

Army Regulation 600–34

Personnel—General

**Fatal Training/
Operational
Accident
Presentations to
the Next of Kin**

**Headquarters
Department of the Army
Washington, DC
2 January 2003**

UNCLASSIFIED

SUMMARY of CHANGE

AR 600-34

Fatal Training/Operational Accident Presentations to the Next of Kin

This regulation-

- o Specifies Army Staff (ARSTAF), major Army command (MACOM), installation command, and casualty area commanders responsibilities (chap 1).
- o Outlines policies for collateral investigations in the case of fatal training /operational accidents (chap 2).
- o Provides instructions for presenting the circumstances of fatal training/ operational accidents to the primary next-of-kin (chap 5).
- o Prescribes instructions for release of information on fatal training/ operational accidents to the public (chap 6).

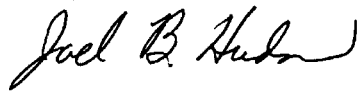
Personnel—General

Fatal Training/Operational Accident Presentations to the Next of Kin

By Order of the Secretary of the Army:

ERIC K. SHINSEKI
General, United States Army
Chief of Staff

Official:



JOEL B. HUDSON
Administrative Assistant to the
Secretary of the Army

History. This printing publishes a new Army regulation.

Summary. This regulation prescribes policies and mandated tasks that govern collateral investigations, as they apply to fatal training/operational accidents, and provides guidance and direction for preparing and delivering primary next of kin presentations on fatal training/operational accidents. It expands the Department of the Army policy for releasing results of

fatal training/operational accident investigations.

Applicability. This regulation applies to the Active Army, the Army National Guard of the United States, including periods when operating in an Army National Guard capacity, and the U.S. Army Reserve. During mobilization, the proponent may modify chapters and policies contained in this regulation. Paragraph 4–2f of this regulation is punitive. A violation of this paragraph is punishable as a violation of a lawful general regulation under Article 92, Uniform Code of Military Justice.

Proponent and exception authority. The proponent of this regulation is the Director of the Army Staff. The proponent has the authority to approve exceptions to this regulation that are consistent with controlling law and regulation. The proponent has delegated this approval authority to The Adjutant General.

Army management control process. This regulation contains management control provisions in accordance with Army Regulation 11–2 but does not identify key

management controls that must be evaluated.

Supplementation. Supplementation of this regulation and establishment of command and local forms are prohibited without prior approval from HQDA, Deputy Chief of Staff, G-1, ATTN: DAPE-ZXIRM, Washington, DC 20310–0300.

Suggested Improvements. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to Commander, U.S. Total Army Personnel Command, ATTN: TAPC–PEC, 2461 Eisenhower Avenue, Alexandria, VA 22331–0481.

Distribution. Distribution of this regulation is available in electronic media only and is intended for command levels B, C, D, and E for the Active Army, the Army National Guard of the United States, and the U.S. Army Reserve.

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Glossary

Chapter 1 Introduction

Section 1 Overview

1–1. Purpose

This regulation prescribes policies and procedures for presenting the circumstances of fatal training/operational accidents to a soldier's primary next of kin (PNOK) and other family members designated by the PNOK, as defined in Department of Defense Instruction (DODI) 1300.18. This regulation is for the guidance of Army personnel. It is not intended to, and does not, create any substantial privilege or procedure, right, or benefit enforceable at law or equities for its officers, employees, or any other person.

1–2. References

Required and related publications and prescribed and referenced forms are listed in appendix A.

1–3. Explanation of abbreviations and terms

Abbreviations and special terms used in this regulation are explained in the glossary.

Section 2 Responsibilities

1–4. The Deputy Chief of Staff, G-1

The Deputy Chief of Staff, G-1 (DCS, G-1) will—

- a. Establish personnel policies relating to fatal training/operational accident presentations as defined by this regulation.
- b. Direct The Adjutant General to implement established policies related to such family presentations.

1–5. Commander, U.S. Total Army Personnel Command

The Commander, U.S. Total Army Personnel Command (CDR, PERSCOM) will execute policy and provide program development guidance relating to fatal training/operational accident presentations defined by this regulation.

1–6. The Adjutant General of the Army

The Adjutant General of the Army (TAG) will—

- a. Execute policy and provide program development guidance relating to fatal training/operational accident presentations defined by this regulation.
- b. As delegated by the Director of Army Staff (DAS), make decisions regarding the presenting team's composition. The DAS will remain the approval authority for United States Army Safety Center (USASC) representation at presentations.
- c. Provide funding for autopsies and investigative translations through Casualty and Mortuary Affairs open allotment funds.

Note. References to The Adjutant General in this regulation refer to The Adjutant General of the Army and do not refer to State adjutants general in the Army National Guard.

1–7. The Chief, National Guard Bureau

The Chief, National Guard Bureau (CNGB) will—

- a. Develop programs within the Army National Guard of the United States (ARNGUS) to support the family presentation policy defined in this regulation.
- b. Establish implementing procedures within the ARNGUS for developed programs in support of this regulation for training/operational accidents of National Guard soldiers while serving on active duty for training (ADT), annual training (AT), active duty special work (ADSW), temporary tour of active duty (TTAD), and all other active Service work.

1–8. The Chief, Army Reserve

The Chief, Army Reserve (CAR) will—

- a. Develop programs within the United States Army Reserve (USAR) to support the family presentation policy defined in this regulation.
- b. Establish implementing procedures within the USAR in support of this regulation for training/operational accidents of Reserve soldiers in active Service.

1–9. The Director, Office of the Congressional Legislative Liaison

The Director, Office of the Congressional Legislative Liaison will—

- a.* Develop programs consistent with this regulation.
- b.* Establish procedures to ensure all Members of Congress and their constituents coordinate through the Office of the Chief of Legislative Liaison (OCLL) and not directly with Army organizations, such as Department of the Army (DA) casualty offices, public affairs offices, and affected mishap units.

1–10. The Director of Army Safety

The Director of Army Safety will—

- a.* Publish updates to proponent regulations to comply with this regulation.
- b.* Disseminate guidance and implementing instructions to major Army command (MACOM) safety directors.
- c.* Develop and disseminate tools and techniques for use by installation safety directors.
- d.* Provide USASC representation at presentations as directed by the DAS.

1–11. Commanders of major Army commands

Commanders of MACOMs will—

- a.* Develop programs within the MACOM to support the family presentation policy defined in this regulation and designate a MACOM-level proponent for monitoring command compliance with this regulation.
- b.* Establish implementing procedures within the MACOM for programs in support of this regulation for training/operational accidents for active component soldiers and provide additional command guidance to subordinate activities as required.
- c.* Designate a point of contact (POC) for coordination of actions when notified by TAG.

1–12. The Judge Advocate General or servicing legal office

The Judge Advocate General (TJAG) or servicing legal office will—

- a.* Provide advice concerning the implementation of this regulation.
- b.* Disseminate guidance and implementing instructions to servicing Staff Judge Advocates (SJA) and legal advisors.

1–13. The Chief, Army Public Affairs

The Chief, Army Public Affairs will—

- a.* Publish updates to proponent regulations to comply with this regulatory guidance.
- b.* Disseminate guidance and implementing instructions to installation staff public affairs offices (PAOs).
- c.* Provide media training to division commanders and above.

1–14. The Chief of Chaplains

The Chief of Chaplains will—

- a.* Publish updates to proponent regulations to comply with this regulatory guidance.
- b.* Disseminate guidance and implementing instructions to installation chaplains.

1–15. The appointing/approving authorities of the collateral investigation

The appointing/approving authorities of the collateral investigation will—

- a.* Appoint collateral investigating officers in accordance with AR 15–6 and this regulation.
- b.* Maintain the original and a copy of the collateral investigation report at the unit in accordance with command policy for maintaining official reports.
- c.* In accordance with MACOM policy, support the family presentation policy defined in this regulation.
- d.* Conduct training sessions and rehearsals for the presentation team.
- e.* Provide timely and accurate information to dispel misunderstandings that might otherwise result in litigation.

1–16. The casualty area commanders

The casualty area commanders will—

- a.* Assign casualty assistance officers (CAOs) for presentations. The CAO should be the same CAO assigned to assist the next of kin (NOK) from date of death.
- b.* Make appropriate disposition of the original statement of offer (SOO) or letter of offer (LOO), in accordance with paragraph 4–3 of this regulation.

Section 3

Presenting Causes of Fatal Training/Operational Accidents to the Next of Kin

1-17. Intent

a. The intent of this initiative is to—

(1) Establish an Army policy that provides a standard process for presenting the results of the collateral investigation to the PNOK in a timely, equitable, and professional manner.

(2) Provide a thorough explanation of releasable investigative results of fatal training/operational accidents to the PNOK and other family members designated by the PNOK.

(3) Ensure the family fully understands the circumstances of the accident.

(4) Ensure the family is reassured of the Army's concern regarding the tragedy and is aware of the compassion of Army leaders.

b. This regulation is not expanded to include training/operational accidents resulting in permanent total disability. TAG will determine presentations for these accidents on a case-by-case basis.

