



DEPARTMENT OF THE ARMY
OFFICE OF THE DEPUTY CHIEF OF STAFF FOR PERSONNEL
WASHINGTON, DC 20310-0300

REPLY TO
ATTENTION OF

30 JUL 1987

DAPE-ZBR-P

SUBJECT: Procedures for Consideration of Identification of
Remains by the Armed Forces Identification Review Board

SEE DISTRIBUTION

1. Purpose: This document prescribes procedures for review and action by the Armed Forces Identification Review Board (AFIRB) upon recommended identifications of remains.
2. References:
 - a. Title 10 United States Code, Sections 1481 and 1482.
 - b. Army Regulation 15-6, Procedure for Investigating Officers and Boards of Officers, Change 1 (15 June 1981).
 - c. Army Regulation 638-25 (Bureau of Medicine and Surgery (Navy) Instruction 5360.22A, Air Force Regulation 143-5), Armed Services Graves Registration Office (31 July 1974).
 - d. Board Charter/Terms of Reference for the AFIRB, approved by the Secretary of the Army with concurrence of the Office of the Secretary of Defense on 10 June 1987.
3. Establishment of the AFIRB: The AFIRB is established by the SECDEF (reference 2d) and is located for administrative and logistical purposes within the Armed Services Graves Registration Office (ASGRO).
4. Scope of Procedures: These procedures are promulgated by the Deputy Chief of Staff for Personnel, U.S. Army, for the use and compliance of those personnel performing duties in support of AFIRB. They apply to AFIRB consideration of recommended identifications of remains returned to United States military control. They provide guidance for internal operations of the AFIRB.
5. Mission of the AFIRB: As stated in reference 2d, the mission of the AFIRB is to review recommended identifications of remains made by the U.S. Army Central Identification Laboratory, Hawaii

(CILHI)¹ of United States military personnel whose deaths occurred during the Vietnam Conflict and whose remains have been recovered or repatriated from Southeast Asia, or of other recommended identifications referred to it by competent authority (e.g. a Service Secretary), and to take action to approve or disapprove the recommended identifications.

6. Organization:

a. AFIRB. The AFIRB consists of one primary voting member each from the Departments of the Army, Navy and Air Force as designated by their respective Departments. Each Service Secretary, or his representative, may designate alternate voting members to serve on the AFIRB in the event that a primary member cannot be present for an AFIRB meeting. Department of the Navy may designate a Marine Corps representative as its voting member; however, Department of the Navy will be limited to one vote for each case file considered by the AFIRB. The voting members shall be of the grade of Colonel, Navy Captain, GM-15 or higher. The Army voting member is designated as the Chairman. Nonvoting members of the AFIRB include a representative of the Defense Intelligence Agency (DIA), and /or a representative of the Joint Casualty Resolution Center (JCRC) designated by each of those agencies. Persons designated as members are administratively appointed to the AFIRB by the Chief, ASGRO.

b. Consultants. "Consultants" to the AFIRB are not members of the AFIRB. They are experts in forensic sciences such as anthropology, pathology, and odontology who are either employees or contractors of the U.S. Government. "Board-certified" experts will be used as consultants unless none in the required area of expertise is available. Consultants review and evaluate recommended identifications and accompanying case files and provide their individual evaluations to the AFIRB in written reports which are included in the case files.

c. Support. The Chief, ASGRO provides the AFIRB and the consultants with all necessary administrative and logistical support.

¹ In cases in which a recommended identification has been made by a laboratory equipped and qualified to perform the functions performed by the CILHI, the term "CILHI" as used in this document should be construed to refer to that laboratory, but shall not restrict the AFIRB's authority to remand a recommended identification to the CILHI regardless of origin.

