military Departments' policies provide for notifying the next of kin prior to releasing such information to the public. The Army and Air Force have written policies that address answering questions about the cause and manner of a death. The Army policy provides that prior to an official finding,

questions about the cause of death will be answered with the response, "an investigation is being conducted to determine cause of death." Air Force policy instructs commanders and PAO personnel not to speculate on a possible cause even if it seems obvious. The Navy maintains that it has a clearly understood unwritten policy that nothing will be published about the cause and manner of a death prior to completion of an investigation.

Department of the Army guidance does not require the PAO to coordinate information on a death prior to its release. The guidance requires the release be made after notification to the designated next of kin. The Chief of Public Affairs for the USACIDC provided general guidance on release of information on death cases for use by the Army Chief of Public Affairs in a September 28, 1994, memorandum. The memorandum cautioned against using phrases in press releases like "the death is being investigated as a homicide" or "as a suicide." The memorandum also stated that PAOs should never indicate in their press releases that an investigation has tentatively ruled a death as a homicide, suicide or accident, because tentative determinations are not made during a criminal investigation. The Navy maintains that it has an unwritten policy of requiring PAOs to clear all press releases concerning criminal investigations, including death cases, with the local NCIS office. The Air Force guidance requires the PAOs to coordinate information to be released publicly with the casualty assistance officer to ensure it is current, accurate and agrees with what the next of kin has been told.

None of the Military Departments' policies contain specific guidance on what information should be contained in a press release on deaths from other than combat or natural causes. We also did not find examples in any regulation to assist PAOs in issuing such press releases.

Comprehensive written guidance is important since, normally, PAOs at the local installation are responsible for the release of information to the public. Current training, which PAOs attend at the Defense Information School, includes instruction on releasing information on deaths of Service members; however, specific instruction is not included on the types of information concerning the manner of death, or from a criminal investigation, that may be released. The PAO currently is not required to coordinate with the MCIO before releasing information on the death to the public.

We examined the release of information to the media regarding three specific Service member deaths during "Operation Restore Democracy" in Haiti. Two of the deceased were members of the Army; the third was a U.S. Marine on board a deployed ship.

Written DoD policy for release of information to the public about the death of Service members during military operations outside the U.S. provides that all such releases will be made by the Director of Defense Information (DDI), Office of the Assistant Secretary of Defense (Public Affairs). Any

official release of information about the deaths occurring during the Haiti operation was coordinated through that office before being released.

We reviewed the written press releases in the three cases. Each release stated that the individual died from "apparent self-inflicted" causes. In the case that occurred aboard ship, a Marine Corps spokesperson added in response to a telephonic media request, "we're going on the assumption that it was self-inflicted, but it could also be an accidental discharge of a weapon" and also clearly stated that the matter was under investigation and no conclusions had been reached. Despite what was said by the spokesperson, the media reported the death as a suicide.

The USACIDC provided detailed information in writing to the Army PAO on the appropriate wording to be used on the day the first soldier died in Haiti. The wording contained strong cautionary language that the USACIDC had not characterized the death as a suicide and stated "apparent suicide is a nonsense phrase and does not exist in the CID vocabulary." The USACIDC representative further stated the matter was listed as "manner of death undetermined" and an investigation was in progress. Despite these efforts, the news media reported the death as apparently self-inflicted. This result was attributed in part to the presence at the death scene of numerous members of the media almost immediately after the incident took place and even before the USACIDC special agents arrived at the scene.

Our review of the actual press releases regarding the three deaths found that the DoD did not refer initially to the deaths as "suicides" or "apparent suicides." However, Military Department guidance is lacking in that it does not provide appropriate wording to be used in these cases. Each of the press releases used the term "self-inflicted wound," an inappropriate choice of words because they conveyed the wrong impression to the public. Although "self-inflicted" means the death could be either an accident or a suicide, individuals listening to a press conference or reading a press release generally conclude, rightly or wrongly, the death was a suicide. Since it is DoD policy that all death cases be investigated as homicides until the evidence establishes otherwise, press releases and press conferences should clearly state only that the case is under investigation and contain no reference whatsoever to cause and manner of death. This approach should help eliminate initial confusion and erroneous conclusions.

RECOMMENDATIONS, MANAGEMENT COMMENTS AND OUR EVALUATION

The DoD needs to develop an overall policy for releasing information on Service member deaths to the public. In addition, press releases on death cases should be coordinated with the Casualty Affairs Office and the MCIO that is responsible for either performing the criminal investigation or coordinating with another organization with primary jurisdiction that is performing the investigation. Further, there is a need for better coordination between PAOs,

casualty affairs offices and the servicing judge advocate. Finally, the Defense Information School needs to include in its training courses instruction on the release of information concerning cause and manner of death.

Recommendations to the Assistant Secretary of Defense (Public Affairs):

1. Issue a policy on the information that should be released on noncombat deaths from other than natural causes. The policy should include requirements that, until an appropriate medical authority has determined a noncombat death resulted from natural causes:

a. Press releases and press conferences concerning noncombat deaths will not include tentative or speculative conclusions, or use terms such as homicide, suicide, or self-inflicted.

b. Information about noncombat deaths will be coordinated with the cognizant MCIO and Casualty Affairs Offices before being released to the media.

c. Families should be notified prior to any public release, by the DoD, of any name or other information concerning noncombat deaths.

Management Comments and Our Evaluation:

Army Comments: The Army advised that the phrase ".. from other than natural causes.." as used in this recommendation and in recommendation 2 in the draft report presupposed a determination of cause of death. The Army recommended that we change the phrase to ".. noncombat deaths which appear to be from other than natural causes.."

Navy Comments: The Navy did not object to this recommendation.

Air Force Comments: The Air Force did not object to this recommendation.

Evaluation of Management Comments: The Army comments indicate a need for clarification. The MCIOs investigate noncombat deaths as potential homicides until evidence establishes otherwise, which includes a medical authority determination of cause of death. We intended that the new policy ensure the release of only appropriate information during the investigations pending the medical authority determinations. We have rephrased this recommendation and recommendation 2 below to clarify our intention.

2. Require that the Defense Information School include instruction on the release of information in connection with noncombat deaths when a medical authority has not determined the cause and manner of death.

Management Comments and Our Evaluation: Except for the Army comments addressed in connection with recommendation 1, management comments did not object to this recommendation.

Department of the Army Comments

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DEPARTMENT OF THE ARMY
U.S. TOTAL ARMY PERSONNEL COMMAND
ALEXANDRIA, VA

REPLY TO ATTENTION OF

TAPC-PEZ (600) 15 Dec 95

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE
(ATTN: Joel Eason)

SUBJECT: Draft Report on the Oversight Review of Department of Defense Policies and Procedures for Death Investigations; Proposed Department of Defense Instruction 5505.xx, "Investigation of Noncombat Deaths of Active Duty Members of the Armed Forces"

1. Reference Inspector General memorandum, dated 6 Nov 95, SAB.

2. The Army Casualty and Memorial Affairs Operations Center (CMAOC) has carefully reviewed your document. Since this review required analysis by our key branches (Casualty Operations and Mortuary Affairs), our comments are listed by CMAOC functional area.

3. Casualty Operations assessed the draft report's implications on notification and assistance to Next of Kin (NOK).

a. Pg 37, line 23. USAF notification officers receive the same amount of training as the other Services. Like the other Services, USAF notification officers have other primary duties and most likely have no prior experience performing casualty notification. 39

b. Pg 38, line 22. The Services can not notify NOK of a casualty if they do not know that a casualty has occurred. If outside investigators (local law enforcement authorities) notify NOK that their relative is a casualty, there is little the Services can do but follow up with official notification and assistance. In many cases, it is not known by civilian authorities that the deceased individual was a military member. The military may not be notified of the death until several days after the incident has occurred. The Service's assist the NOK in obtaining investigative reports even though it is out of the military's jurisdiction. 40

c. Pg 40, line 2. Having the notifier and assistance officer not provide any information on cause and manner of death only gives the NOK the perception that the Government is involved 41

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in covering up something, especially possible self inflicted deaths. Among the initial questions that a family has about a casualty are: how did it happen and return of remains. Recommending that the notifier/assistance officer not say how it happened (even preliminary investigations) will only cause greater harm. The local CID command is part of the Installation Working Group. They work with the CAO and family to provide up-to-date information on the investigation. Not telling the NOK preliminary information contradicts other NOK notification policies, such as notification of friendly fire incidents. We tell NOK everything we know; however, we tell them the information is preliminary and an investigation is continuing. Withholding information, even if preliminary may be perceived as a coverup.

43 d. Pg. 41, line 24. Generally, the Army will only use the term, "suicide", in CID reports.

43 e. Pg. 42, line 6. A DD 1300 is annotated with preliminary cause and circumstances of death provided by CID. Army can use "determination pending" waiting for coroner report/autopsy, which takes approximately 90 days to obtain results. During this timeframe, SGLI and other benefits will not be paid to beneficiary. From our experience NOK would rather have SGLI and other benefits paid vs waiting for final determination of cause/manner of death. A final DD 1300 is published, if CID investigation determines circumstances and cause differ from initial report.

47 f. Pg. 45, last line. Notification officers have to use preliminary information in order to initially satisfy NOK's desires to know manner of death. NOK are told that information is preliminary and that investigation is initiated and that NOK will be kept informed.

4. Mortuary Affairs assessed the draft report's implications on disposition of remains, memorial affairs, and line of duty investigations.

25 a. Pg. 26. Recommend (2) phrase be changed to read "single car accidents for which there is no apparent cause". Rationale: Even if there are survivors, if the evidence is clear that the soldier was not at fault, e.g., slid off the road during a snow storm and there is no alcohol involvement, a psychological autopsy would not be conducted. Use of car and motor vehicle is redundant.

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b. Pg. 31. The second paragraph under background is incorrect. The word 'formal' should be deleted. Except for some instances involving reserve component soldiers who are serving on active duty tours of 30 days or less or in an inactive duty training status, neither a formal nor an informal LODI is required when deaths result from disease, enemy or terrorist action or accident aboard public transportation. Formal LODI are required for the following circumstances: (a) injury, disease, or death occurring under strange or doubtful circumstances or apparent misconduct or willful negligence; (b) injury or death involving the use of alcohol or drugs; (c) self-inflicted injuries or suicides; (d) injury or death while AWOL; (e) injury or death while en route to final acceptance into the Army; (f) certain circumstances unique to USAR/ARNG soldiers, and (g) when directed (by higher level command). 31

c. Pg. 32. Line of Duty Investigations

(a) Delete the reference to Serviceman's Group Life Insurance in the first paragraph. Payment of SGLI is not dependant on a LODI determination. 32

(b) The last sentence of the third paragraph is incorrect. The Army does not make a finding for any LODI conducted into the circumstances surrounding the death of a soldier. 32

d. Pg. 33. The last sentence in the first paragraph applies to the Air Force only. 32

e. Pg. 33. Other Issues. The last sentence in the first paragraph needs clarification. While it is acknowledged that LODI Investigating Officers (IO) are not always appointed in a timely manner, it should be noted that the delays may have been the result of an Army Criminal Investigation Division (CID) request that other investigators not question witnesses or those who may have been in contact with the soldier prior to the incident which resulted in death until the criminal investigation is completed. In some instances when IOs are appointed in a timely manner, CID has requested that they not proceed with the LODI until the criminal investigation is completed. 33

f. Pg. 34. Recommendation to the Secretary of Defense: As

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deleted

written, this applies to the Air Force only. The Army does not make a finding on LODIs pertaining to dead soldiers. The Army regulation allows 75 days from the date of death for completion of a formal LODI. If the intent of the proposed legislative change is strictly to allow family members to receive housing benefits, then requiring completion of a LODI before a decision on benefits is made would be impracticable for the Army and could impose an undue hardship on the families who are already stressed because of the death of the soldier. From a LODI perspective, if the intent of the proposed legislation is to provide housing benefits no matter how a soldier dies, this would be acceptable. However, the Comptroller of the Army must assess the financial impact before such a decision is made.

g. Pg. 34. Recommendations to the military departments:

deleted

(a) Paragraph 3. The current Army regulation on LODI as well as AR 600-8-4, Line of Duty Investigations, which should be published in 1996, not only authorize but encourage IOs to seek legal advice at all stages of the investigation. All formal LODI must have a legal review before the investigation is approved by the final approving authority.

34-5

(b) Paragraph 4. It is desirable that the IO should not be appointed based on availability. However, in the interest of timely completion of LODI, military exigencies may require that any available officer who is senior to the subject of the investigation be appointed. For example, if the unit is preparing to deploy for contingency operations or a long term (more than 2 weeks duration) training exercise, in order to preclude delays in completing the investigation, it is often more prudent to appoint an officer assigned to the rear detachment, or an officer with a physical profile that prevents him/her from deploying, to be the IO.

h. Pg. 35. Recommendations to the military departments (cont):

36-7

(a) The U.S. Army Medical Command has recently developed a self-paced text on Line of Duty Investigations for medical personnel who are required to initiate LODI when soldiers are treated in military medical treatment facilities. In addition to general instruction on LODI in the officer basic, advanced, and

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continuing education courses, the Army Judge Advocate General School now includes a practical exercise on LODI in the officer basic course. Information on LODI topics has been provided to the Army Command and General Staff College for inclusion in appropriate courses.