1-18. Concept

a. Collateral investigations of fatal training/operational accidents are conducted under the provisions of AR 15-6, AR 385-40, and this regulation for the following occurrences:

(1) Class A accidents resulting in death of a soldier.

(2) Anticipated litigation for or against the Government or a Government contractor.

(3) Anticipated disciplinary or adverse administrative action against any individual.

(4) Probable high public interest.

(5) All suspected cases of friendly fire.

b. Releasable information will be provided to the PNOK, and other family members designated by the PNOK, through periodic updates while the collateral investigation is ongoing, as set out in paragraph 4-2c through f. These updates are intended to share information concerning the progress of the investigation. Updates will not include the release of information violating laws or regulations (that is, on security or privacy grounds), interfere with any ongoing investigation (safety or criminal), or jeopardize the Army's litigation posture by admission of liability or waiver of defense.

c. A final presentation of the results of the collateral investigation will be delivered to the PNOK, and other family members designated by the PNOK, *before* results are released to Congress, the media, or the public.

d. At a minimum, the investigating officer of the collateral investigation, usually appointed by the general court-martial convening authority (GCMCA), will conduct a timely and accurate collateral investigation of the mishap. The appointing/approving authority may appoint additional members when it is determined that additional investigators and advisors are necessary. All selected members are appointed by memorandum to serve as collateral investigators. This duty takes precedence over all others. The collateral investigation will be conducted under the provisions of AR 15-6 and chapter 3 of this regulation. Upon completion of the legal review, all findings are submitted to, and approved by the appointing/approving authority before being released to the NOK. Congressional, press, and media releases are presented subsequent to the fatal training/operational accident presentations.

e. Under the provisions of AR 385-40, the Director of Army Safety (DASAF) determines the type of investigation to be conducted and initiates a safety investigation concurrent with the collateral investigation. Due to its time sensitivity and the potential safety and readiness implications of its findings, the safety investigation process is given primacy in access to evidence, witnesses, and the mishap scene. For this reason, it is critical that factual information and documentary evidence from the safety investigation are accurately and quickly provided to the collateral investigation.

Chapter 2

Army Policy

2-1. The Chief of Staff, U.S. Army guidance

a. The Chief of Staff, U.S. Army (CSA) directed DCS, G-1 to establish procedures regarding when and what to tell the PNOK and appropriate family members concerning training/operational accidents that resulted in soldier fatalities.

b. This regulation provides general and basic implementing instructions for presenting the circumstances of fatal training/operational accidents to the PNOK.

c. The TAG is the designated Army Staff (ARSTAF) lead agency and is delegated tasking authority to—

(1) Direct the assembly of the presentation teams.

(2) Alert and direct participation of support activities.

(3) Oversee the execution and follow-up of the presentations.

d. The DAS is the approval authority for USASC representation at presentations.

e. The TAG, in coordination with the MACOM commander and the appointing/approving authority, will determine the presentations provided to the PNOK. At a minimum, presentations will be offered for all fatal training/operational accidents as investigated under the provisions of AR 15–6, AR 385–40, and this regulation. This does not limit the TAG and the MACOM commander from offering presentations in other cases, especially when requested by the deceased or injured member’s family. In all cases, the collateral investigation is the basis for PNOK presentations.

f. The appointing/approving authority will coordinate the appointment of a briefer. (The remainder of this regulation will refer to the appointed commander as the “briefer.”) The briefer is most often the deceased soldier’s colonel or brigade level commander who will present appropriate findings to the family. This level of leadership demonstrates the Army’s depth of concern and the importance placed on the incident. Specific requirements will be outlined by the TAG or a representative and be provided to the briefer along with pertinent family member information. The TAG will coordinate with, and convey information to, the support agencies, for example, the Office of the Judge Advocate General, U.S. Army (OTJAG), Office of the Chief Public Affairs (OCPA), Casualty and Memorial Affairs Operations Center (CMAOC), USASC, other Services, and so forth. The TAG will task for all additional support throughout the presentation period required by the commander or requested outside the authority of the MACOM chain of command, with the exception of USASC personnel. A family presentation timeline is provided at table 2–1 to establish process and sequencing of events.

Table 2–1
Timeline for presenting causes of fatal training/operational accidents

Condition	Action	Authority/Responsibility	Suspense timeframe
Fatal training/operational accident occurs.	Command identifies deceased soldiers. Appoint investigating officer. Safety board president hands factual data to the collateral investigating officer. Initiate collateral investigation. Initiate press release to confirm accident.	Mishap unit Appointing authority USASC Supporting PAO	C-day ¹ C +5 C +14 C +14
Collateral investigation in process (W/EXSUM).	Provide periodic updates to the PNOK and press. <i>Information provided should be the same as that released locally and is only an update on the investigative process, not findings.</i>	Approval authority/supporting PAO and CMAOC	C +5–30
Collateral investigation with executive summary is due.	Completed investigations will be reviewed by legal office. If investigation is not complete, request an extension and establish fact-finding workgroups. Investigation is approved. Brigade level commander is appointed to lead presentation team.	Installation SJA Investing officer and Appointing authority Approval authority/CG Mishap commander/ general officer	C +38 NLT C +38 NLT D-day ² D +1
Collateral investigation approved and signed by the approval authority.	Letter (SOO or LOO) to PNOK Dates for PNOK presentations scheduled and approved. Investigation report redacted by legal office. Conduct training for briefing team. SJA will review scripted brief. Presentations are rehearsed. SMEs prepare briefer (collateral investigator, chaplain, mental health, SJA, and PAO).	CMAOC/ approval authority CMAOC with briefer. Supporting SJA Mishap commander/general officer	D +1 D +7–14 D +7–14 D +7–14
Team presentation	Provide copies of report for briefing team and families with cover letter explaining redaction. Conduct presentations (copies of collateral report provided to family at time of presentation. Under extraordinary conditions, exceptions to defer delivery can be requested by approval authority through TAG to VCSA).	Supporting SJA Briefer	D +7–14 D +21–25
Information memorandum for Congress (IMC)	IMC will be released.	Supporting PAO	D +26
Memoranda for correspondents (MFC)	MFC will be released on the evening before press conference.	Supporting PAO	D +26.5

Table 2-1
Timeline for presenting causes of fatal training/operational accidents—Continued

Condition	Action	Authority/Responsibility	Suspense timeframe
Press conference		Approval authority and supporting PAO	D +27

Notes:

¹ C-day represents the date to initiate a collateral investigation.

² D-day represents the date to start family brief process.

2-2. General presentation coordination

a. General officer coordination is required to initiate a presentation. The Adjutant General will contact the appointing/approving authority of the collateral investigation to coordinate appointment of a briefer once the collateral investigation has been approved. The TAG will also identify a POC within CMAOC to coordinate and assist the MACOM and briefer.

b. The respective collateral investigation appointing/approving authority will respond to the TAG, confirming the approval of the collateral investigation and identifying the briefer. The mishap unit will also provide a POC to effect mishap unit coordination along with any special requests that may require TAG approval.

c. The CMAOC will ensure the CAO assigned to the PNOK informs the PNOK that the Army is prepared to discuss the results of the investigation with the family.

d. The CMAOC will coordinate the written offer for presentation (figs 4-1 and 4-2) through the CAO to the PNOK in accordance with paragraphs 4-2g and 4-3. The PNOK may accept or decline the offer. If the PNOK declines the offer, the CAO will report that fact to CMAOC. The CMAOC will inform the briefer that the family does not desire a presentation. If the family accepts, the CAO will notify CMAOC, who will notify the briefer.

e. The briefer will proceed with the assembly of a presentation team, as well as with the planning and preparation, in accordance with chapters 4 and 5 of this regulation.

f. The CMAOC will coordinate with the CAO, the briefer, and the family to schedule the presentation (table 2-1). If family situations do not allow compliance with the timeline, the Army will defer to the family to establish a different schedule.

2-3. Composition of the presentation team

a. The minimum requirement of the presentation team composition is a briefer, the family's CAO, and a chaplain. The Adjutant General will determine CMAOC representation as needed. The Adjutant General will request USASC personnel or members of the central accident investigation boards from the DAS if either is required. The chaplain from the mishap unit will be part of the presentation team. The casualty area command (CAC) will appoint a chaplain from the area if the chain of command cannot support this mission. Chaplains may invite the family's preferred clergyman to accompany the presentation team. Local civilian clergy will not substitute for an Army chaplain on the team.

b. The briefer will consider the inclusion of a servicing SJA or legal advisor or PAO representative when it is apparent that a family has invited, or may invite, the local media or a family legal representative to attend the presentation (paras 4-3h and 5-4).

c. The briefer will consider the inclusion of an interpreter, contracted with unit funds, if the PNOK or other attending family members do not understand or speak the language of the briefer and the team.

