

USAREC Pamphlet 27-65

Personnel—General

Procedural Guide for the United States Army Recruiting Command Investigating Officer

Headquarters
United States Army Recruiting Command
1307 3rd Avenue
Fort Knox, Kentucky 40121-2726
20 December 2012

UNCLASSIFIED

Headquarters
United States Army Recruiting Command
1307 3rd Avenue
Fort Knox, Kentucky 40121-2726
20 December 2012

*USAREC Pamphlet 27-65

Legal Services

Procedural Guide for the United States Army Recruiting Command Investigating Officer

For the Commander:

HEATHER L. GARRETT
Colonel, GS
Chief of Staff

Official:

JOSEPH P. BONANO
Director, Information Management

Summary. This pamphlet provides information on how to conduct thorough, impartial, and objective investigations. It ex-

plains the basic techniques and procedures of the investigative process.

Applicability. This pamphlet is applicable to anyone appointed to conduct an investigation within the United States Army Recruiting Command.

Impact on New Manning System. The pamphlet does not contain information that affects the New Manning System.

Suggested improvements. The pro-

ponent agency of this pamphlet is the Office of the Staff Judge Advocate. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to HQ USAREC (RCSJA), Fort Knox, KY 40121-2726.

Distribution. This pamphlet is available in electronic media only and intended for command level A.

*This pamphlet replaces the USAREC P pamphlet 27-65, dated 1 April 1994.

Contents (Listed by paragraph and page number)

Purpose • 1, *page 1*
References • 2, *page 1*
Explanation of abbreviations • 3, *page 1*
Mission • 4, *page 1*
Preparation for duty as an IO • 5, *page 1*
Preinterview checklist • 6, *page 1*
Conducting the investigation • 7, *page 2*
Postinterview checklist • 8, *page 4*
Preparing your report • 9, *page 5*

Appendix

- A.** References, *page 17*
- B.** Examples of Statements and Documentation, *page 18*

Figure List

Figure 1: Sample memorandum of an appointment, *page 6*
Figure 2: Sample Privacy Act Statement, *page 8*
Figure 3: Sample memorandum of Report of Investigation, *page 9*
Figure 4: Sample memorandum of a good ROI, *page 11*
Figure 5: Sample memorandum of a poor ROI, *page 14*

1. Purpose

This pamphlet provides information on how to conduct thorough and impartial investigations. It should be used with the prescribing directive under which the investigating officer (IO) was appointed. This guide is designed to explain the basic techniques and procedures of the investigation. If this pamphlet conflicts with the prescribing directive, the prescribing directive will govern. If this pamphlet conflicts with AR 15-6 or any other Army regulation, the Army regulation will govern.

2. References

For related publications and blank forms see appendix A.

3. Explanation of abbreviations

- a. FSTP — Future Soldier Training Program
- b. IO — investigating officer
- c. MEPS — Military Entrance Processing Station
- d. RI — recruiting impropriety
- e. ROI — report of investigation
- f. USAREC — United States Army Recruiting Command
- g. BJA — Brigade Judge Advocate

4. Mission

The mission of the IO is to conduct a thorough, impartial investigation, determine the facts of the case, and provide the appointing authority with findings and recommendations that properly apply governing standards, regulations, and laws. An IO's duty takes precedence over all other duties.

5. Preparation for duty as an IO

Your investigating duties will be an additional duty, but will take priority over your normal duties. Most of the preparation for gathering evidence can take place at your normal duty station. Proper advanced planning will allow you to do a thorough investigation and meet the required suspense dates without being away from your normal duties or duty station for an extended period of time. Before you begin to collect evidence you must:

- a. Read the memorandum of appointment and any supporting documentation to ensure you fully understand what the appointing authority wants you to investigate. However, be aware of other potential areas of investigation that may arise in the course of your investigation. Should your investigation uncover new misconduct, you must notify your legal advisor and coordinate with the appointing authority before expanding the scope of your investigation. Informal investigations will be appointed in writing (see figure 1).
- b. Study AR 15-6, the prescribing directive, and this pamphlet. These publications provide guidance on procedures and what is expected in your report of investigation (ROI).
- c. Understand the regulations, policies, and directives that govern the subject area of your investigation. You must consult your Brigade Judge Advocate (BJA) or legal advisor prior to investigating and they will assist in obtaining these references and will aid in clarification or interpretation of any matters, including possible search and seizure questions and authorizations.
- d. Your BJA or legal advisor will assist in defining the allegation(s) and assist in determining what evidence may be relevant. This is the who, what, where, when, why, and how of the investigation.
- e. You must decide what is the best source for the needed evidence. There are three general categories of evidence: physical evidence, documentary evidence, and testimonial evidence. Assistance in obtaining the best evidence should come from your BJA or legal advisor.

6. Preinterview checklist

Before gathering evidence, ask these questions of yourself:

- a. Have you read the letter of appointment?
- b. Are the allegations clearly stated and understandable?
- c. Have you gathered the required regulations, policy letters, messages, and directives?
- d. Do you understand the elements of proof for the stated allegations (for example, see USAREC Reg 601-45, USAREC Reg 600-25, and Manual for Courts-Martial, United States)?
- e. Have you consulted with your BJA or legal advisor?

- f. Have you identified the documentary and/or physical evidence necessary to complete your investigation?
- g. Have you identified the witnesses who must be questioned and ascertained their availability and willingness to provide sworn testimony?
- h. Do you have any possible personal disqualifications to relate to the appointing authority? Examples would be duty relationship, friendship with any witness, or being junior to any Soldier whose conduct reasonably may be in issue.
- i. Is an officer or civilian employee senior to you possibly guilty of dereliction of duty, or other violations of law or regulations? If so, report this immediately to the appointing authority.
- j. Have you identified who must receive a USAREC Form 722 (Privacy Act Statement) per paragraph 7c(4)?
- k. Have you identified which witnesses are suspected of criminal offenses, including violation of punitive Army or USAREC regulations, and prepared their DA Form 3881 (Rights Warning Procedure/Waiver Certificate)?
- l. Have you prepared to conduct a thorough, impartial, and objective investigation?
- m. Will witnesses be interviewed in person? If not possible, by phone?
- n. Have you prepared areas of questioning?
- o. What order will witnesses be interviewed?
- p. Should the complainant be interviewed first?