7. Procedures:

a. Recommended Identification. A recommended identification of remains will be made by the CILHI. In order to be considered by the AFIRB, the laboratory findings and recommended identification will be included in a "case file." The case file will also include recovery documentation, postmortem processing documents, photographs, antemortem medical and dental records (including photographs, and radiographs), and other relevant documentation and information from agencies such as the JCRC and the DIA. In all cases, CILHI will record in the case files any information which suggests that characteristics of the remains or other information may correlate to specific individual(s).

b. Consultant Evaluation. When a recommended identification and accompanying case file have been completed by the CILHI, the Commander, CILHI will notify the Chief, ASGRO. The Chief, ASGRO will advise the cognizant Service of the recommended identification and will promptly arrange for CILHI to present the recommended identifications and accompanying case files to the consultants. Recommended identifications will be presented to at least three forensic scientists, normally two forensic anthropologists and one forensic odontologist. Any consultant may examine the remains for which the identification is recommended if he or she deems it necessary to the evaluation. The evaluation of each consultant will be made in a written report and included in the case file. Additionally, a recommended identification and case file may be referred to other advisors, as appropriate, as discussed in Para 7d(2) for evaluation. When these advisors review the recommendation and case file they will submit a written report which will be included in the case file. If each consultant concurs in the CILHI recommendation and concludes that the case file is sufficient for presentation to the AFIRB, it will be forwarded to the Chief, ASGRO for referral to the Service to which the deceased belonged. Should any consultant conclude that the scientific work-up of a case file is insufficient, the Chief, ASGRO will return the case file with the consultant written evaluations to the CILHI for further study. The CILHI will be requested to address any comments or suggestions made in the consultant's written evaluation. Additional matters of the nature of those specified in paragraph 7a generated by the reassessment will be added to the case file. Upon return of the case file from the CILHI, the consultants will be given the case file for further evaluation prior to referral to the Service to which the deceased belonged. This process will include efforts to resolve any differences which may have arisen; however, where differences remain, the Service will clearly explain to the next of kin the significance of these differences of opinion to the identification process.

c. Notification of Primary Next of Kin.

(1) Upon receipt of the case file, the deceased's Service will have a Service representative notify the primary next of kin (PNOK) of the recommended identification of the remains by the CILHI, the consultants' evaluations, and the approximate date when the recommended identification is to be considered by the AFIRB. The PNOK will be notified of their opportunity to:

(a) Review the recommended identification and the entire case file, except as limited by paragraph 7c(2).

(b) Have, in the case of recommended individual identification of remains, an independent professional examination of the remains conducted at PNOK expense²; and,

(c) Submit, within 30 days of receipt of the notification, additional written matters which will be included in the case file. Depending upon the circumstances of each case, the Service representative may extend for a reasonable time the period in which the PNOK may submit matters.

(2) The PNOK will be provided as much information in the case file as possible; however, classified or privileged information will not be released to the PNOK. The PNOK will be supplied with all unclassified information, reports and evaluations. They will also be provided an unclassified summary or extract of the classified or privileged information in the case file.

(3) (a) If the PNOK submit no additional written matters or matters which agree with the CILHI recommendation, the Service representative will return the recommended identification and accompanying case file to the Chief, ASGRO, who will submit them to the AFIRB for review and action.

(b) If the PNOK submits additional written matters as outlined in Para 7c(1)(c), which disagree with the CILHI recommendation, the Service representative will return the case file to the Chief, ASGRO who will refer the recommended identification and accompanying case file to the consultants for further evaluation and written report prior to submission to the AFIRB.

²Transportation of remains to an appropriate facility for the independent expert to perform the examination will be at Government expense. The United States government will retain custody and control over the remains during such an examination.

d. AFIRB Review and Action.

(1) Upon notification by the Service concerned that a case file is ready for presentation to the AFIRB, the Chief, ASGRO will notify AFIRB members that a recommended identification is ready for its consideration and contact DIA and JCRC to obtain relevant intelligence or incident data, and arrange for a meeting of the AFIRB. As an administrative matter, AFIRB meetings may be arranged to consider more than one recommended identification per meeting if such an arrangement will not delay for more than seven days the consideration of any recommended identification. The Chief, ASGRO will refer the recommended identification and accompanying case file to the AFIRB for review and action.