2-4. The presentation

a. The briefer's primary responsibility is to meet personally with the PNOK and deliver a thorough open explanation of the releasable facts and circumstances surrounding the accident. In all cases, the briefer's supporting SJA will review the presentation to ensure that it contains no admission of liability, waiver of any defense, offer of compensation, or any other statement that might jeopardize the Army's litigation posture. The supporting SJA will discuss these issues with the briefer.

b. The briefer will take the lead during the presentation. When it is appropriate to make the transition to the presentation, the briefer should avoid a military briefing technique. Instead, consider a conversational style to present the facts to the family (para 5-2b).

c. In an unclassified presentation, consistent with law and regulations, the briefer will, at a minimum, discuss the following three areas:

(1) An explanation of the unit's missions that focuses on the soldier's significant contributions to the unit, its mission, and the Army.

(2) An accurate account of the facts and circumstances that surrounded the accident. This portion of the discussion will focus on releasable results of the collateral investigation report.

(3) An explanation of any corrective actions taken by the Army. The briefer will thoroughly review with the servicing legal office all corrective actions for potential release to the NOK.

d. At the conclusion of the presentation, the briefer will answer any questions the family has, refer any issues outside his or her area of competence to participating subject matter experts (SME), and ensure a prompt follow-up to unresolved issues. The goal is to answer all questions and concerns the family members have, while in their presence.

e. Upon completion of the presentation, the briefer will submit an after action review (AAR) through the appointing/approving authority (and through the MACOM commander, as appropriate, to the TAG). The Adjutant General will task appropriate organizations to respond to any unresolved issues related to the presentation.

2-5. Funding for temporary duty travel

a. Travel expenses for military personnel and DA civilians comprising a presentation team will be provided by the participants' current unit of assignment.

b. There is no authorization to fund family travel. Family members are responsible for their own travel. Consequently, every attempt should be made to accommodate presentations at the family's convenience, such as in the hometown in which the family resides.

2-6. Media and press releases

a. Under no circumstances will any information relative to the results of the investigation be released to the media, Congress, or general public prior to the family either declining or receiving the presentation. Refer to table 2-1.

b. If the respective appointing/approving authority of the collateral investigation intends to brief Members of Congress or the local media *following* family presentations, the approval authority must coordinate with the OCLL and OCPA. Make every effort to ensure presentations are consistent to all audiences.

Chapter 3 Collateral Investigations

3-1. General

a. Department of Defense Instruction 6055.7 requires each Service to conduct both a safety investigation and a legal investigation, referred to in the Army as a collateral investigation, into selected Class A accidents. The policies and procedures for conducting safety investigations are outlined in AR 385-40. The policies and procedures for conducting collateral investigations are explained in AR 385-40, AR 27-20, and in the case of fatal training/operational accidents, this regulation. The two investigations will normally run concurrently. However, safety investigations will take precedence over collateral investigations. If a conflict occurs between the investigations regarding access to the accident site, acquiring and examining evidence, and interviewing witnesses, safety investigations have priority concerning the following:

- (1) All on-duty Class A accidents resulting in a soldier's death.
- (2) Anticipated litigation for or against the Government or a Government contractor.
- (3) Anticipated disciplinary or adverse administrative action against any individual.
- (4) Probable high public interest.
- (5) All suspected cases of friendly fire.

b. A spirit of cooperation is required to ensure that the collateral investigation will have access to evidence.

c. In accordance with AR 385-40, the safety investigation may provide the collateral investigation with copies of common-source factual information (for example, technical data, maintenance records, photographs, maps, diagrams, lists of witness names, and so forth). The content of witnesses' statements may not be provided, nor may the accident investigation board provide its findings, analysis, and recommendations to the collateral investigator. Additionally, while transcripts of relevant portions of voice recordings may be included in the accident report and released, this information may only be released for accident prevention purposes within the military. The safety board will also allow the collateral board a reasonable amount of time to perform an accident scene investigation before disturbing the evidence by movement and disassembly. If this cannot be accomplished due to the urgency of the situation, the safety board must ensure that the scene is documented with photographs and a wreckage distribution (accident site) diagram, which will be made available to the collateral board. The safety board will inform the collateral board if it removes components for analysis.

d. Criminal investigations also take precedence over collateral investigations.

3-2. Appointing authority

a. The appointing authority for the collateral investigation into fatal training/operational accidents is typically the same as the appointing authority for the safety investigation.

- (1) For Active Army units, the appointing authority is usually the GCMCA of the unit concerned.

(2) For USAR units assigned to USARC, the appointing authority is the Commander, United States Army Reserve Command (USARC).

(3) For ARNG units, the appointing authority is usually the State Adjutant General.

b. When personnel or materiel involved in an accident are from units from a different Service, or under the command of different appointing authorities, the convening authorities concerned should agree on who will appoint the board. Their decision should be based on their relative degrees of involvement as well as considerations of administrative convenience. If an agreement cannot be reached, their next respective commander in the chain of command will make the decision.

c. When an accident occurs away from the responsible unit's home station, the officer who would normally appoint the board may request the GCMCA for the installation closest to the accident, or upon which the accident occurred, conduct the investigation. Coordination for such a transfer of authority should include specific agreement on funding the cost of the investigation.

d. For accidents involving USAR and ARNG personnel assigned or attached to a command other than USARC or regularly assigned ARNG unit, the officer who exercises GCMCA over the accident site will appoint accident investigation boards.

e. In some cases, the unit or installation that is responsible for the personnel, equipment, or operation involved in the accident may be under the command of a different MACOM than the GCMCA who would normally appoint the board. In this case, the two MACOM commanders may enter into supplemental agreements that provide for a different appointing authority.

f. Treaties, statutes, regulations, agreements, and other procedures may affect accidents that occur in a foreign territory or those that involve any civil or foreign military persons or property. Appointing authorities should consult with their servicing SJA or legal advisor before proceeding with a collateral investigation.

3-3. Initiating the collateral investigation

a. Investigations required by this regulation will be conducted under the provisions of AR 15-6. Investigations may be formal or informal, based on the circumstances surrounding the soldier's death. Informal and formal investigations are conducted in accordance with AR 15-6, chapters 4 and 5, respectively.

b. The appointing authority should select individuals who, in his or her opinion, are best qualified by reason of their education, training, experience, length of service, and temperament. However, the investigating officer or board president will be senior to any person whose conduct or performance of duty may be investigated, or against whom adverse findings or recommendations may be made, unless the appointing authority determines that it is impracticable because of military exigencies. The appointing authority may request, through appropriate channels, that persons from outside his or her organization serve on boards or conduct investigations under his or her jurisdiction. The appointing authority may also appoint experts in particular areas to serve as technical advisors to the investigating officer or board. Other particular requirements are addressed in AR 15-6, paragraph 2-1.

3-4. Conducting the collateral investigation

a. Before beginning the investigation, the investigating officer or board will consult with the servicing SJA or legal advisor for legal guidance. The servicing SJA or legal advisor will provide all necessary advice, regulatory guidance, privacy act statements, and other necessary forms. The investigating officer must familiarize himself or herself with all written materials provided by the appointing authority. The letter of appointment will explain, in general terms, what the appointing authority would like to have investigated. The appointing authority should resolve any questions about the scope of the investigation as quickly as possible. The investigating officer should consult with his or her servicing SJA or legal advisor throughout the investigation.

b. An investigation conducted in accordance with AR 15-6 is administrative, not judicial. An investigating officer, generally, is not bound by the rules of evidence for courts-martial or court proceedings. Subject only to the provision below, anything that a reasonable person would consider relevant and material to an issue may be accepted into evidence and considered by the investigating officer. All evidence will be given such weight as the circumstances warrant in the investigation officer's discretion. Questions concerning evidence should be addressed to the servicing SJA or legal advisor.

c. Administrative proceedings governed by this regulation, generally, are not subject to exclusionary or other evidentiary rules precluding the use of evidence. However, the following limitations apply:

(1) *Privileged communications.* The Manual for Courts-Martial (MCM) Section V, Part III, rules concerning privileged communications between lawyer and client (Military Rules of Evidence (MRE) 502), privileged communications with clergy (MRE 503), and husband-wife privilege (MRE 504) apply. Present or former inspector general personnel will not be required to testify or provide evidence regarding information that they obtained while acting as inspectors general. They will not be required to disclose the contents of inspector general reports of investigations, inspections, inspector general action requests, or other memoranda, except as disclosure has been approved by the appropriate directing authority (an official authorized to direct that an inspector general investigation or inspection be conducted) or higher authority. (See AR 20-1, paragraph 1-30.)

(2) *Polygraph tests.* No evidence of the results, taking, or refusal of a polygraph (lie detector) test will be considered without the consent of the person involved in such tests. In a formal board proceeding with a respondent, the agreement of the recorder and of any respondent affected is required before such evidence can be accepted.

(3) *“Off the record” statements.* Findings and recommendations of the investigating officer or board must be supported by evidence contained in the report. Accordingly, witnesses should not make statements “off the record” to board members in formal proceedings. Even in informal proceedings, such statements should not be considered for their substance, but only as help in finding additional evidence.

(4) *Statements regarding disease or injury.* A member of the Armed Forces will not be required to sign a statement relating to the origin, incurrence, or aggravation of a disease or injury that he or she has suffered. Any such statement against his or her interest is invalid (Title 10, Section 1219, United States Code (10 USC 1219)) and may not be considered on the issue of the origin, incurrence, or aggravation of a disease or injury that the member concerned has suffered. A voluntary statement made and signed by a soldier is not considered a statement that the soldier was “required to sign” within the meaning of this paragraph.