7. Conducting the investigation

Once you are ready to begin the investigation, the following steps should be taken.

a. Obtain any documentary or physical evidence that is available. In most recruiting impropriety (RI) cases this will include applicable documents from the applicant's or Soldier's guidance counselor resource center/electronic records management (GCRc/ERM) enlistment files and Contact History (if you need information that you cannot access, contact the applicable battalion executive officer (XO) to obtain such information for you). Court checks and medical records are other documents frequently required during RI investigations. Do not overlook statements previously provided to others by participants such as police reports, letters to commanders, and statements taken at the Military Entrance Processing Stations (MEPS). Examples of documents and interviews required for common allegations are at appendix B. Copies of all documents that assist in substantiating or refuting the allegation will be included as a part of the investigation.

b. Review all documentary evidence and decide what witness statements you need. Identify personnel with whom you need to talk, what subject areas need to be discussed, and what questions you are going to ask. Decide in what order you will interview witnesses. In most cases the complainant should be interviewed first and the person against whom allegations have been made should be interviewed last. This ensures that the allegations are investigated thoroughly and that the person against whom the allegations have been made has an opportunity to refute or explain any adverse evidence. It is essential that you prepare in advance for each witness interview. What do you expect to learn from the witness? What subject areas need to be examined? By making notes in advance about these subject areas, you are less likely to forget an important area during the interview. Writing a list of questions in advance is not recommended. Such interviews tend to become too structured, and logical areas of further questioning are often overlooked or forgotten. A list of topics or subject areas is preferred. A short list of topics helps guide an interview and ensures that each area is examined completely before moving to the next area of questioning.

c. Conduct witness interviews.

(1) Decide the time and place of each witness interview. Coordinate the presence of military and civilian government employees with their supervisor. Because civilians not affiliated with Army or DoD are not under any obligation to provide a statement, you should strive to find a convenient time and place to conduct an interview and obtain a statement.

(2) If you suspect a Soldier of violating the Uniform Code of Military Justice (UCMJ) (to include violation of a punitive regulation), you must read the Soldier his/her rights under Article 31, UCMJ. To avoid any problems, complete a DA Form 3881, have the Soldier make a selection to remain silent or make a statement, sign it, and attach it in the ROI. Do not advise military witnesses of their rights if they are not suspected of any offense. If in doubt as to whether it is necessary to read a witness their rights, call the BJA or legal advisor for guidance.

(3) Before interviewing any civilians, including civilian employees of the United States, contractors, or non-government civilians, consult with your BJA or legal advisor. Your BJA or legal advisor will assist you in determining the status of the civilian(s) to be interviewed and the rules that will apply to each specific interview. The rules may vary so it is very important that you talk to your BJA or legal advisor in advance. Finally, if in doubt as to whether it

is necessary to read a civilian witness their rights (or whether you possess the authority to do so), call the BJA or legal advisor for guidance.

(4) USAREC Form 722, Privacy Act Statement (figure 2) will be provided to a witness if the report will be filed in a system of records from which it can be retrieved by reference to the name, social security number, or other such personal identifier of the witness. This will normally include the subject(s) of the investigation, including applicants in recruiting impropriety investigations and victims in investigations of alleged misconduct. If in doubt as to whether the advisement should be provided, consult your BJA or legal advisor.

(5) Good interviews tend to have distinct phases.

(a) Phase I: Introduction and rights advisements, as appropriate.

(b) Phase II: Develop a narrative. Let the person tell their version of events orally. Ask questions to clarify but not to narrow the discussion.

(c) Phase III: Commit the narrative to writing. Have the interviewee write down their version of events in detail.

(d) Phase IV: Use a question and answer (Q&A) format to clarify and refine the witness's statement.

(6) All statements will be sworn, if possible. Except in unusual circumstances DA Form 2823 (Sworn Statement) will be used. Most IOs find it helpful to have a general discussion with the witness first, then ask specific questions. During the interview the IO should take notes or use a tape recorder, but use of a tape recorder is not encouraged. If the conversation is recorded, you must notify the witness of your intention at the beginning of the tape. If you are taping a telephonic conversation, you must obtain the other person's consent. The statements should be typed so they can be easily read; if typed statements are not possible, have the witness print legibly. Avoid the temptation to make the written statements overly short after an extensive interview. Witness statements that are appended to the ROI must support the substance of your report. Generally oral testimony of a witness may not be used in your report unless the content has been reduced to writing. If you must consider oral testimony in reaching your findings and recommendations, you must reduce the oral testimony to writing—in the format of a memorandum for record or record of conversation. It is best to have the individual review what you have prepared and sign the document once they have verified it is an accurate reflection of their statement. Include the memorandum with the report as a substitute for a sworn statement.

(7) If one witness contradicts another witness, get each witness to fully clarify their statements. This may require reinterviewing the earlier witness. This ensures that witnesses have an opportunity to explain contradictory statements.

(8) Some things to do when interviewing witnesses:

(a) Take charge of the interview.

(b) Get the witness to explain thoroughly and be specific. For example, if the witness says "someone at the recruiting station told me X; ask the witness who told them X (that is, get a name or description of the person).

(c) Develop the facts completely; do not leave questions unanswered.

(d) Honor the rights of witnesses.

(e) Be fair.

(f) Be professional.

(g) Consciously consider your demeanor during the interview because you represent the Army.

(h) Be objective and discreet. Because you are required to be fair and unbiased, do not presume the guilt or innocence of any party before completing the investigation. For example, when a recruiter is accused of providing a ringer for testing, look for evidence to establish that a ringer was used and who (applicant or recruiter) was responsible for obtaining the services of the ringer.

(i) Give the witness an opportunity to think.

(j) Check for loose ends. Try to do this before concluding each interview. Check your preparatory notes for the information you expected to gain from the witness and ensure you've exhausted their knowledge of these facts.

(k) Instruct the witness not to speak with other witnesses. Ensure witnesses are aware that it could be a violation of USAREC Reg 601-45 to speak to other witnesses about the subject matter being investigated before the investigation has been completed.

(l) Be thorough. Ensure witnesses explain ambiguous terms such as "affair" or "relationship." Focus on collecting the facts. Ask what conduct the witness observed and how that conduct led them to believe the "affair" or "relationship" happened.

