

ADMINISTRATIVE MESSAGE

ROUTINE

R 281833Z OCT 99 ZYB MIN PSN 792903J30

FM CNO WASHINGTON DC//N1//

TO NAVADMIN

UNCLAS //N01910//

NAVADMIN 291/99

MSGID/GENADMIN/NPC-06//

SUBJ/CONTINUING GUIDANCE CONCERNING PROPER APPLICATION OF DOD
/HOMOSEXUAL CONDUCT POLICY//

REF/A/DOC/10USC654/30NOV93//

REF/B/DOC/DODDIRECTIVE1332.30/14MAR97//

REF/C/DOC/DODDIRECTIVE1332.14/4MAR94//

REF/D/DOC/SECNAVINST1910.4B/29MAY96//

REF/E/DOC/NAVMILPERSMAN/12DEC97//

REF/F/MSG/CNO WASHINGTON DC/010300ZMAR94//

REF/G/MSG/CNO WASHINGTON DC/251253ZJUN99//

REF/H/DOC/OSD MEMO/12AUG99//

REF/I/DOC/OSD MEMO/12AUG99//

NARR/REF A IS 10 USC 654 POLICY CONCERNING HOMOSEXUALITY IN THE
ARMED FORCES; REF B IS DOD DIRECTIVE 1332.30 SEPARATION OF
REGULAR AND RESERVE COMMISSIONED OFFICERS; REF C IS DOD DIRECTIVE
1332.14 ENLISTED ADMINISTRATIVE SEPARATIONS; REF D IS SECNAV
INSTRUCTION 1910.4B ENLISTED ADMINISTRATIVE SEPARATIONS; REF E IS
NAVAL MILITARY PERSONNEL MANUAL, ARTICLE 1910-148 OF WHICH
PERTAINS TO SEPARATION BY REASON OF HOMOSEXUAL CONDUCT; REF F IS
NAVADMIN 033/94 IMPLEMENTATION OF DOD POLICY ON HOMOSEXUAL
CONDUCT; REF G IS NAVADMIN 176/99 REVISED EQUAL OPPORTUNITY AND
SEXUAL HARASSMENT/SITREP REPORTING REQUIREMENTS; REF H IS OSD

MEMO ON GUIDELINES FOR INVESTIGATING THREATS AGAINST OR HARASSMENT OF SERVICE MEMBERS BASED ON ALLEGED HOMOSEXUALITY; REF

I IS OSD MEMO ON IMPLEMENTATION OF RECOMMENDATIONS CONCERNING HOMOSEXUAL CONDUCT POLICY//

RMKS/1. ON 28 FEB 94, THE SECRETARY OF DEFENSE ORDERED IMPLEMENTATION OF ADDITIONAL POLICY CONCERNING HOMOSEXUAL CONDUCT IN THE ARMED SERVICES AS MANDATED BY REF A. REFS B THROUGH E PROMULGATED THIS POLICY. REF F PROVIDED COMPREHENSIVE AND DETAILED GUIDANCE CONCERNING ESSENTIAL ELEMENTS OF THIS POLICY WHICH REMAINS UNCHANGED. REF G PERTAINS TO SITREP REPORTING REQUIREMENTS. PER REF H, PARAS 3 TO 5 OF THIS MSG REISSUE GUIDANCE CONCERNING INVESTIGATING THREATS AGAINST OR HARASSMENT OF SERVICEMEMBERS BASED ON ALLEGED HOMOSEXUALITY. PER REF I, AND PENDING FINAL APPROVAL BY OSD, PARAS 6 TO 8 OF THIS MSG ISSUE NEW INTERIM GUIDANCE ON AUTHORIZATION OF CERTAIN INVESTIGATIONS FOR HOMOSEXUAL CONDUCT.

2. TODAY'S NAVY/MARINE CORPS TEAM IS COMPOSED OF DIVERSE INDIVIDUALS FROM EVERY PART OF THE UNITED STATES. RESPECT FOR THE INDIVIDUAL IS PARAMOUNT. COMMANDING OFFICERS MUST NOT CONDONE HOMOSEXUAL JOKES, EPITHETS, OR DEROGATORY COMMENTS, AND MUST ENSURE A COMMAND CLIMATE THAT FOSTERS RESPECT FOR ALL INDIVIDUALS. REF G EXPLAINS REPORTING REQUIREMENTS FOR COMPLAINTS OF SEXUAL HARASSMENT.

