



UNITED STATES MARINE CORPS  
2D MARINE AIRCRAFT WING  
II MARINE EXPEDITIONARY FORCE  
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IN REPLY REFER TO:

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POLICY LETTER 04-11

From: Commanding General, 2d Marine Aircraft Wing  
To: Distribution List

Subj: 2D MARINE AIRCRAFT WING (2D MAW) POLICY CONCERNING  
PRELIMINARY INQUIRIES AND COMMAND INVESTIGATIONS

Ref: (a) JAGINST 5800.7E (JAGMAN)  
(b) SECNAV M-5510.36 (Security Violations)  
(c) MCO P4400.150E (Consumer-Level Supply Policy Manual)  
(d) OPNAVINST 3750.6R CH-4 (Aviation Mishaps)  
(e) MCO P5102.1B (MCO on Safety and Mishaps  
Investigations)  
(f) MCO P3040.4E (Marine Corps Casualty Procedures  
Manual)  
(g) MCO 1700.28 (Hazing)  
(h) 2d MAW Policy Letter 08-08 (Hazing)  
(i) SECNAVINST 5430.57G (Missions and Functions of the  
Naval Inspector General)  
(j) MCO 1000.9A (Sexual Harassment)  
(k) MCO P5354.1D (Equal Opportunity Manual)  
(l) JAGMAN Investigations Handbook 09/09  
(m) R.C.M. 303 (2008 Manual for Courts-Martial)  
(n) SecDef Memo of 5 Oct 09 (Revision to Cost Thresholds  
for Accident Severity Classification)  
(o) DOD FMR Vol. 12, Ch. 7 (Financial Liability)  
(p) 32 C.F.R. 757.4 (Claims that may be collected)  
(q) MCBUL 3040 (Command Reporting for Casualties)  
(r) MCO P5800.16A (LEGADMINMAN) Ch. 8

1. Purpose. To publish policy guidance and establish standard practices for the conduct, routing and reporting of preliminary inquiries and Command Investigations (CIs) within 2d MAW.

2. Background. The references collectively establish standards, policies and procedures for conducting diverse preliminary inquiries and CIs. Investigations help maintain situational awareness, identify trends and correct deficiencies within 2d MAW.

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distribution is unlimited.

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I therefore have an interest in all investigations convened within the Wing. Throughout the Wing, however, different Commands follow different procedures and policies which, over time, have led to the loss of investigations, exhibits and lengthy delays in processing. This policy letter promulgates guidance consistent with the references concerning the conduct, reporting, forwarding and timeliness of preliminary inquiries and command investigations within the 2d MAW.

### 3. Policy

a. Effective immediately and consistent with reference (a), Commanders are directed to follow the following guidelines and best practices:

(1) Preliminary Considerations. Subject to the principles set forth in reference (a), determining whether to convene an investigation and if so, what type is generally a matter of command discretion. However, superiors in the chain-of-command may direct a Convening Authority (CA) to reconsider or to take a different course.

(a) Although the natural instinct is to seek out and document facts quickly, doing so without Judge Advocate involvement may be counterproductive and may actually work against the interests of the Commander and the command.

(b) The Staff Judge Advocate (SJA) recommends the appropriate type of investigation to be conducted. 2d MAW CAs shall consult with the Wing SJA or his designated representative, to determine how or whether a particular incident should be investigated.

(c) Not every incident warrants investigation. A CA who concludes that further investigation would serve no useful purpose may decide not to conduct one unless superior authority directs otherwise, or unless an investigation is required per other guidance. No further investigation is only appropriate if the event is unlikely to be of interest to anyone outside the immediate command or the event will be adequately investigated under some other authority. Consultation with the Wing SJA will assist the CA in making this determination.

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(d) When more than one command within 2d MAW is involved in an incident requiring investigation, CAs will consult with the Wing SJA prior to determining which command should convene the investigation. If CAs under my command cannot agree upon who should convene the investigation, I will make that determination. If the incident involves commands outside of 2d MAW, apply reference (a).

(e) Due to compressed time lines and requirements for Equal Opportunity (EO) investigations, all CAs are required to contact both the Wing SJA and the Wing IG immediately upon receipt of an equal opportunity complaint or potential complaint. No Commanding Officer (CO) may convene an investigation under reference (k) without first consulting with the Wing SJA.

(f) Prioritization. When any ongoing investigation affects the duty status of persons who are subjects of the investigation, the CA shall make every effort to ensure that the investigation is completed as expediently as possible. The CA must weigh the impact that his decision to authorize the maximum normal time for an investigation or for an extension, will have on the duty status of his personnel relative to the anticipated benefit of the duration of time he is authorizing.