(5) *Ordering witnesses to testify.*

(a) No military witnesses or military respondents will be compelled to incriminate themselves, answer any question that could incriminate them, or make a statement or produce evidence that is not material to the issue, and that might tend to degrade them. An answer tends to incriminate a person if it would make it appear that the person being probed is guilty of a crime. See Article 31, Uniform Code of Military Justice (UCMJ).

(b) Persons not subject to the UCMJ will not be required to make a statement or produce evidence that would deprive them of their rights against self-incrimination under the Fifth Amendment of the U.S. Constitution.

(c) A person refusing to provide information under (a) or (b) above must state specifically that the refusal is based on the protection afforded by Article 31 or the Fifth Amendment. The investigating officer or board will, after consultation with the legal advisor, or if none has been appointed, the servicing SJA, unless impractical to do so, decide whether the reason for refusal is well taken. If it is not, the witness may be ordered to answer.

(d) Whenever it appears appropriate and advisable, an investigating officer or board should explain the rights of the individual to witnesses or respondents. A soldier, for example, who is suspected of an offense under the UCMJ, such as, dereliction of duty, will be advised of his or her rights under Article 31 of the UCMJ before being asked any questions concerning the suspected offense. The soldier will be given a reasonable amount of time to consult an attorney, if requested, before answering any such questions. No adverse inference will be drawn against soldiers who invoke that right under Article 31. It is recommended that the procedure for explaining rights set forth on DA Form 3881 (Rights Warning Procedure/Waiver Certificate) be used.

(e) The right to invoke Article 31 or the Fifth Amendment is personal. No one may assert that right for another person, and no one may assert it to protect anyone other than himself or herself.

(f) In certain cases, the appropriate authority may provide a witness or respondent a grant of testimonial immunity and require testimony notwithstanding Article 31 or the Fifth Amendment. Grants of immunity will be made under the provisions of Rule for Courts-Martial 704. Rule for Courts-Martial 704 deals with grants of immunity in criminal cases in which DOD and Department of Justice have concurrent jurisdiction.

(6) *Involuntary admissions.* A confession or admission obtained by unlawful coercion or inducement likely to affect its truthfulness will not be accepted as evidence. The fact that a respondent was not advised of his or her rights under Article 31, or the Fifth Amendment, or of his or her right to a lawyer does not, of itself, prevent acceptance of a confession or admission as evidence.

(7) *Unlawful searches.* If members of the Armed Forces acting in their official capacity (such as, military police acting in furtherance of their official duties) conduct or direct a search that, knowingly, is unlawful under the Fourth Amendment of the U.S. Constitution, as applied to the military community, evidence obtained, as a result of that search may not be accepted or considered against any respondent whose personal rights were violated. Such evidence is acceptable only if it can reasonably be determined by the legal advisor or, if none, by the investigating officer or president that the evidence would inevitably have been discovered. In all other cases, evidence obtained as a result of any search or inspection may be accepted, even if it has been, or would be, ruled inadmissible in a criminal proceeding.

3-5. Approval of the collateral investigation

a. The initial collateral investigation will be submitted to the appointing authority or designee, in the form and manner set out in AR 15-6, within 30 days from the date of the fatal training/operational accident. Upon written request, the appointing authority may grant delays, in 10-day increments, for good cause shown by the requestor.

b. The appointing authority will take the actions required by AR 15-6, paragraph 2-3.

3-6. Release of information

a. This regulation is not intended to provide the PNOK with information not otherwise releasable under 5 USC 552, the Freedom of Information Act, and 5 USC 552a, the Privacy Act, as implemented by AR 25-55 and AR 340-21, respectively. Unauthorized or premature disclosure of information compromises the integrity of the collateral investigation and PNOK notification process.

b. Except as provided below, the release authority for information related to a collateral investigation is the appointing authority.

(1) Reports that contain classified material must be marked and handled in accordance with AR 380–5.

(2) The SJA is the release authority for investigations conducted in accordance with AR 27–20. These investigations are normally claims investigations done with a view toward litigation.

c. After the release authority approves the release of information related to the collateral investigation, the command distributes it in coordination with the CMAOC, the command’s serving PAO, and the servicing SJA or legal advisor. Reports of collateral investigations are normally distributed in the following sequence:

(1) Interested offices within DOD and DA.

(2) PNOK and other family members designated by the PNOK.

(3) Members of Congress, upon request, in accordance with AR 1–20.

(4) Members of the public and media in accordance with AR 360–1.

d. The release authority will allow sufficient time for Army internal review prior to distribution (table 2–1) and scheduling PNOK briefings followed by Congressional, media, and public releases.

e. Except as provided below, no one will disclose, release, or cause to be published any information related to a collateral investigation without the approval of the release authority.

(1) Witnesses and respondents will be given a copy of their own sworn testimony, statements, or in cases where their interview is summarized, a copy of the memorandum memorializing the interview.

(2) Upon approval or other action on the report of proceedings by the appointing authority, the respondent or counsel will be provided a copy of the report in accordance with AR 15–6, paragraph 5–10.

f. In order to ensure consistency in disclosure of information, the command will maintain a copy of the released collateral investigation along with the original. Under provisions of AR 385–40, reports of safety investigations must be maintained for at least 10 years.

g. A letter prepared by the servicing SJA or legal advisor will accompany the redacted version of the report delivered to the family, and will explain, in general terms, the reasons for the redaction.

3–7. Next of kin notification and access to reports relating to the death of a soldier

a. In accordance with Section 1072 of the National Defense Authorization Act for Fiscal Year 1993, Public Law 102–484 Stat. 2508 (1992), within a reasonable period of time after family members are notified of the death of a soldier, but not more than 30 days after the date of notification, the CAO, in accordance with AR 600–8–1, will ensure that the PNOK and other family members designated by the PNOK—

(1) Are informed of the investigations, the names of the agencies conducting the investigations, and the existence of any reports by such agencies that have been or will be issued as a result of the investigations.

(2) Understand that at the time of the presentation, and at the PNOK’s request, DA will provide a copy of any completed report of collateral investigation in accordance with the Freedom of Information Act (FOIA), the Privacy Act, and the safety privilege.

b. In any case in which the report of collateral investigation, or other fatality report, cannot be released at the time family members are provided information (para a(1) above) about the soldier’s death because of the FOIA or the Privacy Act, the CAO, in accordance with AR 600–8–1, will ensure the family members—

(1) Are informed about the requirements and procedures necessary to request a copy of such reports.

(2) Are assisted, if the family members so desire, in submitting a request in accordance with such requirements and procedures.

c. The CAO will assist family members in obtaining copies of fatality reports (other than what is presented at the briefing) and will follow up until a copy of each report is obtained or the appropriate authority denies access to any such report.

d. The briefer will consider the potential impact of the report provided to the family. Graphic photographs are to be separately wrapped and labeled, “CAUTION: THIS ENVELOPE CONTAINS GRAPHIC PHOTOGRAPHS. VIEWER DISCRETION IS WARRANTED.”

e. The requirements of this paragraph may be waived on a case-by-case basis if the Secretary of the Army determines that compliance with such requirements is not in the interest of national security.

Chapter 4

Preparing for the Fatal Training/Operational Accident Presentation

4–1. Incidents eligible for fatal training/operational accident presentations

a. Presentations will be offered to adult PNOK (those 18 years of age and older) following fatal training/operational

accidents. For PNOKs under the age of 18, the adult custodian will determine PNOK's ability to receive a face-to-face presentation. Otherwise, presentations are offered for the following:

- (1) Special interest cases or cases in which there is probable high public interest, as determined by the TAG.
 - (2) All suspected cases of friendly fire as defined in the glossary of this regulation.
- b.* There is no requirement to provide presentations under the provisions of this regulation for deaths caused by nonreportable accidents or events defined by the DODI 6055.7.
- c.* Should an accident involve a soldier attached to another military service, follow the interservice participation guidance in DODI 6055.7.
- d.* The TAG may consider any other incident that does not fall under a category listed above in subparagraph 4-1a eligible for a presentation.
- e.* In general, accidents that are hostile, as defined by the DODI 6055.7, but do not occur as a result of engagement with the enemy, are required to be investigated and are eligible for presentations.

4-2. Actions required during the conduct of the collateral investigation

a. Once the collateral investigation is approved, the TAG will notify the approval authority of the requirement to conduct a presentation. The purpose of this initial notification is to--

(1) Alert the chain of command that a fatal training/operational accident presentation is required for the specified accident.

(2) Request that the appropriate brigade-level commander in the grade of colonel (or higher) be appointed as the briefer for the presentation.

