



THE DEPUTY SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301-1000

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SPEAKER'S ROOMS
U.S. HOUSE OF REPS



As

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Honorable J. Dennis Hastert
Speaker of the House
Washington, DC 20515

Dear Mr. Speaker:

Section 591 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 1998, Public Law No. 105-85, required the Secretaries of the Military Departments to submit reports to the Secretary of Defense on sexual harassment complaints filed pursuant to Section 591(a). The law also required that the reports, along with an assessment of each report by the Secretary, be transmitted to Congress.

Additionally, Conference Report 105-736, which accompanied the Strom Thurmond NDAA for FY 1999, requested that the Secretary of Defense provide a report to Congress on sexual misconduct at the basic military training centers of each of the Military Departments. This report was to be included as an addendum to the Section 591 report.

The enclosed Department of Defense assessment report provides the requested sexual harassment and sexual misconduct information for military personnel who served on active duty during FY 1998.

Please let us know if we can be of further assistance in this regard.

Sincerely,

Enclosure:
As stated

**Department of Defense (DoD) Assessment
of
Fiscal Year 1998 Sexual Harassment Complaints and Sexual Misconduct**

INTRODUCTION

Section 591 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 1998, Public Law No. 105-85, required that the Secretaries of the Military Departments provide the Secretary of Defense information regarding sexual harassment complaints filed by military personnel during FY 1997 and FY 1998. Also requested was information regarding formal sexual harassment complaints from Department of Defense (DoD) civilian employees who were supervised by commanding officers or officers in charge of a unit, vessel, facility, or area of the Army, Navy, Air Force, or Marine Corps. The legislation required that the Secretary of Defense provide Congress an assessment of the data the Military Departments reported. The Department of Defense (DoD) assessment of the Military Departments' data for FY 1997 was submitted to Congress in April 1998.

This report provides an assessment of the Military Departments' data reported for FY 1998 on formal sexual harassment complaints from military personnel serving on active duty. Complaint data on sexual harassment complaints from DoD civilians are not included in the report because of differences in the guidance, processing, and collection of data between the civilian equal employment opportunity complaint system governed by the Equal Employment Opportunity Commission and military equal opportunity complaint system governed by DoD policy.

Conference Report 105-736, which accompanied the Strom Thurmond NDAA for FY 1999, requested that the Secretary of Defense provide a statistical summary of sexual misconduct occurring in FY 1998 at the Military Departments' basic military training centers. Congress requested this report accompany the sexual harassment assessment report for FY 1998.

Charts summarizing the formal sexual harassment complaints filed throughout the Department of Defense by active duty military personnel for FY 1998 and FY 1997 are at Tabs 1 and 2, respectively. The Military Departments' reports on formal sexual harassment complaints filed by active duty military personnel in FY 1998 are at Tab 4 for the Army, Tab 5 for the Navy, and Tab 6 for the Air Force.

In addition to the sexual harassment complaint information, a statistical summary of the sexual misconduct cases within the Military Departments and for the Department of Defense is provided at Tab 3, as requested in Section 523 of the Strom Thurmond NDAA for FY 1999. Guidance was provided to the Military Departments to ensure that the

collection and reporting of sexual misconduct data used common standards of measurement (Tab 7).

PART I. Military Department Sexual Harassment Complaints for FY 1998 and FY 1997

A. Complaints Filed. Active-duty military personnel filed 533 formal sexual harassment complaints in FY 1998, reflecting a 40 percent decrease from the 883 complaints filed in FY 1997. Based on the total active duty force for FY 1998, the 533 complaints represent approximately one formal complaint per 2,500 military members, and approximately 3 formal complaints per 1,000 military females. In FY 1998, 504 complaints were closed (final action taken) and 29 cases remained open at the end of the fiscal year. The Military Departments report the number of sexual harassment complaints for FY 1998 decreased for the Army from 390 to 195 (50%), decreased for the Navy from 173 to 112 (65%), increased for the Marine Corps from 77 to 109 (42%), and decreased for the Air Force from 243 to 117 (48%).

Despite the decrease in total number of complaints, the Army will continue to emphasize compliance with basic professional standards and Army regulations concerning sexual harassment. Similarly, the Air Force will increase its efforts to combat sexual harassment. The Navy attributes the reduction in formal complaints to an increased command involvement, including mandatory indoctrination and annual sexual harassment prevention training that explains the behaviors constituting sexual harassment and describing the process for resolving complaints. The Marine Corps attributes its increase of formal complaints to the Marine Corps' training awareness program and the Commandant's emphasis on the use of the "request mast" process to report allegations.

