

[REDACTED]

From: [REDACTED]
Sent: Tuesday, December 23, 2003 1:48 PM
To: [REDACTED]
Subject: FW: CID Guidance

[REDACTED] Here is the information from USACIDC; [REDACTED] is on distro, so you probably already have this, but just in case.

-----Original Message-----

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Sent: 12/19/2003 3:06 PM
Subject: RE: CID Guidance

[REDACTED]

The directive for investigation of hostile fire deaths is a FRAGO to a CJTF-7 OPORD. I can't go into detail concerning the language of the FRAGO due to the security classification. But to answer your question, 3d MP Group (CID) has the mandate and responsibility to conduct hostile fire deaths (i.e, murder) absent any AR 15-6 investigation. An AR 15-6 is not normally conducted by the chain of command. We have evidence depositories in Iraq and Kuwait. Evidence in such cases is handled as in any other case which may also include forwarding evidence to USACIL as deemed appropriate.

b6

If you would like to read FRAGO 209 let me know and provide a secure FAX number or SIPRNET address and we can forward a copy to you.

Also, if I do not see or talk with you before the holidays, have a merry and safe holiday season.

I am currently in the office and will be heading south next Wednesday.

[REDACTED]

[REDACTED]

[REDACTED] MP
Chief, Investigative Operations Division

-----Original Message-----

From: [REDACTED] [mailto:[REDACTED]@NCIS.NAVY.MIL]
Sent: Friday, December 19, 2003 2:46 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: CID Guidance

[REDACTED]

Tried calling you but I suspect you've pulled chocks for North Carolina by now. A quick question if I may -- the hostile death investigations conducted by USACIDC as requested/directed by CJTF-7, were they conducted in place of, or in support of a separate command investigation (AR-15)? What were the evidence storage considerations? I truly appreciate your help with these issues [REDACTED]. I will be out until after the new year, but will be reviewing emails while on leave;

but if you would, please include [REDACTED] on your reply.

Best wishes to you during the holiday season. Please be careful on the roads!

Cheers,
[REDACTED]

-----Original Message-----

From: [REDACTED]mailto:[REDACTED]belvoir.army.mil]

Sent: Tuesday, December 02, 2003 1:56 PM

To: [REDACTED] (E-mail)

Subject: CID Guidance

CIDR 195-1

4-40 Initiation of ROIs in Deployment Situations

a. General.

This paragraph outlines a standardized policy for reporting criminal investigations during contingency operations.

b. Policy. It is a principle of this command that the reporting format for all investigations conducted by or for CID elements will be the Report of Investigation (ROI). Whenever an investigation of whatever scope (limited or full) is initiated, the results will be reported by the ROI format.

<http://www.usapa.army.mil/pdffiles/r195_2.pdf> AR 195-2 and this regulation identify four basic criteria that must exist to justify Army jurisdiction and responsibility to investigate crime:

(1) There must be some credible information that a crime has occurred. A preliminary inquiry may be conducted to reach the credible information standard, but once that standard is reached, an ROI would be initiated if the remaining criteria below have been met.

(2) The Army must have investigative authority to investigate. Investigative authority refers to matters in which the Army has the legal authority (jurisdiction) to conduct a criminal investigation. In a deployed environment, whether combat or peacekeeping mission, there is Army investigative authority when the supported commander requests the investigation to further the Army's mission in that area. If the Army is in support of an international entity (such as NATO or the UN), the use of investigative resources is an official act in furtherance of the Army's overall mission to support the approved objectives of the international entity. Unofficial investigations or investigations not in support of the Army mission are prohibited.

(3) There must be an Army interest in the case. In deployed situations, there is an Army interest in a criminal case when

the case impacts the accomplishment of the Army's mission or capabilities and/or when it is requested by the supported commander to further the Army's mission.

(4) CID must have the responsibility to investigate (that is, the alleged crime is within our investigative purview). CID usually investigates the felony crimes identified in AR 195-2. As noted in AR 195-2, however, CID's investigative purview can be adjusted to include lesser crimes if it would serve a better or overall law enforcement goal.

c. Deployment considerations

(1) When deployed, CID agents generally find themselves in one of two types of situations -- a functioning government exists or it does not exist. The following paragraphs describe ROI initiations in these situations:

(a) Functioning Government: When the Army is deployed to a foreign country that has an established and functioning government and law enforcement system (police, prosecutors and a judicial system), the following guidance applies.

1. Authority to investigate is usually determined by international treaty or agreement (such as a Status of Forces Agreement (SOFA)), by the policies of the host government, or the U.S. ambassador. When questions arise in this area as to investigative authority, coordination should be effected with the supporting SJA or Group judge advocate. CID will not conduct any investigations (however limited or preliminary in nature) in violation of such agreements or policies.

