



DEPARTMENT OF THE ARMY
U. S. ARMY CRIMINAL INVESTIGATION COMMAND
6010 6TH STREET
FORT BELVOIR, VIRGINIA 22060-5506

REPLY TO
ATTENTION OF

CIOP-COP-PO

04 April 2003

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Operational Memorandum 008-03, Initiation of Reports of Investigation (ROIs) and Rights Advisements in Current Deployed Situation in CENTCOM AOR

1. References:

- a. AR 195-2, Criminal Investigation Activities, 30 October 1985.
- b. CIDR 195-1, Criminal Investigation Operational Procedures, Chapter 4, Paragraph 4-40, 1 January 2001.
- c. DoD Dir 5100.77, DoD Law of War Program, 9 December 1998.
- d. DEPSECDEF Memorandum, 25 March 2003, War Crimes and Related Investigations within the U.S. Central Command Area of Operations.
- e. CJCS Instruction 5810.01B, Implementation of the DOD Law of War Program, 25 March 2002.
- f. CENTCOM Regulation 27-1 (Law of War)
- g. FRAGO 107 to COMCFLCC OPORD 03-032, Investigation of War Crimes.
- h. Operational Memorandum 012-01, Initiation of Reports of Investigation (ROIs) and Rights Advisements in Current Deployed Situation in CENTCOM AOR (replaced by this Operational Memorandum).

2. This memorandum is initiated to clarify and re-emphasize existing policy as outlined in references above. This clarification is deemed necessary because of CID's increasing role in investigations within the CENTCOM area of responsibility. All CID elements will adhere to this guidance. Also, this memorandum replaces Operational Memorandum 012-01, 28 December 2001.

3. Prior CID operational deployments spawned a variety of ad hoc procedures for "packaging" our investigative product, with a growing tendency not to report the results of investigations by ROI when the facts did not fit neatly into the familiar circumstances of a

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garrison environment. As a result, paragraph 4-40, CIDR 195-1, was published late in 1999. The typical "non-traditional" cases usually involved civilian-on-civilian crime in a country or area that had no, or a very limited, functioning government or law enforcement system and the Army interest in or nexus to the case was unclear.

4. U.S. Forces were sometimes present in these areas as a result of an international mandate, but in all instances had a stated or implied law enforcement or peacekeeping mission. In furtherance of the U.S. Army's role and mission in these environments, senior Army commanders have historically taken full advantage of the professional investigative capabilities of the CID agents accompanying the maneuver force. Time and again, in the absence of any legitimate police authority or in conjunction with a local limited police agency, CID agents have provided a vital service to the Army, the Nation, and the international community – gathering and preserving testimony and evidence for future criminal proceedings. In the CENTCOM AOR, CID agents have been tasked to investigate war crimes and atrocities allegations and terrorist acts, as well as general crimes that may or may not involve US Army personnel/property. Consistency in the initiation and reporting of these sensitive investigative efforts will ensure documentary and physical evidence is available for the appropriate authority to properly adjudicate these cases.

5. The following paragraphs clarify the policy for the initiation of investigations in the current deployment. Paragraph 6 outlines the background and existing investigative responsibility and jurisdiction issues. Paragraphs 7 through 11 take those basics and apply them to the current deployment situation.

6. AR 195-2 and CIDR 195-1 identify four basic criteria that must exist to justify Army jurisdiction and responsibility to investigate crime.

a. There must be some credible information that a crime has occurred. A preliminary inquiry (on a 66) may be conducted to reach the credible information standard, but once that standard is reached, an ROI will be initiated if the remaining criteria below have been met. IAW CIDR 195-1, a single ROI may be "split" into multiple ROIs if there are resulting investigative or prosecutive efficiencies or effectiveness.

b. The Army must have investigative authority to investigate. Investigative authority refers to matters in which the Army has the legal authority (jurisdiction) to conduct a criminal investigation. In a deployed environment, whether combat or peacekeeping mission, there is Army investigative authority when there is an Army interest and the investigation furthers or supports the Army's mission in that area. If the Army is formally tasked to support an international entity, the use of investigative resources is an official act in furtherance of the Army's overall mission to support the approved objectives of the international entity. Unofficial investigations or investigations not in support of the Army mission are prohibited.