(b) AR 600-8-4, scheduled for publication in 1996, contains extensive guidance for IOs assigned to conduct LODI. 37

i. Disposition of Personal Effects (PE) comments:

(a) The following comments refer to the draft report. References are to the specific page in the draft:

(b) Pg. 34 (42) The last sentence of the second paragraph is incorrect. Neither Title 10, Section 4712 nor the Army regulation authorizes shipment of personal property of a decedent to the primary next of kin (PNOK). Rather, shipment is made to the person eligible to receive the effects (PERE), who may or may not be a family member. The PERE order of precedence is established by 10 USC 4712 and implemented by AR 600-8-1. In accordance with the statute, the decedent's minor child has precedence over the decedent's parent's to receive the effects. Therefore, if the decedent's mother has concerns about the cause of death, sending blood stained clothes to the child does not ensure that the decedent's mother would be given an opportunity to review the items before they are disposed of by the child's guardian. 44

(c) Pg. 43, second paragraph under Destruction of Personal Property. We nonconcur with this paragraph. Material authorized for destruction includes but is not limited to pornographic literature and pictures, correspondence and related evidence of an intimate personal relationship between the decedent and a person other than the spouse, items that are prohibited by the JFTR/JTR, and/or items that may damage other items in the course of shipment. It is not practical for the summary court to hold items scheduled for destruction for an indefinite period awaiting a decision from the PERE. Additionally, the PERE may resent having evidance of the decedent's behavior forced upon them. The rules for destruction of effects is the same regardless of the cause of death. Accordingly, the recommendation is based on a minute subsection 44-5

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of all deaths. Experience at this office indicates that PE issues are generally based on who is authorized to receive the PE and locating valuable items that a family member contends the decedent owned.

47-8 (d) Pg. 46: Nonconcur with the recommendation to offer family members an opportunity to review an inventory of those items scheduled to be destroyed and select items to be sent. This recommendation assumes that the PNOK is the PERE and that the PNOK is the person who has doubts about the cause of death.

5. Freedom of Information Act/Privacy Act issues, page 46:

47-8 a. When the Army's Casualty and Memorial Affairs Operations Center (CMAOC) responds to requests from family members for copies of Line of Duty Investigations, if the LODI indicates that a Criminal Investigation Division has conducted an investigation, the CMAOC forwards a copy of the request directly to the U.S. Army Crime Records Center (CRC) and advises the writer of the referral and that CRC will respond directly to the request. The CMAOC does not direct the requestor to another Army agency.

45 b. If the family member requests a copy of the autopsy report along with the request for the LODI, the CMAOC forwards a copy of the request directly to the Office of The Surgeon General (OTSG) which is the release authority for autopsy reports. The CMAOC advises the writer of the referral and that OTSG will respond directly to the request.

45 c. If the family member has not requested a copy of the autopsy report along with the request for the LODI, the CMAOC advises the requestor that an autopsy was performed and if they wish to receive a copy of the autopsy report, a separate request should be made to the OTSG. The mailing address for the OTSG is provided to the requestor. Our experience has shown that autopsy reports may contain very explicit photographs or written details of the autopsy process which may prove to be very stressful to family members. While some families may want to know the details of how their loved one died, they may not be receptive to viewing photographs or reading the explicit details contained in the autopsy protocol.

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d. The CMAOC has revised the letter which is used to forward LODI to family members to explain why some items (e.g., Social Security Account Numbers, badge numbers of investigators, home addresses and telephone numbers of witnesses) are redacted from the report. 48

6. POCs are as follows: Casualty Ops, LTC Abe, DSN 325-9201, Commercial (703) 325-9201, FAX DSN 221-6819/(703) 325-6819; for LODI issues is Peggy McGee, DSN 221-5302, Commercial (703) 325-5302, FAX DSN 221-5315/(703) 325-5315; for Disposition of Personal Effects, Harry Campbell, DSN 221-7576, commercial (703) 325-7576 FAX DSN 221-1844/(703) 325-1844; for redacting issues for CMAOC only, Tom Ellis, DSN 221-5304, Commercial (703) 325-5304, FAX DSN 221-5315/(703) 325-5315.

M. T. SPINELLO
COL, GS
Director, Casualty and
Memorial Affairs

7

Final Report Reference

Department of the Navy Comments

GENERAL COUNSEL OF THE NAVY
WASHINGTON, D.C. 20350-1000

January 3, 1996

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL

SUBJECT: Draft Report on the Oversight Review of Department of Defense Policies and Procedures for Death Investigations; Proposed Department of Defense Instruction 5505.XX, "Investigation of Noncombat Deaths of Active Duty Members of the Armed Forces" - INFORMATION MEMORANDUM

The Department of the Navy generally agrees with the draft report as it pertains to investigative methods and procedures. NCIS is in compliance with current and proposed policy.

We suggest rewording paragraph F (procedures), subparagraph 3.c, of the proposed instruction to read: "The MCIO will attempt to obtain and provide to the appropriate military authorities all available information deemed proper for release by the lead investigative agency." The current wording requires the MCIO to provide copies of incident reports from the state or local police agency to military authorities, which may be in violation of state laws regarding release of information.

Specific comments and recommendations are submitted for consideration in Attachment (1).

Steven S. Honigman

Attachment:
1. NCIS memorandum to Navy General Counsel, 06 December 1995, same subject.

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DEPARTMENT OF THE NAVY
HEADQUARTERS
NAVAL CRIMINAL INVESTIGATIVE SERVICE
WASHINGTON NAVY YARD BLDG 111
901 M STREET S E
WASHINGTON DC 20388-5380

IN REPLY REFER TO:
12273
Ser 06/5U0661
06 Dec 95

MEMORANDUM FOR THE NAVY GENERAL COUNSEL

Subj: DRAFT REPORT ON THE OVERSIGHT REVIEW OF DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES FOR DEATH INVESTIGATIONS; PROPOSED DEPARTMENT OF DEFENSE INSTRUCTION 5505.XX, "INVESTIGATION OF NONCOMBAT DEATHS OF ACTIVE DUTY MEMBERS OF THE ARMED FORCES".

1. A review of the draft report as it pertains to investigative methods and procedures discloses no major area of disagreement. NCIS is in compliance with current and proposed policy. Specifically, NCIS is developing a crime scene check list for death cases as part of the revision of the NCIS-3 Manual for Investigations. In addition, NCIS has completed the development of a Crime Scene Field Guide for use by field agents which includes Death Scene Processing. The guide will be ready for agency review, coordination and approval the first week of December 1995 and should be ready for field use by early 1996. NCIS implemented a family liaison program in October 1994. 21

2. In regards to recommendations relative to Psychological Autopsies, NCIS conducts psychological autopsies in conjunction with routine case reviews of medically unattended deaths with forensic pathologists at the Armed Forces Institute of Pathology. A psychological autopsy is conducted following a multi-disciplinary case review where it is determined that a psychological autopsy will provide additional insight for the forensic pathologist who is making the final determination of cause and manner of death. NCIS' use of the psychological autopsy is for forensic purposes in clarifying factors that may have contributed to the manner of death. Policy and guidance regarding psychological autopsies is promulgated in the NCIS manual of Investigative Procedures supplemented by additional outlines provided to investigators. Additionally, NCIS policy and procedure have been published in forensic and policy psychology literature as well as presented at several professional psychology conferences, insuring professional peer review and quality assurance. 29

3. Psychological Autopsy reports generated by NCIS psychologists contain both definition of purpose and methodology, as well as a disclaimer regarding the validity and reliability of the technique as recommended by the American Psychological Association following it's review of the USS Iowa case (Poythress et.al 1993). Although it may not replicate in style the disclaimer utilized by the Air Force the content of the message is the same. NCIS has participated as an active member on the DOD Task Force developing guidance for psychological autopsies coordinated by the Assistant Secretary of Defense for Health 29

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Affairs.

29 4. Finally, it is important to re-emphasize that the psychological autopsies conducted by NCIS are selective and forensic in focus, evaluating factors that clarify and assist in the determination of the manner of death in the medically unattended deaths under investigation. NCIS does not have an interest in epidemiological factors regarding suicide however, openly make the findings of a psychological autopsy available to mental health professionals in the United States Navy. NCIS policy and procedures reflect forensic psychological practices and do not represent the United States Navy.

5. In a review of the proposed instruction, there is one area of concern. In paragraph F (procedures), subparagraph 3.c, the instruction would require the MCIO to provide appropriate military authorities a copy of the report from the state or local police investigation concerning the apparent suicide of a service member. The blanket providing of another law enforcement agency's reports may be in violation of state laws regarding release of information and has caused concern in the past. Current NCIS policy states that reports from another agency outside the Federal government will not be included in reports to commands or to family members unless the originating agency agrees to the release. Where the other agency has not agreed to the release, NCIS honors that position. Suggested rewording of the sentence would be as follows: "The MCIO will attempt to obtain and provide to the appropriate military authorities all available information deemed proper for release by the lead investigative agency."

6. Concur in all other points detailed in the proposed instruction.

THOMAS W. FISCHER
Assistant Director
Office of Inspections and Planning

Final Report Reference

DEPARTMENT OF THE NAVY
DEPUTY NAVAL INSPECTOR GENERAL FOR MARINE CORPS MATTERS/
INSPECTOR GENERAL OF THE MARINE CORPS
WASHINGTON, D.C. 20380-1775

5370
IGA
22 Dec 1995

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE
(ATTN: MR MONTGOMERY, CRIMINAL INVESTIGATIVE POLICY AND OVERSIGHT)

Subj: REVIEW OF DRAFT REPORT ON POLICIES AND PROCEDURES FOR DEATH INVESTIGATIONS

Ref: (a) Yr memo of 6 Nov 95

1. As requested by the reference, the Marine Corps has reviewed the subject Draft Report on the Oversight Review of Department of Defense Policies and Procedures for Death Investigations, and the proposed DOD Instruction "Investigation of Noncombat Deaths of Active Duty Members of the Armed Forces". Our comments follow.

2. On page 2, line 5, after "Air Force Office of Special Investigations (AFOSI)":

a. Add: "Although not designated a Military Criminal Investigative Organization, U.S. Marine Corps Criminal Investigative Division (USMCCID) has the same responsibilities as the MCIOs when performing in a combat or contingency environment." — 2, fn 2

b. Discussion: Required for completeness. This responsibility is established in directive (SECNAVINST) and MOU (with NCIS).

3. On page 22, after line 4:

a. Add the following new subparagraph:

"4. USMCCID Training

New USMCCID investigators are thoroughly screened and perform as apprentice investigators for six months to one year prior to attending formal school. Subsequent to positive evaluation, the investigators then attend the U.S. Army Military Police School Apprentice Special Agent Course. They train alongside their Army counterparts and meet the same standards as the Army Special Agents. Additionally, there are 30 Marine Criminal Investigators assigned to the Naval Criminal Investigative Service (NCIS) performing the same mission as the NCIS Special Agents. Presently, USMCCID does not have advanced death investigation training." — E-1

b. Discussion: Required for completeness. This training is imperative in order to allow Marine CID to fulfill its combat and contingency mission.

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4. On page 31, second line from bottom of page:

31 a. Delete: "... as the Navy has no formal LOD investigation process" and replace with " .. as the JAGMAN provides that LOD and misconduct determinations will not be made with regard to a deceased member."

b. Discussion: Required for accuracy. JAGMAN section 0237 states that JAGMAN investigations "shall not express any opinion concerning line of duty death cases. Misconduct ... shall not be attributed to a deceased member."

5. On page 31, last line, continuing at top of page 32:

31 a. Delete: "... a JAGMAN is no longer required in all cases of death from other than combat or natural causes; only a preliminary inquiry is now required." and replace with: "... a command investigation, or a litigation report to Navy JAG may be directed; but where the death occurred off-base, and with circumstances having no nexus to service, the command shall obtain the civilian authorities' investigation and maintain as an internal report."

b. Discussion: Required for accuracy. As written, the draft report incorrectly synopsizes and summarizes the provisions of the JAGMAN, particularly paragraph 02035d.

6. On page 38, last line:

40 a. Delete: "... both work and home addresses ..." and replace with "... home address ..."

b. Discussion: Required for accuracy. There is not now nor has there been a requirement to record next of kin work addresses on the DD Form 93. In addition, the problem of service members keeping home addresses current is enough, without adding a new requirement.

7. On page 39, under **Burial Escorts**, last sentence of first paragraph:

41 a. Change to read: "In the Navy and Marine Corps, the commander who appoints the escorts is responsible for providing the necessary guidance as contained in appropriate Service Headquarters instructions."

b. Discussion: Required for completeness and accuracy.

8. On page 50, under **Recommendations to the Assistant Secretary of Defense (Public Affairs)**, last sentence of paragraph 1c:

49 a. Change to read: "The family should be notified prior to any public release of any names."

b. Discussion: An initial public announcement, less names, should not be held pending notification of the family.

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9. Concerning the recommendations in Part II, Sections A (Criminal Investigations) and B (Psychological Autopsies), the Marine Corps defers to the Department of the Navy.

10. Concerning the recommendations in Part II, Section C (Administrative Investigations),

a. Recommendation 2: Concur.

b. Recommendation 3: Concur.

c. Recommendation 5a: Concur.

d. Recommendation 5b: Concur.