3. PER REF H, THIS NAVADMIN REITERATES EXISTING POLICY REGARDING INVESTIGATION OF THREATS AGAINST OR HARASSMENT OF SERVICE MEMBERS ON BASIS OF ALLEGED HOMOSEXUALITY. SERVICEMEMBERS SHOULD BE ABLE TO REPORT CRIMES AND HARASSMENT FREE FROM FEAR OF HARM, REPRISAL, OR INAPPROPRIATE OR INADEQUATE GOVERNMENTAL RESPONSE. WHEN A MEMBER REPORTS INCIDENTS OF THREATS OR HARASSMENT, THE COMMANDING OFFICER MUST TAKE IMMEDIATE STEPS TO PROTECT THE SAFETY OF THE VICTIM, TO STOP OFFENSIVE OR THREATENING BEHAVIOR, AND TO HOLD THOSE RESPONSIBLE FOR THREATENING OR HARASSING CONDUCT ACCOUNTABLE FOR THEIR ACTIONS. A COMMANDER MAY INITIATE AN INVESTIGATION INTO ALLEGED HOMOSEXUAL CONDUCT ONLY UPON RECEIPT OF CREDIBLE INFORMATION OF SUCH CONDUCT. THE FACT THAT A SERVICEMEMBER REPORTS BEING THREATENED OR HARASSED BECAUSE HE OR SHE IS SAID OR PERCEIVED TO BE A HOMOSEXUAL SHALL NOT, BY ITSELF, CONSTITUTE CREDIBLE INFORMATION JUSTIFYING INITIATION OF AN INVESTIGATION OF THE THREATENED OR HARASSED SERVICEMEMBER. THE REPORT OF A THREAT OR HARASSMENT

SHOULD RESULT IN PROMPT INVESTIGATION OF THE THREAT OR HARASSMENT ITSELF. INVESTIGATORS SHOULD NOT SOLICIT ALLEGATIONS CONCERNING SEXUAL ORIENTATION OR HOMOSEXUAL CONDUCT OF THE THREATENED OR HARASSED PERSON. IF, DURING THE COURSE OF AN INVESTIGATION, INFORMATION IS RECEIVED THAT THE SERVICEMEMBER HAS ENGAGED IN HOMOSEXUAL CONDUCT, COMMANDERS SHALL CAREFULLY CONSIDER THE SOURCE OF THAT INFORMATION AND THE CIRCUMSTANCES UNDER WHICH IT WAS PROVIDED IN ASSESSING ITS CREDIBILITY. SUCH INFORMATION DOES NOT NEGATE THE NEED TO INVESTIGATE THE ALLEGED HARASSER.

4. HOMOSEXUAL CONDUCT IS GROUNDS FOR ADMINISTRATIVE SEPARATION ONLY IF SERVICEMEMBER'S COMMANDING OFFICER HAS RECEIVED CREDIBLE EVIDENCE OF SUCH CONDUCT. RESPONSIBILITY TO DETERMINE WHETHER EVIDENCE IS CREDIBLE REMAINS EXCLUSIVELY WITH THE COMMANDING OFFICER. CREDIBLE EVIDENCE IS INFORMATION WHICH SUPPORTS A REASONABLE BELIEF THAT A SERVICEMEMBER HAS MADE A HOMOSEXUAL STATEMENT, ENGAGED, OR ATTEMPTED TO ENGAGE, IN A HOMOSEXUAL ACT, OR ENTERED INTO, OR ATTEMPTED TO ENTER INTO, A HOMOSEXUAL MARRIAGE, AS DEFINED AND PROHIBITED IN REF B THROUGH E. IN SHORT, IT IS RELIABLE EVIDENCE FROM A TRUSTWORTHY INDIVIDUAL WHO HAS FIRST-HAND KNOWLEDGE OF FACTS AND CIRCUMSTANCES SURROUNDING THE ALLEGED ACTIVITY OR STATEMENT. IT MAY ALSO CONSIST OF DOCUMENTS OR OTHER EVIDENCE THAT IS OBTAINED FROM A RELIABLE SOURCE. CREDIBLE EVIDENCE IS NOT BASED ON RUMOR, HEARSAY, OR SUSPICION.