(m) Ask witnesses if they know anyone else who should be interviewed or can confirm what they have just told you.

(n) If during an interview you refer to a document/exhibit, such as to determine if the witnesses recognizes it, identify the document in the witness statement and make sure the document is attached as an exhibit to the ROI.

(9) In summary, each witness should describe in detail the occurrence (that is, enlistment process, relationship, etcetera,) and his or her involvement. After this is accomplished, additional questions will most likely be needed to clarify or explain unresolved issues.

(10) Some things NOT TO DO when interviewing witnesses:

- (a) Do not browbeat, threaten, or intimidate.
- (b) Do not interview the witness in the presence of anyone else involved in the investigation. However, minors may need to be interviewed in the presence of the parent, guardian, or with proper consent, the presence of another adult.
- (c) Do not make promises, including promises of confidentiality to any person. Promises of confidentiality will not be made to any person without prior authorization by the USAREC Staff Judge Advocate (SJA).
- (d) Do not mislead.
- (e) Do not give advice to the witness.
- (f) Do not give the impression that any specific adverse action will be taken against anyone.
- (g) Do not compromise yourself by drinking alcoholic beverages with the witness.
- (h) Do not lose your temper or patience.
- (i) Do not make snide remarks.
- (j) Do not tell an untruth to get a truth.
- (k) Do not be embarrassed by periods of silence while the witness contemplates a question or an answer.
- (l) Do not ask questions that simply state the conclusion desired or that can be answered “yes” or “no.” For example, don’t ask an applicant whether they were coerced or pressured by their recruiter. Instead, ask the applicant what their recruiter said or did.
- (m) Do not take two witnesses, such as a mother and applicant, and let them sign the same witness statement.
- (n) Do not use double negatives in your questions.
- (o) Do not talk about your investigation with friends, witnesses, or other people who do not have an official need for the information. Don’t tell the person against whom allegations have been made that you will be making certain findings and recommendations. Gossiping about the investigation undermines confidence in the fairness and impartiality of the IO.

d. Recruiting Improprieties (RIs). Investigations into RIs revolve around three essential questions. What happened? What should have happened? And, does the difference between what did happen and what should have happened constitute an RI. When investigating what happened, ensure you gather as much information as possible. (See appendix B for examples of necessary witness statements and documents for different types of RI investigations.) If the IOs findings are deficient, the command may or may not be able to determine what happened based on the raw evidence collected. When investigating what should have happened, make sure you consult the appropriate Army and USAREC publications (that is, Regulations, Pamphlets, the Smartbook, and other publications). Additionally, you should consult with Recruiting Standards Directorate personnel or other subject matter experts as necessary to answer technical questions you might have. Do not rely solely on local practices, which may or may not reflect the proper standard. When investigating the third question (that is, whether the conduct amounts to an RI) you should consult with your legal advisor. Always consider the different theories of RI to see if one or more apply. Often, one person is telling the truth and another person is lying. Explain why you believe one person over the other.

8. Postinterview checklist

After gathering evidence, ask these questions of yourself:

- a. Who are all the persons identified by the original allegation(s)?
- b. Are there additional witnesses identified through your review of documents and/or taking of sworn statements who should be interviewed?
- c. Have sworn statements been taken from all witnesses? If not, explain why it is impossible to do so.
- d. For each finding, does the evidence show:
 - (1) What happened?
 - (2) What suspected events did not occur?
 - (3) What laws, regulations, directives, or policies were violated?
 - (4) When the events occurred (time and date)?
 - (5) Who observed the events?
 - (6) Where events took place?

- (7) Who or what caused the events to happen?
- (8) Were any other parties involved but not initially identified?
- (9) How or why the events occurred?
 - e. Who are the immediate supervisors, and where were they when the events occurred?
 - f. Is each witness credible - if not, why not? Describe the demeanor of the witness and why the demeanor leads you to believe the witness is credible or lying. Ask yourself whether any witness has an incentive to lie. If so, explain what that incentive is, why you think it is important, and why you believe the witness is lying (or not).
 - g. Are there any unanswered questions or issues? Do you have to re-interview a witness or witnesses to clarify or explain an important fact.
 - h. Is each proposed finding supported by a greater weight of the evidence than supports a contrary conclusion? Does the evidence point to a particular conclusion that is more credible and probable than any other conclusion? (This is the preponderance of evidence standard described by AR 15-6, paragraph 3-9b.)

9. Preparing your report

- a. As an exception to policy DA Form 1574 (Report of Proceedings by Investigating Officer/Board of Officers) will not be used for the Report of Informal Investigations conducted within USAREC unless specifically directed by the appointing authority in the memorandum of appointment. Informal investigations will be reported using the format at figure 3. Use tab dividers between each enclosure. Be sure to include an index of tabs. If the ROI is over 25 pages, fasten the entire ROI together at the top with a two-hole fastener or place in a three-ring binder. An example of a good ROI is at figure 4. An example of a poor ROI is located at figure 5.
- b. During your investigation, evaluate the evidence concerning each element of proof for each allegation. Be certain you have obtained the best quality information possible concerning each element of proof. Be sure that you have done everything within reason to establish or refute each allegation.
- c. Remember your audience. The command is relying on you to establish what happened so they can make the best decision possible. You are the only one who can observe the witnesses demeanor as it relates to credibility. You will have to sort through conflicting, self-serving statements. You will have witnesses who can't remember any important details. In the end, a person who knows nothing about your case must be able to read your investigation, understand what happened, and understand why you are making the recommendations you are making.
- d. Discussion. You should discuss each piece of evidence in light of the facts you ascertained and other evidence you collected. If there are inconsistencies, you must attempt to resolve them. Do not ignore contradictions or assume explanations. The IO's main task is to ascertain facts, not speculate without an evidentiary basis. However, it is permissible to draw reasonable inferences from the evidence. When referring to witness statements or other evidence, identify the reference and its location (for example, statement by SGT _____ (Tab _____)). If necessary, witnesses may have to be interviewed again.
- e. Findings. Apply the preponderance of the evidence standard of proof to the elements of the allegation, reviewing again the regulation defining any misconduct. Findings for each allegation should be that it is either substantiated (proven) or unsubstantiated (not proven). Unsubstantiated means the truth of the allegation could not be determined or the allegation was determined to be untrue. After you have determined your findings for each allegation, determine whether you have developed any information which leads you to additional findings concerning the subject matter of your investigation. A systemic problem in this subject area may be discovered, and must be reported, with recommendations. Ensure that the final report accurately reflects the scope and weight of the evidence assembled in the ROI. Do not misquote or enhance a sworn or unsworn statement from a witness. Ensure that the evidence is properly documented in your report. For example, if you have a local police department verify a finger print, have that person sign a letter or statement as to the results of their analysis. Do not include this evidence unless you have obtained documentation confirming the results.
- f. Recommendations. The recommendations must be supported by the findings. If the investigation involves misconduct or an RI, the recommendations should include the appropriateness of disciplinary action. This may include recommendations of judicial (courts-martial), nonjudicial (Article 15), administrative (for example, separations, reliefs, memoranda of reprimands, etcetera,) or no action, other than closing the investigation. Recommending specific improvements to the system may also be appropriate. Remember that objectivity and professionalism must be applied to provide responsible, helpful recommendations. Unless you have brought additional items to the attention of the appointing authority and have been told others would pursue them, a recommendation for case closure is appropriate.