11. Concerning the recommendations in Part II, Section D (Casualty Notification and Assistance, and Disposition of Personal Property), the Marine Corps offers the following.

a. Recommendation 3: Concur. MCO P3040.4D, the updated Marine Corps Casualty Procedures Manual, is in final staffing. Expected promulgation is early 1996.

b. Recommendation 4a: Concur. However, the Casualty Assistance Officer (CACO) will tell the next of kin, during the initial visit, how their Marine was found, eg, hanging from a pipe, with a gunshot wound to the head, etc. The CACO will state known facts and will not offer speculation or opinion. This direction will be contained in MCO P3040.4D (see above).

c. Recommendation 4b: Concur. Information contained in the revised edition of MCO P3040.4D.

d. Recommendation 4c: Partially concur. Our current regulations are being modified to provide less latitude in what commanders are authorized to dispose of. Items previously disposed of, i.e., blood stained clothing that could be dry-cleaned or laundered, cassette tapes and CD's with Parental Warning Labels etc., will no longer be destroyed, but forwarded to the proper recipient. Obscene or similar matter, including personal letters containing objectionable matter, i.e., sexually explicit information, posters, magazines, pornographic movies etc., will continue to be disposed of. Besides various laws prohibiting the mailing or shipping of pornographic materials, no useful purpose, sentimental or otherwise, can be realized by the next of kin receiving personal information or items that the member never intended for anyone to have knowledge of. The deceased members dignity and privacy rights outweigh the families desires for all personal property items. We believe this type of information will only cause the family additional grief. An example would be if the member was having an illicit relationship, and the personal letters were between him/her and their respective lovers or partners. 48

The recommendation should be presented to the OASD, FM&P as an agenda item for the next meeting of the DoD Casualty Advisory Board. This will ensure that all services are treating this issue the same.

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e. Recommendation 4d: Concur.

12. Concerning the proposed Department of Defense Instruction 5505.XX: Concur.

13. Point of contact is LtCol Laura Brush, Deputy Director, Assistance and Investigations Division, Office of the Inspector General of the Marine Corps at commercial (703) 614-1698/1348 or DSN 224-1698/1348.

J. R. WILLIAMS
Acting

Department of the Air Force Comments

Final Report Reference

DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Secretary

NOV 24 1995

MEMORANDUM FOR INSPECTOR GENERAL DEPARTMENT OF DEFENSE
(CRIMINAL INVESTIGATIVE POLICY and OVERSIGHT)
ATTN: Mr. Jack Montgomery

FROM: SAF/AA

SUBJECT: Draft Report on the Oversight Review of Department of Defense Policies and procedures for Death Investigations; Proposed Department of Defense Instruction 5505.XX, "Investigation of Noncombat Deaths of Active Duty Members of the Armed Forces"

References: (a) DoD Draft Report, 6 Nov 95

(b) Proposed Department of Defense Instruction 5505.XX

At your request the draft Department of Defense Policies and Procedures for Death Investigations Report and draft DoD Instruction 5505.XX Investigation of Noncombat Deaths of Active Duty Members of the Armed Forces have been reviewed.

The attached review of the draft report and instruction contains several administrative, and technical accuracy changes. Also indicated is our nonconcurrence with your recommendation to provided a listing of all personal property items to the family of the deceased and your comments that all noncombat deaths be investigated as potential homicides.

Cited in our response are the paragraphs we propose changing and the rational for the changes. Please contact Major Octavio Baez, Jr., SAF/IGX, 695-3727, if you have any questions.

WILLIAM A. DAVIDSON
Administrative Assistant

Attachments:
1. Recommended Changes to DoD Report and Instruction w/attachment
2. SD Form 106

Department of the Air Force Comments

Final Report Reference

This responds to your request for review of the subject draft report and related draft DoD Instruction 5505.XX, Investigation of Noncombat Deaths of Active Duty Members of the Armed Forces. This office generally concurs in both documents subject to the following specific comments

DRAFT REPORT

	PAGE	LINE	RECOMMENDED CHANGE
1	1	4	**Change** "families" to read "family members"
22	7	3 & 4	**Delete** "For instance, the AFOSI should implement a comprehensive Family Liaison Program" see comments below
	COMMENTS: The AFOSI codified its Family Liaison Program in its Policy Memorandum "Death Investigations dated 26 July 1995 (Attached).		
10	11	14	**Change** "Central Intelligence agency" to read "Central Intelligence Agency"
11	12	21	**Change** "check list" to read "checklist"
14	16	20 & 21	**Change** "chain of custody" to read "chain-of-custody"
15	17	10 & 11	**Change** "(3) the investigators collect writing samples and other such standards of comparison for laboratory authorities to be in a position to make decisions on authenticity." to read "(3) the investigators collect writing samples and other standards for comparison to assist laboratory authorities in determining authenticity."
22	18	3 - 6	**Change** "Similarly, the AFOSI is currently drafting policy to establish a point of contact program for the families. As envisioned, however, the AFOSI program will only apply to suspected self-inflicted death investigations and will last only until the investigation is completed" to read "The AFOSI has in place a comprehensive family interface policy for all death investigations. The AFOSI representative is personally selected by the detachment commander with investigative responsibility for the case on the basis of experience, sensitivity and maturity. This agent representative will remain as the family's point of contact until all investigative concerns have been resolved. Training programs are being developed to further support this policy.
18	20	25	**Change** "UCMJ Manual for Courts Martial," to read "Manual for Courts-Martial,"
22	24	4 - 6	**Change** "Similarly, we believe that the NCIS and the AFOSI would benefit from a Family Liaison Program similar to the one USACIDC has had in place for a number of years. While both agencies are implementing....."to read "Similarly, we believe that the NCIS would benefit from a Family Liaison Program similar to the one USACIDC has had in place for a number of years. While the NCIS is implementing ....."
25	26	30 - 32	**Change** "Although the Air Force has formal written guidance for how AFOSI agents request psychological autopsies, the guidance dose not address circumstances that require a psychological autopsy or how one should be conducted." to read "The Air Force has written guidance covering the use of psychological autopsies in two instances: 1) When the manner of death is known to be suicide, but the reason for the suicide is not clear; 2) The circumstances of the death appear equivocal

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		and a psychological examination would assist determining the manner of death (homicide, suicide or accident). How the psychological autopsy is conducted is left up to the discretion of the experienced, credentialed psychologist in the AFOSI."	
28	29	Insert after last sentence "Quality assurance reviews must be done by similarly credentialed professionals experienced in conducting psychological autopsies"	29
37	17 - 20	Change "The Air Force assigns specific case responsibility to the Air Force base nearest the place of death, and casualty assistance services are performed by trained personnel specialists as part of their regular duties. Another Air Force military representative is assigned to make the initial casualty notification." to read " The Air Force assigns specific case responsibility to the Air Force installation nearest the place of death, and casualty assistance to the Air Force base nearest the primary next of kin. Casualty assistance services are performed by trained personnel specialist as part of their regular duties."	39
39	15 - 16	Delete "The deceased Service member's commander generally selects active duty members from within the command for escort duty" The sentence is not correct as it pertains to the Air Force. To correct for the Air Force Change to "The first option is to offer the family a "special escort" who can be anyone, military or civilian, that the next of kin selects. The second option is for the Installation Mortuary Officer to select an escort from Air Force military personnel on active duty assigned to the activity arranging for shipment of the remains."	41
39	25 -27	Change "The escort is supposed to refer the next of kin to the casualty assistance representative for assistance in these matters " to read "the escort is supposed to refer the next of kin to the casualty assistance representative or Mortuary Officer, as appropriate." The sentence is not accurate as written.	41
43	20 - 25	Recommend deletion of the fourth paragraph in its entirety.	44
43	27 - 34	Add "the AFOSI has general guidance for the retention and subsequent release/disposal of personal property initially held as evidence for use during an investigation, IAW AFOSI Instruction 71-106 Vol 1, 31 May 95. In addition, based on a 26 Jun 95 Policy Memorandum (95-6-5), "Death Investigations", AFOSI has specific policy on retention of records and physical evidence as it relates to Section 1185 of the National Defense Authorization Act (Public Law 103-160).	45
45	26	Incomplete Change para is incomplete	
46	4 - 10	Delete paragraph 4c in its entirety. See comments below	48

COMMENTS: Summary court officers must exercise broad discretion in identifying items in the deceased's personal effects which are inappropriate for shipment to surviving family members or next of kin. For example, if the decedent is married and the summary court officer finds photographs or letters identifying a local national girlfriend or other evidence of marital infidelity, the responsible officer should not forward such items to the family nor should he list them on a property inventory sent to the family. Much more is at issue here than the blood stained garments worn by the servicemember at the time of death. Listing this information on an inventory will only heighten the family's curiosity and inevitably result in unnecessary emotional pain and suffering. It is impossible

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to predict what may be found when going through a deceased member's personal property. We must trust in the good judgment and common sense of the responsible officer to determine what is inappropriate for shipment to the family without imposing the additional administrative burden of preparing an inventory and then awaiting a response. We propose a compromise change by which all items of questionable value be inventoried and retained for 90 days. If, after 90 days no next of kin inquiry has been received, the items will then be destroyed and the list will be annotated in the deceased's case file. The existence of pornography, sexually explicit material or compromising correspondence certainly does the next of kin no good at a time of profound grief and sorrow.

COMMENTS: **Page 46, subpara b, states that:** casualty assistance offices, burial escorts and any other representative not discuss cause or manner of death with a family member. Suggest they also be cautioned against making such statements as, "I have been ordered not to talk to you about this death." This sort of comment can, and in the past has, been misinterpreted by family members as "proof' of a cover-up by the military

* footnote C-1	C - 3 15 - 18	**Change** "Air Force Regulation (AFR) 23-18, Organization and Mission--Field, Air Force Office of Special Investigations (AFOSI), May 1, 1989" to read "Air Force Mission Directive (AFMD) 39, "Air Force Office of Special Investigations", November 1 1995."
	C - 3 24 - 27	**Change** "AFOSI Regulation (AFOSI) 124-14, Evidence Handling Procedures, July 29, 1991. Set forth policy for ensuring the integrity of evidence in Air Force custody. Has guidance for ensuring that all evidence collected is positively identifiable, strictly accounted for, and properly safeguarded." to read "AFOSI Instruction 71-106 Vol 1, "General Investigative Methods", May 31 1995. Basic guidance for conducting interviews and interrogations, advising suspects of their rights, granting immunity, and conducting witness interviews. Describes procedures for including information during interviews in written statements. Set forth policy for ensuring the integrity of evidence in Air Force custody. Has guidance for ensuring that all evidence collected is positively identifiable, strictly accounted for, and properly safeguarded. Sets forth legal requirements, policy and guidance for obtaining evidence through the use of search and seizure."
	C - 4 25 - 28	**Delete** this regulation was superseded, the information that was contained in the regulation is now contained in AFOSI Instruction 71-106 Vol 1 "General Investigative Methods", May 31 1995
	C - 4 29 - 31	**Delete** this regulation was superseded, the information that was contained in the regulation is now contained in AFOSI Instruction 71-106 Vol 1 "General Investigative Methods", May 31 1995
	C - 5 4 - 8	**Change** "AFOSI Pamphlet (AFOSIP) 124-53, "Witness Interviews", September 15, 1988. A guide for collecting, recording and preserving shoe and tires impressions, tool marks and residue prints. Describes how to make casts and molds with different mediums. Includes guidance on packaging evidence, casts and molds, and the types of examinations that can be performed by crime laboratories." to read "AFOSI Handbook 71-106 Vol 1, "Crime Scene Handbook", April 15 1995. A guide for collecting, recording and preserving shoe and tires impressions, tool marks and residue prints. Describes how to make casts and molds with different mediums. Includes guidance on

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		packaging evidence, casts and molds, and the types of examinations that can be performed by crime laboratories, processing and sketching a crime scene, performing initial crime scene search, and photographing evidence."	
C - 5	9 - 11	Delete this regulation was superseded, the information that was contained in the regulation is now contained in AFOSI Handbook 71-106 Vol 1, "Crime Scene Handbook", April 15 1995.	
C - 5		Add "AFOSI Manual 71-103 Vol 2, "Forensic Sciences", 23 October 1995. Guidance for field agents and forensic science consultants regarding general forensic science services, forensic hypnosis and psychological autopsies.	
E-17	10 - 13	Change "21 hours on Interviewing and verbal and Nonverbal Behavior, and Behavioral Analysis Interviews. Students are taught the techniques used to observe and evaluate verbal and nonverbal behavior. They must learn to question witnesses and to evaluate behavior responses indicative of truth or deception" to read " 44 hours on Interviewing and Verbal/Nonverbal Behavior, and Behavioral Analysis Interviews including practical exercises and performance test. Students are taught the techniques used to observe and evaluate verbal and nonverbal behavior. They must learn to question witnesses and to evaluate behavior responses indicative of truth or deception."	E-15
E - 17	17	Change "23 to read 22	
E - 17	17 - 19	Change "This instruction includes 20 hours of lecture and a 3 hour evidence documenting exercise." to read "Instruction includes documentation exercise and performance test."	E-15 E-15
E - 17	28	Change "1 hour" to read "2 hours"	E-16
E - 18	1	Change "6" to read "8"	E-16
E - 19	12	Change "senior officers" to read "senior agents"	E-17

PROPOSED INSTRUCTION

PAGE	LINE	RECOMMENDED CHANGE
2	24	Change "Armed Force Institute of Technology (AFIP)" to read "Armed Force Institute of Pathology (AFIP)"

COMMENTS: Page 2, para D.1,. Nonconcur the wording of this paragraph may present some future problems because it can be so broadly interpreted. For example, should the MCIOs get involved in deaths resulting from aircraft, ground safety or traffic mishaps unless there is evidence of possible foul play? Stating that all "noncombat" deaths (except medically determined to be from natural causes) should be investigated as a potential homicide is unrealistic. Unless indications of foul play are developed at the scene or during the subsequent inquiry of an *apparent* accidental death, (i.e. ground safety , security police, etc.) then why always presume homicide? We are unclear on the intent of this instruction. Are the MCIOs the only agencies authorized to rule out foul play? This paragraph needs to be clarified.