(2) Appointing Orders. Prior to appointing an Investigating Officer, the command shall contact the Wing SJA or Investigations Section, Joint Law Center (JLC) to inform of the need or requirement of an investigation. All Investigating Officers for all types of investigations initiated pursuant to reference (a) shall be appointed in writing. Appointing orders shall comply with paragraph 0206 of reference (a). Minimum requirements include:

(a) Identification of the Investigating Officer(s) by name.

(b) Identification of the type of investigation initiated, including recitation of the specific purpose of the investigation and explicit instructions pertaining to its scope and if known, the date of the incident or event.

(c) Notification to the Investigating Officer(s) that the investigation is his/her/their primary appointed duty until completion of the investigation.

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An investigation is not complete until the findings, opinions and recommendations have been approved by the final adjudicative authority.

(d) Identification of any potential witnesses and/or sources of information.

(e) Specification of the format in which the report should be submitted, (e.g. in writing, in contemplation of litigation, etc.).

(f) Specification of the date the investigation is due to the appointing officer. Normally, a preliminary inquiry should be completed within three (3) working days and a CI should be completed within thirty (30) calendar days.

(g) Instruction to the Investigating Officer to seek assistance from the 2d MAW SJA. All appointing orders must expressly direct the Investigating Officer to contact the Administrative Law Section, JLC, Marine Corps Air Station (MCAS) Cherry Point before beginning the investigation. Investigating Officers appointed by commands located at MCAS Beaufort or MCAS New River may contact local law centers for administrative assistance, but shall seek initial and terminal guidance from the JLC, MCAS Cherry Point.

(h) Instructions for compliance with the Privacy Act, the Health Insurance Portability and Accountability Act (HIPAA), Article 31 of the Uniform Code of Military Justice, Paragraph 0201 of reference (a) (dealing with coordinating with law enforcement) and Paragraph 0212 (concerning statements of disease or injury), as necessary.

(i) Any other direction and/or guidance as the Commander deems necessary or proper, after consultation with the SJA, 2d MAW, or his designated representative.

(3) Reporting. Whenever a Preliminary Inquiry (PI) or CI is directed, commands must immediately forward a copy of the appointing order to the Administrative Law Section, Attention: Investigations, JLC, Cherry Point, North Carolina. Electronic delivery is recommended.

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(4) Extensions. Investigations can frequently be complex and difficult. On many occasions these complexities make it difficult for Investigating Officers to complete their investigations within established time lines. Investigating Officers and Commanders must work to establish the proper balance between speed and efficiency. However, in the event that an Investigating Officer requires an extension from the established due date, the following guidance applies:

(a) All extension requests must be submitted in writing, via naval letter or email and attached to the body of the investigation as an enclosure.

(b) Except in the case of EO investigations convened under reference (k), the Officer who initiated the investigation is authorized to approve a one-time, fifteen (15) day extension in the case of PIs, and a one time, thirty (30) day extension in the case of CIs.

(c) For good cause shown, the SJA, 2d MAW is authorized to approve a second extension request of up to fifteen days for PIs and up to thirty (30) days in the case of CIs, by direction.

(d) EO investigation reports and review must be completed within 14 days. If the investigation and required reviews are not completed within 14 days, the command shall submit a written request for extension to me. The request must report on the progress of the investigation and purpose of extension. I may authorize up to 30 days of extension. If the investigation cannot be completed after the 30-day extension, the command must notify the Wing SJA, Wing IG and contact CMC (MPE). All additional extension requests shall be addressed in writing to me for approval.

(5) Routing. Follow the procedures established by reference (a). Additionally the following policy guidance also applies:

(a) Courtesy Reviews: much of the delay in the processing of administrative investigations is attributable to the review process. A lack of interaction between those with the legal expertise and the Investigating Officer frequently leads to mistakes and delays.

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In order to reduce such problems Investigating Officers are encouraged to maintain close contact and coordination with the SJA, his/her staff and local law centers. Additionally, Investigating Officers are directed to submit a preliminary copy of their investigation to the Administrative Law Section of the JLC, MCAS Cherry Point for a courtesy review prior to final signature. During this review the Investigating Officer shall receive advice and guidance on matters pertaining to the investigation intended to correct deficiencies. This should reduce the number of times investigations are returned for correction.