(2) Prior to taking action, the AFIRB will review the recommended identification and accompanying case file. The AFIRB may contact the CILHI, DIA, JCRC, the consultants or other advisors, as appropriate. However, prior to taking actions upon a recommended identification, the AFIRB, through the Chief, ASGRO, will have the Service representative notify the PNOK of their opportunity to examine and submit additional written matters to the AFIRB based upon any additional matters and materials added to the case file as a result of the procedures addressed in this subparagraph within 15 days of notification. These additional written matters will be included in the case file.

(3) The AFIRB will meet to take action to approve or disapprove a recommended identification. A primary or alternate voting member from the Army, Navy (Marine Corps), and Air Force must be present at a meeting for a quorum to exist. If more than one voting member from a particular Department is present at a meeting, only one may vote. Action by the AFIRB will be by a majority vote and based upon a preponderance of all relevant facts and circumstances including anthropological evidence, DIA or other intelligence reports, witness statements, JCRC evaluations and any other information relevant to loss of a service member and recovery of remains. The lack of conclusive anthropological evidence will not preclude CILHI from recommending or the AFIRB from approving a recommended identification in a case where the evidence, taken in its entirety, supports an identification. The U.S. Government has an obligation to provide to family members reasonable judgments which may be short of scientific certainty that the case being reviewed may be of a specific individual. The meetings and proceedings of the AFIRB are informal in nature and are not hearings. The Chairman, AFIRB can refer to the provisions of Chapter 4, reference 2b for nonbinding guidance on the conduct of AFIRB meetings.

8. Group Remains: In cases where individual identification of remains is not possible but the evidence is sufficient to identify the remains as belonging to a specific group of United States military personnel, CILHI may recommend to the AFIRB approval of identification of the remains as belonging to members of the group. Except as noted in paragraph 7c(1)(b), such recommended identifications will be processed in accordance with paragraph 7, above. If the AFIRB approves such a recommended identification, it may recommend to the Service Secretaries concerned, that the remains be buried in a common grave. The Service Secretaries concerned will take such actions as they deem appropriate in accordance with their responsibilities as set forth in reference 2a.

9. Forwarding of Decisions. Recommended identifications which are approved by the AFIRB will be forwarded to the Service Secretary concerned, or his representative, for appropriate action. Recommended identifications which are disapproved by the AFIRB will be remanded to CILHI for further study. The Service Secretary concerned, or his representative, will be notified when a case file is remanded to CILHI for further study.

10. Timeliness. Not more than 30 days should normally elapse between the time that CILHI presents its recommendation for identification to the consultants and the notification of the PNOK of the date that the AFIRB will meet to take action upon the recommended identification.

11. Reconsideration. A request by the PNOK for reconsideration of an action of the AFIRB concerning a recommended identification of remains will be granted only on the basis of newly discovered evidence not previously considered by the AFIRB. Such a request will be forwarded with the case file to the Service Secretary concerned, or his representative, for a determination. If the Service Secretary, or his representative, determines that newly discovered evidence exists and grants the request, the case file will be returned to the Chief, ASGRO whereafter the procedures in paragraphs 7b and 7d will be followed.


12. Changes to Procedures.

a. Changes to these procedures will be coordinated with representatives of the Department of the Navy, the Department of the Air Force, and the Assistant Secretary of Defense (International Security Affairs).

b. These procedures will be followed unless the Service Secretary concerned determines that military exigencies preclude their application. They are not intended to, may not be relied upon to, and do not, create any right or benefit, substantive or

procedural, enforceable at law or equity against the United States, or any of its officials, employees or instrumentalities.