B. Complaints Meeting Timelines. A total of 266 of the 533 formal complaints (50%) met the processing timelines established by Section 591 of the NDAA for FY 1998. The Department of the Navy reported 37 of the 96 formal complaints closed (38%) met the new processing timelines. The Navy cited several factors for this rate, including the unavailability of personnel involved, delays due to criminal investigations, reassignment of investigating officers, complaints involving Naval Reserve members, and misunderstandings of the revised reporting requirements. The Marine Corps reports that 86 of the 109 formal complaints closed (79%) met the processing timelines. The Department of the Air Force reports that 43 complaints were processed under the new law and 20 of these cases (46%) met the processing timelines. The Department of the Army reported 123 of its 182 closed cases (63%) met the processing timelines.

C. Complaints Substantiated. For FY 1998, the Military Departments reported that sexual harassment complaints were substantiated in 275 of the 504 closed cases (55%). In FY 1997, the substantiation rate was 52% (457 of the 871 closed cases).

Compared to FY 1997, the FY 1998 percentage of substantiated complaints increased by 15% for the Army; decreased by 3% for the Navy; decreased by 27% for the Marine Corps; and remained the same for the Air Force.

D. Actions Taken on Substantiated Complaints. In FY 1998, command actions taken on substantiated formal sexual harassment complaint cases included 20 courts-martial, 110 nonjudicial punishment proceedings (Article 15s) and 145 administrative actions (verbal or written admonishments, counseling, reprimands, removal from position, and separation from Service). The Marine Corps reported the highest number of courts-martial proceedings. The Army reported that commanders took disciplinary action appropriate to the seriousness of the offense on substantiated formal complaints. The Air Force stated that the majority of its FY 1998 complaints involved comments of a sexual nature that were filed against non-supervisory personnel.

PART II. Summary of Sexual Misconduct at Basic Military Training Centers

A. Types of Misconduct and Number of Reported Cases. The Military Departments use a variety of record systems to independently collect the data required for the Section 523 statistical summary due to the fact that there is no single, operative system of records that captures all the data in the manner requested. In order to establish common standards by which to obtain and report the requested data, and to avoid reporting the same incident as two categories of sexual misconduct, the Office of General Counsel, Department of Defense provided guidance (Tab 7). The guidance further described the three categories of sexual misconduct data to be collected and reported according to common standards of measurement. The data collection categories were sexual misconduct, sexual harassment, and fraternization. Cases of sexual misconduct were described as those offenses under the Uniform Code of Military Justice (UCMJ) that involve nonconsensual sexual behavior. Cases of sexual harassment were described as those instances where a formal complaint of sexual harassment was addressed under the auspices of the Military Departments' equal opportunity programs. Cases of fraternization were described as those instances involving wrongful conduct, although consensual, that violated the Military Departments' fraternization regulations. As requested in Section 523 of the Conference Report to the Strom Thurmond NDAA for FY 1999, the data was limited to misconduct at the Military Departments' basic training centers in FY 1998.

In FY 1998, there were 192 cases for all three sexual misconduct categories at the Military Departments' basic training centers. Fraternization accounted for 125 cases (65%); sexual harassment accounted for 40 cases (21%); and sexual misconduct accounted for 27 cases (14%).

B. Parties Involved in Misconduct. Section 523 requested that the incidents of sexual misconduct be reported according to cases where (1) trainees were involved with other trainees, (2) cadre (personnel administering training or providing training support) were involved with trainees, and (3) cadre were involved with other cadre personnel. Of the 192 sexual misconduct cases in FY 1998, trainees were involved with other trainees in 127 cases (66%); cadre personnel were involved in misconduct with trainees in 63 cases (33%); and cadre personnel were involved in misconduct with other cadre personnel in 2 cases (1%).

C. Corrective Actions. Command disciplinary or administrative actions were reported in the categories of courts-martial, nonjudicial punishments (Articles 15, UCMJ), and administrative actions (collectively reported as corrective measures such as counseling, admonition, reprimand or discharge). Of the 192 sexual misconduct cases reported for FY 1998, commanders initiated courts-martial in 28 cases (15%); issued nonjudicial punishment in 137 cases (71%); and initiated administrative action in 29 cases (15%). Command action most frequently resulted in courts-martial where cadre personnel were involved in sexual misconduct with trainees. Command action most frequently resulted in nonjudicial punishment where trainees were involved in sexual misconduct with other trainees.

CONCLUSION

The Military Departments and the Department of Defense are committed to combating sexual harassment. Although encouraged that the number of formal sexual harassment complaints decreased in FY 1998, as compared to FY 1997, the Departments will continue to emphasize at all command echelons that sexual harassment will not be tolerated.

Commanders in the Military Departments are taking appropriate corrective actions in substantiated cases of sexual misconduct, sexual harassment, and fraternization. Appropriately, command actions include the full range of disciplinary and administrative responses.