(b) *Legal Sufficiency Review*: following signature by the Investigating Officer but prior to final approval, all PIs and CIs must be forwarded via the chain of command to the SJA, 2d MAW, for a legal sufficiency review. The SJA is directed to personally review each PI and/or command inquiry for legal sufficiency and document such in writing. EO investigations convened under reference (k) have a specialized review process which incorporates the Command EO Advisor; the Investigating Officer will consult with both the Administrative Law Section, JLC and the Inspector General (IG), 2d MAW, to ensure that all EO review requirements are properly accomplished.

(c) *Endorsement and Final Action*: following signature, all investigations shall be endorsed to me by the Appointing Officer. Commanders are expected to make recommendations with regard to approval, disapproval, modification or addition of findings of fact, opinions and recommendations. Any investigation which is not completed or endorsed within designated time guidelines shall address the cause for delay. In many cases, the SJA has By Direction authority to approve, disapprove, modify or add findings of fact, opinions and recommendations, unless my personal endorsement is required, as designated below:

1. All PIs and CIs making a Line of Duty/Misconduct determination in a death case.

2. All PIs and CIs involving a major incident as defined in Appendix A-2-a of reference (a).

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3. Any other PIs or CIs where my existing or future orders specifically require my endorsement.

4. Any PIs or CIs for which approval of the findings, opinions and recommendations would constitute a legal decision beyond the discretion of the CA, which would establish policy or procedure within 2d MAW beyond the scope of the CAs command or which ultimately comment on 2d MAW's mission or efficiency beyond the CAs scope of command.

5. Any PIs or CIs which will ultimately be forwarded outside of 2d MAW, such as litigation-report investigations and certain supply investigations that require special forwarding.

(6) Consult with the SJA, 2d MAW for further guidance on any of the foregoing.

b. When Investigations are Required. Some investigations are discretionary. In other situations, the references require investigations. These include:

(1) A possible loss or compromise of classified information requiring an investigation under reference (b). Additionally, NCIS must be notified immediately.

(2) Any report of missing, destroyed or damaged government property (including ordinance materiel) belonging to the Marine Corps, on charge to the Marine Corps or belonging to other government departments and in the custody of the Marine Corps which meets the requirements for an investigation under Appendix A-2-v of reference (a) and reference (c). In accordance with reference (c), an investigation is required when the cause of such a loss is unknown, the individual of responsibility is relieved or to determine responsibility when the command suspects culpability for the loss, damage or destruction of the property. Per reference (c), "investigative action is not required when the Commander accountable for the property believes no fault or negligence is indicated in the loss, damage or destruction of government property; or for reasons known to the CO, no fault, negligence or responsibility can be found and that an investigation would constitute an unnecessary administrative burden."

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Financial Liability Investigation of Property Loss (FLIPL, DD Form 200) procedures conducted in accordance with reference (o) satisfy the requirement for losses or excesses of property (not funds). In most situations if a FLIPL survey is not required, a JAGMAN investigation is also not required. References (a) and (p) provide specific guidance regarding determinations of liability and shall be consulted prior to offering any conclusions as to liability or any recommendations regarding potential recovery of the loss.

(3) All losses or excesses of public funds when the loss or excess is greater than 750 dollars in a single incident or related series of incidents, unless the loss is of disbursing funds which have been voluntarily liquidated by the custodian. At a minimum, a PI is required to determine whether a suspected loss or excess exists and if so, the amount.

(4) All Class "A" aviation mishaps as defined in reference (a) and (d). A Class "A" mishap is one in which the total cost of damage to property, aircraft or an Unmanned Aerial Vehicle (UAV) exceeds the cost threshold established in reference (n), where naval aircraft is destroyed or missing or where any fatality or permanent total disability is the direct result of the involvement of naval aircraft or UAV. Loss of a UAV is not a Class "A" unless the value of the aircraft exceeds the cost threshold in reference (n). A JAGMAN investigation is not required for Class "A" mishap incident to Direct Enemy Action (DEA) as defined in reference (a).

(a) An investigation is required if the initial mishap report assesses the mishap as Class "A" or may later be required if an aviation safety board determines a Class "A" mishap to have occurred - regardless whether the initial mishap report assessed a lower classification than Class "A".

(b) Per Appendix A-2-n of reference (a), the Investigating Officer for a Class "A" mishap may not come from the mishap Squadron or a command subordinate to the mishap Squadron. In the case of an investigation where there are multiple members or Squadrons involved leading to the appointment of a team of investigators or in other circumstances where there is more than one investigator assigned, a majority of the members selected must not be from the mishap Squadron or a unit subordinate to the mishap Squadron. See also reference (e).



