



Department of Defense **INSTRUCTION**

NUMBER 5505.10

August 15, 2013

IG DoD

SUBJECT: Criminal Investigations of Noncombat Deaths

References: See Enclosure 1

1. PURPOSE. This instruction:

a. Reissues DoD Instruction (DoDI) 5505.10 (Reference (a)) pursuant to section 113 of Title 10, United States Code (Reference (b)), and the authority in DoD Directive (DoDD) 5106.01 (Reference (c)).

b. Establishes policy, assigns responsibilities, and prescribes procedures for the criminal investigation of noncombat deaths by military criminal investigative organizations.

2. APPLICABILITY. This instruction:

a. Applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD.

b. Applies to noncombat deaths under military criminal investigative organization (MCIO) investigative jurisdiction.

c. Does not apply to a noncombat death under circumstances that clearly indicate an accident rather than possible homicide, suicide, or undetermined death, requiring specialized investigative techniques to rule out the possibility of criminality. Examples of such deaths under circumstances that clearly indicate an accident include traffic accidents that are investigated by responsible traffic law enforcement authorities or aircraft crashes investigated by responsible air safety officials.

d. Does not apply to a death that occurs on a military installation solely because the decedent was transported to or treated at a military medical facility emergency room due to geographic proximity. If events causing such a death occurred in another jurisdiction with no DoD interest, other law enforcement authorities have investigative responsibility.

3. POLICY. It is DoD policy that:

a. MCIOs will investigate noncombat deaths under their investigative jurisdiction when:

(1) The death involves an active duty military member.

(2) The death involves a non-active duty decedent and:

(a) Occurs on a military installation within the United States and no other federal, State, or local law enforcement agency will assume lead agency status to investigate the death;

(b) Occurs in an overseas location and the United States exercises jurisdiction in accordance with the Status of Forces or other agreement covering U.S. presence in that country; or

(c) Occurs in a time of declared war or a contingency operation, and the decedent was serving with or accompanying an armed force in the field.

b. All other noncombat deaths of investigative interest to the DoD will be considered in accordance with the procedures in DoDI 5505.03 (Reference (d)) to determine whether or not an MCIO will initiate a death investigation.

c. The scope of MCIO investigations will, given available resources and the circumstances of each case, be sufficient to:

(1) Provide DoD authorities with information necessary to determine whether the death may have been caused by the commission of a crime.

(2) Allow for the commander or prosecuting authority concerned to determine whether criminal or administrative actions should be taken against the alleged perpetrator(s).

(3) Provide information to support DoD and command programs relating to analysis and prevention of military deaths.

d. All MCIO agents assigned to conduct death investigations must be properly trained in conducting such investigations.

e. A completed investigation by an MCIO of a noncombat death of an active duty military member in which a determination of the manner of death is made by an authority other than the Armed Forces Medical Examiner System (AFMES) will be reviewed by the headquarters of the MCIO in accordance with DoDI 5154.30 (Reference (e)). Such an investigation will be submitted to the AFMES for a consultation opinion on the thoroughness and completeness of the investigation as it relates to the external determination of cause and manner of death.

f. While it is the role of the AFMES or an equivalent authority to establish a medicolegal cause of death, an MCIO retains the authority to conduct investigative activities to reveal the circumstances surrounding the death and assist the determination of manner of death.

g. A family liaison program must be established by each MCIO for use in all death investigations involving a deceased active duty Service member. In any death investigation for which an MCIO is lead agency involving deceased civilian personnel, the MCIO must refer to the procedures for providing assistance to the family of victims as specified in DoDI 1030.2 (Reference (f)).

h. Any public release of information regarding a noncombatant death under criminal investigation must follow the procedures in this instruction.

i. Nothing in this instruction is intended to impinge on the authority of the IG DoD.

4. RESPONSIBILITIES

a. Inspector General of the Department of Defense (IG DoD). The IG DoD establishes policy, monitors and evaluates program performance, and provides guidance with respect to all DoD activities relating to criminal investigation and law enforcement programs.

b. Assistant to the Secretary of Defense for Public Affairs (ATSD(PA)). The ATSD(PA) prescribes and monitors procedures to implement the requirements of this instruction regarding public release of information about MCIO investigations of noncombat deaths.

c. Secretaries of the Military Departments. The Secretaries of the Military Departments prescribe and monitor procedures to implement the requirements of this instruction by all MCIO agents.