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Under Secretary of Defense (Personnel and Readiness) Comments

UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

PERSONNEL AND READINESS

JAN 24 1996

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE
ATTENTION: MR. JACK MONTGOMERY

SUBJECT: Draft Report on the Oversight Review of Department of Defense Policies and Procedures for Death Investigations; Proposed Department of Defense Instruction 5505.XX, "Investigation of Noncombat Deaths of Active Duty Members of the Armed Forces"

I concur in the draft report and proposed Department of Defense Instruction 5505.XX as indicated by my signature on the attached SD Form 106.

The revised DoD Instruction 1300.18 will incorporate your recommendations for improved casualty notification and assistance processes and will be issued in 1996. ASD(HA) has a draft directive on psychological autopsies addressing your concerns and should be issued in early 1996.

34

35-6

I believe that the report is well-done. These are my main concerns: (1) We must be careful not to limit a commander's authority to direct administrative investigations in cases of self-inflicted deaths. Certainly, however, we can encourage, through appropriate policy guidance, that such investigations be accomplished in a professional and timely manner. (2) Without a more comprehensive review of how "line of duty" determinations relate to a variety of entitlements and benefits, it may be premature to recommend amendment relating only to 37 U.S.C. 403 to delete the "line of duty" requirement for extended housing benefits. I believe that you should recast your recommendation--not that the Secretary of Defense consider a legislative amendment of section 403--but that my office undertake a review of administrative investigations among the Military Departments to ensure more consistent application of section 403. (The report indicated that only the Air Force, among the Services, conducts a formal line of duty determination before authorizing extended housing benefits.) (3) Finally, I strongly endorse your recommendation for criminal investigative offices to have an effective family liaison program.

22

Edwin Dorn

Attachment:
As stated

Assistant Secretary of Defense (Health Affairs) Comments

Final Report Reference

THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D. C. 20301-1200

HEALTH AFFAIRS

DEC 15 1995

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Department of Defense Policies and Procedures for Death Investigations

Reference: Memorandum dated November 6, 1995: Draft Report on the Oversight Review of Department of Defense Policies and Procedures for Death Investigations

As requested in the reference, my staff reviewed the draft report on the "Oversight Review of Department of Defense Policies and Procedures for Death Investigations" and the proposed Department of Defense Instruction 5505.XX, "Investigation of Noncombat Deaths of Active Duty Members of the Armed Forces."

We have worked closely with your office over the past year on this topic, specifically on the issue of Psychological Autopsies of which my office has primary responsibility. I concur with the recommendations to the ASD(HA): expedite the issuance of an overall DoD policy for conducting and using the results of psychological autopsies. 28

Health Affairs convened a special working group on the topic of Psychological Autopsy (PA) on May 2, 1995. Membership consisted of representatives from each Service, and from the Armed Forces Institute of Pathology, who were directly responsible for performing and reviewing psychological autopsies. The group drafted a DoD Directive on Psychological Autopsy that will be forwarded for comments to the Services this month. The Directive specifically addresses: 1) when a PA is to be performed; 2) who performs it (including qualifications standards); 3) how the results should be used; 4) the establishment of a quality assurance review process; and 5) appropriate management oversight to ensure implementation of policy.

I agree that "the DoD needs an overall policy for conducting and using psychological autopsies. Without an overall policy, there is a greater risk of presenting inadequate or inappropriate information or conclusions." The new Psychological Autopsy directive will help avoid errors in determining cause of death.

Edward D. Martin /for

Stephen C. Joseph, M.D., M.P.H.

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Assistant Secretary of Defense (Public Affairs) Comments

ASSISTANT TO THE SECRETARY OF DEFENSE
1400 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1400

PUBLIC AFFAIRS

14 DEC 1995

MEMORANDUM FOR INSPECTOR GENERAL
(ATTENTION MS. HILL)

SUBJECT: Draft Report on the Oversight Review of Department of Defense Policies and Procedures for Death Investigations; Proposed Department of Defense Instruction 5505.xx, "Investigation of Noncombat Deaths of Active Duty Members of the Armed Forces"

Thank you for the opportunity to review subject draft documents. The following comments are provided:

deleted Privacy Act

General. We noted that the Privacy Act is mentioned in several places in the draft report. Because deceased individuals have no privacy rights, and the Privacy Act applies only to living individuals, reference to the Privacy Act is inappropriate. Consequently, any request for information on a deceased individual, whether from the media or family members, is a Freedom of Information Act (FOIA) request. Under FOIA, deceased individuals likewise have no privacy; however, exemption 6 of the FOIA will protect the surviving next of kin's privacy with respect to any grief or anguish which could occur as a result of a disclosure of information about the deceased.

Specific.

38 – Page 36: It is not clear whether the "reports" mentioned here are required to be given to the families or are the result of a FOIA request. We noted in the proposed instruction the requirement to provide the families (if they desire) a copy of the investigative report in accordance with the Defense Authorization Act of 1993. The Military Departments have been doing this and have been redacting under the provisions of the FOIA, even though not a FOIA request.

If copies of the report are required to be given, and not the result of a FOIA request, we agree with the comment because often, for actions outside the FOIA, FOIA standards are used in reviewing the information for public release, as they should be. But, the releasers often fail to explain the reasons for the redaction. Our own IG does it on its Audit Reports it sanitizes and gives to our public affairs office for release. If this has changed, the IG provides no explanation for the gaps.

If the release is the result of a FOIA request, then we disagree since DoD 5400.7-R already requires it.

49 – Page 45: We do not agree that a new publication is necessary. Even if it were, the ATSD(PA) could not require Casualty Assistance Officers to use it in their duties. Existing policy under DoD 5400.7-R, paragraph 5-204, already requires a FOIA exemption and that adequate explanation for its use be provided to requesters. If the Military Departments are not doing this,

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the IG should require the Departments to comply with the DoD regulation. If reports are given to families because of reasons or requirements other than the FOIA, the Military Departments should ensure that explanation is given for any redactions made. Since the FOIA is the primary statute by which information is denied to the public in this instance, it is logical for reviews to be made under the provisions of that Act, and appropriate reasons for redactions provided as required by the DoD regulation.

-- Tab A, Proposed Instruction: Delete all references to the Privacy Act.

-- Tab A, Page 2 of the draft Instruction, paragraph D.5: Delete last sentence "Such release will state that the cause and manner of death is undetermined, unless an official determination has been made."

Clifford H. Bernath
Principal Deputy Assistant
to the Secretary of Defense
for Public Affairs

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Department of Defense General Counsel Comments

DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600

December 13, 1995

MEMORANDUM FOR DIRECTOR, CRIMINAL INVESTIGATIVE POLICY AND OVERSIGHT, OFFICE OF INSPECTOR GENERAL, DOD

SUBJECT: Draft Report on the Oversight Review of Department of Defense Policies and Procedures for Death Investigations

As requested, we have reviewed the draft report and the attached draft DoD Instruction as requested by the Inspector General's memorandum of November 6. Subject to the comments set out below, our initial review has produced no legal objections with either the report or the Instruction.

Part I. Statistics Paragraph 2. Pages 2-3:

2, fn 3

Perhaps these statistics would be more meaningful if they were provided by age groups for both the civilian and military populations. Because the military population is quite young, the statistical comparison with the overall civilian population may not correlate.

Part II. C. Administrative Investigations. Line of duty Investigations. Pages 32-3:

31

Line of duty determinations have far-reaching implications for servicemember's survivors. The Department of Veterans Affairs uses the information gleaned from line of duty investigations to determine the entitlements of surviving family members. While I am not certain what exactly is meant by "formal" line of duty investigations, great care must be taken to ensure that we do not eliminate line of duty investigations. These investigations serve an important role.

Part II. D. Casualty Notification and Assistance. Pages 36-46:

Privacy Act deleted

(1) The report refers to both the Freedom of Information Act and the Privacy Act in the same terms at several places (pp. 36, 44, 45 & 46) in this section. It is important to distinguish the two

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statutes, as they have different effects. The Privacy Act applies only to living individuals (U.S. citizens and aliens lawfully admitted for permanent residence), so reference to the Privacy Act confuses matters when the report discusses individuals who have died. On the other hand, an individual who survives an attempt at suicide would have rights under the Privacy Act to obtain information that might not be available to the individual's family if the suicide attempt had been successful. The report appears to address only cases where the individual has died, so I recommend that the references be changed to address only FOIA.

(2) Another consequence of referring to these two statutes together is assuming that they are administered together. In fact, the FOIA is under the jurisdiction of PA for policy formation, and the Privacy Act policy is formed in the Defense Privacy Office under the Director of Administration and Management. Removing references to the Privacy Act will solve this problem.

(3) One major concern of the agency in these cases is protecting the privacy of the next of kin and the families. Exemption six of the FOIA can be asserted to protect the surviving next of kin's privacy with respect to any grief or anguish which could occur as a result of a disclosure of information about the deceased. Some or all of this same information may be disclosed to the next of kin, but it must be done carefully, or the disclosure may result in making the information public under the FOIA rule that an official disclosure makes the information available to any requester. The report appears to contemplate that all documents provided to the families will be released in response to FOIA requests, which should eliminate this problem. If the casualty affairs representative, in the context of discussing the matter with the families, releases additional documents or information, there should be some way to ensure that the privacy protection for the next of kin is maintained. 48

(4) We nonconcur with recommendation 2 on page 45. A new publication is unnecessary and could cause real problems in FOIA litigation. Informal publications are already available, like pamphlets and information sheets, on the FOIA exemptions, including DoD 5400.7-R. Para 5-204 of this regulation already requires that citation to a FOIA exemption and adequate explanation be provided to requesters when information is denied in response to a FOIA request. The denial of each request should 49

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state the reasons for redactions. If a more detailed explanation is needed to satisfy the family, it should be provided in response to specific questions on the same basis as explanations are provided to other requesters who have questions. If casualty affairs representatives are going to supplement FOIA responses, they should use the same materials that are available to all requesters. Under the FOIA, all requesters must be treated alike. If the military departments or OSD develop special publications, they could be used in litigation to suggest that other requesters are being treated unfairly. On the other hand, the military departments perhaps could provide more information, including the existing materials, to the families through the casualty affairs representatives. This could include information about what to expect when the families file a FOIA request. PA could help with this, but it should not be seen as a FOIA matter.

48 (5) We also have reservations about recommendation 4.d. on page 46. There is no reason why the military departments should not discuss their release procedures to try to make them consistent. However, the differences may result from different organizational structures and functions in the individual Military Departments. The concern for release of information under the FOIA should not force the Departments into changes in functions and operations that are less efficient or less satisfactory for other reasons. Reviewing may be a good idea, but the result may not be uniformity in release procedures.

Except for the matters discussed above, we believe that both the draft report and the draft instruction are very well done. After you receive the comments from other agencies with whom you have coordinated, please forward this action to us for additional review and formal coordination.

Paul S. Korsky
Deputy General Counsel
(Personnel & Health Policy)

cc: DGC(IG)
DGC(LC)

Armed Forces Institute of Pathology Comments

Final Report Reference

DEPARTMENT OF DEFENSE
ARMED FORCES INSTITUTE OF PATHOLOGY
WASHINGTON, DC 20306-6000

REPLY TO ATTENTION OF

AFIP-CME

22 November 1995

MEMORANDUM FOR Mr. Joel L. Leson, Assistant Inspector General for Criminal Investigative Policy and Oversight, Office of the Inspector General, Department of Defense, 400 Army Navy Drive, Arlington, VA 22202-2884

SUBJECT: Review of Draft Report on Oversight Review of Department of Defense Policies and Procedures for Death Investigations and Proposed Department of Defense Instruction 5505.XX.

1. As requested, two members of my staff and I have reviewed the enclosed draft report and proposed Department of Defense Instruction. Both documents are well-written and no substantive changes are recommended for sections pertaining to the Armed Forces Medical Examiner System.

2. The following corrections or comments, by page number and paragraph, are given for your consideration:

- Page 11, paragraph 1: The American Board of Pathology — 9
- Page 18, paragraph 2: The latest version of NCIS-3 contains a checklist for death investigations, including deaths of children. — 21
- Page 24, paragraph 1: NCIS has a manual and checklist, NCIS-3, as well as a Family Liaison Program. — 21
- Page 24, Recommendations 2 and 3: Based upon comments above, modification of recommendations may be indicated. — 21
- Proposed DoD Instruction 5505.XX, paragraph D.3.: Armed Forces Institute of Pathology (AFIP).

3. If there are questions concerning the comments, please contact me at 202-782-2626.

Charles J. Stahl, M.D.
Armed Forces Medical Examiner

Enclosures

Appendix A

PUBLIC LAW 103-160--NOV. 30, 1993

SEC. 1185. INVESTIGATIONS OF DEATHS OF MEMBERS OF THE ARMED FORCES FROM SELF-INFLICTED CAUSES

(a) SECRETARY OF DEFENSE TO REVIEW DEATH INVESTIGATION PROCEDURES. - (1) The Secretary of Defense shall review the procedures of the military departments for investigating deaths of members of the Armed Forces that may have resulted from self-inflicted causes. The Secretary shall complete the review not later than June 30, 1994.

(2) Not later than July 15, 1994, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of such review. The report may include any recommendations for legislation that the Secretary considers appropriate. Reports.

(3) Not later than October 1, 1994, the Secretary shall prescribe regulations governing the investigation of deaths of members of the Armed Forces that may have resulted from self-inflicted causes. The regulations shall include a date by which the Secretaries of the military departments are required to implement the regulations. Regulations

(b) INSPECTOR GENERAL TO REVIEW CERTAIN DEATH INVESTIGATIONS. - (1) Upon a request that meets the requirements of paragraph (3), the Inspector General of the Department of Defense shall review each investigation conducted by a Department of Defense investigative organization of the death of a member of the Armed Forces who, while serving on active duty during the period described in paragraph (2), died from a cause determined to be self-inflicted.

