

## SYNOPSIS OF PROCEDURES FOR CRIMINAL INVESTIGATIONS OF ADULT PRIVATE CONSENSUAL SEXUAL MISCONDUCT

Defense Criminal Investigative Organizations are authorized to investigate allegations of violations of the Uniform Code of Military Justice and other criminal offenses over which the Armed Forces have jurisdiction. Under law and Department of Defense regulations, these organizations have primary investigative jurisdiction within their respective DOD components. To ensure their independence, objectivity, and effectiveness, Defense Criminal Investigative Organizations are authorized independently to initiate criminal investigations.

Defense Criminal Investigative Organizations may, however, as a matter of investigative priorities or resource limitations, refer less serious offenses to commanders for disposition. Consistent with this policy, the Defense Criminal Investigative Organization that would otherwise have primary jurisdiction will normally refer allegations involving only adult private consensual sexual misconduct to the subject's commander for appropriate investigation or other disposition.

Upon receipt of information that a member of the command is accused of committing an offense triable by a court-martial, the member's commander shall make a preliminary inquiry. A preliminary inquiry is usually informal. It may consist of an examination of the information reported or a more extensive investigation as necessary. The commander may conduct the investigation personally or use members of the command. In serious or complex cases, the commander should consider seeking the assistance of law enforcement personnel or the appropriate Defense Criminal Investigative Organization. Investigations shall be limited to the factual circumstances directly relevant to the specific allegations.

Each commander has discretion to dispose of offenses by members of that command. A commander may decide to take no action, to take administrative action in addition to or instead of other disciplinary action, to consider the matter pursuant to Article 15, UCMJ, nonjudicial punishment, or to forward the charges to superior authority for disposition. In deciding how an offense should be disposed of, the commander should consider, to the extent they are known, the character and service of the accused, the nature and extent of harm caused by the offense, the appropriateness of the punishment to the particular accused, possible improper motives of the accuser, whether the victim will testify, and other relevant factors.

Defense Criminal Investigative organizations may conduct preliminary investigations as required to determine appropriate action regarding any information received by them. The Director or Commander, or Principal Deputy, of a Defense Criminal Investigative Organization may independently initiate a criminal investigation when, in his or her judgment, there is credible information that an offense has been committed and that it is an appropriate use of investigative resources to initiate an investigation.