(3) Establish a POC within CMAOC as well as in the unit where the mishap occurred.

b. In the event of multiple casualties, the appointing/approval authority of the investigation must be prepared to appoint multiple briefers who meet the criteria of position and grade. Should an appointed briefer change command prior to the completion of the collateral investigation and before the presentation is conducted, a replacement briefer who meets the position and grade criteria must be appointed.

c. The collateral appointing/approving authority will maintain the lead in communicating with the collateral investigator, the servicing SJA or legal advisor, and the supporting PAO.

d. With approved extensions, collateral investigations can take several months to complete. Depending on the type of accident and the circumstances, it may be important to keep the PNOK and the public apprised of the status of search and rescue, recovery of remains, and salvage operations, as well as the progress of the investigation. Families typically have an ongoing desire to know as much as possible about their loved one's loss, and they have an expectation that they will be kept informed of the investigators' progress. These priorities suggest the nature of investigation information most commonly sought is primarily reliable facts that help the survivors understand the process and the expected completion date of the investigation.

e. In the event of an approved extension, the collateral investigation approval authority is responsible for the release of status information from the investigations in the form of updates in accordance with AR 600-8-1, chapter 7. Updated scripts for release of information will be prepared by the supporting PAO at the direction of the collateral appointing/approving authority. Updates will include information concerning the progress of the investigation, but will not include any information relative to the results of the investigation. The appointing/approving authority's reviewing legal office will review each update to ensure that it contains no admission of liability, waiver of any defense, offer of compensation, or any statement that might jeopardize that Army's litigation posture. The script will be given to CMAOC who will instruct the CAO on its delivery to the PNOK. Once presented to the PNOK, CMAOC will confirm its delivery and the supporting PAO, in turn, will determine if there is a requirement to release the update publicly. If the update contains nothing significant for public release, the supporting PAO may decide not to conduct a public release, but continue to respond to queries (RTQ) as necessary in accordance with paragraph 6-6e. *Either way, information concerning the accident or the investigation may not be released to Congress, the media, or the public before it is presented to the PNOK.*

f. Information provided in the form of updates, or information provided at the time of the presentation, can in no way involve information that will compromise the integrity of any investigative process. Nothing in this regulation is to be interpreted as permitting release of privileged, limited-use safety investigation information under any circumstances. All such information must be clearly distinguished from "investigation information," which is purely factual and subjected to review and formal release approval. Unauthorized disclosure of privileged safety information is a violation of Article 92, UCMJ.

g. Upon initiation of the collateral investigation, CMAOC will identify the PNOK and provide guidance to the CAO. The type of accident will determine the method of the offer. A family presentation for an accident requiring a single family presentation will be offered with a SOO, figure 4-1, while the use of a formal LOO, figure 4-2, will be used for accidents requiring multiple presentations.

Sample

Date

Mrs. Ruby Jenkins
333 Beranger Street
Eastmand, Pennsylvania 99999

Dear Mrs. Jenkins:

On behalf of the Department of the Army, I want to extend my heartfelt sympathy in the loss of your husband, Ralph.

The Commanding General, 27th Training Support Command, signed the collateral investigative report on September 21, 2001. As the primary next of kin (PNOK), we offer you an opportunity to personally receive a presentation of facts surrounding your husband's death. The briefing team may consist of a senior leader of your husband's command, a member from the Department of the Army casualty and memorial affairs operations center, your casualty assistance officer (Major Jason Brown), and an Army chaplain. Our intent is to provide the results of the accident investigation to you prior to releasing for public disclosure.

If you would like to receive a presentation, a copy of the investigative report, or both, please indicate by selecting from the choices below.

Very Respectfully,

Rita J. Salley
Lieutenant Colonel
Chief, Department of the Army
Casualty Operations Division

- I wish to receive a personal presentation.
- I do not wish to receive a personal presentation.
- I wish to receive a copy of the collateral investigation.
- I do not wish to receive a copy of the collateral investigation.

(printed name)

(signature)

(date)

Figure 4-1. Sample statement of offer

Sample

LETTERHEAD

AFKA-AZ-PER

DATE

Mrs. John Doe
8756 Banbough Street
Columbia, South Carolina 99999

Dear Mrs. Doe:

Please accept my heartfelt sympathy in the tragic loss of your son, Ralph, during the equipment explosion on September 4, 2001, in Norfolk, Virginia. On October 13, 2001, I completed the collateral investigation, determining the findings of the accident.

I have appointed Colonel David Fischer as the officer who will present the findings of the investigation to you. Colonel Fischer is a highly skilled, trained soldier, and understands the details of this particular incident. I want very much to answer your questions and address any concerns you have with timeliness and accuracy. I believe you will find his information valuable.

It is most painful to me to admit we lost many great soldiers to this horrific tragedy. To preclude the intrusion of false information during the presentations, I've asked Colonel Fischer to deliver the findings to families before November 15, 2001. Out of respect for families, I would like to afford each the opportunity to receive the information within the same 3-day window. During your presentation Colonel Fischer will answer any questions you or your family may have concerning the accident, and the resulting investigation.

If you desire to receive a copy of the collateral investigative report, a briefing, or both, please indicate your acceptance or declination on the enclosed report. Our intent is that there be no public disclosure of the report or the findings of the report until all families who desire to, receive briefings and copies of the report. We solicit your cooperation in ensuring that the information is not prematurely released to the public.

Again, please accept our condolences for your loss.

Sincerely,

Encl
as

Daniel K. Fenster
LTG, U.S. Army
Commanding

Figure 4-2. Sample letter of offer

ACCEPTANCE OR DECLINATION
OF
PRESENTATION OF COLLATERAL INVESTIGATIVE REPORT

_____ I wish to receive a personal presentation.

_____ I do not wish to receive a personal presentation.

_____ I wish to receive a copy of the collateral investigative report.

_____ I do not wish to receive a copy of the collateral investigative report.

(printed name)

(signature)

(date)

Sample

Figure 4-2. Sample letter of offer—Continued

4-3. Actions required upon the appointing/approving authority's approval of the collateral investigation

a. Once the approval authority has approved the collateral investigation report and has spoken with the TAG regarding the report and the appointment of the briefer, the CMAOC and CAO will offer results to the PNOK.

b. An accident presentation for a single-family presentation will be coordinated by the CAO. The dates for the presentation will be determined in accordance with table 2-1. The CMAOC will fax the SOO to the CAO for delivery to the PNOK. Once the PNOK has signed the SOO, either accepting or declining the presentation, the CAO will deliver the original SOO to the CAC and fax a copy to CMAOC. The CAC will mail the original SOO to CMAOC for file in the casualty record. The CMAOC will notify the briefer of the PNOK's decision and begin coordination of the presentation.

c. Accident presentations requiring the offer of multiple family presentations will be officially offered via a formal LOO mailed to the PNOK within 24 hours following the approval of the collateral investigation report. The purpose of such a letter is to document the specified time frames for presentations offered, and to ensure the process and

information provided is disseminated to each PNOK in a timely, equitable, and professional manner. The CAO will provide a copy of the letter, once signed by the PNOK, to the CAC to forward to CMAOC for file in the casualty record.

(1) The CAO will follow up with the PNOK to arrange for the presentation date in accordance with table 2-1. The CAO will obtain preferred dates (a primary and secondary) from the PNOK and provide those to CMAOC.

(2) The CMAOC will develop a proposed presentation schedule for all PNOK, accommodating family preferences to every extent possible. The CMAOC will coordinate the proposed schedule with the briefers for approval.

d. Either method (the SOO or the LOO) of offering a presentation must—

(1) Inform the PNOK that the collateral investigation is complete.

(2) Provide a timeframe for the presentation (table 2-1).

(3) Identify the briefer, and provide the name of the CAO with instructions for accepting or declining and scheduling the presentation.

e. Either method of correspondence should be received by the PNOK not later than 2 weeks prior to the timeframe that the presentation is offered. This will allow the PNOK time to emotionally prepare and to consult with other family members who the PNOK may invite, and who may elect to travel (at their own expense) to the presentation location.

f. The PNOK who declines the presentation will be offered a copy of the collateral report, redacted in accordance with information releasable under the Privacy Act laws and in accordance with paragraphs 3-6 and 3-7 of this regulation. If the PNOK accepts a copy of the redacted collateral report, the deceased soldier's brigade commander will endorse the report and mail it to the PNOK's CAO, who will deliver it to the PNOK. The appropriately signed SOO or LOO declining the presentation will be filed in the casualty file by CMAOC and no further action will be required.

g. The PNOK who accepts the presentation offer will be scheduled for a presentation in accordance with table 2-1 and paragraph 4-4 below. The appropriately signed SOO or LOO accepting the presentation will be filed in the casualty record by CMAOC.

h. Between the period offering and presenting presentations, the following actions will occur:

(1) Briefers, in coordination with CMAOC, will develop the composition of the presentation teams in accordance with chapter 2 and 3 of this regulation.

(2) Legal and public affairs representatives may be necessary, depending on the circumstances of the case. The briefer is ultimately responsible for building the team. Requests for member participation outside the MACOM's command will be submitted to TAG, who will task appropriate agencies for additional support, with the exception of USASC representation, which the DAS will approve.

(3) The briefer will prepare and conduct training sessions and rehearsals for the presentation team.

(4) The servicing SJA or legal advisor will provide a nonredacted copy of the collateral investigation report to CMAOC.