(2) The period referred to in paragraph (1) is the period that-- Effective date.

(A) begins on January 1, 1982; and

(B) ends on the date specified in the regulations prescribed under subsection (a)(3) as the deadline for the implementation of such regulations by the Secretaries of the military departments. Termination date.

(3) Any of the family members of a member of the Armed Forces referred to in paragraph (1) may request a review under paragraph (1). The request must be received by the Secretary of the military department concerned not later than one year after the date referred to in paragraph (2)(B) and shall contain or describe specific evidence of a material deficiency in the previous investigation.

(4) If the Inspector General determines that a previous investigation of a death was deficient in a material respect, the Inspector General shall conduct any additional investigation that the Inspector General considers necessary to determine the cause of that death.

(5) The Inspector General shall submit to the Secretary of the military department concerned a report on the results of each review conducted under paragraph (1) and each additional investigation conducted under paragraph (4) as a result of that review. Reports.

(6) The Secretary of the military department concerned, consistent with other applicable law, shall take such corrective actions with regard to matters contained in the report as the Secretary considers appropriate.

(7) To the same extent that fatality reports may be furnished to family members under section 1072 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2508; 10 U.S.C. 113 note), the Inspector General, after consultation with the Secretary of the military department concerned, shall provide a copy of the Inspector General's report on the review of a death investigation to each of the family members who requested the review.

(c) **DEFINITIONS.** - In this section:

(1) The term "active duty" has the meaning given such term in section 101(d)(1) of title 10, United States Code.

(2) The term "family members" has the meaning given such term in section 1072(c)(2) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 1-2-484; 106 Stat. 2510; 10 U.S.C. 133 note).

(d) **APPLICABILITY TO COAST GUARD** - The Secretary of Transportation shall implement with respect to the Coast Guard the requirements that are imposed by this section on the Secretary of Defense and the Inspector General of the Department of Defense.

APPENDIX B

THE DEPUTY SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301

19 JAN 1994

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
ASSISTANT SECRETARY OF DEFENSE (HEALTH AFFAIRS)
ASSISTANT SECRETARY OF DEFENSE (PERSONNEL AND READINESS)
COMPTROLLER
GENERAL COUNSEL
INSPECTOR GENERAL
ASSISTANT TO THE SECRETARY OF DEFENSE FOR LEGISLATIVE AFFAIRS
DIRECTOR OF ADMINISTRATION AND MANAGEMENT

SUBJECT: Department of Defense Compliance with Section 1185 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160)

Prior to the enactment of the subject law, 40 Members of Congress requested that a Board of Special Inquiry be established for the purpose of reviewing the evidence in cases of disputed suicides of Service members. However, in light of the direction given to the DoD in Section 1185 of P.L. 103-160 (copy enclosed), I have decided not to establish a Board of Special Inquiry, but to direct the following actions:

- The Inspector General, Department of Defense, will conduct the review and draft the report required by Section 1185(a). The Secretaries of the Military Departments will provide comments on the report prior to its submission to the Secretary of Defense for release to the House and Senate Committees on Armed Services.

- The Inspector General, DoD, will be the proponent for the Secretary of Defense for development of the regulations required by Section 1185(a). The Secretaries of the Military Departments will review and provide comments, as applicable, on the proposed regulations. Disagreements will be resolved by the General Counsel, DoD.

- The Secretaries of the Military Departments will refer to the Inspector General, DoD, within 10 days of receipt, all written requests complying with Section 1185(b)(3) that identify investigations previously conducted by Defense criminal investigative organizations. Requests for reviews in cases where a

00935

Defense criminal investigative organization did not conduct the death investigation should be identified as such and referred to the Inspector General, DoD, for review in connection with implementation of Section 1185(a). Additionally, the Secretaries of the Military Departments will expedite the delivery of all investigative and other documentation related to the cases for review by the Inspector General, DoD.

- The Inspector General, DoD, will provide a report on his review of a particular case to the Secretary of the Military Department concerned. The Inspector General, DoD, after consultation with the Secretary of the Military Department concerned, shall provide a copy of the report to the family members who requested the review.

- The Secretary of the Military Department concerned will take corrective actions, as appropriate.

Your cooperation in assisting the DoD in the effective implementation of Section 1185 of P.L. 103-160 is appreciated.

Enclosure

APPENDIX C

Policy and Procedure Documents Reviewed*

Department of Defense

- **DoD Directive (DoDD) 6010.16, "Armed Forces Medical Examiner System," March 8, 1988.** Established the Armed Forces Medical Examiner System, the system chartered to conduct scientific forensic investigations, including autopsies, of Service members on active duty or on active duty for training, civilians, and dependents of military members.

Department of the Army

- **Army Regulation (AR) 40-2, "Army Medical Treatment Facilities General Administration," March 3, 1978.** Establishes policies and sets forth general administrative provisions for the operation of Army medical treatment facilities.

- **AR 40-57, "Armed Forces Medical Examiner System," January 1991.** Implements the criteria and policy presented in DoDD 6010.16, the Joint Medical Examiner System Regulation.

- **AR 195-2, "Criminal Investigation Activities," October 30, 1985.** Includes a detailed description of the authority, jurisdictional considerations and responsibilities, or the lack thereof, surrounding the conduct of criminal investigations within the Department of the Army. Assigns the USACIDC responsibility for investigating all noncombatant deaths to the extent necessary to determine whether criminality is involved.

- **AR 195-5, "Evidence Procedures," August 28, 1992.** Standards for receiving, processing, safeguarding and disposing of physical evidence acquired by USACIDC special agents and by the military police in performing their duties.

- **U. S. Army Criminal Investigation Command Regulation (USACIDR) 195-1, "Criminal Investigation Operational Procedures," October 1, 1994.** Sets forth policy and procedure for criminal investigative operations and supporting programs. Internal to the USACIDC and contains technical and operational information that is For Official Use

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* The policy and procedure documents reviewed are those that governed DoD criminal investigations of death cases at the time of our review. Some of these documents have subsequently been updated and reissued as noted in Part III, Management Comments.

Only. Discusses death case investigations, including notifications to be made in death cases, information that is included specifically in various reports, and the USACIDC involvement in casualty affairs. Provides for supervisory considerations in death investigations, including psychological autopsies, autopsy authority for soldiers and others who are not members of the military services, involvement with installation casualty working groups, access to medical records and processing of property of deceased individuals. Requires that all death investigations be approached and conducted as though the death was a homicide until criminal causality is ruled out.

- **Army Field Manual (FM) 19-20, "Law Enforcement Investigations," November 1985.** Basic procedures for investigating reports of death by various means (i.e., gunshot, stabbing, hanging, poisons, etc.). A guide for special agents to use in applying investigative skills and techniques. Used by the U.S. Army Military Police School (USAMPS) during the Basic USACIDC Agent Course. New information or techniques developed since the issuance of the FM are covered through instruction during the Apprentice Special Agent's Course at USAMPS.

Department of the Navy

- **Secretary of the Navy Instruction 5520.3B, "Criminal and Security Investigations and Related Activities Within the Department of the Navy," January 4, 1993.** Assigns the Naval Criminal Investigative Service (NCIS) jurisdiction and responsibility for conducting criminal investigations within the Department of the Navy.

- **Navy Bureau of Medicine and Surgery Instruction 5360.26, "Armed Forces Medical Examiner System," February 1, 1991.** Implements the policy and criteria in DoDD 6010.16.

- **The NCIS Manual for Investigations, Volume 3 (NCIS-3), Chapter 30, Death Investigations,"** February 23, 1989. Prescribes policy and procedures for criminal investigative operations. Internal to the NCIS and contains technical and operational information that is For Official Use Only. Includes a detailed discussion on death investigations, including jurisdictional considerations, death scene investigation, the Armed Forces Medical Examiner System, psychological autopsy and psychological profiling, and reporting requirements. Discusses the NCIS special agent relationship with the pathologist and the Casualty Assistance Officer. Requires that each death investigation be conducted in a thorough manner and approached as though it was a homicide until criminal causality is ruled out.

- **NCIS Policy Document Number 93-23, "Criminal Investigations (Death Investigations)," October 13, 1993.** Establishes NCIS reporting requirements for death investigations.

- **NCIS Policy Document Number 94-08, "Criminal Investigations (Marine Security Guard Investigations)," April 18, 1994.** Establishes policy for death investigations involving Marine Security Guard personnel assigned to overseas embassies where NCIS has no presence.

- **NCIS Policy Document Number 94-16, "Criminal Investigations (Death Investigations)," July 19, 1994.** Establishes policy for investigating unattended deaths.

Department of the Air Force

- **Air Force Regulation (AFR) 23-18, Organization and Mission--Field, "Air Force Office of Special Investigations (AFOSI)," May 1, 1989.** Authorizes the AFOSI to conduct criminal investigations and counterintelligence operations. Includes "Economic and General Crimes Investigations, Antiterrorism and Special Investigative Services" related to all US Air Force activities and to certain DoD elements overseas. The AFOSI is responsible for investigating alleged major crimes against people and property, including death investigations.

- **AFR 160-99, "Armed Forces Medical Examiner System," February 1, 1991.** Implements the policy and criteria in DoDD 6010.16.

- **AFOSI Regulation (AFOSIR) 124-14, "Evidence Handling Procedures," July 29, 1991.** Sets forth policy for ensuring the integrity of evidence in Air Force custody. Has guidance for ensuring that all evidence collected is positively identifiable, strictly accounted for, and properly safeguarded.

- **AFOSIR 124-18, "Forensic Science Laboratories," April 20, 1990.** Addresses the capabilities of forensic laboratory services available to the Air Force.

- **AFOSIR 124-21, "Report Writing," January 31, 1991.** Sets forth the AFOSI policy for investigative report writing.

- **AFOSIR 124-46 (C3), "Crimes Against Persons," December 15, 1992.** Sets forth policy and procedure for investigating death that result from various causes and manners. Includes a detailed procedural discussion concerning the investigation of deaths resulting from cutting, chopping, stabbing, gunshot, asphyxiation and other means. Discusses special agent response to notifications and warns that delays can cause unwarranted disturbances of the crime scene by persons not trained in or cognizant of the need for scene protection. Discusses crime scene management,

autopsy considerations for agents, and lists investigative steps to identify unknown remains. Under suicide heading, sets forth procedural information for self-inflicted deaths resulting from firearms, hanging, jumping or falling, and carbon monoxide. Includes a detailed discussion on conducting interviews during investigations of suspected suicides. Cautions agents against presuming that a death is a suicide merely because of appearances. Discusses murders disguised as suicides, as well as suicides disguised as murders. Also has a section on accidental autoerotic deaths.

- **Memorandum from the Commander, AFOSI, September 13, 1994.** Supplements AFOSIR 124-46 guidance with specific information on conducting investigations of suspected suicides and dealing with family members during the investigations. Recommends that investigators interview family members to ensure they understand the AFOSI investigative role. (The AFOSI is in the process of developing additional guidance that will encourage continuing contact with the family during the investigation so the family will better understand the importance the AFOSI places on ensuring thorough investigations.)

- **AFOSIR 124-81, "Interviews and Interrogations," October 8, 1987.** Basic guidance for conducting interviews and interrogations, advising suspects of their rights, granting immunity, and conducting witness interviews. Describes procedures for including information developed during interviews in written statements.

- **AFOSIR 124-82, "Search and Seizure," January 4, 1985.** Sets forth legal requirements, policy and guidance for obtaining evidence through the use of search and seizure.

- **AFOSI Pamphlet (AFOSIP) 124-53, "Witness Interviews," September 15, 1988.** Guidance and suggestions for conducting investigative interviews. (General procedures and techniques. Not directive in nature.)

- **AFOSIP 124-66, "Preparation of Casts and Molds and the Collection of Residue Prints," March 1, 1979.** A guide for collecting, recording and preserving shoe and tire impressions, tool marks and residue prints. Describes how to make casts and molds with different mediums. Includes guidance on packaging evidence, casts and molds, and the types of examinations that can be performed by crime laboratories.

- **AFOSIP 124-69, "Crime Scene Processing and Photography," March 23, 1979.** Guidance for processing and sketching a crime scene, performing initial crime scene search, and photographing evidence.