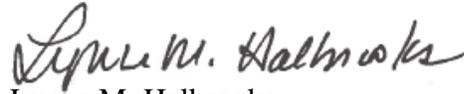
5. PROCEDURES. See Enclosure 2.

6. RELEASABILITY. **Unlimited**. This instruction is approved for public release and is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

7. EFFECTIVE DATE. This instruction:

a. Is effective August 15, 2013.

b. Must be reissued, cancelled, or certified current within 5 years of its publication in accordance with DoDI 5025.01 (Reference (g)). If not, it will expire effective August 15, 2023 and be removed from the DoD Issuances Website.



Lynne M. Halbrooks
Acting Inspector General of
the Department of Defense

Enclosures

1. References
2. Criminal Investigations of Noncombat Deaths

Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Instruction 5505.10, "Investigation of Noncombat Deaths of Active Duty Members of the Armed Forces," January 31, 1996 (hereby cancelled)
- (b) Section 113 note of Title 10, United States Code (also known as "Survivor Notification and Access to Reports Relating to Service Members Who Die")
- (c) DoD Directive 5106.01, "Inspector General of the Department of Defense (IG DoD)," April 20, 2012
- (d) DoD Instruction 5505.03, "Initiation of Investigations by Defense Criminal Investigative Organizations," March 24, 2011
- (e) DoD Instruction 5154.30, "Armed Forces Institute of Pathology Operations," March 18, 2003
- (f) DoD Instruction 1030.2, "Victim and Witness Assistance Procedures," June 4, 2004
- (g) DoD Instruction 5025.01, "DoD Directives Program," September 26, 2012
- (h) DoD Directive 5400.07, "DoD Freedom of Information Act (FOIA) Program," January 2, 2008, as amended
- (i) Attorney General Guidelines for Victim and Witness Assistance, May 2012
- (j) DoD Instruction 1300.18, "Department of Defense (DoD) Personnel Casualty Matters, Policies, and Procedures," January 8, 2008, as amended
- (k) DoD Instruction 5525.07, "Implementation of the Memorandum of Understanding (MOU) Between the Departments of Justice (DoJ) and Defense Relating to the Investigation and Prosecution of Certain Crimes," June 18, 2007
- (l) Chapter 47 of Title 10, United States Code (also known as "The Uniform Code of Military Justice")
- (m) Joint Publication 1-02, "Department of Defense Dictionary of Military and Associated Terms," current edition

ENCLOSURE 2

CRIMINAL INVESTIGATIONS OF NONCOMBAT DEATHS

1. TRAINING. Appropriate training for MCIO agents assigned to investigate deaths must, at a minimum, include:

- a. Jurisdiction for conducting criminal investigations.
- b. The elements of criminal offenses related to deaths.
- c. Preliminary investigative procedures, including receiving and responding to notification of a death, assigning an investigative team, and initially locating and interviewing witnesses.
- d. Preserving and processing the crime scene.
- e. Searching for, locating, identifying, preserving, and transporting evidence.
- f. Submitting evidence for medical and forensic analysis.
- g. Identifying possible criminal offenders.
- h. Preparing reports and maintaining case files to assist or support appropriate authorities in determining the cause and manner of death and preparing for possible prosecution of any person(s) believed to be criminally responsible for the death.

2. FAMILY LIAISON

- a. A family liaison program established by each MCIO must:
 - (1) Provide for designation of at least one representative to provide information and appropriate assistance to the family of a deceased active duty Service member.
 - (2) Provide for representatives assigned to family liaison duties to be trained to perform such responsibilities in pertinent areas involving victim and witness assistance issues. The representative's family liaison duties will be coordinated with other officials with direct responsibility for family notification and assistance, determining and arranging survivor benefits, and performing information redactions in accordance with DoDD 5400.07 (Reference (h)).
 - (3) Provide to the family of the deceased, if requested and to the extent that such reports may be furnished in accordance with Reference (h), a copy of any completed investigative report for which an MCIO is the lead investigative agency and any completed fatality report in accordance with the requirements of Reference (b). In any investigation where the lead

investigating agency is not the MCIO itself, the MCIO will not divulge any investigative results without the consent of that agency.