2. CID will not normally conduct investigations concerning non-Army affiliated civilians committing crimes on other non-Army affiliated civilians or involving non-Army equipment/supplies outside Army controlled property. If requested to conduct an investigation by a field grade officer or higher because some Army interest is involved, CID will conduct a collateral or joint ROI to the extent allowed by treaty or policy and local law enforcement authorities.

3. When criminal incidents involve Army affiliated personnel (military, family member, civilian or contractor) or Army property, the conduct of collateral or joint ROIs will be accomplished to the extent allowed by treaty or policy and local law enforcement authorities.

4. When criminal incidents within CID purview occur on Army controlled property (such as an installation, kaserne or camp), or involve Army personnel, assets and/or resources on or off Army

controlled property, ROI will be conducted. The conduct of such ROIs will follow any guidelines, notifications or other limitations set forth by treaty or policy and local law enforcement authorities.

(b) Non-Functioning Government: When the Army is deployed to a foreign country that has no established (or a severely limited) functioning government and no law enforcement system (police, prosecutors and a judicial system), the following guidance applies.

1. Authority to investigate in this situation is usually determined by the Army's mission and the requests of the senior supported Army commander (or senior U.S. commander in joint operations). When questions arise as to investigative authority and the Army's mission, coordination should be effected with the supporting SJA or Group judge advocate. If the senior Army commander delegates his authority, CID will respect requests from the delegatee. If the senior Army commander sets threshold criteria for investigations, CID will respect those limitations. CID will not investigate outside the authority of the senior Army commander (or senior U.S. military commander in joint operations). CID will not conduct any investigations (however limited or preliminary in nature) that are not in furtherance of the Army mission.

2. CID may conduct investigations concerning non-Army affiliated civilians committing crimes on other non-Army affiliated civilians or involving equipment/supplies outside Army controlled property, if such investigations are requested by the senior supported commander or meet some predetermined threshold criteria. Any such investigations (no matter how limited) will be reported via the ROI format. Such investigations may be finalized early if the original intent of the commander's request has been met, or if the completion of other outstanding leads is precluded by hostile fire, hostile territory, or other local adverse conditions. It is anticipated that many of these ROIs will be completed using the procedures for a Final(C).

3. When criminal incidents involve Army affiliated personnel (military, civilian or contractor) or Army property, the conduct of ROIs will be accomplished to the extent allowed by local environment and threat conditions. Final (C) procedures may be used as appropriate for these investigations.

4. When criminal incidents involving anyone occur on actual Army controlled and occupied property (such as a base camp), ROIs will be conducted. Final(C) procedures may be used as appropriate for these investigations.

d. Investigations Involving, Enemy Prisoners of War (EPW), Retained Personnel (RP), Civilian Internees (CI) and other Detainees (OD).

(1) AR 190-8 is a multi-service regulation that applies to the Army, Navy, Air Force and Marine Corps (OPNAVINST 3461.6,

AFJI 31-304, and MCO 346), and implements DoD Directive 310.1 and DoD Directive 5100.7. AR 190-8 directs that all allegations of criminal acts or war crimes committed by or against EPW/RP/CI/OD be reported to CID.

(2) IAW 190-8, all persons captured, detained, interned or otherwise held in US Armed Forces custody will be given humanitarian care and treatment from the moment they fall into the hands of the U.S. forces until final release. It is DoD, Army and command policy that inhumane treatment of EPW, CI, RP, and OD is prohibited and cannot be justified by the stress of combat or by deep provocation. All prisoners, detainees, and internees will receive humane treatment without regard to race, nationality, religion, political opinion, sex or other criteria. IAW AR 901-8, they will be protected against all acts of violence to include rape, forced prostitution, assault, theft, bodily injury, reprisals of any kind, insults and public curiosity. AR 190-8 specifically prohibits murder, torture, corporal punishment, mutilation, collective punishments, execution without proper trial, and all cruel and degrading treatment.

(3) Inhumane treatment is a serious and punishable violation under international law and the UCMJ. IAW AR 190-8, AR 195-2 and CIDR 195-1 (especially paragraphs 4-40a-c above), CID elements receiving allegations of felony criminal acts or war crimes committed by or against EPW/RP/CI/OD will investigate such allegations as an ROI. IAW AR 195-2, CID may adjust its normal investigative purview to include lesser crimes or misdemeanors if it would better serve the supported commander or the overall law enforcement goal.

(4) If the U.S. Armed Forces element conducts a commander's inquiry (an AR 15-6 investigation or equivalent) prior to notifying CID of an allegation involving felony criminal acts or war crimes committed by or against an EPW/RP/CI/OD, the supporting CID element will obtain a copy of and review the inquiry to determine if it thoroughly and fairly investigated the incident(s). If the US Armed Forces element did not conduct a commander's inquiry or if further investigative efforts are deemed appropriate, the supporting CID element will initiate an ROI to continue the investigation.


MP

Chief, Investigative Operations Division

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