APPENDIX D

SITES VISITED AND AGENCIES CONTACTED

OFFICE OF THE SECRETARY OF DEFENSE

- Office of the Under Secretary of Defense (Personnel and Readiness), Deputy Under Secretary of Defense (Requirements and Resources) Pentagon, Washington, D.C.*
- Office of the Deputy Under Secretary of Defense (Environmental Security), Assistant Deputy Under Secretary of Defense (Safety and Environmental Health), Arlington, Virginia
- Office of the Assistant Secretary of Defense (Force Management Policy), Pentagon, Washington, D.C.
- Office of the Assistant Secretary of Defense (Health Affairs), Pentagon, Washington, D.C.
- Office of the General Counsel, DoD, Pentagon, Washington, D.C.
- Headquarters, Defense Finance and Accounting Service, Arlington, Virginia*
- Defense Finance and Accounting Service, Cleveland Center, Cleveland, Ohio*
- Defense Finance and Accounting Service, Kansas City Center, Kansas City, Missouri*

DEPARTMENT OF THE ARMY

- Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs)
- Deputy Chief of Staff for Personnel Command, Pentagon, Washington, D.C.*
- Office of the Judge Advocate General of the Army, Pentagon, Washington, D.C.
- Office of the Surgeon General of the Army, Falls Church, Virginia*
- Casualty and Memorial Affairs Operations Center, U.S. Army Total Army Personnel Command, Alexandria, Virginia

* Contacted by telephone

- Headquarters, U.S. Army Criminal Investigation Command, Falls Church, Virginia
- Armed Forces Institute of Pathology, Washington, D.C.
- U.S. Army Safety Office, Pentagon, Washington, D.C.*
- Walter Reed Army Institute of Research, Washington, D.C.
- U.S. Army Military Police School, Fort McClellan, Alabama
- Headquarters, Forces Command, Fort McPherson, Georgia*
- U.S. Army Criminal Investigation Laboratory, Fort Gillem, Georgia
- Office of the Adjutant General, Headquarters, XVIII Airborne Corps, Fort Bragg, North Carolina*
- Administrative Law Division, Headquarters, XVIII Airborne Corps, Fort Bragg, North Carolina
- U.S. Army Criminal Investigation Command, District Office, Fort Bragg, North Carolina
- Casualty Area Command, Fort Bragg, North Carolina
- Womack Army Medical Center, Fort Bragg, North Carolina
- 528th Mental Health Clinic, Fort Bragg, North Carolina
- Brooke Army Medical Center, Fort Sam Houston, Texas*
- U.S. Army Safety Center, Command, Fort Rucker, Alabama*
- Huachuca Casualty Area Command, Fort Huachuca, Arizona*

DEPARTMENT OF THE NAVY

- Bureau of Naval Personnel, Arlington, Virginia
- Office of the Staff Judge Advocate of the Navy, Alexandria, Virginia
- Office of the Deputy Chief of Staff for Manpower and Reserve Affairs, Headquarters, Marine Corps, Arlington, Virginia*
- Office of the Staff Judge Advocate, Headquarters, U.S. Marine Corps, Arlington, Virginia
- Headquarters, Naval Criminal Investigative Service, Washington, D.C.

* Contacted by telephone

- Office of the Surgeon General of the Navy, Arlington, Virginia*
- Office of the Inspector General, U.S. Marine Corps, Arlington, Virginia
- Navy Occupational Health and Safety Office, Arlington, Virginia*
- Casualty Section, Headquarters, U.S. Marine Corps, Arlington, Virginia
- Navy Housing Office, Arlington, Virginia*
- Naval Criminal Investigative Service Forensic Laboratory, Norfolk, Virginia
- Navy Safety Center, Norfolk, Virginia*
- The Basic School, Marine Corps University, Marine Corps Combat Development Command, Quantico, Virginia*
- Marine Corps Safety Office, Headquarters, Marine Corps, Arlington, Virginia*

DEPARTMENT OF THE AIR FORCE

- Office of the Secretary of the Air Force, Pentagon, Washington, D.C.
- Headquarters, Air Force Office of Special Investigations, Bolling Air Force Base, Washington, D.C.
- Air Force Safety Office, Pentagon, Washington, D.C.*
- Office of the Air Force Surgeon General, Andrews Air Force Base, Maryland*
- Air Force Office of Special Investigations Academy, Andrews Air Force Base, Maryland
- Air Force Military Personnel Center, Randolph Air Force Base, Texas
- Headquarters, Air Combat Command, Langley Air Force Base, Virginia*
- Air Force Office of Special Investigations Detachment, Andrews Air Force Base, Maryland

OTHER

- Department of Veterans Affairs, Office of Serviceman's Group Life Insurance, New Jersey*
- Department of Veterans Affairs, Advisory Review Staff, Benefits Section, Philadelphia, Pennsylvania*

* Contacted by telephone

- Federal Bureau of Investigation, Behavioral Science Unit, Quantico, Virginia
- Federal Bureau of Investigation, Training Academy, Quantico, Virginia
- Federal Law Enforcement Training Center, Brunswick, Georgia
- Ann Arundel County Police Department, Annapolis, Maryland*
- Maryland State Police, Annapolis, Maryland*
- Arlington County Police Department, Homicide Division, Arlington, Virginia*
- Fairfax County Police Department, Homicide Division, Fairfax City, Virginia
- Montgomery County Police Department, Homicide Division, Rockville, Maryland*
- Prince Georges County Police Department, Homicide Division, Upper Marlboro, Maryland*
- Prince William County Police Department, Violent Crimes Division, Prince William County, Virginia
- New York City Police Department, New York, New York*
- Philadelphia Police Department, Philadelphia, Pennsylvania*
- Chicago Police Department, Chicago, Illinois*
- Baltimore City Police Department, Baltimore, Maryland*
- Center for Loss and Life Transition, Fort Collins, Colorado*

* Contacted by telephone

APPENDIX E

Military Criminal Investigative Organization Training Programs

U.S. Army Criminal Investigation Command

The U.S. Army Military Police School (USAMPS), Fort McClellan, Alabama, is responsible for providing basic and advanced training to law enforcement personnel in the Army. The Marine Corps also sends its investigative personnel to USAMPS to complete basic investigative training. The USAMPS courses include basic training for military police, basic and advanced courses for military police commissioned and non-commissioned officers, provost marshals investigators and USACIDC special agents.

Basic Training Program. The USAMPS Apprentice Special Agents Course is 15 weeks in length. It is basic investigative training for USACIDC special agents, students from foreign military services and German National investigators employed by the USACIDC in Germany. The course syllabus includes criminal law, crime scene processing, testimonial and physical evidence collection, discussion of investigative procedures for all categories of major crime, investigative report writing procedures, special investigative techniques, and a variety of military topics. The course is devoted to providing basic investigative skills to new criminal investigators who will be involved in investigations of criminal offenses defined as serious by the Uniform Code of Military Justice (UCMJ).

Students are instructed by lecture, discussion, demonstration, performance, audiovisual (TV/film/slide) presentations, seminar sessions, laboratories, and field exercises. Student progress is evaluated through comprehensive written examinations on each major area of instruction, report writing performance tests, performance evaluations, practical field exercises, applied techniques laboratory exercises, faculty observation, and participation in all firearms, defensive tactics and physical training activities.

Several buildings at the USAMPS have been converted into crime scene rooms that provide several crime scene scenarios, including death scenes. By the end of the 15 week course, students process the crime scenes and are evaluated on their proficiency. The individual blocks of instruction are:

- 36 hours of instruction in law and legal issues. Four hours of this instruction cover military justice, during which the students are taught to identify the relationships among assigned legal and investigative personnel in a court-martial, functions and actions of the several different types of courts in the courts-martial system and the authority of the members of the court.

- 4 hours of instruction in law. Students are taught to determine investigative responsibility and jurisdiction in accordance with the UCMJ and Army Regulation 195-2, pertinent case law and hypothetical factual situations. Students are taught (1) the source of USACIDC authority, (2) military jurisdiction over persons, offenses and territorial areas, (3) whether civilian offenders may be investigated or apprehended for criminal offenses, and (4) how to properly utilizing military personnel in civilian law enforcement matters without violating the Posse Commitatus Act.

- 8 hours of instruction on crimes. Student are taught to distinguish among crimes and defenses, with an emphasis on those crimes for which the USACIDC has investigative jurisdiction.

- The remaining instruction includes 4 hours on confessions and admissions, 6 hours on search and seizure law, and instruction on testifying at courts, boards, and administrative hearings.

- 49 hours on interviews and interrogation. Students are required to collect and document testimonial evidence and prepare type-written statements during a series of simulated interviews and interrogations. They are also introduced to the sensitivity issues involved in obtaining testimonial evidence from sex crimes victims, their families, witnesses and suspects of sex crimes. Students are taught to identify verbal and nonverbal stress-induced behavior by observing simulated interviews and interrogations. They also are taught how to evaluate specific offenses and employ proper witness or subject interview/interrogation methods to obtain sufficient information to support the elements of proof for specific offenses. The remainder of the instruction introduces the students to using investigative hypnosis and polygraph to support investigations.

- 5 weeks on physical evidence collection and crime scene processing. This instruction is critical for each student's final crime scene processing practical exercise and emphasizes awareness that the opportunity to process a crime scene for physical evidence is only available one time.

- Crime scene processing. Students are expected to complete several learning objectives--(1) note taking, (2) crime scene sketching, (3) physical evidence collection, (4) initiating and maintaining chain-of-custody for evidence, (5) preparing and submitting a crime laboratory examination request, (6) recording and accounting for evidence, (7) packaging evidence for shipment, and (8) disposing of evidence. Students are expected to:

- Take investigative notes, in the prescribed format, and to record times, dates, places, events, observations, actions and other pertinent facts relating to the investigation.

- Complete sketches of the crime scene as supplements to the notes, with each sketch being as independent as possible. Rough sketches are

not drawn to scale but must depict accurate measurements and triangulation of evidence.

- Collect physical evidence at the crime scene and apply an evidence tag, permanently mark evidence, for future identification, with initials, time and date of acquisition, and then properly package the item for shipment. Students are also taught how to process deceased human remains and how to properly release the remains to the morgue or appropriate medical facility.

- Prepare the proper forms to ensure chain-of-custody for evidence.

- Learn the duties of the evidence custodian and how to keep an evidence ledger.

- Prepare and submit crime laboratory examination requests in order to learn proper procedures for preparing and transporting evidence to the USACIL.

- Properly dispose of evidence after it has been determined to be of no evidential value.

- 33 hours on physical evidence. Students are instructed in preserving footwear and toolmark impressions, processing questioned documents and processing fingerprint evidence. In each instruction module, students participate in practical exercises where they are taught the most advanced methods for casting impressions, obtaining exemplars for and handling questioned documents and developing latent fingerprints. Similarly, students are instructed in preserving, packaging and transporting physical evidence.

- Crime scene photography. Students are taught the proper techniques for photographing a crime scene. They are instructed in operating modern photographic equipment and are required to photograph a simulated crime scene during a practical exercise. The photographs are developed and evaluated.

- 32 hours on Crimes Against Persons Investigations. Students are instructed on the major considerations in all injury cases, including initial crime scene considerations and how to identify the six presumptive signs of life in a victim. They are also taught the various causes and manners of death, and why investigators must avoid making pronouncements concerning cause and manner of death until after the formal determinations. Students must become familiar with medicolegal systems, detective-physician relations, postmortem changes, bone identification, and the medicolegal autopsy. They are taught to recognize injuries such as blunt force, sharp force, vehicles, gunshot wounds, and shotgun wounds. They also must learn about death by asphyxia, conflagration deaths,

electrocution deaths, sex-related deaths and sex crimes, and death by poison. Other crimes against persons, such as robbery, assault and aggravated assault are also discussed.

- Final practical exercise--processing a death scene. Students are required to demonstrate the knowledge and skills developed during the training program. The practical exercise is graded and successful completion is compulsory for graduation from the school. Included in the graded material is a 20 step outline of the techniques for crime scene processing. Students are required to demonstrate accurate note taking and initial notification recording, including conditions upon arrival at the crime scene, the weather conditions, physical location of the scene and the identity of anyone at the scene. The notes must record each step in processing the scene, including the identification and processing of all evidence, and a crime scene sketch that includes the exact location of evidence and important items by triangulation. The sketch must include the additional triangulation required in all death scenes. Students must record photographic data, identify steps taken by medical personnel if medical personnel are required at a crime scene, and steps taken to examine locations beyond the crime scene.

The USAMPS maintains, to the best of its ability within budget constraints, state-of-the-art equipment for student use. The premise is to train apprentice agents in the most current methods with equipment they will be using in field assignments. For example, for casting impressions, the spray paint and dental plaster method is taught instead of the older lacquer and plaster of paris method. The newer method is easier, quicker and produces superior results. In the crime scene photography module, the USAMPS uses a new 35mm camera that is scheduled to replace cameras in use by USACIDC field elements since 1974. For fingerprint processing, the "superglue" method is taught.

When the new USACIDC agent returns to his or her unit, he or she goes through a period of probation. The agent is assigned to work with an experienced agent(s), perform tasks as directed and assist the experienced agents. All duties performed by the new agent at a crime scene are closely supervised and monitored by the experienced agent.

Warrant Officer Training. The USAMPS also conducts basic and advanced Warrant Officer courses. These courses are for special agents who have been promoted to the warrant officer ranks and accepted greater responsibilities. Warrant Officer course attendees are or will be USACIDC team leaders and operations officers, and will fill progressively higher positions where they will be responsible for the investigative activity of subordinate agents. These courses concentrate on the management of serious and sensitive criminal investigations, which include by their very nature, death investigations. The USAMPS also presents several other topical seminars throughout the year based on need or interest.

In-Service Training. The USACIDC in-service training program is conducted under two headings: (1) Determinate Training--to meet training needs that can be forecasted, but the final attendee selection list and funding is controlled by the USACIDC headquarters, and (2) Discretionary Training--to meet training needs that can be forecasted, but controlled by the major subordinate USACIDC field units.

- **Determinate Training**. This program addresses various law enforcement and military topics. A program focused specifically on death investigations is a fellowship that results in a Masters degree in forensic science from The George Washington University in conjunction with training at the AFIP. Following graduation from that course, the special agent is committed to serving a minimum of 3 years in the death investigation speciality program. The USACIDC presently has six billets designated for graduates of that program. Those positions are located at USACIDC headquarters and USAMPS, and four major subordinate USACIDC locations. The specially trained agents advise other agents who are conducting death investigations and provide on-site assistance and advice at death scenes. These agents are also responsible for reviewing all reports of investigation, within their areas of responsibility, that pertain to deaths investigated by the USACIDC. The agents assigned to USACIDC headquarters is also available to advise and assist, and is responsible for reviewing all USACIDC death investigations. The special agent assigned to USAMPS is the senior instructor for the 5 week forensics, criminalistics, evidence procedures and crime scene search portions of the Apprentice Special Agent Course. There are six AFIP graduates who have fulfilled their 3 year commitments and are progressing to positions of greater responsibility. Those graduates are still available to advise and assist in death investigations.