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(5) Anytime a line of duty misconduct determination is required by reference (a) and a PI alone is not legally sufficient to make the determination.

(6) The death of any military service member assigned to 2d MAW, unless reference (a) provides an exception or the death of a civilian, which occurred in a place under the control of 2d MAW. References (a) and (f) pertain. All CAs must consult the SJA, 2d MAW, prior to convening any investigation of an civilian casualties. The SJA, 2d MAW, will coordinate appropriately to ensure that such investigations are handled properly for the particular circumstances.

(7) Any incident which may result in a claim against the United States Government. Under such circumstances a Litigation Report may be required. Examples include the sexual harassment of a civilian employee or contractor by a military member, injury to a civilian employee or members of the public which occurred in a place under the control of 2d MAW, and/or situations where 2d MAW members are alleged to have injured a civilian or damaged civilian property incident to the performance of their official duties, including when property or equipment is lost from aircraft. In such circumstances, commands are directed to contact the 2d MAW SJA before taking any action.

(8) Any allegation of hazing, sexual harassment or discrimination. Commands are directed to coordinate such investigations with the 2d MAW IG and SJA in order to ensure compliance with references (g) through (k).

(9) Traffic accidents involving Government vehicles. All but the most minor accidents between Government vehicles and personally-owned vehicles must be investigated. Accidents causing property damage of a value of 5,000 dollars or less, where there are only minor personnel injuries and no anticipated claim against the government, may not require a command inquiry. See reference (c). In many cases, such accidents may be adequately documented by use of Standard Form 91A (Motor Vehicle Accident Report) or by adopting civilian police reports as a PI. More serious accidents should be investigated by CI. Use Litigation Report procedures when you anticipate there may be a claim for or against the government.

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(10) Any firearm incident involving a service member assigned to 2d MAW, to include but not limited to:

(a) Any self-inflicted gunshot wounds, whether apparent or accidental.

(b) Any negligent discharge.

(c) Any injury or damage which occurs due to the malfunctioning of a firearm.

(11) Any incident where the adequacy of medical care is in question. Reference (a) requires a separate investigation, regardless of any Medical Quality Assurance investigations.

(12) Any other incident or event which, in the eyes of the Commander after consultation with the Wing SJA, requires investigation or documentation.

c. Actions Required upon Completion. Many investigations do not end with a signed report and endorsement, but require specific finalizing actions. Commanders are expected to ensure that all required actions are taken at the completion of any investigation - for example, investigations which have specific forwarding requirements, formal message reporting requirements or require the initiation of corrective action in order to accomplish the purpose of the investigation.

(1) Specific examples include but are not limited to:

(a) Forwarding litigation-reports to OJAG, Code 15.

(b) Forwarding property loss investigations to CMC (LPP) when required by reference (c).

(c) Forwarding final line of duty/death determinations to M&RA (MMSR-6).

(d) Submitting final PCR within 24 hours of the completion of a line of duty/death investigation, per reference (q).

(e) Submitting Discrimination and Sexual Harassment (DASH) Reports to CMC (MPE).

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(2) Per reference (r), the SJA assists the CA in considering how corrective action is initiated, completed and documented for future reference.

4. Coordinating Instructions.

a. Administrative investigations must be properly distinguished from other investigations. Investigating Officers are expected to coordinate as required to ensure that their investigative efforts do not conflict with criminal investigations conducted by NCIS or CID, aviation safety mishap investigations, medical quality assurance investigations or other similar inquiries.

b. R.C.M. 303. A PI convened under reference (m) focuses primarily or solely on criminal misconduct, to determine whether there are grounds for charges under the Uniform Code of Military Justice and if so, the proper forum for those charges. These investigations are not administrative investigations within the meaning reference (a) for purposes of requests under the Freedom of Information Act or Privacy Act. However, these investigations will be drafted in a style and routed for endorsement as would a PI convened under reference (a) and in accordance with this policy. Appointing orders for R.C.M. 303 investigations may cite reference (a) for this purpose, but shall not be filed under the same system of records.

5. Administration and Logistics. Investigative checklists and forms may be found at reference (a) and (l). Additional guidance may be found by navigating to the 2d MAW Virtual Law Center. That page may be found at <https://intranet.2dmaw.usmc.mil/SpecialStaff/sja/default.aspx> .

6. Command and Control. Point of contact for all matters relevant to this policy letter is the 2d MAW SJA.



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