The Military Departments have established aggressive and comprehensive programs to identify, combat, and prevent sexual misconduct, sexual harassment, and fraternization. These programs include effective and continuing education programs, clear statements of policy, and strong enforcement of appropriate accountability. The programs in each of the Military Departments promote command actions that are prompt, thorough, fair, and even-handed.

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MILITARY DEPARTMENTS ACTIVE DUTY FORMAL SEXUAL HARASSMENT (SH) COMPLAINTS SUMMARY

Fiscal Year 1998

	Number of SH Complaints	Number of Complaints Closed	Number of SH Complaints Substantiated	Actions Taken by Category	
Army	195 (123 met timelines in the law)	182 (13 remain open)	89 (49%)	Courts-martial Articles 15 Administrative actions	2 21 66
Navy	112 (37 met timelines in the law)	96 (16 remain open)	63 (66%)	Courts-martial Articles 15 Administrative actions	4 44 15
Marines	109 (86 met timelines in the law)	109	48 (44%)	Courts-martial Articles 15 Administrative actions	13 26 9
Air Force	117 (20 met timelines in the law)	117	75 (64%)	Courts-martial Articles 15 Administrative actions	1 19 55
Total	533 (266 met timelines in the law)*	504 (29 remain open)	275 (55%)	Courts-martial Articles 15 Administrative actions**	20 110 145

*Only 266 (50%) of the total number of complaints met the processing timelines outlined in the law partly because Service implementing guidance were not fully implemented until after the beginning of the Fiscal Year 1998.

**Administrative actions may include verbal or written admonishments, counseling, reprimands removal from position, or separation from service.

MILITARY DEPARTMENTS ACTIVE DUTY FORMAL SEXUAL HARASSMENT (SH) COMPLAINTS SUMMARY

Fiscal Year 1997

	Number of SH Complaints	Number of Complaints Closed	Number of SH Complaints Substantiated	Actions Taken by Category	
Army	390	378 (12 remain open)	128 (34%)	Courts-martial Articles 15 Administrative actions Other courts	5 26 63 4
Navy	173	173	119 (69%)	Not available for FY97. Will be captured for FY98	
Marines	77	77	55 (71%)	Courts-martial Articles 15 Administrative actions	11 21 23
Air Force	243	243	155 (64%)	Courts-martial Articles 15 Administrative actions	3 47 105
Total	883	871 (12 remain open)	457 (52%)	Courts-martial Articles 15 Administrative actions Other courts	19 94 191 4

Notes:

1. Administrative actions may include admonishments, counseling, reprimand, and removal from position or separation from service. "Other courts" indicate corrective actions that were administered through civil court proceeding.
2. The number of "SH complaints substantiated" may not equal the number of "actions taken by category" because data were not available on all "actions taken" for FY 1997.

Statistical Summary Chart
Section 523 Sexual Misconduct Cases

ARMY				
TYPE OF MISCONDUCT	CASES REPORTED	DISCIPLINARY/ADMINISTRATIVE ACTION		
		Court-Martial	Nonjudicial Punishment	Admin Action
Sexual Misconduct				
Parties Involved:				
Trainee/Trainee	16	0	14	2
Cadre/Trainee	10	5	5	0
Cadre/Cadre	0	0	0	0
Total	26	5	19	2
Sexual Harassment				
Parties Involved:				
Trainee/Trainee	15	0	14	1
Cadre/Trainee	8	3	3	2
Cadre/Cadre	0	0	0	0
Total	23	3	17	3
Fraternization				
Parties Involved:				
Trainee/Trainee	83	0	77	6
Cadre/Trainee	34	11	9	14
Cadre/Cadre	2	0	1	1
Total	119	11	87	21

NAVY				
Sexual Misconduct	NAVY EXPERIENCED NO SEXUAL MISCONDUCT CASES AS DEFINED FOR THIS REPORT.			
Sexual Harassment				
Parties Involved:				
Trainee/Trainee	10	0	9	1
Cadre/Trainee	4	3	0	1
Cadre/Cadre	0	0	0	0
Total	14	3	9	2
Fraternization				
Parties Involved:				
Trainee/Trainee	0	0	0	0
Cadre/Trainee	4	3	0	1
Cadre/Cadre	0	0	0	0
Total	4	3	0	1

MARINE CORPS

MARINE CORPS EXPERIENCED NO INCIDENTS OF MISCONDUCT AS DEFINED FOR THIS REPORT.