DEPARTMENT OF THE ARMY
(Appropriate Letterhead)

OFFICE SYMBOL (ARIMS Number)

(Date)

MEMORANDUM FOR (Investigating Officer's Rank, Full Name), (Unit), (Address)

SUBJECT: Appointment as Investigating Officer (Case # _____)

1. APPOINTMENT: You are hereby appointed as investigating officer, pursuant to (USAREC Reg 601-45, chap 3, to conduct an informal investigation concerning into allegations that: [Factually explain the allegation. For example, SSG John Doe had an inappropriate relationship with applicant Jane Jones in violation of USAREC Regulation 600-25].

2. SCOPE OF THE INVESTIGATION: The scope of your investigation will include answers to the who, what, where, why, and how questions. Specifically [indicate any specific issues or facts that must be addressed in the investigation].

3. CONDUCT OF THE INVESTIGATION: Your investigation will use the informal procedures specified in AR 15-6. You will read and familiarize yourself with USAREC PAM 27-65 and [list other pertinent regulations here] prior to beginning your investigation. Prior to beginning your investigation, you will contact your legal advisor [insert legal advisor's name here] at [insert contact information here]. The legal advisor will be available to assist you if you have any questions about the conduct of your investigation or about how to package the investigation for the appointing authority.

a. As a minimum, your investigation will include all relevant documents and gather all relevant sworn testimony from the following individuals:

(1) List name, rank, position, and unit of known witnesses. It will usually include the individual making the complaint, anyone named in the complaint as a witness, the involved recruiter, station commander, guidance counselor, etcetera.

b. All witness statements will be sworn. Sworn statements will be recorded in writing using a DA Form 2823 (Sworn Statement). As an Investigating Officer, you have the authority to administer oaths for the purpose of taking sworn statements pursuant to Uniform Code of Military Justice (UCMJ), Article 136(b)(4).

c. Witnesses will be provided a copy of USAREC Form 722 prior to the solicitation of any personal information. You are to exclude all personnel information about the witness, to include social security numbers, date of birth, home address, home telephone and cell phone numbers, from all witness statements.

d. Before you interview any civilian, Department of the Army or Department of Defense civilian employee, or contract employees, you must consult your legal advisor.

e. There are no respondents.

f. If, in the course of your investigation, you suspect that a certain military witness may have committed a violation of the UCMJ, you will read that witness their Article 31b UCMJ rights using DA Form 3881 (Rights Advisement). You may only question that witness after they have been advised of their Article 31 rights and have waived those rights by signing the DA Form 3881. Call your legal advisor for advice if in doubt as to whether Article 31b advisement and waiver is required. For any offense other than that being investigated by you, immediately upon completion of your questioning of that witness, report telephonically to the BJA and the individual who appointed you.

4. FINDINGS AND RECOMMENDATIONS: Upon completion of your investigation, prepare your findings and recommen-

Figure 1. Sample of a memorandum of appointment

dations in accordance with USAREC PAM 27-65. The complete Report of Investigation will contain your narrative, all the evidence you used to make your findings and recommendations, a separate chronology listing all significant activity from initial appointment to completion of the investigation, to include the granting of any extensions or delays. Your completed inquiry will be submitted to me no later than close of business [*insert suspense date*].

Signature Block of Appointing Authority

PRIVACY ACT STATEMENT
(For use of this form see USAREC Pam 27-65)

DATE: 12 Dec 2012 NAME: SGT Guille Snider SIGNATURE: /signature/

1. AUTHORITY FOR THE COLLECTION OF PERSONAL INFORMATION: Title 10, United States Code, Section 3013.
2. PRINCIPAL PURPOSES: To obtain facts and make recommendations to assist the U.S. Army Recruiting Command (USAREC) commanders in determining whether the alleged acts have been committed by and/or against USAREC personnel.
3. ROUTINE USES: Information provided is disclosed to members of the Department of Defense who have a need for the information in the performance of their duties. In addition, the information may be disclosed to government agencies outside the Department of Defense as follows:
 - a. To federal, state, or local law enforcement agencies if the record indicates a violation or potential violation of law;
 - b. To members of the U.S. Department of Justice when necessary in the defense of litigation brought against the Department of Defense, or against members of that department as a result of actions taken in their official capacity;
 - c. To members of the U.S. Department of Justice when necessary for the further investigation of criminal misconduct; and
 - d. Limited information may be made available to third parties such as members of the public as consistent with 5 U.S.C. 552 and AR 340-21.
4. DISCLOSURE MANDATORY OR VOLUNTARY; THE EFFECT OF NOT PROVIDING INFORMATION:
 - a. For Military Personnel: The disclosure of social security account numbers is voluntary. Disclosure of other personal information is mandatory subject to the limitations of Article 31, Uniform Code of Military Justice and the Fifth Amendment to the U.S. Constitution. Failure to provide mandatory disclosure information may subject you to disciplinary action.
 - b. For Department of Defense Civilian Employees: The disclosure of social security account number is voluntary; however, failure to disclose other information not protected under the Fifth Amendment to the U.S. Constitution in relation to your position responsibilities may subject you to adverse personnel action.
 - c. For All Other Personnel: The disclosure of social security account number, where requested, and other personal information is voluntary and no adverse action can be taken against you for refusing to provide information about yourself.
 - d. For Individuals Warned of Their Rights Under Article 31, Uniform Code of Military Justice, or the Fifth Amendment to the U.S. Constitution: Providing the information is voluntary. There will be no adverse effect on you for not furnishing the information other than that certain information might not otherwise be available to the commander for his or her decision in this matter.

