

Enclosure 45



DEPARTMENT OF THE ARMY
HEADQUARTERS, 528TH SUSTAINMENT BRIGADE (SPECIAL OPERATIONS) (AIRBORNE)
BUILDING X-4047 NEW DAWN DRIVE
FORT BRAGG NORTH CAROLINA 28310-8500

AOSC-JA

S: 7 February 2023
12 January 2023

MEMORANDUM FOR 2LT Miriam Tolston, 112th Signal Battalion (Special Operations) (Airborne), 528th Sustainment Brigade (Special Operations) (Airborne), Fort Bragg, North Carolina 28310-8500

SUBJECT: Appointment as Investigating Officer

1. **Appointment.** You are hereby appointed as an Investigating Officer (IO) pursuant to Army Regulation (AR) 15-6, *Procedures for Administrative Investigations and Boards of Officers*, to conduct an investigation into allegations of disrespect toward a superior commissioned officer and counterproductive leadership regarding SFC Michael Forbes, HHC, 528th Sustainment Brigade (SO)(A).

2. **Instructions.** The purpose of an AR 15-6 investigation is to elicit facts. Your investigation should explore any issues or deficiencies with policy, procedures, resources, doctrine, training, and leadership that might have contributed to this incident.

a. Your responsibilities as an IO take precedence over all other military duties. You have 15 duty days from the date you receive this appointment memorandum to submit your completed investigation to your legal advisor. Coordinate any requests for extensions through your legal advisor.

b. Consult with your legal advisor before making substantive efforts regarding your investigation. CPT Suzanne Dycus, Brigade Judge Advocate, is your legal advisor, and can be reached at 910-643-6065 or suzanne.j.dycus.mil@socom.mil.

c. Read the relevant portions of AR 15-6, AR 600-100, ADP 6-22, Article 89 UCMJ, and any other applicable authorities prior to beginning your investigation.

d. At a minimum, you should interview MAJ Rhea Racaza, MAJ CH Alvaro Rivera, 1SG Larry Morgan, CPT Patrina Lowrie, PFC Matthew Scheffing, SFC Michael Forbes, and any other relevant witnesses in order to address the following questions and issues:

(1) On or about 30 November 2022, did SFC Michael Forbes engage in disrespectful behavior toward MAJ Rhea Racaza? If so, what are the specific facts and circumstances?

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(2) Has SFC Michael Forbes engaged in counterproductive or toxic leadership behaviors within brigade or battalion S2 sections as discussed in AR 600-100, Chapter 1-11d and ADP 6-22? If so, what are the specific facts and circumstances?

e. If something happens that could cause me to consider enlarging, restricting, terminating, or otherwise modifying your investigation, you should immediately report this to me through your legal advisor.

3. Conduct of the Investigation. You are to conduct this investigation using the general guidance and procedures outlined in AR 15-6, Chapters 3 and 5.

a. To the extent possible, witness statements will be written and sworn on a DA Form 2823. Do not collect social security numbers. You have the authority to administer oaths pursuant to Article 136, UCMJ. If it is impracticable to obtain a written and/or sworn statement from a witness, you will attest to the accuracy of the statement in whatever form it appears in your report.

b. No U.S. military or civilian witnesses can be ordered to provide information that may incriminate them. If you come to suspect a person may have engaged in criminal conduct, consult with your legal advisor. Under no circumstances should you attempt to elicit any incriminating information from a witness without first advising that person of his/her rights under Article 31, UCMJ, or the Fifth Amendment of the U.S. Constitution, as appropriate. Document your rights advisement and witness waivers of their rights on a DA Form 3881, Rights Warning Procedure/Waiver Certificate.

c. Should you determine in the context of your investigation that a Soldier's status has changed from favorable to unfavorable, as defined in AR 600-8-2, *Suspension of Favorable Personnel Actions*, you must notify me through your legal advisor.

4. Report of Investigation. Use a DA Form 1574-1, Report of Proceedings by Investigating Officer, and attach all required enclosures and exhibits.

a. Findings. A finding is a clear and concise statement of fact that can be readily deduced from exhibits in the record. For each potential instance of misconduct, you will reach a finding of "substantiated" or "unsubstantiated." Misconduct is "substantiated" if you find it to be true by a preponderance of the evidence, which means 51% or "more likely than not." Cite the exhibits that support your findings. If evidence conflicts, make a finding as to which evidence is more credible and why you believe it to be so.

b. Recommendations. Based on your findings, make recommendations as to what changes, if any, are needed in terms of policy, procedures, resources, doctrine, training, and leadership to avoid incidents of this nature in the future. Also, if appropriate, make recommendations of administrative or punitive action consistent with your findings. Each recommendation will cite to the finding that supports it, and should comport with the guidance in AR 15-6, paragraph 3-11.

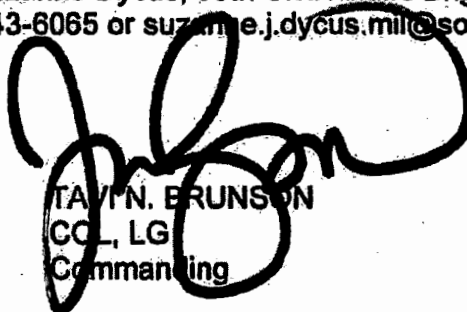
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c. Assembly. Your completed investigation will include, in the following order:

- (1) This memorandum of appointment;
- (2) A completed DA Form 1574-1;
- (3) A memorandum with your findings and recommendations;
- (4) A detailed chronology of the daily actions you took during your investigation;
- (5) A list of the witnesses you interviewed;
- (6) An index of the attached exhibits;
- (7) All exhibits, labeled and numbered, including the ERB/ORB of any Soldier flagged pursuant to your investigation;
- (8) A tabbed/indexed hard copy of the complete investigation. Do not use document protectors; and
- (9) A scanned copy of the complete investigation.