AIR FORCE				
TYPE OF MISCONDUCT	CASES REPORTED	DISCIPLINARY/ADMINISTRATIVE ACTION		
		Court-Martial	Nonjudicial Punishment	Admin Action
Sexual Misconduct				
Parties Involved:				
Trainee/Trainee	0	0	0	0
Cadre/Trainee	1	1	0	0
Cadre/Cadre	0	0	0	0
Total	1	1	0	0
Sexual Harassment				
Parties Involved:				
Trainee/Trainee	3	0	3	0
Cadre/Trainee	0	0	0	0
Cadre/Cadre	0	0	0	0
Total	3	0	3	0
Fraternization				
Parties Involved:				
Trainee/Trainee	0	0	0	0
Cadre/Trainee	2	2	0	0
Cadre/Cadre	0	0	0	0
Total	2	2	0	0

DEPARTMENT OF DEFENSE TOTALS				
TYPE OF MISCONDUCT	CASES REPORTED	DISCIPLINARY/ADMINISTRATIVE ACTION		
		Court-Martial	Nonjudicial Punishment	Admin Action
Sexual Misconduct				
Parties Involved:				
Trainee/Trainee	16	0	14	2
Cadre/Trainee	11	6	5	0
Cadre/Cadre	0	0	0	0
Total	27	6	19	2
Sexual Harassment				
Parties Involved:				
Trainee/Trainee	28	0	26	2
Cadre/Trainee	12	6	3	3
Cadre/Cadre	0	0	0	0
Total	40	6	29	5
Fraternization				
Parties Involved:				
Trainee/Trainee	83	0	77	6
Cadre/Trainee	40	16	9	15
Cadre/Cadre	2	0	1	1
Total	125	16	87	22



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

REPLY TO
ATTENTION OF

DAPE-HR

24 February 1999

MEMORANDUM THRU:

~~DEPUTY CHIEF OF STAFF FOR PERSONNEL~~ *W.S.Z.*
~~ASSISTANT SECRETARY OF THE ARMY (MANPOWER & RESERVE AFFAIRS)~~ *P... 3/15*
FOR ASSISTANT SECRETARY OF DEFENSE (FORCE MANAGEMENT POLICY)
SUBJECT: Army FY 98 Sexual Harassment Information

1. Reference OSAD-FMP memorandum dated 25 Feb 98, subject: Department of Defense (DoD) Interim Policy for Implementation of 10 U.S.C. 1561, Sexual Harassment Investigations and Reports.

2. In accordance with the memorandum above, the following information is submitted.

a. Total number of formal sexual harassment complaints in FY 98: 195.

b. Total number of complaints that are closed 182.
Thirteen remain open as of this date.

c. Total number of substantiated complaints: 89

d. Total number of unsubstantiated complaints: 83.

e. Total number neither substantiated nor refuted: 10.

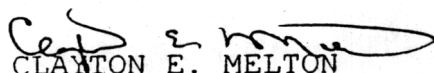
f Breakdown of actions taken:

- (1) Courts-martial: 2
- (2) Other courts 0
- (3) Article 15s 21
- (4) Other administrative disciplinary actions: 66.

DAPE-HR

SUBJECT: Army FY 98 Sexual Harassment Information

g. Assessment. These figures indicate that when formal complaints were found to be substantiated, the Army took disciplinary action appropriate to the gravity of the offense. Although the total number of formal complaints shows a reduction over last year, the Army will continue to insist that sexual harassment is a violation of both basic professional standards and Army regulations. Renewed emphasis on prevention of sexual harassment training, leader commitment and Consideration of Others training has improved the overall Human Relations climate. We remain fully committed to eliminating sexual harassment entirely from our ranks.



CLAYTON E. MELTON

Brigadier General, U.S. Army
Director of Human Resources



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
(MANPOWER AND RESERVE AFFAIRS)
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

FEB 24 1999

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF DEFENSE
(EQUAL OPPORTUNITY)

SUBJECT: Department of Defense (DoD) Implementation of
10 U.S.C. 1561, Sexual Harassment Investigations
and Reports - ACTION MEMORANDUM

In response to your memorandum of 19 Feb 99, the Department of the Navy report and assessment on complaints filed by active duty military personnel alleging sexual harassment is forwarded at Attachment 1. Attachments 2 and 3 are the Services reports.

Charles L. Tompkins
CHARLES L. TOMPKINS
Deputy Assistant Secretary
of the Navy
(Personnel Programs)

Attachment:

1. DON Sexual Harassment report and assessment
2. Navy Sexual Harassment report and assessment
3. USMC Sexual Harassment report and assessment

DEPARTMENT OF THE NAVY'S REPORT AND ASSESSMENT
ON SEXUAL HARASSMENT

Per the NDAA '98, 10 U.S.C. 1561, the following report is submitted for the Department of the Navy for FY98:

a. Total number of complaints filed:

Navy	112
USMC	109

b Total number of complaints closed

Navy	96
USMC	109

c. Total number of complaints substantiated:

Navy	63
USMC	48

d. Actions taken as a result of the investigations

Navy

Courts-martial:	4
Non-Judicial:	44
Administrative Board	2
Letter of Reprimand	4
Verbal Reprimand	3
Other (e.g., counseling)	6

USMC

Courts-martial:	13
Non judicial Punishment	26
(Recommended Administrative Separation - 4)	
Administrative Action	9
(e.g., counseling, pg-11, reprimand)	

e Assessment

Navy and Marine Corps efforts at highlighting unprofessional behaviors and their incompatibility with DON Core Values have proven very effective in raising the awareness and non-acceptance of these actions within the respective Services.