USAREC Form 722, Rev 1 Apr 1999 (Previous editions are obsolete)

V1.00

DEPARTMENT OF THE ARMY
U.S. Army Recruiting Company Middle
1445 Silverstream Highway
Parklawn, Montana 72701-1111

RC-AA-A

(DATE)

MEMORANDUM FOR Commander, U.S. Army Recruiting Battalion Middle, 1445 Silverstream Highway, Parklawn, Montana 72701-1111

SUBJECT: Report of Investigation (ROI) (Case Number If Assigned)

1. AUTHORITY: This investigation was conducted pursuant to (specify the appropriate regulations, for example, USAREC Reg 600-25 or USAREC Reg 601-45, chapter 3,) and Memorandum of Appointment, Headquarters, U.S. Army Recruiting Battalion Middle, dated ___ 20___ (a copy of the memorandum is located at Tab A). I used the procedures specified in AR 15-6 and USAREC Pam 27-65.

2. SCOPE OF THE INVESTIGATION: (Same information as contained in paragraph 2 of the memorandum of appointment.)

3. BACKGROUND INFORMATION:

a. (This paragraph or subparagraph must be in sufficient detail to give someone unfamiliar with the allegations a clear understanding of the events that led to the investigation. It should include a chronology of major events which may be provided as an enclosure to the ROI.)

b. (Any official or unofficial relationships between the complainant(s), witnesses, and other persons should be clearly explained. For example, if several recruiters are implicated, their duty relationships with each other and the complainant(s) should be explained.)

4. DISCUSSION:

a. (Analyze the evidence in relation to each allegation listed in paragraph 2 above. Assess the credibility of each witness whose credibility could be challenged by other parties to the investigation.)

b. (When referring to witness statements or other evidence, identify the reference and its location, (for example, statement by SGT _____)(at Tab ____).)

5. FINDINGS: (State whether each allegation or issue in paragraph 2 above is substantiated. Apply the preponderance of evidence standard described by AR 15-6, paragraph 3-10b. The findings must be supported by the discussion paragraph and must lead to a logical conclusion.)

6. RECOMMENDATION(S): (Such recommendations as are pertinent to the allegations (issues) described in paragraph 2 of the memorandum of appointment should be clearly and concisely stated. Each recommendation, even a negative one (for example, that no further action be taken), must be supported by the findings. See also, AR 15-6, paragraph 3-10.)

49 Encls
1. Index of ROI Tabs
2-49. as on encl 1

FIRST MI LAST
RANK, BRANCH
Investigating Officer

Figure 3. Sample of a memorandum Report of Investigation (ROI)

INDEX OF ROI TABS

(Note: For investigation of alleged RI)

<u>TAB</u>	<u>SUBJECT</u>
A	Memorandum of appointment (with enclosures).
B	Sworn Statement of Recruiter.
Next Tab	Sworn Statement of Station Commander.
Next Tab	Sworn Statement of Guidance Counselor.
Next Tab	Sworn Statement of Applicant.
Next Tab	Sworn Statements of other relevant witnesses.
Next Tab	All necessary DA Forms 3881 (Rights Warning Procedure/Waiver Certificate) (as appropriate, execute with each sworn statement).
Next Tab	All necessary USAREC Forms 722 (Privacy Act Statement).
Next Tab	DD Form 4/1 and 4/2 (Enlistment/Reenlistment Document).
Next Tab	DD Forms 1966 (Application for Enlistment).
Next Tab	CONTACT HISTORY, GCRc File .
Next Tab	DD Form 369 (Police Record Check).
Next Tab	USAREC Fm 1037 (Probation Officer and/or Court Records Report).
Next Tab	DD Form 2808 (Report of Medical Examination).
Next Tab	DD Form 2807-1 (Report of Medical History).
Next Tab	DD Form 2807-2 (Medical Prescreen of Medical History Report)
Next Tab	Relevant court documents.
Next Tab	Chronology of major events leading to and during the investigation.

(Note: Each sworn statement (DA Form 2823) should be tabbed separately. The list of witnesses is by way of illustration only.)

DEPARTMENT OF THE ARMY
U.S. Army Recruiting Company Sample

RC-FS

12 October 20__

MEMORANDUM FOR Commander, U.S. Army Recruiting Battalion

SUBJECT: Report of Investigation (ROI) (8X8X/0999)

1. AUTHORITY: This investigation was conducted pursuant to USAREC Reg 601-45, chapter 3, and Memorandum of Appointment, Headquarters, U.S. Army Recruiting Battalion Fort Sheridan, dated 30 September 20__ (Tab A).

2. SCOPE OF INVESTIGATION: The scope of the investigation includes answers to who, what, when, where, why, and how questions, along with answers to the following issues:

Did SFC Recruiter intentionally falsify, cause to be falsified, or omit any pertinent data or information which is required to be entered on any enlistment document, (for example, DD Form 2807-1, DD Form 2807-2, and DD Form 2808)?

3. BACKGROUND INFORMATION:

a. Chronology of events (a more detailed chronology is at Tab Q) -

3 Aug - Mr. Applicant allegedly hurts his back.

15 Sep - SFC Recruiter makes an appointment with Mr. Applicant.

17 Sep - Initial appointment conducted, DD Form 2807-2 and DD Form 1966 completed.

24 Sep - Applicant no shows for physical.

27 Sep - Applicant makes allegation during security interview.

30 Sep - IO appointed.

Begin investigation.

10 Oct - Complete investigation.

12 Oct - Submit ROI.

b. On 27 September 20__ , an RA enlistee, Mr. Applicant, alleged during a security briefing at the Fort Sheridan MEPS, that SFC John D. Recruiter had advised him to say nothing about a strained lower back muscle. Mr. Applicant stated that SFC Recruiter told him not to reveal his back problem if nothing came up during his physical at the MEPS.