- **Discretionary Training**. This program includes (1) mobile training courses, i.e., courses provided by traveling teams from organizations like the USACIL and the AFIP, (2) local area training provided by local, state and Federal organizations in the same geographical area as USACIDC units, (3) other vendor training, such as the homicide investigation course offered by the Institute of Police Technology and Management, University of North Florida, and (4) training provided by agents in USACIDC units. Not all of this training pertains to the investigation of death. The topics include other law enforcement and military subjects, and depend on agent needs as identified by subordinate commanders or special agents in charge.

Advanced Training. The USACIDC participates in two special courses in the United Kingdom sponsored by Scotland Yard. One course, attended by a warrant officer special agent, provides advance training in investigative theory and tactics used by Scotland Yard and its sister organizations. Another course, reserved for an enlisted special agents, offers extensive training in the application of forensic science and processing of crime scenes.

Leadership training is also available to USACIDC special agents who occupy or will occupy management positions in the command. Leadership

training, although not focused on death investigations, discusses management of all functions performed by an investigative organization. Examples of leadership training include the Warrant Officer Basic and Advance Courses and the Federal Bureau of Investigation National Academy.

Another area of specialized training utilizes the Soldiers Manual and Trainer's Guide for Military Occupation Skill 95D, Special Agent (Soldiers Manual). A local commander or special agent in charge may establish a training program within the unit. To maintain proficiency in a specialized area, the agent must accomplish certain tasks. The Manual also contains a mechanism for scoring an agent's efforts as he/she accomplishes each sub-task. An example of tasks to be accomplished in this training program is the processing of a simulated crime scene. The Soldiers Manual and Trainer's Guide discusses in detail the steps, or sub-tasks, an agent must accomplish in various disciplines. There are several standardized training objectives in the Soldiers Manual that are pertinent to this study. A discussion of the tasks follows:

- Soldiers Manual task number 191-390-0110 - Determine Investigative Responsibility/Jurisdiction. The agent is given a scenario of several criminal offenses, and must determine whether the USACIDC has investigative authority and jurisdiction for each complaint received and, where appropriate, make referrals in accordance with AR 195-2, USACIDR 195-1, and FM 19-20.

- Soldiers Manual task number 191-390-0120 - Photograph Crime Scene. The agent must photograph an entire mock crime scene and all evidence before it is disturbed. The photographs must include all areas of the crime scene, be in focus, and clearly depict subject matter.

- Soldiers Manual task number 191-390-0121 - Sketch Crime Scene. Agents must complete a rough sketch of a crime scene to document the position of all evidence before it is collected within 60 minutes. The sketch must contain accurate measurements and triangulation that could facilitate reconstruction of the scene at any future date.

- Soldiers Manual task number 191-390-0122 - Collect Physical Evidence. The agent must collect all pertinent physical evidence from each crime scene. They are equipped with all supplies required to collect, record, preserve and safeguard physical evidence. They must properly collect and preserve latent fingerprints, hair and fiber evidence, bloodstain evidence, firearms evidence, and glass fragment evidence.

- Soldiers Manual task number 191-390-0123 - Preserve Impressions. Agents must demonstrate proficiency in photographing a footprint at a crime scene, and preserving the footprint by preparing a cast.

- Soldiers Manual task number 191-390-0124 - Collect Questioned Document. Agents must collect and preserve a handwritten note for possible comparison.

- Soldiers Manual task number 191-390-125 - Obtain Handwriting Exemplars and Standards. The agent must collect "known writings" as standards for specimens of the subject's normal handwriting.

- Soldiers Manual task number 191-390-0126 - Initiate and Maintain Chain of Custody of Evidence. The agent must initiate and maintain chain of custody of evidence collected at a crime scene. It must be recorded on the proper forms and must also be relinquished to the evidence custodian making proper disposition of the forms.

- Soldiers Manual task number 191-390-0127 - Prepare and Submit Crime Laboratory Examination Request. The agent must prepare a request for evidence to transmit to USACIL for examination. The request must be complete and clearly written so that the laboratory technician will be able to meet the required turn-around time.

- Soldiers Manual task number 191-390-0128 - Field Test for Suspected Controlled Substances. Agents are given a controlled substance that must be field tested. They must complete all steps, in sequence, for the field chemical testing of the substance. Findings must be properly recorded and reported.

- Soldiers Manual task number 191-390-0129 - Interview Witnesses and Victims. Agents interview a witness and report the interview in the narrative form.

- Soldiers Manual task number 191-390-0130 - Prepare Agent's Investigation Report. Agents must demonstrate proficiency in documenting an investigation on the proper form in the report format consistent with directions.

- Soldiers Manual task number 191-390-0132 - Interrogate Suspects and Subjects - The agent must demonstrate interrogation techniques, and must record the results of the interrogation accurately and completely on the proper forms.

- Soldiers Manual task number 191-390-0133 - Obtain a Sworn Statement. Agents must obtain a sworn statement from a witness and record same in accordance with USACIDR 195-1 and FM 19-20.

All USACIDC special agents are encouraged to take advantage of any other specialized training they feel would be beneficial to the mission. They may take a variety of courses in topics such as homicide investigation, crime scene investigation, or photography, that are offered by Government, state or local agencies, or private contractors.

We reviewed the USACIDC Apprentice Special Agent's Course. The materials used in the class were evaluated, classes were observed in session, and instructors were interviewed. Students were observed taking part in the crime scene practical exercise, and several were questioned regarding the process. The course and teaching materials were comprehensive and should enable students to come away with the education, skills and abilities needed to function as special agents in the field.

Naval Criminal Investigative Service

From the late 1960's until 1984, the NCIS (then the Naval Investigative Service) basic agent course (6 to 8 weeks in duration) was conducted by the NCIS headquarters in facilities located in the Washington, D.C. metropolitan area. Although there was no separate training facility, the training division occupied a wing of the headquarters building. Classrooms with audiovisual equipment were available for lectures and indoor practical exercises. Outdoor and large scale practical exercises were conducted at various Government facilities in the local area. Physical fitness, arrest techniques and firearms training usually took place at the Washington, D.C. Metropolitan Police Academy.

In 1984, the NCIS basic training division moved to the FLETC, Brunswick, Georgia. The NCIS operated basic courses there and in Washington, D.C., for a while to determine where students received the best training. At FLETC, students were integrated into the FLETC basic criminal investigator training program (CITP) taught by FLETC instructors and instructors from the various Federal agencies. In Washington, D.C., the instructors were Headquarters, NCIS desk officers (senior agents) as well as a few full time instructors. Both courses were designed to present a general overview of criminal investigative procedures. Ultimately, the NCIS opted for the CITP with additional NCIS specific training immediately following that course.

The CITP. The FLETC, a bureau of the Department of the Treasury, is the Nation's lead organization for inter-agency training of Federal law enforcement personnel, other than special agents of the FBI. Basic and advanced training is provided for personnel from 70 participating organizations. Over 25,000 students train at the FLETC annually from the 50 States and U.S. Territories. All new NCIS special agents participate in the 8 week CITP, a course that covers basic law enforcement and investigative training for new agents. Among subject areas presented are human behavior, modern investigative technology, cultural sensitivity and law, and skills training in firearms, physical fitness, arrest techniques and driving.

The NCIS is the only MCIO that participates in the FLETC program and only one of two Federal law enforcement organizations there that has a general crimes investigative mission. As a result, the CITP does not cover certain general crimes investigative areas necessary to prepare NCIS special agents for

their duties. For example, the CITP includes only a 2 hour laboratory during which students are taught methods for identifying and lifting latent fingerprints, and how to cast tire and foot wear impressions at crime scenes. The course does not include practical exercises in these areas.

The CITP cognitive testing system consists of five examinations: three legal examinations and two comprehensive examinations. In addition, students are expected to complete a series of practical exercises and/or homework assignments. Satisfactory completion of all examinations, practical exercises and assignments is required for graduation from the CITP. The CITP includes specific coverage as follows:

- 2 hour crime scene practical exercise. The exercise is preceded by 4 hours of classroom instruction on crime scene processing and 4 hours on properly using a 35mm camera. We observed one CITP course given to 18 new Deputy U.S. Marshals in which the Marshals took part in a crime scene processing practical exercise. This exercise would have been the same or similar to those for NCIS agents attending the CITP. The exercise depicted a death scene with various items of potential evidence dispersed in the room. On arrival at the scene, the class was briefed and divided into six teams. Each team had an instructor who explained the crime scene, and identified the location and manner in which it was to be processed.

The practical exercise was limited by design. An instructor advised us that the exercise was used to remind students of classroom material covered in the previous 4 hours of instruction. Students were instructed not to process the evidence, but only to take notes and place evidence tags over what they considered evidence. Students used Polaroid cameras (instead of 35 millimeter cameras they would use normally at a crime scene) so instructors could provide instant feedback regarding photographic technique. Each student was limited to 20 film exposures, limiting the sequence and number of photographs in each sequence. Some students appeared confused about their roles and unfamiliar with the equipment in the crime scene kit. At one point a student asked whether material used normally for casting impressions was fingerprint powder.

The practical exercise was not graded because it was meant as an introduction to a "raid" exercise that takes place at the end of the course. That final exercise requires students to plan and execute a "raid," execute search warrants, process a crime scene and prepare for a mock trial. That exercise is graded and each student must score at least 70 to pass the course.

- 18 hours of instruction on interviewing, which includes 6 hours of lecture, a 4 hour laboratory, and an 8 hour practical exercise. An example of course content includes basic interviewing skills, verbal and nonverbal communication, interview planning and question formation. The laboratory and practical exercise consist of a series of interviews in which the students interview

role players in various situations. The sessions are video taped and each student is evaluated on interviewing techniques used, skills developed and overall performance.

- 2 hour lecture introducing students to the criminal investigative process and the basic duties of a criminal investigator. Methods and techniques used in initiating, conducting and managing an investigation, and the investigator's responsibilities are taught.

- 20 hours of lecture on the principles of search and seizure as prescribed by the Fourth Amendment. Other constitutional safeguards are identified and explained. Emphasis is placed on proper preparation and execution of search warrants, as well as most legal exceptions to the warrant requirements.

- 14 hours on the purpose and procedures for serving a search warrant. The instruction includes a 4 hour lecture, 4 hour laboratory, and 6 hour practical exercise.

- 3 hour lecture and 1 hour laboratory on the essential elements of law enforcement report writing. The instruction emphasizes taking clear, accurate, complete, objective and concise law enforcement notes. Students observe specific scenarios and prepare investigative notes and narrative reports from the notes.

- 4 hours on crime scene investigation. The instruction covers the goals and principles of physical evidence and defines the application of the forensic sciences to the criminal investigation. The lecture identifies the goals of crime scene management, and the methodologies for recording the crime scene and locating, collecting and preserving evidence. The importance of, and procedures for, establishing chain of custody are presented, as are the methods utilized for requesting laboratory analysis of recovered evidence. The lecture is followed by a 2 hour crime scene laboratory.

- 2 hours on fingerprinting. The lecture addresses practical aspects relating to recognizing and using fingerprint patterns. Students are required to identify the classification of patterns. There is no hands on laboratory or practical exercise in lifting latent prints. Students take part in a 2 hour practical exercise designed to enable them to obtain standard 10 print fingerprint cards that meet all current FBI requirements for classification and acceptance.

- 4 hours on criminal investigator photography. The instruction focuses on using the 35mm, Single Lens Reflex camera in crime scene photography. Film selection and photographing evidence are taught. A 2 hour practical exercise follows the lecture at which the students are required to photograph a variety of subjects. Their photographs are developed and critiqued.

- 2 hours on the potential of documentary evidence, procedures for preserving questioned documents, the collection of exemplars (standards for comparison), transmitting documents to the laboratory, the types of tests and comparisons that can be made at the laboratory, and the meaning of examiner opinions.

- 10 hours on evidence. Examines the principles of evidence as set forth in the Federal Rules of Evidence. The emphasis is on the admissibility, classification, method of presentation and consideration of evidence in the Federal system.

Supplemental Training. The NCIS management recognized the need for NCIS special agents to receive additional in-depth training in general crime investigation. As a result, a basic special agent add-on course was developed. The course started as a 2 week course and, by 1991, had evolved into the current 6 week course. The FLETC also conducts this add-on training, but it designed specifically to meet NCIS mission needs. In developing the course, the NCIS identified specific knowledge, skills and abilities that a NCIS agent must have to be successful. The add-on course concentrates on the military criminal justice system, the Navy Judge Advocate system, the NCIS report writing procedures and Navy protocol. It also includes (1) 8 hours of instruction on special requirements to be considered at death investigation scenes, and (2) 8 hours of instruction on forensic pathology, provided by an outside vendor. A significant portion of the add-on course addresses crime scene examination.

Similar to the USAMPS, the NCIS add-on course includes criminal investigative topics such as interviews and interrogations, apprehensions, search and seizure, and detailed instruction on crimes against persons, crimes against property and drug suppression operations. In the skill categories, 16 hours are devoted to report writing and 16 to interviews and interrogations. Crime scene instruction accounts for 24 hours, including a practical exercise. When asked about training in the development of latent fingerprints, the NCIS representative informed us that the NCIS philosophy is for special agents to remove any and all items that they suspect may have pertinent latent fingerprints for development by trained professionals within the forensics laboratory system.