The Navy has experienced a significant reduction in formal complaints during FY98; with substantiated cases remaining

relatively consistent at 66 percent. This is attributed to increased command involvement including mandatory indoctrination and annual sexual harassment prevention training with the emphasis on Navy Core Values. This training explains what behaviors constitute sexual harassment and outlines the Informal Resolution System (IRS) for resolving complaints at the lowest level.

The Marine Corps attributes the increased number of sexual harassment complaints during 1998 to their awareness training program. Additionally, the Commandant of the Marine Corps has placed increased emphasis on the use of the Marine Corps request mast process to report allegations.

Department of the Navy leadership is resolute in its commitment to eliminate sexual harassment and other unprofessional behaviors. The Services have made significant gains to this end and will continue to work hard to eliminate all behaviors that do not uphold the highest standards exemplified by our DON Core Values of Honor, Courage, and Commitment. Fair and equitable treatment of every Sailor, Marine, and DON civilian is a position which must not be compromised.



DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
WASHINGTON, D.C. 20370-5000

IN REPLY REFER TO

18 Dec 98

MEMORANDUM FOR ASSISTANT SECRETARY OF THE NAVY (MANPOWER AND
RESERVE AFFAIRS)

Subj ANNUAL REPORT OF NAVY SEXUAL HARASSMENT CASES

Ref (a ASD(FMP) memo of 25 Feb 98

1. In response to reference (a), Navy conducted a review of available data on FY98 sexual harassment cases filed by active duty personnel with the following results:

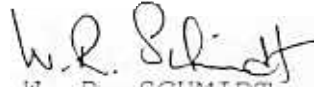
total number of formal complaints:	112
b The total number of complaints that were closed:	96
c The total number of complaints substantiated:	63
unsubstantiated:	33
d Actions taken as a result of the investigations:	
Courts-martial:	4
Non-Judicial Punishment:	44
Administrative Board:	2
Letter of Reprimand:	4
Verbal Reprimand:	3
Other (e.g., counseling):	6

e. Number of complaints meeting timeline guidelines: 37.
Reasons for failure to meet timelines include involved parties unavailable due to PCS/TAD, delay due to criminal investigation, need for reassignment of investigating officers, complaints involving Naval Reserve members, and misunderstanding of revised reporting requirements.

f. Assessment: Navy experienced significantly fewer formal complaints in FY98 compared to FY97; however, the percent of substantiations remained relatively consistent at 66 percent. This may be attributed to the required command indoctrination

Subj ANNUAL REPORT OF NAVY SEXUAL HARASSMENT CASES

and annual sexual harassment prevention training with the emphasis on Navy Core Values. This training emphasizes the use of the Informal Resolution System (IRS) and explains what behaviors constitute sexual harassment.



W. R. SCHMIDT

Rear Admiral, U.S. Navy

Deputy Chief of Naval Personnel

Copy to:
DCNO (M&P)



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

9 Apr 99

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF DEFENSE (EQUAL
OPPORTUNITY)

FROM: SAF/MI
1660 Air Force Pentagon
Washington, DC 20330-1660

SUBJECT: Reporting of Sexual Harassment Investigations According to Section 591, Fiscal
Year 1998 National Defense Authorization Act (NDAA)

The attached report summarizes the total number of sexual harassment complaints for the Air Force in FY98. While the number of reported sexual complaints is down when compared to FY97, our efforts to combat sexual harassment will increase. We will continue communicating at all levels that sexual harassment will not be condoned nor tolerated.

Current initiatives to heighten personal awareness of our preventive efforts include strong education programs and our commanders receiving an assessment on the health of their unit's human relations climate. These initiatives, combined with the aggressive investigation of complaints and appropriate disciplinary action, provide the basis for continuous improvement.

We believe that equal opportunity is integral to readiness and a cornerstone of our commitment to each member of the Air Force team. Preventing discrimination and sexual harassment remains a top priority of the entire Air Force leadership.

PHILLIP P. UPSCHULTE
Principal Deputy Assistant Secretary
(Manpower, Reserve Affairs,
Installations and Environment)

Attachment:
FY98 Military Equal Opportunity Sexual
Harassment Data

FY98 MILITARY EO SEXUAL HARASSMENT STATISTICAL SUMMARY REPORT AND ASSESSMENT

The following information is provided as required by section 591 of the FY98 National Defense Authorization Act (NDAA).