4. DISCUSSION:

a. On 27 September 20__ during a security briefing with SSG Smith at the MEPS, Mr. Applicant alleged that SFC Recruiter advised him not to mention a back problem that had occurred on or about 1 August 20__ (Tabs B and I). Mr. Applicant's statement is also credible because he made it knowing he would lose his chance to join the Army. I do not believe he fabricated this to get out of his contract. SSG Smith indicated Mr. Applicant appeared relieved when he came clean about his medical history.

b. In his sworn statement (Tab B), Mr. Applicant said he originally had doubts about the 6-year enlistment that he would incur, but had resolved those doubts before going to the Fort Sheridan MEPS. He was now eager to go on active duty and was concerned that this incident would slow his processing (Tabs J and K). There is no motive for Mr. Applicant to lie in his sworn statement. Mr. Applicant was calm and relaxed during my interview and appeared to be completely credible.

Figure 4. Sample memorandum of a good ROI

c. Mr. Applicant said that he had seen a doctor for his back on or about 3 August; he had missed about 3 days from work and was taking medication for his back. I asked Mr. Applicant why had he checked "no" for "back strain" on his DD Form 2807-2 (Tab M). Mr. Applicant said that SFC Recruiter told him not to worry about it since it wouldn't show up on an X-ray. According to Mr. Applicant, he and SFC Recruiter had discussed the back strain before he signed the DD Form 2807-2.

d. I then asked Mr. Applicant for medical records that would show the dates and substantiate the fact that he had indeed seen a doctor prior to his interview with SFC Recruiter. Mr. Applicant said that he did not have medical records because he had to turn them in to his insurance company. He signed a release for medical records and provided receipts for prescriptions given to him for his back (Tab C). The date on the prescription receipts are 5, 10, and 22 August. The medical records (Tab N) indicate Mr. Applicant was seen on 5 and 22 August for a back injury. The interview between SFC Recruiter and Mr. Applicant took place on 17 September 20__ (Contact History, Tab D). I talked to Ms. Employer, who confirmed Mr. Applicant was on sick leave 5-7 August (Tab G).

e. On 30 September 20__, I informed SFC Recruiter of the allegation that he had told Mr. Applicant to conceal a back problem. He denied the allegation (Tab E). SFC Recruiter declined to answer further questions on the advice of his defense counsel (Tab F).

f. I talked to SGT Mandays who was helping out in the recruiting station on 17 September 20__ , when Mr. Applicant first came in. In his statement (Tab H), he says he did not hear all of the conversation between Mr. Applicant and SFC Recruiter, but what he did hear did not corroborate Mr. applicant's version of events. However, Mr. Applicant stated SFC Recruiter waited until they were alone before advising him to conceal his back pain.

g. The only other recruiter assigned to this recruiting station, SSG Brown, was not in the office during Mr. Applicant's interview.

h. This case is essentially a believability question. Mr. Applicant has no reason to lie. According to 1SG Jones, SFC Recruiter has been struggling as a recruiter. If he waited until he obtained documentation, Mr. Applicant could not enlist that month. SFC Recruiter's station was under pressure from higher to enlist someone on a contract like Mr. Applicant's according to the First Sergeant.

i. In April of this year, SFC Recruiter received a general officer written reprimand for a similar impropriety. Under the circumstances of this case and in light of his previous impropriety, SFC Recruiter could not reasonably have believed that evidence of medical treatment was a prerequisite to reporting a physical injury as a potential disqualification.

5. FINDINGS: SFC John D. Recruiter wrongfully assisted in the concealment of a potential enlistment medical disqualification in violation of USAREC Reg 601-45, paragraph 2-3e(1).

6. RECOMMENDATION: I recommend that the recruiting impropriety be substantiated and that SFC Recruiter be given a Brigade Memorandum of Reprimand. I further recommend the CG, USAREC relieve SFC Recruiter from recruiting duties.

29 Encls
1. Index of ROI Tabs
2-29. as on encl 1

I.M. Investigator
CPT, AG

INDEX OF ROI TABS

<u>TAB</u>	<u>SUBJECT</u>
Tab A	Memorandum of Appointment.
Tab B	Sworn Statement of Mr. Applicant.
Tab C	Copies of receipts: <ul style="list-style-type: none">- Prescription Receipt 5 Aug .- Prescription Receipt 10 Aug .- Prescription Receipt 22 Aug .
Tab D	Contact History, Mr. Applicant.
Tab E	MFR of conversation with SFC Recruiter.
Tab F	DA Form 3881 (Rights Warning Procedure/Waiver Certificate), SFC Recruiter.
Tab G	Statement of Ms. Employer.
Tab H	Sworn Statement of SGT Mandays.
Tab I	Sworn Statement of SSG Smith, Security Interviewer.
Tab J	Sworn Statement of SFC Jones, Guidance Counselor.
Tab K	Sworn Statement of MSG Williams, Senior Guidance Counselor.
Tab L	Sworn Statement of SSG Brown.
Tab M	DD Form 2807-2 (Medical Prescreen of Medical History Report), Mr. Applicant.
Tab N	Mr. Applicant's medical documents: <ul style="list-style-type: none">- DD Form 2808 (Report of Medical Examination).- DD Form 2807-1 (Report of Medical History).- Doctor's reports dated 5 Aug and 22 Aug.
Tab O	DD Forms 1966 (Application for Enlistment), Mr. Applicant.
Tab P	All USAREC Forms 722 (Privacy Act Statements).
Tab Q	Chronology of events. [An abbreviated chronology was provided in paragraph 3a in the ROI. When necessary, a more detailed chronology should be provided as a Tab.]

Figure 4. Sample memorandum of a good ROI (continued)

DEPARTMENT OF THE ARMY
U.S. Army Recruiting Company Sample

RC-FS

21 October 20__

MEMORANDUM FOR Commander, U.S. Army Recruiting Battalion

SUBJECT: Report of Investigation - SFC John D. Recruiter

1. AUTHORITY: This investigation was conducted pursuant to Chapter 3, USAREC Reg 601-45, and the Headquarters, U.S. Army Recruiting Battalion Fort Sheridan Memorandum of Appointment, dated 30 September 20__, (Tab A).