Students taking part in the NCIS Basic Agent Add-on training receive a 16 hour block of instruction introducing them to the NCIS reporting system. The 2 hour lecture and 14 hours of practical exercises instructs students on how to prepare reports used by the NCIS to meet administrative, investigative and operational requirements. The course also includes:

- 4 hours on the NCIS evidence custody system, consisting of a 2 hour lecture and 2 hour practical exercise. The instruction covers the proper collection, storage, transfer or shipment of evidence, and the requirements for proper disposal of evidence. The 2 hour practical exercise is designed to

reinforce the legal aspects concerning evidence collection, specifically under the UCMJ Manual for Courts Martial, and reinforces other legal aspects in the area of evidence collection, protection and presentation in court.

- 24 hours on the NCIS Regional Forensic Laboratories and crime scene processing, consisting of 6 hours of lecture and 18 hours of practical laboratory exercises. Students are introduced to the responsibilities, capabilities and functions of the NCIS Regional Forensic Laboratories, and are given overview of the laboratory examinations which assist in criminal investigations. Students must learn proper procedures for identifying, packaging and submitting evidence to the NCIS Regional Forensic Laboratories.

- 16 hours on various techniques for interviewing witnesses and interrogating suspects. Various case scenarios and practical exercises with role players are presented to students through 9 hours of lecture and 7 hours of practical exercise.

- 8 hours on death investigations, consisting of 7 hours of lecture and a 1 hour practical exercise. The instruction emphasizes special requirements at the crime scene, forensic applications, wound interpretations and case studies.

- 40 hours of crime scene search practical exercises (held at the Kings Bay Submarine Base, which is south of the FLETC). According to NCIS training representatives, the military community at Kings Bay supports the training. Base residents often participate as victims, witnesses and suspects. Several scenarios depicting different crime scenes are devised and the exercise may begin at any time during a predefined 24 hour period. The student does not know when a call reporting a "crime" will come in to his "office." The exercises are monitored by journeymen agents from field offices who supplement the full time instructors. According to NCIS representatives, death scenes are not used in the exercises because the NCIS philosophy is that the students should gain more experience in interviewing victims during the exercises.

As with the USACIDC and the AFOSI, the NCIS basic agent training objective is to graduate well-rounded agents who have the knowledge and skills to conduct the broad range of investigations the NCIS encounters. Emphasis is placed on the more physical and violent types of crimes because those are most often the types of offenses encountered by NCIS agents.

<u>In-Service Training</u>. The NCIS has an extensive on-the-job training program for new agents. The training complements the FLETC training to prepare agents to become proficient criminal investigators. Agents receive a 2 week organizational orientation course shortly after being hired. At the conclusion of the course, the agent begins formal CITP at the FLETC. On completion of the CITP and the NCIS Basic Agent Add-on training, the agent's formalized training is augmented and complimented by entering the 12 week Field Training Agent (FTA) program. The FTA program continues the new agent learning process "on the job.' During this training, the new agent is

assigned a training agent who closely monitors and evaluates the new agent's work. The new agent assists the training agent in conducting investigations. As the new agents progress on the job and gain experience, they require less assistance until they become capable of working independently. The new agent is assigned a new training agent every 4 weeks during the program. The program may be extended beyond the 12 weeks if the new agent requires additional evaluation time or remedial training, as each agent's abilities, prior experience and efforts to perfect investigative skills will vary. The FTA Program is documented in an overview that explains each phase of new agent training and includes the tasks and evaluation guidelines.

Follow-On Training. In addition to the new special agent training, the NCIS requires its agents to participate in other law enforcement training. Each NCIS field office must report the amount of training received by their agents quarterly through the field training coordinator.

Funding for follow-on training is controlled by the NCIS headquarters. The NCIS also provides training to NCIS field elements in several ways. Mobile training units travel to regions and provide expert training in various subjects, including case studies, crime scene processing, blood spatter analysis and other relevant topics. Additionally, all agents are required to go to the NCIS Crime Laboratory in either Norfolk, Virginia, or San Diego, California, for 3 days of laboratory related training.

The NCIS agents are also provided opportunities to attend training provided by local, state and Federal organizations. Other vendor training provided by various organizations in the country is available to agents. Not all training pertains to death investigations. The topics are diverse and pertinent to the entire NCIS mission.

Advanced Training. The NCIS agents participate in a fellowship program focused specifically on death investigations that results in a Masters degree in forensic science from George Washington University in conjunction with training at the AFIP. The NCIS currently has five billets designated for graduates of that program. One such agent is stationed overseas, two are in management positions, one is on the West coast and another is on the East coast. The agent assigned to the NCIS headquarters is available to provide advice, and if necessary, to travel to the field locations to provide advice and assistance.

The NCIS continuing agent training program funds participation of agents in specialty schools that cover a variety of law enforcement topics.

The CITP course was reviewed by this office. The materials used in the class were evaluated, classes were observed in session, and instructors were interviewed. Students were observed taking part in the crime scene practical exercise, and several were questioned regarding the process. The course and

teaching materials were found to be adequate, though the NCIS recognizes that the students need a more thorough education before they acquire skills and abilities needed to function as a special agent in the field.

The NCIS Basic Agent Add-on course was not observed because there has not been a session since 1992. The materials used in the course were reviewed, and instructors were interviewed. The course and teaching materials are adequate for students to gain the basic skills necessary to function as a special agent in the field.

Air Force Office Of Special Investigations

The USAF Special Investigations School was established in February 1949, and was renamed the USAF Special Investigations Academy (USAFSIA) in June 1978. Courses offered and the curriculum of each course are established solely by the Commander, AFOSI, and the Commandant, USAFSIA. The USAFSIA relocated to Andrews Air Force Base in Maryland from Bolling Air Force Base, Washington, D.C. in the Fall of 1994.

Instruction at the USAFSIA is provided by full time instructors on the USAFSIA staff, part-time instructors from HQ AFOSI, and guest lecturers from other Government agencies. Full time instructors are graduates of the Air Force Academic Instructor School or the Technical Training Instructor Course. They have broad experience and most have advanced degrees in relevant fields.

Basic Training. The USAFSIA developed the Special Investigators Course to supply a programmed flow of special agents as determined by manpower requirements set by AFOSI. Each Special Investigators Course is 11 weeks in duration and comprised of approximately 35 students. Approximately 140 students attend per year. On satisfactory completion of the course, the student is certified as a special agent. Air Force personnel attending the course are normally in grades O-1 through O-3 and E-5 through E-6, and have little or no background in investigative areas.

Students are taught through lectures, discussion, demonstration, performance, audiovisual (TV/film/slide) presentations, seminar sessions, laboratories, and field exercises. Student progress is evaluated through comprehensive written examinations on each major area of instruction, report writing performance tests, performance evaluations, practical field exercises, applied techniques laboratory exercises, faculty observation, and participation in and successful completion of all firearms, defensive tactics and physical training activities. A comprehensive written exam is given at the end of each block of instruction. Minimum passing score is 70 percent. Performance evaluations are administered and recorded as pass or fail.

The course is conducted at the USAFSIA training facility at Andrews Air Force Base, Maryland. The facility includes classrooms and room for interview and interrogation exercises installed with state of the art audio-visual equipment.

There are six mock crime scene rooms that depict different scenarios, including death scenes. By the end of the 11 weeks, the students completely process the crime scenes and are graded and evaluated on their proficiency. A discussion regarding those blocks of instruction relevant to the study follows:

- 4 hours on the theory of investigations. Students are taught how to receive and analyze a complaint, specific special agent duties and responsibilities at a crime scene, how to prepare an investigative plan and formulate leads. To complete this instruction successfully, students must demonstrate comprehension of the major goal of conducting an investigation, the philosophy behind preparing reports and the nature of post investigative requirements.

- 25 hours of instruction and practical exercise in preparing investigative reports. Students must comprehend the different types of reports, writing styles and reporting requirements.

- 2 hour on Military Justice System. Students are taught the Constitutional basis for military law.

- 14 hours on search and seizure law. Students are taught the terminology and requirements for conducting valid searches with a search warrant or search authority. The instruction includes 5 hour practical exercise and performance test. Students must understand ancillary areas of search and seizure, complete a probable cause statement, and complete AF Form 1176, "Authority to Search and Seize," and AF Form 1364, "Consent for Search and Seizure."

- 3 hours on Military Rules of Evidence. Students are taught the different types of evidence that may be present at a crime scene. They are also taught how to apply the admissibility rules to testimonial evidence, to documentary evidence and to real evidence.

- 44 hours on Interviewing and Verbal/Nonverbal Behavior, and Behavioral Analysis Interviews, including practical exercises and performance tests. Students are taught the techniques used to observe and evaluate verbal and nonverbal behavior. They must learn to question witnesses and to evaluate behavior responses indicative of truth or deception.

- 1 hour on the role of the Regional Forensic Consultant. Students are taught how to identify the Forensic Consultant's role, and the requirements for obtaining consultant support.

- 22 hours on collecting, processing and documenting evidence. The instruction includes documentation exercise and performance test. Students must learn the purpose of evidence, and what constitutes evidence. They are taught the legal requirements regarding evidence, including the collection, identification and preservation of evidence. They are also taught how to store, transmit, mark and package seized evidence. They are instructed in disposing of evidence and

must learn how to return items released from evidence. Included in the instruction are lessons in preparing evidence tags, lab requests and disposition requests.

- 1 hour on operating a 35mm camera. Students are given a Cannon AE-1 camera, 199A Speedlite, 50mm lens, batteries and film for the exercise. After a demonstration and lecture, they must prepare the camera for use within 15 minutes.

- 2 hours on crime scene photography. Students must learn what photographs are required to adequately record a crime scene. They are required to photograph a mock crime scene. They are given a camera, film and note taking materials, and are required to take slides of the crime scene, which are developed and evaluated.

- 8 hours on casting, impressions and latent prints. Students are taught how to obtain three dimensional impressions using plaster casting techniques and must successfully lift an identifiable impression marked with initials, date and North arrow. They must also be able to obtain a three dimensional impression using Kern Permlastic. Students are given three latent prints, dusting powders, lifting material, and are to successfully develop and lift two identifiable prints, marked with initials, date and location of print, using a hinge lifter, tape, or rubber lifter. Students are also taught where to look for latent prints and know where latent prints cannot be developed or lifted. They must learn what pieces of latent print evidence should be sent to the laboratory for development, and how to package latent prints requiring laboratory development. Further, they are required to practice applying fingerprint standards. Working with another student, they are given an inking stand, ink, roller, and fingerprint card. They must correctly complete and have 11 classifiable prints on one fingerprint card.

- 13 hours on crime scene search. Students participate in a 7 hour practical exercise during which they process a mock crime scene from beginning to end. The mock crime scenes are set up at the USAFSIA facility, and three of the six scenes are death scenes. The students are taught to process the entire scene as though the death were a homicide, although one scene is an apparent suicide. The students process and secure the area, take photographs, take notes, search for evidence and process the evidence seized. They call in a forensic consultant, medical examiner, or forensic pathologist, as appropriate. The exercise is begun with a call in the middle of the night, just as a real call might come when they are on duty at their detachment. Students are taught to observe the scene and not to disturb anything. They must record, photograph, measure, sketch and make notes. They must also collect, identify, process and properly mark evidence. Throughout the exercise, the students are required to preserve evidence and maintain chain of custody.

The students are given AFOSIH 71-106 Volume 1, "Crime Scene Handbook," April 15, 1995. The handbook is a ready reference for special

agents. It includes guidance for agent actions from the time of notification of a crime to the release of the crime scene. The handbook takes the agent through the steps to process a crime scene. The agent is reminded that he or she has only one chance to process the crime scene, and time must be taken to do it right. (We reviewed this handbook in detail and found it to be a very thorough guide for crime scene processing.)

In-Service Training. When the student returns to his or her detachment as a special investigator, he or she goes through an 18 month probationary period. Each new investigator is assigned to an experienced trainer who mentors the investigator and provides monthly counseling. The new investigators must accomplish certain tasks and during the 18 month on-the-job training period to become fully accredited agents. For the duration of the probationary period, the new investigators accompany the more experienced agents when responding to crime scenes. The new investigator observes the actions of the experienced agents, and performs tasks as directed by the experienced agents. All duties performed by the new investigator at a crime scene are closely supervised and monitored by the experienced agent.

Like the USACIDC special agent, AFOSI special investigators must demonstrate proficiency in the investigative field. Although the AFOSI program is not as detailed as the USACIDC program, AFOSI special investigator must show advancing levels of proficiency to be promoted.

Advanced Training. The USAFSIA presents an Advanced Criminal Investigations workshop three or four times a year for 30 to 40 senior agents. The course includes 8 hours in advanced forensic laboratory, 1 hour of general criminal policy updates, 4 hours of advanced forensic techniques/issues, 4 hours of homicide trends and analysis, 24 hours in interrogation and interviewing using the Reid Technique, 4 hours of major case management, and a 3 hour case autopsy panel. The USAFSIA also presents several other topical seminars throughout the year based on need or interest.

Like the USACIDC and the NCIS, the AFOSI participates in the fellowship program focused specifically on death investigations that results in a Masters Degree in forensic science from The George Washington University in conjunction with training at the AFIP. Following graduation from the program, the specially trained agents provide advice to other agents who are conducting death investigations and provide on-site assistance and advice at death scenes.

AFOSI special investigators are also encouraged to take advantage of any other specialized training they feel would be beneficial to the mission. They may take a variety of courses in topics such as homicide investigation, crime scene investigation, photography, etc., that are offered by Government, state or local agencies, or private contractors.

The USAF Special Investigators course was reviewed by this office. The materials used in the class were evaluated, classes were observed in session, and

instructors were interviewed. Students were observed taking part in the crime scene practical exercise, and several were questioned regarding the process. The course and teaching materials were found to be sufficiently thorough for students to gain the skills and abilities needed to function as a special investigator in the field.