(5) The servicing SJA or legal advisor will redact the collateral investigation report in accordance with chapter 3 of this regulation, and prepare the required number of copies. Each PNOK will be given a redacted copy. Additional redacted copies may be needed, on a case-by-case basis, for additional family members as determined necessary by the briefer. In particular, consideration must be given to separated parents when there is no spouse. In this case, the briefer will defer to the recommendation of CMAOC.

(6) The servicing SJA or legal advisor will conduct the legal review of all materials intended for use during rehearsals and the actual presentation.

(7) The supporting PAO will prepare press releases with questions and answers (Q & As) in accordance with chapter 6 of this regulation.

(8) The CAO will work with the PNOK, under CMAOC direction, to obtain a list of people the PNOK intends to invite to the presentation. This is the family's presentation, and it is important to remember that the PNOK is free to choose not only the date, time, and place for the presentation, but is also free to invite other persons to attend. Obtaining a list of intended invitees will enable the presentation team to determine the family's intent to invite media or legal representation. Families must be permitted to do so, if they wish. The Army will not put conditions or limitations upon those whom the family wishes to invite to the presentation. Should there be a known intent upon the part of the PNOK to have media or legal representation, the TAG will determine whether or not a recommendation is appropriate for the collateral appointing/approving authority to consider including PAO or JAG representation to travel with the briefing team.

(9) For families who accept the presentation, the CAO will provide a written summary of the current health and well being of the family. At a minimum, this will include a description of the family's emotional, mental, and physical health; the family's relationship with friends and other significant support groups; the current living arrangements; and any outstanding issues the family has with benefits and entitlements. This may also include ongoing or new issues the family may have that the team expects to address at the time of the presentation.

(10) The CAO will conduct a reconnaissance of the area where the presentation will be conducted and recommend a hotel in the vicinity for the members of the presentation team. The CMAOC will coordinate this information directly with the briefer. The CAO will make arrangements for team transportation between the hotel and the presentation location using a General Services Administration (GSA) vehicle, if available. If a GSA vehicle is not available, rental

vehicles may be used. Family members are generally responsible for arranging and providing their own transportation to the briefing location. Under no circumstances should briefing teams travel with the PNOK family members in a privately owned vehicle. The CAOs should consult with their supporting travel office before permitting family members to travel in GSA vehicles.

(11) The CMAOC will obtain the following information and assemble it in a packet for the briefer:

- Autopsy report (final summary).
- Summary of benefits and entitlements.
- Family profile prepared by the CAO.
- List of persons the PNOK intends to invite to the presentation. The list will be prepared by the CAO and will identify those listed by name and relationship to PNOK.

4-4. Scheduling the fatal training/operational accident presentation

a. Scheduled presentations will occur quickly and as close in succession as possible. The PNOK will select a preferred date (provided window dates from CMAOC), time (primary and alternate), and location for the presentation. This information will be passed through the CAO to CMAOC who will develop the schedule for approval by the briefer and for coordination with the supporting PAO. The goal is to conduct multiple briefs within the “3-day window” (refer to table 2-1), if reasonably possible and in accordance with the family’s desires. If necessary to schedule outside that “3-day window,” the TAG will notify the collateral approval authority and the MACOM.

b. It is necessary for the CAO to ask the PNOK, at the time of the presentation offer, to submit a primary and alternate date and time for the presentation. Particularly, if multiple family briefs are to be scheduled, it will be necessary to have primary and alternate choices for CMAOC to facilitate the scheduling of all briefs as close together as possible in accordance with table 2-1. If family desires cause the scheduling of multiple family briefs to extend beyond that “3-day window,” the schedule will be developed in accordance with the preferences of the family. If this should be the case, the following must occur:

(1) The U.S. Adjutant General must notify the MACOM designee immediately and the MACOM designee must delay any and all public release of information until the family can be briefed.

(2) For families who require or request more than 1 week delay, beyond the “3-day window,” the team must tell the family that they will do everything within their power to not allow press releases to occur.

c. If this is a special interest case and the collateral approval authority determines the presence of extraordinary circumstances, he or she may request an exception to the requirement for delivery of a copy of the collateral investigation report to the family at the time of the presentation.

Chapter 5 Conducting the Fatal Training/Operational Accident Presentation

5-1. Responsibility of the colonel level commander/briefer

a. Upon deployment to the presentation location, the briefer will take charge of the briefing team. He or she will schedule a time for a rehearsal with all team members present prior to departing for the scheduled presentation. The rehearsal provides the following:

(1) The opportunity for all presentation team members to hear the information prior to the official presentation.

(2) The opportunity for presentation team members to “role play” as family members, asking tough questions in anticipation of the family’s concerns.

(3) The opportunity for the CAO to describe the area where the team will conduct the presentation (that is, the room, setting, entrance, pre-seated conversation with the family, and so forth). The CAO will also review the current emotional, volitional, mental, and physical state of the family.

(4) The opportunity for the briefer to practice prior to the official presentation.

b. The presentation team members will wear the Class A uniform to conduct presentations, but in extraordinary circumstances, the briefer can authorize different attire. If such is the case, arrangements and coordination prior to deployment must be made.

c. The briefer, in an unclassified presentation, will discuss the following:

(1) Explanations of the unit’s mission, highlighting the soldier’s contributions to the mission, the unit, and the Army.

(2) An accurate account of the facts and circumstances leading up to the accident, the sequence of events that caused the accident, and a very clear explanation of primary and contributing factors causing the accident as determined by the collateral investigation.

(3) Actions taken at the unit level to correct any deficiencies.

d. The briefer will present a complete redacted version, as provided in paragraph 3-6 of this regulation, of the

collateral investigation report to the PNOK at the time of the presentation. The briefer will also explain the purpose of all redaction. In addition, a letter prepared by the servicing SJA or legal advisor will accompany the report and explain, in general terms, the reasons for any redaction.

e. The CMAOC will obtain a summarized copy of the final autopsy report and provide it to the briefer for delivery to the PNOK at the time of the presentation. If the PNOK does not wish to receive an autopsy report, it will not be left with the PNOK. If the PNOK desires to receive the autopsy report, at the conclusion of the presentation, the briefer will explain that the autopsy does not contain graphics but is very detailed and written in medical terminology; thus, it is provided in a sealed envelope. The briefer must also make a specific recommendation to the family that when they are ready to review the autopsy report, it is suggested they do so in the presence of a medical person able to explain the terminology. There is no intent for the autopsy report to be opened or discussed in the presence of the presentation team.

5-2. Arrival at the presentation location

a. The most favored PNOK choice for receiving presentations is the family home. This tends to be where families are most comfortable.

b. The briefer is responsible for creating the presentation, its style, and content.

c. The following are some suggested presentation styles that worked effectively:

(1) *Dialogue with no notes but with use of maps and diagrams of training areas.* This works well for briefers who are intimately familiar with the accident and the investigation and are not distracted by numerous interruptions. Graphs and maps are particularly helpful to orient the family and are always received well.

(2) *Bullet briefing charts.* These work well also as they tend to help the briefer stay focused during interruptions. If used they must be reviewed and approved in advance by the servicing SJA. If the PNOK requests copies of the presentation charts, they must be left at the conclusion of the presentation. Formal presentations with elaborate graphics should not be used. The focus should be on the briefer, not the visual aide used.

(3) *Simple notes and an executive summary (EXSUM).* These are effective for reference. Written materials used must be reviewed and approved in advance by the servicing SJA or legal advisor, and copies should be left with the PNOK if requested.

5-3. During the presentation

a. The mission is to provide a thorough explanation of the facts and circumstances surrounding the accident as illustrated by the collateral investigation, to express a genuine care and compassion, and to answer all the questions the family may have during the briefing. The CMAOC representative is present to show DA-level concern and support and to answer any questions that fall outside the parameters of the unit, its mission, and the accident investigation. Examples of question topics that typically arise are as follows:

(1) Questions related to internment and delivery of personal effects.

(2) Questions related to benefits and entitlements.

(3) Questions concerning possible posthumous promotions and awards.

(4) Questions concerning other investigating agencies that may have been involved with the particular accident, for example, Criminal Investigation Division (CID), National Transportation Safety Board (NTSB), Federal Bureau of Investigation (FBI), military police (MP), other Service investigations, host nation investigations, and so forth. The only information eligible for dissemination in reference to these other investigating agencies is confirmation whether or not such investigations were conducted and information regarding how reports may be obtained.

b. The CMAOC representative will refer questions that cannot be answered by any team member to the CMAOC 24-hour operations center. Every attempt should be made to answer all questions and depart with no outstanding issues. However, if it is not possible to do so, the briefer will assure the family of a prompt reply to unresolved issues. Previous arrangements with SMEs to be on call are essential.

c. During the presentation the primary responsibility of the CAO is to act as a consoler to the family. The CAO will take notes in the absence of the CMAOC representative, particularly capturing all the questions and concerns of the family. Make a special note of unanswered questions and unresolved issues that require follow-up actions. At the end of the presentation, the briefer should ask the note taker to read back all the unresolved issues to ensure they are well documented and everyone is in agreement regarding the outstanding issues.