1. TOTAL NUMBER OF FORMAL SEXUAL HARASSMENT COMPLAINTS FILED BY ACTIVE DUTY MILITARY PERSONNEL: 117

2. TOTAL NUMBER OF FORMAL SEXUAL HARASSMENT COMPLAINTS CLOSED: 17

3. TOTAL NUMBER OF THOSE SEXUAL HARASSMENT COMPLAINTS SUBSTANTIATED OR UNSUBSTANTIATED:

75 - Substantiated (64%)

42 - Unsubstantiated (36%)

4. CORRECTIVE ACTIONS TAKEN BY COMMANDERS AS A RESULT OF THE CLARIFICATION/INVESTIGATION:

35 - Letters of Reprimand

19 - Article 15

1 - Verbal Reprimand

2 - Letter of Counseling

6 - Removal From Position

3 - Suspension

2 - Discharged

1 - Court Martial

3 - Letter of Admonishment

1 - Received Training

2 - Other (1) Member separated in lieu of court martial and (2) Moving company disqualified for 30 days

5. THE TOTAL NUMBER OF FY98 COMPLAINTS MEETING THE TIMELINE GUIDELINES SPECIFIED IN THE NEW LAW: There were only 43 complaints that were reported using the NDAA guidelines due to message being sent out 27 Mar 98. Of those 43 complaints, 20 met timeline guidelines specified in the new law.

6. ASSESSMENT. The majority of sexual harassment complaints were based on allegations of verbal comments of a sexual nature. Also, a majority of complaints were against coworkers or other individuals and not immediate supervisors.

A total of number of 117 formal sexual harassment complaints were filed in FY98, however, 4 individuals filed complaints as second complainants. 109 complainants (90%) were females. 12 males (10%) filed formal sexual harassment complaints. 73% of complainants were white, 21% were black and 6% were of other racial/ethnic groups. 61% of all complainants were enlisted members in the grade E3 or E4. Of this group, 69% were white females.

95% of alleged offenders were males, 4% were females. 1% of alleged offender's gender is unknown. 62% of alleged offenders were white, 30% were black, 7% were of other racial/ethnic groups and 1% was unknown. 20 alleged offenders (15%) were officers, 102 (76%) were enlisted members, 10 (7%) were civilians, 1 (1%) was a family member, and 2 (1%) were unknown. O-3s made up the largest group of alleged offenders in the officer category (11 of 20). Enlisted males in grades E5 (26) and E6 (18) make up the largest group of offenders. No significant differences were noted when comparing career fields. 60% (12 of 20) of complaints against officers were substantiated. 68% (69 of 102) of complaints against enlisted members were substantiated. 60% (6 of 10) of complaints filed by military members against civilian offenders were substantiated.

Based upon this data, it appears commanders are taking effective measures to ensure allegations of sexual harassment are properly addressed. Actions taken appear to be appropriate, measured responses to the offenses. Proactive educational initiatives and formal and informal complaint processes are already in place to address sexual harassment.



ASSISTANT SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000

JAN 0 2000

FORCE MANAGEMENT
POLICY

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS

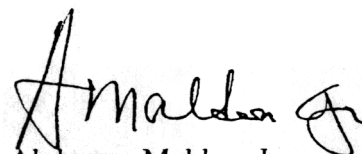
SUBJECT: Report on Sexual Misconduct at Basic Military Training Centers

This memorandum calls for the collection of information requested in the House of Representatives Conference Report 105-736, which accompanied the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. Section 523 of Conference Report 105-736 requests that the Secretary of Defense provide a report to Congress on sexual misconduct at the basic military training centers of each of the Military Departments.

I request the cooperation and assistance of each Military Department Secretary in collecting the necessary information to comply with this requirement. Please forward a report to the Office of the Deputy Assistant Secretary of Defense for Equal Opportunity, ODASD(EO) by January 28, 2000. The report should include a statistical summary, by type, of all incidents of sexual misconduct including sexual harassment and fraternization, involving trainees, cadre members or trainees and cadre members that occurred in the basic training centers of each Service in Fiscal Year 1998. Section 523 provides that the data in the report for each Service should be expressed using a common standard of measurement and should include a summary of the disciplinary and administrative actions taken in response to the misconduct.

ODASD(EO) will use the Service reports to prepare a DoD report which will become an addendum to the report on sexual harassment required by Section 591 of the National Defense Authorization Act for Fiscal Year 1998. Attached is separate guidance provided by the DoD Office of General Counsel that establishes common standards of measurement for the requested data.

Mr. Jimmy Love, Acting Director of Military Equal Opportunity, at 697-6381, is the DoD point of contact for this matter.


Alphonso Maldon, Jr.