5. POC for this memorandum is CPT Suzanne Dycus, 95th Civil Affairs Brigade Judge Advocate, and can be reached at 910-643-6065 or suzanne.j.dycus.mil@socom.mil.



TAVIN. BRUNSON
CO., LG
Commanding

REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER

Note. Completed forms may contain personally identifiable information and require handling as set forth in AR 340-21.
For use of this form, see AR 15-6; the proponent agency is OTJAG.

IF MORE SPACE IS REQUIRED IN FILING OUT ANY PORTION OF THIS FORM, ATTACH ADDITIONAL SHEETS

SECTION I - APPOINTMENT

Appointed by COI. Tavi Brunson (Appointing authority)
on 20230112 (Date) (Attach enclosure 1: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)

SECTION II - TIMELINE

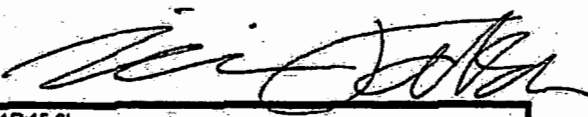
1. The (investigation) commenced at FORT BRAGG, NORTH CAROLINA at 0900
(Place) (Time)
on 20230117 (Date)

2. The (investigating officer) finished gathering/hearing evidence at 1600 on 20230221 and completed
(Time) (Date)
findings and recommendations at 2330 on 20230222
(Time) (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES		YES	NO	NA
1. Enclosures (para 3-13, AR 15-6) Are the following enclosed and numbered consecutively with Roman numerals: (Attached in order listed)				
a. The memorandum of appointment?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. All other written communications to or from the appointing authority?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Privacy Act Statements (Certificate, if statement provided orally)?		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Explanation by the investigating officer of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Any other significant papers (other than evidence) relating to administrative aspects of the investigation?		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. An Executive Summary, Index of Exhibits, Chronology of the investigation and lists of all persons interviewed and evidence gathered. (Complex, serious and/or high profile cases)?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Exhibits (para 3-14, AR 15-6)				
a. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Is an index of all exhibits offered to or considered by investigating officer attached before the first exhibit?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Are descriptions or diagrams included of locations visited by the investigating officer (Appendix C-3, AR 15-6)?		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

FOOTNOTES: 1) Explain all negative answers on an attached sheet.
2) Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation.



SECTION IV - FINDINGS (para 3-10, AR 15-6)

The (investigating officer), having carefully considered the evidence, finds: [Each paragraph should be one conclusion based on the evidence gathered during the investigation. These findings should provide answers to each question posed by the appointing authority in the appointment memorandum. The evidence that supports each finding must be cited.]

See Findings and Recommendations

SECTION V - RECOMMENDATIONS (para 3-11, AR 15-6)

In view of the above findings, the (investigating officer) recommends: [Each paragraph should be one recommendation based on the findings in Section IV. Address what actions, if any, should be taken with regard to the individuals involved, the unit leadership, and any steps that can be taken to prevent the occurrence in the future. Recommendations do not need to be adverse or punitive. For example, the investigation results can be used as a training tool.]

See Findings and Recommendations

SECTION VI - AUTHENTICATION (para 3-15, AR 15-6)

THIS REPORT OF PROCEEDINGS IS COMPLETE AND ACCURATE.

2LT MIRRIAM TOLSTON

(Investigating Officer)

SECTION VII - ACTION BY APPROVING AUTHORITY (para 2-8, AR 15-6)

The findings and recommendations of the (investigating officer) are:

a) Approved.

b) Approved with the following modifications:

(1) The following findings of fact are added/deleted:

(2) The following findings of fact are modified as follows:

I approve the finding as it relates to counter productive leadership, but disapprove the finding of harassment.

(3) The following recommendations are added/deleted:

(4) The following recommendations are modified as follows:

(5) The action recommended in recommendation _____ has been accomplished by _____

(6) Recommendation(s) _____ is not appropriate for action by this command; however, a copy of this investigation is being furnished to _____ for such action as deemed appropriate.

c) Disapproved.

d) The report is (incomplete), (ambiguous), (erroneous) and/or (specify deficiency) with respect to _____

It is, therefore, hereby returned to the IO for corrective action as follows _____

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↓
BRUNSON, TAVI
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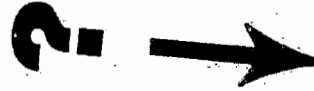
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**TAVI N. BRUNSON
COL, LG
Commanding**



DEPARTMENT OF THE ARMY
HEADQUARTERS 628TH SUSTAINMENT BRIGADE (SPECIAL OPERATIONS) (AIRBORNE)
1ST SPECIAL FORCES COMMAND (AIRBORNE)
FORT BRAGG, NORTH CAROLINA 28310

AOSC-CO



22 May 2023

MEMORANDUM FOR RECORD

SUBJECT: Clarification of Approved Findings, AR 15-6 Investigation, dated 20 April 2023

1. The purpose of this memorandum is to clarify the findings annotated on DA Form 1574-1. Dated, 20 April 2023.
2. I disapprove the finding of harassment, pursuant to AR 600-20.
3. I approve the finding of disrespect to a senior commissioned officer, pursuant to Article 89, Uniform Code of Military Justice.
4. The point of contact for this memorandum is CPT Rudolph P. Dambeck at rudolph.p.dambeck.mil@socom.mil.

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TAVI N. BRUNSON
COL, LG
Commanding