5-4. Presence of advisors at the presentation

a. Families experiencing the loss of a loved one as a result of a training/operational accident frequently seek legal counsel and have an absolute right to do so. However, this counsel could result in the presence of legal advisors at the presentation. Every attempt will be made to determine if there is intent on behalf of the family to do so. The presence of legal advisors and attorneys at meetings that are purely intended to provide information or support to the family members, can change the relationship between information providers and the family and can affect the tone of the meeting itself. Even when preliminary indications are that the family does not intend to invite legal representation, it is still possible that legal representation may be present at the time of the brief.

b. If a family presentation must proceed with a legal representative or private attorney present, but without Army legal advice or representation, the briefer must inform the PNOK that the presentation is strictly intended to provide information to the family. Therefore, he or she can only respond to questions from the family, not those of the attorney. If the attorney has a list of questions for the family to ask, the briefer must offer to take the questions back to his or her servicing SJA or legal advisor to obtain as complete an answer as possible. Do not attempt to answer questions that require a SME.

c. The same approach must be used should the PNOK have media representation present, which was not determined to be the case prior to arrival at the presentation location. The briefer must make it very clear to both the PNOK and the reporter that the briefing team is present only to provide information to the PNOK and invited guests. Any questions the reporters may have must be presented in writing for the briefer to present to his or her supporting PAO for a complete response.

d. If either scenario suggested above occurs, it is perfectly appropriate for the servicing SJA, legal advisor, or PAO to follow up directly with the PNOK's legal or media representative. However, if that is the case, it is the briefer's responsibility, prior to departing the briefing location, to ensure the PNOK knows to expect follow-up to legal or media questions from the servicing SJA or legal advisor or the PAO directly with the PNOK's legal or media representative. A POC for the PNOK legal or media representative must be obtained prior to departure.

5-5. Completion of the presentation

a. Immediately upon departure from the residence the team should place telephone calls to the following personnel:

(1) The installation POC (if the presentation was on a military installation) to report completion and to provide a preliminary indication of how the presentation was received.

(2) The CMAOC headquarters reporting completion of the presentation.

b. The CMAOC headquarters will inform PERSCOM PAO as necessary.

c. The team should review what transpired during the presentation and plan for quick resolution and follow-up of all outstanding issues with the family. All team members should provide insight and observation to the briefer concerning the presentation.

d. Unresolved issues that fall outside the capability of the collateral appointing/approving authority or the MACOM will be directed to the TAG, who will task appropriate organizations for a response and follow-up.

e. Two weeks after completion of the family presentations, the briefer will submit an AAR through the collateral appointing/approving authority and MACOM, as appropriate, to the TAG.

Chapter 6 Public Affairs Office Integration and Support

6-1. General

Service PAOs for appointing/approving authorities will make public release of information on fatal training/operational accidents as soon as possible but never prior to completion of the family presentations and release to OCLL through standard press releases or press conferences at the installation level. In accordance with public affairs doctrine, maximum disclosure of releasable information with minimum delay remains the overarching standard. Release of information on deceased or injured personnel, as defined for the purpose of this regulation, will be made within the Privacy Act and Freedom of Information Act constraints only after PERSCOM PAO has confirmed completion of notification in accordance with AR 600-8-1.

a. The first appropriate Army PAO (based on geographical area of responsibility or the PAO for the applicable unit) with positive confirmation of an accident should "confirm the obvious" via press release and in statements to the media that the accident occurred. After that initial release of information, the PAO should coordinate with higher headquarters for further guidance and announcements, especially after incidents involving a high number of casualties.

b. As soon as an accident has been confirmed, the MACOM should issue a subsequent (see "a" above) short, objective, nonspeculative release providing the following information:

(1) Announcement that an accident or incident occurred.

(2) Location and time of the accident or incident.

(3) That names and addresses of deceased and injured will be withheld until the NOK of the casualties have been officially notified in accordance with AR 600-8-1.

(4) That before official findings are available, a statement may be issued that "an investigation is being conducted to determine the cause of the accident."

c. As soon as PERSCOM PAO officially releases the names and state of residence of the deceased or injured, and Congress has been notified, the supporting PAO of the units/organizations to which the casualties belong should release the names, along with the state of residence.

d. News media requests for information exceeding what is routinely released by supporting PAO will be handled as follows:

(1) For requests to interview family members or for personal information about deceased or injured personnel, the supporting PAO will take the name and phone numbers of the reporters and pass the questions and contact information to PERSCOM PAO. All such requests will be coordinated through CMAOC and the CAO assigned to the PNOK. The supporting PAO will be prepared to assist and advise PNOK should they desire PAO assistance.

(2) Requests for investigation reports will be handled in accordance with the FOIA and the Privacy Act, but reports will not be released to Congress or the media prior to presentation to PNOK.

6-2. Level of public interest

a. The sequence of notifications should occur in as compressed a timeline as possible. This is especially important when accidents involve large numbers of injured or deceased personnel or when, for any other reason, significant public or national media interest is anticipated. This requirement is for the release of investigation results, however, not for the initial public announcement or confirmation described in paragraph 6-1b that an accident has occurred. The sequence for release of the collateral investigation report is as follows:

(1) The PNOK.

(2) Members of Congress and local civic officials whose constituents were casualties.

(3) The media, normally via a press conference accompanied by press release.

b. The PERSCOM PAO is release authority to Chief, OCPA. The Chief of Army Public Affairs, in coordination with the respective MACOM PAO, will decide, on a case-by-case basis, the appropriate level for public release of information at the lowest appropriate level while conveying a proper sense of concern and command attention to the media and the public.

6-3. Crisis communications media training

a. In accordance with this regulation, training for presentation teams conducting family presentations must include crisis communications and media training. The Chief, OCPA will provide assistance with the training or with programs of instruction for export to the field for execution by the local PAO when team training at Headquarters, DA (HQDA) is not feasible.

b. At a minimum, the supporting PAO must provide media training to commanders of division levels and above of the affected MACOM.

6-4. Informing Members of Congress

Information memorandums for Congress (IMC) will be used to notify Congress. The IMC will contain the same core language as applicable press releases; be coordinated in advance with OCPA, OCLL, and the Office of General Counsel (OGC) of the Department of the Army; and will be issued no earlier than 48 hours prior to scheduled press conferences. The requirement for, and transmission of, the IMC will be coordinated with OCLL.

6-5. Release of the collateral investigation for public affairs purposes

a. The collateral investigation will be prepared for release in accordance with paragraph 3-6 of this regulation.

b. The collateral investigation report is releasable ONLY after confirmation that it has been provided to the PNOK and to Congress. Provision to the PNOK cannot be confirmed until ALL family presentations have been completed.

c. Information concerning accidents anticipated to be of significant public interest should be released to the media within one news cycle (usually 24 hours or less) after confirming family presentations are completed and release to OCLL has occurred.

d. The time between an accident and confirmation of casualties could be hours. Do not withhold the immediate confirmation of what will often be obvious to the media and the public - that an accident has occurred. Generally, the most effective initial release process will be two-tiered as follows:

(1) Immediately upon confirmation of an accident, a release confirms, "An accident has occurred, is under investigation, and more information will be provided when available."

(2) Once casualties are confirmed state, "X number of soldiers were killed, and X numbered injured in the (type) accident. It is under investigation, and further information is being withheld pending notification of NOK."

e. In some cases, during an ongoing investigation, the appointing authority's PAO may need to respond to queries (RTQ). To preclude inappropriate release of investigation information, the PAO may be required to RTQ as a press release or statement. Generally, the correct RTQ is to confirm, "We are aware of the reports. A thorough investigation of the accident is in progress but has not been completed. We will not speculate about possible causes or factors in advance of completion of the investigation."

6-6. Press conferences

a. If the appointing/approving authority for the collateral investigation determines the need for a press conference, the press conference must be scheduled as soon as possible after family presentations and release of information to

Members of Congress, if appropriate. This may minimize the likelihood of misinformation or news leaks reaching the media or the public.

b. If a press conference is conducted, it should follow the guidelines set forth in paragraph 6–5c and in no case be conducted more than 72 hours after family briefings are complete.

c. Memoranda for correspondents (MFC) should be provided no earlier than the day before the press conference (a few hours prior is usually sufficient.) The MFC should identify only the subject of the press conference, the briefers, the date, time, and location of the press conference. The MFC should give no information about the investigation results.

d. Appropriate consideration should be given for selection of the senior briefer at the press conference. The appointing/approving authority's legal advisor, the president of the board of the collateral investigation, and any SME should be present at the press conference but should brief only in response to questions not addressed by the senior briefer. Prepared opening statements and proposed unit press releases should be coordinated in advance with public affairs, legislative, and legal advisors.

e. Units will make redacted copies of the collateral investigation report available to the supporting PAO for dissemination to the media at the press conference.

f. Units will make transcripts of the press conference available to the supporting PAO for dissemination to the media, to include posting on the PAO Web site, as soon as possible after the conclusion of the press conference. The final unit press release should be released in conjunction with the press conference.

Appendix A References

Section I Required Publications

AR 15-6

Procedures for Investigating Officers and Boards of Officers. (Cited in paras 1-15, 1-18, 2-1, 3-3, 3-4, 3-5, and 3-6.)