Attachment:
As stated





DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600

December 3, 1999

MEMORANDUM FOR CHIEF, MILITARY JUSTICE DIVISION,
AIR FORCE LEGAL SERVICES AGENCY
CHIEF, CRIMINAL LAW DIVISION,
OFFICE OF THE ARMY JUDGE ADVOCATE GENERAL
DEPUTY ASSISTANT JUDGE ADVOCATE GENERAL (CRIMINAL LAW),
OFFICE OF THE NAVY JUDGE ADVOCATE GENERAL
HEAD, MILITARY LAW BRANCH, JUDGE ADVOCATE DIVISION,
HEADQUARTERS, U. S. MARINE CORPS

SUBJECT: Establishing Common Standards of Measurement for the Sexual Misconduct Report, As
Required by Section 523 of Conference Report 105-736 to Strom Thurmond NDAA for FY 99

Section 523 of the House of Representatives Conference Report 105-736, which accompanied the Strom Thurmond National Defense Authorization Act for Fiscal year 1999 (hereafter, Section 523 Report), requested that the Secretary of Defense provide a report to Congress on sexual misconduct at the basic military training centers of each of the Military Departments. The report is to contain a statistical summary, by type, of all incidents of sexual misconduct including sexual harassment and fraternization, involving trainees, cadre members or trainees and cadre members that occurred in the basic training centers of each Service in Fiscal year 1998. Section 523 provides that the data in the report for each Service should be expressed using a common standard of measurement and should include a summary of the disciplinary and administrative actions taken in response to the misconduct. Consistent with our preliminary discussions, this memorandum is provided to establish those common standards necessary for the Services to provide data for the Department's consolidated report to Congress.

As you are aware, the Services use a variety of record systems to independently collect the data requested in Section 523. Currently, there is no single, operative system of records that captures all the data requested or that is completely incident-based. The best method to aggregate the available data would be based on the numbers and types of command actions taken against military personnel determined to have engaged in sexual misconduct, sexual harassment, and fraternization. The following guidance is provided to establish common standards of measurement when collecting data and assessing the cadre-trainee training environment at the Services' basic training centers.

The following definitions and explanations provide common standards to meet Section 523 requirements:

Source of Data.

1. The data is limited to the requested misconduct at the Services' basic training centers.
 - a. Advanced, technical, or specialized training is not "basic training," within the requested data of Section 523.
 - b. If the Service training program also has One Station Unit Training (OSUT) that combines Basic Combat Training (BCT) and Advanced Individual Training (AIT), then OSUT misconduct data should be included.
 - c. Since the requested report's focus is on the training environment, trainee or cadre misconduct involving personnel not assigned to the training center, even though permanently or temporarily assigned (TDY or TAD) to the installation where the training center is located, would not require reporting.



d. Section 523 did not request data on officer training programs.

2. Since the categories of interest (below) involve matters of a sexual nature, the types of training centers, etc., should be limited to those locations where the training population is comprised of both genders, or there is a difference in gender between the trainee population and the cadre providing the training, or there is separate training provided to both genders at the same training center.

3. Report for Fiscal Year 1998. The Section 523 Report is intended as a separate report regarding 1998 misconduct to accompany the report on sexual harassment required by section 591 of the National Defense Authorization Act for Fiscal year 1998 (public Law 105-85). Since the section 591 report is provided on a fiscal year basis, this Section 523 Report should also be based on Fiscal Year 1998 data.

Type of Data

1. The data should only be drawn from documented cases where records exist at the basic training centers, not anecdotal information or information that no longer is maintained on the trainee or cadre member at the basic training centers.

2. Report Misconduct According To Date Of First Command Action.

a. Considerations.

(1) An individual's act(s) of misconduct, delayed reporting, investigation, and the command response(s) frequently encompass spans of time in order to complete and are likely to overlap several fiscal year periods. A single point of reference is needed as a common standard for the reporting requirements.

(2) An individual's misconduct may involve multiple offenses committed at different times and with different individuals, but that is addressed by only one, overall command action (e.g., court-martial). As such, the available data will not be able to specify a particular command action in response to each of the individual act of misconduct. Reporting "court-martial" as a separate command response to each act of misconduct would result in the multiple reporting of the same command action and misleading data.

(3) Command action serves as a common basis for determining that the misconduct has been sufficiently substantiated and that the military member has committed the misconduct.

- Section 523 asked for a report on the incidents of sexual misconduct, not a report based on allegations made. As requested, it should be implied that only substantiated misconduct should be reported.

- Allegations that are not substantiated should not be considered as accurate bases to assess the frequency or types of misconduct occurring in basic training centers.

(4) The command response to the act(s) of misconduct may include a combination of disciplinary (court-martial or nonjudicial (Article 15, UCMJ) punishment) and administrative actions (corrective measures and discharge).