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c. There must be an Army interest in the case. In deployed situations, there is an Army interest in a criminal case when the case impacts the US military, its allies or the United States, when the case supports the accomplishment of the Army's mission or capabilities, or when it is requested by the senior civilian leadership within the Department of Defense or by the supported commander to further the U.S. Military's mission.

d. CID must have the responsibility to investigate (that is, the alleged crime is within our normal investigative purview). CID usually investigates the felony crimes identified in AR 195-2 and the associated civilian equivalent crimes. As noted in AR 195-2; however, CID's investigative purview can be adjusted to include lesser crimes if it would serve a better or overall law enforcement goal. In areas without MPI (or another MCIO in cases involving joint forces), CID elements may have to investigate crimes outside the normal purview.

7. In the current situation, CID will initiate and report investigations according to normal investigative procedures and standards. Further, the investigation of war crimes, atrocities, or terrorist allegations is within CID investigative purview. Any investigation of such war crime, atrocity, or terrorist allegation incidents will be reported in the ROI format to thoroughly document the investigative effort. Investigative jurisdiction for war crime investigations is laid out in DoD Dir 5100.77. The investigation of other general criminal allegations (no matter who the suspects or victims may be) as determined by the Secretary of the Army; Headquarters, CENTCOM; this headquarters; or local senior field grade commanders, are also within CID investigative purview. CENTCOM and local commanders may expand CID's investigative purview in support of CENTCOM's mission, but they will not restrict or channel any CID investigative effort. Any investigations of such incidents will also be reported in the ROI format.

8. It is a principle of this command that the reporting format for all investigations conducted by or for CID elements will be the Report of Investigation (ROI). Whenever an investigation of whatever scope (limited or full) is initiated, the results will be reported by the ROI format. Such investigations may be finalized early (Final(C)) procedures in Chapter 4, CIDR 195-1) if the original intent of the commander's request has been met, or if the completion of other outstanding leads is precluded by hostile fire, hostile territory, or other local adverse conditions. It is anticipated that many of these ROIs will be completed using the procedures for a Final (C).

9. In areas that have a functioning government and law enforcement system, CID investigative efforts will be determined by international treaty or agreement (such as a Status of Forces Agreement (SOFA)), by the policies of the host government, the U.S. Ambassador, or a US Regional Governor. When questions arise in this area as to investigative authority and responsibility, coordination will be effected with the supporting SJA or the USACIDC judge advocate. CID will conduct a collateral or joint ROI to the extent allowed by treaty or policy and local law enforcement authorities.

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10. When criminal incidents involve Army affiliated personnel (military, civilian or contractor) or Army property, the conduct of ROIs will be accomplished to the extent allowed by local environment and threat conditions. When criminal incidents involve other U.S. Services personnel or property and CID is the closest investigative force, an investigation using the ROI format will be initiated. When criminal incidents involve non-Army affiliated civilians, the conduct of ROIs will be accomplished to the extent allowed by local environment and threat conditions. Final (C) or Final Referred procedures may be used as appropriate for any of these types of investigations.

11. Rights Advisement: All members of the US military who are suspected of crimes will be advised of their rights as usual using the appropriate sections of the DA Form 3881. All US citizens who are suspected of crimes and who are in a custodial setting will be advised of their rights as usual using the appropriate section for civilians not subject to the UCMJ of the DA Form 3881. For non-US citizens suspected of crimes, final guidance is still pending.

12. Point of contact for this memorandum is CW4 [REDACTED] Policy Branch, [REDACTED], or email: [REDACTED]@belvoir.army.mil. Point of contact for legal issues is the MAJ [REDACTED] at [REDACTED] (DSN 656); email [REDACTED]@belvoir.army.mil.

FOR THE COMMANDER:

- 2 End
- 1. DODD 5100.77
- 2. CJCSI 5810.01B
- 3. DEPSECDEF Mem0

///ORIGINAL SIGNED/// [REDACTED]
Colonel, GS
Deputy Chief of Staff for Operations