2. SCOPE OF INVESTIGATION: The scope of the investigation includes answers to WHO, WHAT, WHEN, WHERE, WHY, and HOW questions, along with answers to the following issues:

a. Did SFC John D. Recruiter use documents, to wit, DD Form 2807-2, in Mr. Applicant's enlistment process that were falsified by or with knowledge of SFC Recruiter?

b. Did SFC Recruiter falsify or assist in falsification of any documentation, (that is, DD Form 2807-1 or DD Form 2807-2), pertaining to Mr. Applicant's qualifications for any enlistment option, bonus, or benefit?

c. Did SFC Recruiter counsel Mr. Applicant to falsify or process Mr. Applicant knowing that information was falsified regarding eligibility (physical)?

d. Did SFC Recruiter intentionally falsify, cause to be falsified, or through gross negligence omit any pertinent data or information which is to be entered on any enlistment document, (that is, DD Form 2807-1, DD 2807-2)?

e. Did SFC Recruiter willfully enter any false or misleading data on any USAREC, U.S. MEPCOM, Army, or DOD form, (that is, DD Form 2807-1, DD Form 2807-2), or direct Mr. Applicant to enter such false or misleading data?

3. BACKGROUND INFORMATION:

a. On 27 September 20__ , an RA enlistee, Mr. Applicant, during a security briefing at the Fort Sheridan MEPS, alleged that SFC John D. Recruiter had advised him to say nothing about a lower back muscle problem. Mr. Applicant stated that SFC Recruiter told him not to reveal his back problem if nothing came up in the physical that was to be conducted at the MEPS.

b. SFC John Recruiter denied that he informed Mr. Applicant to mention the back problem only if Mr. Applicant thought it was serious or if Mr. Applicant had seen a doctor.

c. There were no witnesses to substantiate the conversation between SFC Recruiter and Mr. Applicant. The only person present during the interview was SGT Mandays.

4. DISCUSSION:

a. On 27 September 20__ , during a security briefing at the MEPS, Mr. Applicant alleged that SFC Recruiter advised him not to mention a back strain that had occurred on or about 1 August 20__.

b. In a telephone interview with Mr. Applicant, I concluded there were no apparent reasons for him to lie during the security briefing. He had doubts about the 6-year enlistment that he would incur.

- c. Mr. Applicant said that he had seen a doctor for his back around 3 August; he had missed about 3 days from work and was taking medication for his back. I asked Mr. Applicant why had he checked "no" for "back strain." Mr. Applicant responded that SFC Recruiter said don't worry about it since it was just a back strain. According to Mr. Applicant, he and SFC Recruiter had discussed the back strain before signing the DD Form 2807-2.
- d. I then asked Mr. Applicant for proof to show that he had seen a doctor prior to his interview with SFC Recruiter. Mr. Applicant informed me that he did not have receipts because he had to turn them in for reimbursement.
- e. On 28 September 20__, I informed SFC Recruiter of the allegation that Mr. Applicant had made. SFC Recruiter stated that Mr. Applicant had not informed him of a back problem. He then declined to say anything else after talking to defense counsel.
- f. SGT Mandays didn't answer his telephone when I called at 1300 on 29 September, so there is no statement from him.
- g. It appears that Mr. Applicant was coached not to mention the back problem since he had no way of knowing what could or couldn't disqualify him for enlistment.
- h. There is no substantiated evidence in this case, but there are substantiated motives for SFC Recruiter to misguide Mr. Applicant. SFC Recruiter needed Mr. Applicant to help make mission. SFC Recruiter has failed to make a statement.

5. FINDINGS:

- a. SFC John D. Recruiter did falsify documents, to wit, DD Form 2807-2, in Mr. Applicant's enlistment process.
- b. Due to consistent allegations against SFC Recruiter, recommend that he be relieved, reclassified, and reassigned outside of USAREC.
- c. SFC Recruiter did counsel Mr. Applicant to falsify and processed Mr. Applicant knowing that the information was false regarding eligibility (physical).
- d. SFC Recruiter intentionally falsified, caused to be falsified, and through gross negligence omitted pertinent data and information which was to be entered on enlistment documents, DD Form 2807-1 and DD Form 2807-2.

6. RECOMMENDATION: In April of this year, SFC Recruiter received a General Officer Written Reprimand for similar allegations. I feel that SFC Recruiter has exhausted his chances of remaining a recruiter within USAREC.

2 Encl
TABS A-B
Investigating Officer

I.M. Investigator
CPT, AG

CRITIQUE

Problems with this investigation:

- No sworn statements.
- Telephone interviews were used instead of face-to-face interviews. Face-to-face interviews should be conducted whenever possible considering time, distance, and the criticality of the witness. Mere inconvenience cannot excuse failing to interview material witnesses in person. If a material witness has moved away, ask the appointing authority to request support from another recruiting company or recruiting battalion.
Telephone interviews may be conducted only when it is clearly impractical to conduct a face-to-face interview.
- Using evidence not in the file in discussions and findings.
- Inferring guilt solely from invocation of rights.
- Failure to include documentary evidence (USAREC Contact History, DD Form 1966, and DD Form 2807-2, etcetera).
- Failure to interview other witnesses such as security interviewer, guidance counselor, or others in the recruiting station.
- Some conclusions (for example, credibility of Mr. Applicant) were inadequately supported by evidence in the file. In fact, there is no evidence to corroborate Mr. Applicant's statement that he had strained his back and that he told SFC Recruiter about the injury.
- Failure to adequately support the recommendations. Not every RI warrants relief. In this case, although SFC Recruiter declined to make a statement, he might have mistakenly believed that medical documentation was needed before reporting the injury. A better investigation could have resolved this issue.
- The scope of the investigation (paragraph 2 of the ROI) usually is a restatement of the instructions by the appointing authority. An overly detailed appointing order is not "wrong" but may inadvertently constrict the investigation. The appointing order should describe the general parameters of the investigation, and the IO should ensure that specific instances of wrongful conduct are investigated. For these reasons, the general scope paragraph used as an example in the "good" investigation is preferred.
- Format of the investigation is not correct.

Appendix A

References

Section I

Required Publications

AR 15-6

Procedures for Investigating Officers and Boards of Officers.

AR 27-10

Military Justice.

AR 190-45

Law Enforcement Reporting.