AR 385-40

Accident Reporting and Records. (Cited in paras 1-18, 2-1, and 3-1.)

AR 600-8-1

Army Casualty Operations, Assistance/Insurance (Cited in paras 3-7, 4-2, and 6-1.)

Section II Related Publications

A related publication is a source of additional information. The user does not have to read it to understand this regulation.

AR 1-20

Legislative Liaison

AR 11-2

Management Control

AR 20-1

Inspector General Activities and Procedures

AR 25-50

Preparing and Managing Correspondence

AR 25-55

The Department of the Army Freedom of Information Act Program

AR 27-20

Claims

AR 59-4

Joint Airdrop Inspection Records, Malfunction Investigations, and Activity Reporting

AR 340-21

The Army Privacy Program

AR 360-1

The Army Public Affairs Program

AR 380-5

Department of the Army Information Security Program

AR 630-10

Absent Without Leave, Desertion and Administration of Personnel Involved in Civilian Court Proceedings

AR 638-2

Care and Disposition of Remains and Disposition of Personal Effects

DODI 1300.18

Military Personnel Casualty Matters, Policies, and Procedures
(<http://www.dtic.mil/whs/directives/corres/ins1.html>)

DODI 6055.7

Accident Investigation, Reporting, and Record Keeping
(<http://www.dtic.mil/whs/directives/corres/ins1.html>)

5 USC 552

The Freedom of Information Act
(<http://www.access.gpo.gov/uscode/uscmmain.html>)

5 USC 552a

The Privacy Act
(<http://www.access.gpo.gov/uscode/uscmmain.html>)

10 USC 1219

Statement of origin of disease or injury: limitations
(<http://www.access.gpo.gov/uscode/uscmmain.html>)

Section 1072 of the National Defense Authorization Act for Fiscal Year 1993, Public Law 102-484, 106 Stat. 2508 (1992).

Section III**Prescribed Forms**

This section contains no entries.

Section IV**Referenced Forms****DA Form 3881**

Rights Warning Procedure/Waiver Certificate (available on the Army Electronic Library (AEL) CD-ROM (EM 0001) and the USAPA Website (www.usapa.army.mil))

Glossary

Section I Abbreviations

AAR

after action review

AD

active duty

ADT

active duty for training

AR

Army regulation

ARNG

Army National Guard

ARNGUS

Army National Guard of the United States

ARSTAF

Army Staff

CAC

casualty area command

CAO

casualty assistance officer

CID

Criminal Investigation Division

CMAOC

casualty and memorial affairs operation center

CNGB

Chief, National Guard Bureau

CSA

Chief of Staff, U.S. Army

DAS

Director of the Army Staff

DASAF

Director of Army Safety

DCS, G-1

Deputy Chief of Staff, G1

DOD

Department of Defense

DODI

Department of Defense Instruction

EXSUM

executive summary

FBI

Federal Bureau of Investigation

FOIA

Freedom of Information Act

GCMCA

general court-martial convening authority

HQDA

Headquarters, Department of the Army

IDT

inactive duty training

IMC

information memorandum for Congress

TJAG

The Judge Advocate General

LOO

letter of offer

MACOM

major Army command

MFC

memoranda for correspondents

MP

military police

NG

National Guard

NLT

not later than

NOK

next of kin

OCLL

Office of the Chief of Legislative Liaison

OTJAG

Office of The Judge Advocate General

PAO

public affairs officer

PERSCOM

U.S. Total Army Personnel Command

PNOK

primary next of kin

POC

point of contact

Q & A

question & answer

RTQ

response to queries

SME

subject matter expert

SOO

statement of offer

TAG

The Adjutant General

USAR

United States Army Reserve

USARC

United States Army Reserve Center

USASC

United States Army Safety Center

USC

United States Code

Section II**Terms****Active Army**

a. The Active Army consists of (1) Regular Army soldiers on active duty; (2) Army National Guard of the United States and Army Reserve soldiers on active duty except as excluded below; Army National Guard soldiers in the service of the United States pursuant to a call; and all persons appointed, enlisted, or inducted into the Army without component. b. Excluded are soldiers serving on (1) active duty for training (ADT); Active Guard Reserve (AGR) status; (2) active duty for special work (ADSW); (3) temporary tours of duty (TTAD) for 180 days or less; and (4) active duty pursuant to the call of the President (10 USC 12304).

Briefer

The appointed commander who will present appropriate findings to the family, most often the deceased soldier's colonel or higher commander.

Class A accident

The resulting total cost of damages to Government and or other property in an amount of \$1 million or more; a DOD aircraft is destroyed, or an injury or occupational illness that results in a fatality or permanent total disability.

Family member

a. Spouse of a sponsor. b. Unremarried widow or widower of a member or former member of a uniformed service. c. Unmarried child of a sponsor, including an adopted child, stepchild, foster child, or ward, who either— (1) Has not passed his/her 21st birthday. (2) Is incapable of self-support because of a mental or physical incapacity that existed before that birthday and is (or was at the time of the member's or former member's death) in fact dependent on the sponsor for over one-half of his/her support. (3) Has not passed his/her 23rd birthday, is enrolled in a full-time course of study in an institution of higher learning approved by a Secretary of an executive department specified in 10 USC Section 1073, and is (or was at the time of the member's or former member's death) in fact dependent on the sponsor for over one-half of his/her support. d. A parent or parent-in-law of a sponsor who is (or was at the time of the member's or former member's death) in fact dependent on the sponsor for one-half of his/her support and residing in the sponsor's household.

Fatal

Results in death of a soldier.

Friendly fire

A circumstance in which members of the U.S. or friendly military forces are mistakenly, or accidentally, killed or injured in action by the U.S. or friendly force activity while engaged with an enemy, or while firing at a hostile force, or what is thought to be a hostile force.

High public, press or congressional interest

Extremely visible articles or stories likely to get attention from congressmen and constituents. Demands immediate coverage by the Press.

Hostile death

A person who is the victim of a terrorist activity or who becomes a casualty "in action." "In Action" characterizes the casualty as having been the direct result of hostile action, sustained in combat or relating thereto, or sustained going to or returning from a combat mission provided that the occurrence was directly related to hostile action. Included are persons killed or wounded mistakenly or accidentally by friendly fire directed at a hostile force of what is thought to be a hostile force. However, not to be considered as sustained in action and not to be interpreted as hostile casualties are injuries due to elements, self-inflicted wounds and, except in unusual cases, wounds or death inflicted by a friendly force while the individual is in absent-without-leave, deserter, or dropped from the rolls status or is voluntarily absent from a place of duty.

Joint service accident

A single accident involving two or more Services in which one or more service experience reportable injuries, losses or damages.

Mishap unit

The unit that the soldier was performing on-duty activities with at the time of his or her death.

On-duty

a. Army personnel are on-duty when they are: a. Physically present at any location where they are to perform their officially assigned work. (This includes those activities incident to normal work activities that occur on Army installations, such as lunch, coffee, or rest breaks, and all activities aboard vessels. b. Being transported by DOD or commercial conveyance for the purpose of performing officially assigned work. (This includes reimbursable travel in POVs for performing TDY, but not routine travel to and from work.) c. Participants in compulsory physical training activities (including compulsory sports).

Operational related death

Associated with active duty military exercise or activity occurring in a designated war zone or toward designated missions related to current war operations or military operations other than war, contributing directly or indirectly to the death of the soldier.

Permanent total disability

Any nonfatal injury or occupational illness that, in the opinion of competent medical authority, permanently and totally incapacitates a person to the extent that he or she cannot follow any gainful employment. (The loss or loss of use of both hands, feet, eyes, or any combination thereof as a result of a single accident will be considered as permanent total disability.)

Posthumous promotion

Promotion to a higher grade following a casualty's death, however, this promotion is not for pay purposes.

Primary next of kin

The legal next of kin. That person of any age most closely related to the individual according to the line of succession. Seniority, as determined by age, will control when the persons are of equal relationship.

Privileged safety information

Privileged safety information includes statements, reports, or testimony, given to a safety investigator or board pursuant to a promise of confidentiality and any direct references to any such statements or testimony elsewhere in the report. The findings, evaluations, analyses, opinions, conclusions, recommendations and other indicia of the deliberative processes of a safety investigator, safety investigation boards, endorsers and reviewers are also privileged safety information.

Redacted collateral report

An approved report of collateral investigation with information deleted in accordance with the Freedom of Information Act and Privacy Act for release to the PNOK, Members of Congress, the public, and media.

Respond to queries

A formal staffing process used by media and supporting PAO offices to answer questions from the public or external Press.

Special interest case

Having particular interest to some members of the public, certain groups of legislature, but not others. Requires deliberate attention and action by supporting public affairs offices.

Training related death

Is an accidental loss of life associated with a noncombat military exercise or training activity that is designed to develop a soldier's physical ability, or to maintain and increase a soldier's collective combat and peacekeeping skills. The period can extend to within one hour after any training activity where the exercise or activity could be a contributing factor to the death.

Section III**Special Abbreviations and Terms**

This section contains no entries.

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