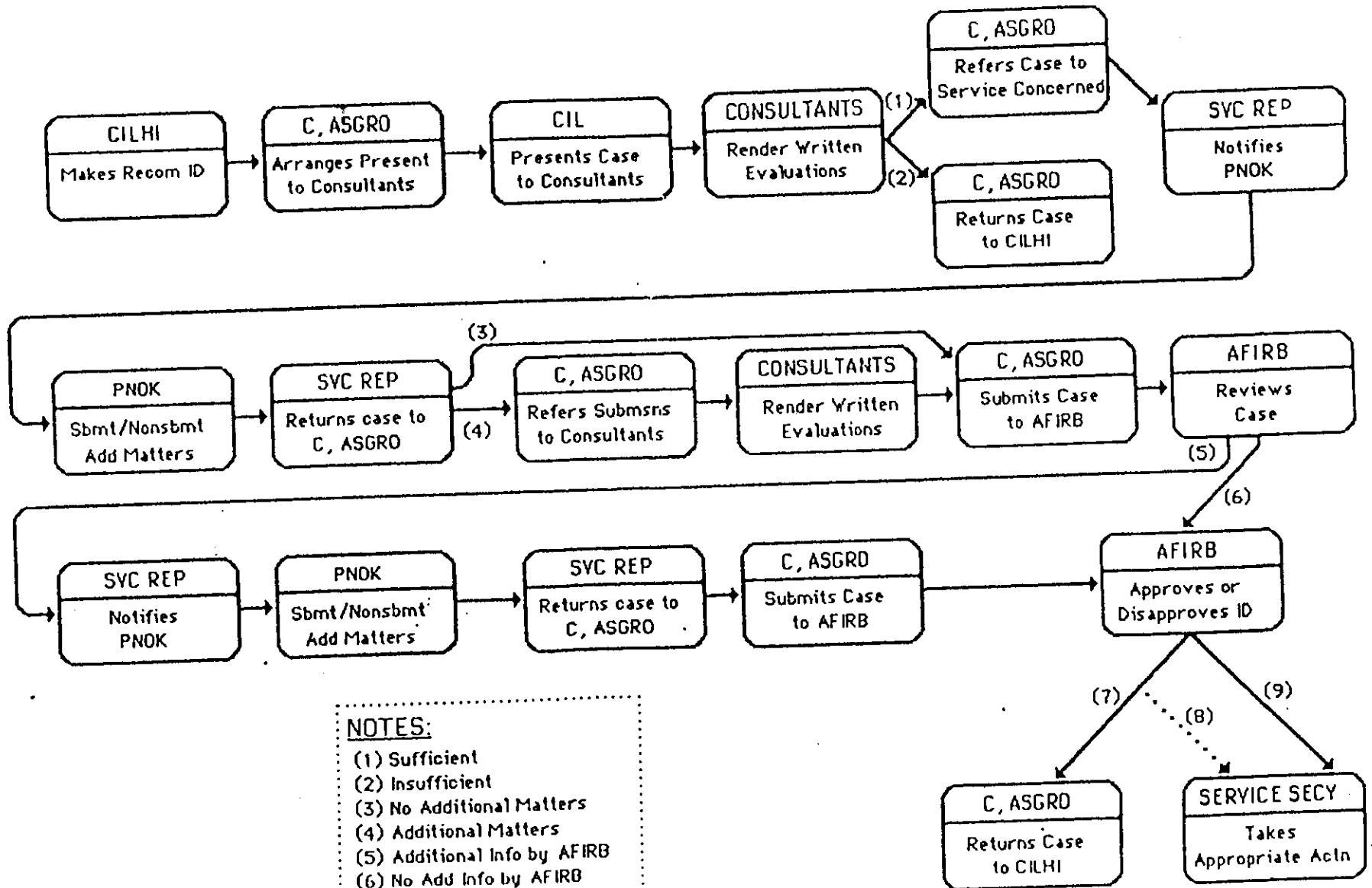
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AFIRB FLOW CHART



NOTES:

- (1) Sufficient
- (2) Insufficient
- (3) No Additional Matters
- (4) Additional Matters
- (5) Additional Info by AFIRB
- (6) No Add Info by AFIRB
- (7) Disapprove (Remand)
- (8) Notice of Disapproval
- (9) Approve