



DEPARTMENT OF THE ARMY
HEADQUARTERS, 10TH MOUNTAIN DIVISION SUSTAINMENT BRIGADE
10TH MOUNTAIN DIVISION (LIGHT INFANTRY)
4400 PO VALLEY ROAD
FORT DRUM, NEW YORK 13602-5100

S: 21 June 2016

AFDR-BEA

22 May 2016

MEMORANDUM FOR CPT Dustin A. Vosburg, HHD, 548th Combat Sustainment Support Battalion, 10th Mountain Division Sustainment Brigade, Fort Drum, New York 13602

SUBJECT: Appointment to Conduct Line of Duty Investigation, IAW AR 600-8-4 and AR 15-6

1. You are hereby appointed as an investigating officer (IO) to conduct a formal line of duty investigation pursuant to AR 600-8-4, Para. 3-7 through 3-12, and AR 15-6, Chapter 5. The purpose of your investigation is to determine the facts and circumstances surrounding a motorcycle accident of a U.S. Soldier, Staff Sergeant (E-6) Anastasha Amanda Clarke, on or about 2045 21 May 2016 around zone IVO Mill St. (Watertown).

2. At a minimum, your investigation will address the following, but you may also investigate any other facts or circumstances that you deem relevant to the scope of this investigation:

a. Findings of Fact.

i. Determine all the facts and circumstances leading up to and connected with the incident resulting in SSG Clarke's motorcycle accident.

ii. Determine the facts with respect to SSG Clarke's duty status at the time of the incident resulting in her motorcycle accident.

iii. Was there a police report that indicated the cause of the incident? If so, please explain.

iv. Are there any additional facts relevant to the incident resulting in SSG Clarke's motorcycle accident?

b. Findings of Law.

i. Did SSG Clarke's conduct in relation to the incident resulting in the motorcycle accident constitute willful negligence or intentional misconduct? In rendering this finding, consider AR 600-8-4, Appendix B, Para. B-2, which states, in relevant part, "[i]njere violation of military regulation, orders, or instructions, or of civil or criminal laws,

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if there is no further sign of misconduct, is no more than simple negligence. Simple negligence is not misconduct.”

ii. If SSG Clarke’s conduct constituted willful negligence or intentional misconduct, was such negligence or misconduct the proximate cause of her motorcycle accident?

iii. Was SSG Clarke in an authorized or unauthorized duty status at the time of the incident which resulted in the motorcycle accident?

iv. Did SSG Clarke’s motorcycle accident occur “in the line of duty,” “not in the line of duty – not due to own misconduct,” or “not in the line of duty – due to own misconduct”?

3. Applicable Standards.

a. An injury, disease, or death is presumed to be “in the line of duty” unless refuted by substantial evidence contained in the investigation.

b. The rules in Appendix B of AR 600-8-4 will be considered fully in conducting this investigation.

c. Line of duty determinations must be supported by substantial evidence and by a greater weight of evidence than supports any different conclusion.

d. All findings of fact must be supported by exhibits. A memorandum for record prepared by the IO describing matters personally observed and learned by the IO may be used to document facts where appropriate, but may not be used as a substitute for witness statements when they may be obtained.

e. Complete information concerning the site and terrain where the incident in question occurred, together with photographs, maps, charts, diagrams, or other exhibits that may be deemed helpful to a complete understanding of the incident should be included as exhibits.

f. Copies of relevant military or civilian police reports and hospitalization or clinical records, to include the autopsy report, should be included as exhibits.

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4. Witnesses. You must interview all persons with knowledge of facts relevant to the incident resulting in SSG Clarke's motorcycle accident. Interviews shall be conducted face-to-face, where possible. Witness statements will be made in writing and sworn on a DA Form 2823. Your authority to administer oaths is UCMJ, Article 136(b)(4). Ensure all statements are legible and clear after scanning.

a. If you suspect any person of having committed a criminal offense in violation of the UCMJ or other applicable law, you must advise that individual of his or her Article 31 rights using DA Form 3881 (both verbally and in writing). Document your rights advisement and individual's election of rights on DA form 3881, Rights Warning Procedure/Waiver Certificate. Contact your legal advisor promptly if you are uncertain whether a rights warning is required. You may order military witnesses to provide a statement if you believe they have relevant information. You may not, however, order witnesses to provide any statements against their will if the statements would incriminate them.

b. If, during the course of this investigation, you come to suspect that any person higher in rank than yourself has committed misconduct related to this incident, you will stop your investigation immediately and seek legal advice.

5. Report of Investigation.

a. You will prepare your report of investigation on DD Form 261. You will enter the following information in Item 10g of that form: (1) a summary of the circumstances and basis for your determination; (2) clarification of any discrepancy with respect to the date or place of injury, or as to the duty status of the injured Soldier; (3) an explanation as to why you did not interview any witness whose testimony may be material; (4) comments regarding the credibility of statements of witnesses; and (5) a list of exhibits, lettered in accordance with AR 600-8-4, Para. 3-8(f)(4). If additional space is required, you may attach a continuation sheet identifying, at the top, the name of the individual concerned and date of injury.

b. When you have completed the investigation and prepared your report, you will mark the appropriate determination in Item 11 of DD Form 261. Finally, you will complete the box to the right of Item 11 and forward the report to the appointing authority.

6. MAJ David Collver, 10th Mountain Division Sustainment Brigade Judge Advocate, will be your legal advisor and will assist you with any legal issues that may arise during your investigation. Contact MAJ Collver at 315-772-6844 or david.c.collver.mil@mail.mil. Upon completion of the AR 15-6 investigation, submit your final report with all enclosures and exhibits to MAJ Collver.

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7. The POC for this memorandum is MAJ Naquava Glenn, Brigade S1, who may be reached at DSN 315-772-0660 or naquava.e.glenn.mil@mail.mil.



DAVID V. GILLUM
COL, LG
Commanding