AR 195-2

Criminal Investigation Activities.

AR 340-21 with USAREC Suppl 1 thereto

The Army Privacy Program.

AR 600-8-2

Suspension of Favorable Personnel Actions (Flag).

AR 600-37

Unfavorable Information.

AR 601-1

Assignment of Enlisted Personnel to the U.S. Army Recruiting Command.

AR 601-210

Active and Reserve Components Enlistment Program.

UCMJ

Uniform Code of Military Justice.

USAREC Reg 27-2

Legal Services Support for the United States Army Recruiting Command.

USAREC Reg 190-3

Procedures in Drunk Driving Cases.

USAREC Reg 600-22

Assignment of Enlistment Processing Responsibility.

USAREC Reg 600-25

Prohibited and Regulated Activities.

USAREC Reg 601-45

Recruiting Improprieties Policies and Procedures.

Section II Prescribed Form

USAREC Form 722
Privacy Act Statement.

Section III Required Form

DA Form 2823
Sworn Statement.

DA Form 3881
Rights Warning Procedure/Waiver Certificate.

Section IV Related Forms

DA Form 1574
Report of Proceedings by Investigating Officer/Board of Officers.

DD Form 2807-1
Report of Medical History.

DD Form 2807-2
Medical Prescreen of Report of Medical History.

DD Form 2808
Report of Medical Examination.

USMEPCOM Form 680-3-AE
Request for Examination.

Appendix B Examples of Statements and Documentation

The following are provided as examples of statements and documentation normally required for different types of allegations. These examples are not intended to be all inclusive, but are furnished as guidelines for the IO during the conduct of the investigation.

- a. ALLEGATION: CONCEALED POLICE RECORDS.
 - (1) Statements should be taken from:
 - (a) Applicant and any witnesses provided by applicant such as family members, etcetera.
 - (b) Recruiter, station commander, guidance counselor, and security interviewer.
 - (c) Probation officer, district attorney, lawyers, judges (if any).
 - (d) If records checks were run or should have been run, take statement from records clerk of law enforcement agency.
 - (e) Anyone else mentioned that may have information concerning the case.
 - (2) The following documents should be included:
 - (a) Selected GCRc documents and Contact History (mandatory).
 - (b) Police and court checks and/or dockets (previously completed checks should be validated by phoning the law enforcement agency or court to verify that the information is accurate). If no court or police records check were done by the recruiter, the IO will need to run the checks. Include any separate files that the district attorney's office may have.

- b. ALLEGATION: CONCEALED MEDICAL RECORDS.
- (1) Statements should be taken from:
 - (a) Applicant and any witnesses provided by applicant such as family members, etcetera.
 - (b) Recruiter, station commander, and guidance counselor.
 - (c) Doctors or staff members such as receptionists at civilian medical facilities, as needed.
 - (d) Coach, school nurse, if appropriate.
 - (2) The following documents should be included:
 - (a) Selected GCRc documents and Contact History (mandatory).
 - (b) DD Form 2808 (Report of Medical Examination) and DD Form 2807-1 (Report of Medical History).
 - (c) DD Form 2807-2 (Applicant Medical Prescreening Form).
 - (d) Medical records from civilian medical facilities. If not obtained by the recruiter, the IO will have to obtain these records.
- c. ALLEGATION: FALSE DOCUMENTS (High School Diploma or Transcripts).
- (1) Statements should be taken from:
 - (a) Applicant and any witnesses provided by applicant such as family members, etc.
 - (b) Recruiter, station commander, and guidance counselor.
 - (c) School administrators, guidance counselor, and/or principals.
 - (d) Individual who allegedly prepared and scanned the document.
 - (e) Print shop owners in the recruiting station area (determine if recruiters are visiting his or her business, and for what purpose).
 - (2) The following documents should be included:
 - (a) Selected GCRc documents and Contact History (mandatory).
 - (b) Bogus diploma or transcript.
 - (c) Copy of an authentic diploma or transcript from the institution in question.
 - (d) Results of residual packet check of the involved recruiter and station to determine if other falsified diplomas or transcripts exist.
- d. ALLEGATION: RINGER.
- (1) Statements should be taken from:
 - (a) Applicant and any witnesses provided by applicant such as family members, etcetera.
 - (b) Recruiter, station commander, and guidance counselor.
 - (c) Ringer, if identified by the applicant.
 - (d) Other recruiters in the station.
 - (e) Test administrator.
 - (2) The following documents should be included:
 - (a) Selected GCRc and Contact History (mandatory).
 - (b) USMEPCOM Form 380-AE (Request for Examination).
 - (c) Handwriting exemplars from the applicant.
 - (d) Thumbprint(s) to match with the original USMEPCOM Form 714A.
 - (e) Results of the check of the Contact History from the recruiter and station involved to determine if any evidence exists of other ringer use.
 - (f) Results of confirmation Armed Services Vocational Aptitude Battery .
 - (g) Results of Student Armed Services Vocational Aptitude Battery.
 - (h) Copy of identification used to take the test.
 - (i) Results of CAST, WINCAST, EST from Recruiter's computer
- e. ALLEGATION: SOCIAL RELATIONSHIP WITH MEMBER OF THE DELAYED ENTRY PROGRAM (DEP).
- (1) Statements should be taken from:
 - (a) DEP member and any witnesses provided by DEP member such as family members, classmates, or other DEP members.
 - (b) Recruiter, station commander, and other recruiters in the station who may have noticed relationship.
 - (c) Individuals who may have witnessed the social relationship, depending on the allegation (for example, hotel employees, janitor, neighbors, etcetera).
 - (2) The following documents should be included:
 - (a) Selected GCRc documents and Contact History (mandatory).

(b) Personal correspondence to and from the recruiter.

(c) Depending on the situation, pictures, receipts, or paternity documents.

The executive officer is the “first-line” expert at recruiting battalion level. The IO should feel free to talk with the executive officer or the brigade judge advocate for assistance during the conduct of and/or prior to the submission of the investigation. A thorough, complete product should be the result.

USAREC

ELECTRONIC PUBLISHING SYSTEM

DATE: 20 DECEMBER 2012
DOCUMENT: USAREC PAM 27-65
SECURITY: UNCLASSIFIED
DOC STATUS: REVISED