(4) Ensure all reasonable questions and issues raised by the family of the deceased are addressed quickly, or as soon as release of the requested information would no longer pose investigative, operational, or legal concerns.

b. In any investigation of a noncombat death of civilian personnel for which an MCIO is lead investigating agency, the MCIO must refer to the procedures for providing assistance to family of deceased victims, as specified in Reference (f), from initial contact through investigation, prosecution, and confinement. If the prosecuting authority for any alleged perpetrator of a crime stemming from the death is civilian, the MCIO will coordinate these procedures with the prosecution. An MCIO under these circumstances will consult the Attorney General Guidelines for Victim and Witness Assistance, May 2012 Edition (Reference (i)), which serves as a model for guidelines on the fair treatment of crime victims and witnesses for non-Department of Justice federal law enforcement agencies.

c. Death notifications to the primary next of kin (PNOK) of active duty military and DoD civilian personnel will be delivered as prescribed in DoDI 1300.18 (Reference (j)). If the MCIO is investigating a death where there is no existing DoD notification procedure and no other law enforcement agency is involved in notifying the PNOK of the deceased, then the MCIO will coordinate with the affected chain of command, local law enforcement, Department of State, or other relevant agencies.

3. JURISDICTION

a. If noncombat death occurs on a military installation subject to exclusive federal jurisdiction and no other law enforcement agency will assume lead agency status:

(1) In accordance with the provisions in DoDI 5525.07 (Reference (k)) regarding crimes committed on military installations, the crime will be investigated by a DoD investigative agency if the perpetrator is unknown. The DoD will provide immediate notice to the Department of Justice of significant cases where the subject or victim is not a Service member or dependent.

(2) If there is reasonable basis to believe that the death was caused by a person or persons not subject to chapter 47 of Title 10, United States Code (also known as “The Uniform Code of Military Justice”) (Reference (l)), the DoD investigative agency will provide immediate notice of the matter to the appropriate Department of Justice investigative agency.

b. If an MCIO is not the lead investigative agency into the cause and manner of a noncombat death of interest to DoD, the MCIO will maintain liaison with the law enforcement organization that is conducting the investigation.

(1) The MCIO family liaison agent, if appointed in accordance with paragraph 2a of this enclosure, will help the family of the deceased establish initial communication with the responsible lead law enforcement organization.

(2) The MCIO will obtain and provide a copy of the investigation report to the appropriate military authorities, including any forensic or autopsy results.

4. PUBLIC AFFAIRS

a. Public release of information regarding a noncombat death under criminal investigation will not speculate about the cause or manner of death. Until an official determination of the cause of death has been made by a medical examiner, releases must state that the cause and manner of death are undetermined. After the official determination has been made, public releases may provide that information.

b. All public releases of information will be coordinated in advance among the cognizant MCIO, any other joint investigative agency, the casualty assistance officer, and the responsible judge advocate or prosecuting attorney. The family of the deceased will be notified prior to any public release of information.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

ASD(PA)	Assistant Secretary of Defense for Public Affairs
AFMES	Armed Forces Medical Examiner System
DoDD	DoD Directive
DoDI	DoD Instruction
IG DoD	Inspector General of the Department of Defense
MCIO	military criminal investigative organization
PNOK	primary next of kin

PART II. DEFINITIONS

Unless otherwise stated, these terms and their definitions are for the purpose of this instruction.

active duty. Defined in Joint Publication 1-02 (Reference (m)).

cause of death. The medical finding or findings that determine responsibility for the death.

manner of death. The legal classification of death, whether it be natural, unnatural or undeterminable.

MCIOs. The U.S. Army Criminal Investigation Command, the Naval Criminal Investigative Service, and the Air Force Office of Special Investigations.

medicolegal. Relating to both medicine and the law.

noncombat death. Death that results from a cause or manner other than direct or indirect action by an enemy, opposing military force, or insurgent personnel in a war or contingency operation environment. Types of non-combat deaths most likely to merit investigation include all suspected homicides, and reported accidents, suicides, or undetermined deaths as necessary to reasonably rule out the possibility of criminality.

PNOK. The person most closely related to the deceased is considered PNOK for notification and assistance purposes. An un-remarried surviving spouse is PNOK by default, and Enclosure 2, paragraph 2.46 of Reference (j) provides further explanation and a list in order of other PNOK and interested parties.

unnatural death. Death that results from suicide, accident, or homicide.