- Rule for Court-Martial 306(c)(2), Manual for Courts-Martial (1998), defines administrative actions as including corrective measures such as counseling, admonition, and reprimand.

b. Command Action Reporting.

(1) Command actions should be summarized according to three basic categories:
(a) Court-Martial; (b) Nonjudicial (Article 15, UCMJ) Punishment; and, (c) Administrative Actions (e.g., Corrective measures of counseling, admonition, reprimand, discharge).

- Section 523 requests a summary of the disciplinary and administrative actions taken. As such, the reporting of the court-martial or Article 15 punishments (e.g., amount of forfeitures, confinement imposed, etc.) is not required.

(2) Report according to the first command action taken in FY 98 against a trainee or cadre. If subsequent command actions were taken (e.g., discharge followed the imposition of nonjudicial punishment or the issuance of a letter or reprimand), to the extent practicable include the later actions in the command action summary.

(3) Section 523 is focused on the personnel assigned within the basic training environment and requests reports on the following:

(a) Trainees involved in misconduct with other trainees;

(b) Cadre involved in misconduct with other cadre;

(c) Cadre involved in misconduct with trainees.

(4) Report misconduct involving members of different Services according to the Service that takes command action against the individual. [In fraternization cases (discussed below) where command action is taken against both members, separate reporting will be required by each respective Service.]

3. Types of Reportable Misconduct. Section 523 requests a report on sexual misconduct, sexual harassment, and fraternization. Because individual cases might involve more than one of these categories and "sexual misconduct" is not defined, common standards should be established to differentiate between these three categories and to define the types of included offenses. The objective is to provide full reporting according to the categories requested, while minimizing double counting among the categories.

a. Sexual Misconduct: Essentially those offenses that involve nonconsensual behavior. Limiting this category to nonconsensual acts enables the report to better keep the data separate from those acts that are wrongful because they involve unprofessional relationships or violate regulations (fraternization). The UCMJ offenses constituting nonconsensual sexual misconduct should include:

(1) Article 80 - Attempts (to commit the following)

(2) Article 81 - Conspiracies (to commit the following)

(3) Article 82 - Solicitations (to commit the following)

(4) Article 120 - Rape [Not Carnal Knowledge - trainees/cadre should be 16 years old.

(5) Article 125 - Forcible Sodomy

(6) Article 134, Indecent Assault

(7) Article 134, Assault With Intent To Commit Rape or Sodomy

(8) Article 134, Indecent Exposure

(9) Article 134, Indecent Acts With Another [Consensual, but wrongful circumstances]

b. Sexual Harassment: These acts frequently involve sexual misconduct as well. Therefore, to keep this category as separate from "sexual misconduct" as possible, this category should be limited to those cases where a formal complaint of sexual harassment was addressed under the auspices of the EO program. Also included should be those sexual harassment offenses charged as Article 93, UCMJ, Cruelty and Maltreatment. Although such Article 93 offenses might also be included within the category of "sexual misconduct" (i.e., nonconsensual sexual offenses, above), Section 523 requests sexual harassment be separately reported. Among the Section 523 categories, Article 93 offenses are more appropriately reported with the sexual harassment data.

(1) For consistency, substantiated sexual harassment should be reported according to the documented command action taken, not based solely upon EO assessments.

(2) If it is known that such cases are also covered under the "sexual misconduct" category, the Service data should (*) the entry with that "double-counting" fact.

c. Fraternization: Although it is recognized that nonconsensual sexual misconduct might be accompanied by a fraternization or regulation/orders violations (Article 134 or Articles 90, 91, 92, UCMJ), to keep separate the three categories requested by Section 523, this category should be limited to those cases involving wrongful, although consensual, misconduct.

(1) This category would include consensual acts between the parties constituting improper relationships in the nature of improper relationships, no matter how charged or characterized: Fraternization (Article 134, UCMJ); Disobedience of the Orders of a Superior Officer or NCO (Articles 90 or 91, UCMJ); or, Disobedience of Regulations or Dereliction of Duty (Article 92, UCMJ).

(2) This category should not be limited to officer-enlisted relationships. Section 523 focuses on the training environment and any inappropriate relationships that developed between trainees and between cadre and trainees, regardless of rank or grade.

(3) If the case also included nonconsensual acts, the case should be reported as "sexual misconduct" instead of "fraternization."

4. Conflicts Between Categories. It is recognized that not all factors can be identified that will easily place a particular case into one of the three basic categories requested by Section 523. For those cases where the above guidance does not adequately provide an adequate basis for differentiation into the three categories, the Service should select that category that best serves the intent of the separate reporting requirements.

Mr. Jimmy Love, Acting Director of Military Equal Opportunity (ODASD(EO) at 697-6381) is the DoD point of contact for this matter. I will serve as your point of contact regarding these common standards for data collection. I can be reached at 695-1055.



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