5. IF THE COMMANDING OFFICER QUESTIONS THE CREDIBILITY OF EVIDENCE OF HOMOSEXUAL CONDUCT OR SINCERITY OF AN INDIVIDUAL MAKING AN ADMISSION OF HOMOSEXUALITY, A FACT-FINDING INVESTIGATION MAY BE NECESSARY. AN INVESTIGATION IS NOT MANDATORY AND ONLY A COMMANDING OFFICER CAN AUTHORIZE IT. SOLE PURPOSE OF AN INVESTIGATION IS TO UNCOVER FURTHER INFORMATION TO ASSIST THE COMMANDING OFFICER IN DETERMINING WHETHER THE ALLEGED HOMOSEXUAL CONDUCT ACTUALLY OCCURRED. INVESTIGATION SHOULD GATHER ALL RELEVANT INFORMATION THAT DIRECTLY RELATES TO GROUNDS FOR POSSIBLE SEPARATION. INVESTIGATIONS SHOULD BE LIMITED TO FACTUAL CIRCUMSTANCES DIRECTLY RELATED TO SPECIFIC ALLEGATIONS.

6. PER REF I, BEFORE A COMMANDING OFFICER AUTHORIZES AN INVESTIGATION CONCERNING ALLEGED HOMOSEXUAL CONDUCT -- TO ENSURE CORRECT APPLICATION OF HOMOSEXUAL CONDUCT POLICY UNDER EXISTING STATUTORY AND REGULATORY STANDARDS AND TO PROVIDE COMMANDING OFFICERS WITH CONSISTENT, FAIR, AND APPROPRIATE ADVICE CONCERNING NEED FOR AN INVESTIGATION -- THE COMMANDING OFFICER'S JUDGE

ADVOCATE SHOULD CONSULT WITH THE SENIOR JUDGE ADVOCATE ASSIGNED TO THE GENERAL COURT-MARTIAL CONVENING AUTHORITY OR HIGHER AUTHORITY. COMMANDING OFFICERS WITHOUT ASSIGNED JUDGE ADVOCATES SHOULD CONSULT DIRECTLY WITH A SENIOR JUDGE ADVOCATE IN THEIR CHAIN OF COMMAND, OR SEEK ASSISTANCE IN SECURING SUCH ADVICE FROM NAVY TRIAL SERVICE OFFICES OR COMMANDER, NAVY PERSONNEL COMMAND. SUCH CONSULTATION SHOULD OCCUR PRIOR TO INITIATION OF ANY INVESTIGATION.

7. IN MOST CASES WHERE A SERVICEMEMBER HAS STATED THAT HE OR SHE IS A HOMOSEXUAL OR BISEXUAL AND DOES NOT CONTEST SEPARATION, LITTLE OR NO INVESTIGATION SHOULD BE NECESSARY. A COMMANDER WHO SUSPECTS THAT A SERVICEMEMBER HAS MADE SUCH A STATEMENT FOR PURPOSE OF SEEKING SEPARATION FROM THE NAVAL SERVICE IN ORDER TO AVOID A SERVICE OBLIGATION, SUCH AS A DEPLOYMENT, OBLIGATED SERVICE, OR PAYBACK OF EDUCATIONAL BENEFITS, AND WHO BELIEVES THAT THE MEMBER IS NOT A PERSON WHO ENGAGES IN, ATTEMPTS TO ENGAGE IN, HAS A PROPENSITY TO ENGAGE IN, OR INTENDS TO ENGAGE IN HOMOSEXUAL ACTS, MAY INITIATE A MORE SUBSTANTIAL INVESTIGATION ONLY WHEN AUTHORIZED. A REQUEST FOR SUCH AUTHORIZATION SHOULD BE FORWARDED BY THE MOST EXPEDITIOUS MEANS, TO COMMANDER, NAVY PERSONNEL

COMMAND (PERS-8) AND CHIEF OF NAVAL PERSONNEL WHO WILL ENSURE COORDINATION IS DONE IAW REF I. REQUEST WILL PROVIDE FACTS SURROUNDING DISCLOSURE, AN EXPLANATION OF WHY FURTHER INQUIRY IS APPROPRIATE, AND AN ASSESSMENT OF ANY POTENTIAL DISADVANTAGES OF AN EXPANDED INQUIRY. DIRECT QUESTIONS TO THE FOLLOWING OFFICES: POC FOR ENLISTED CASES IS PERS-832 AT DSN 882 4438/4433/4431, EMAIL P832"AT"PERSNET.NAVY.MIL. POC FOR OFFICER CASES IS PERS-834 AT DSN 882-4420/4417/4424, EMAIL P834"AT"PERSNET.NAVY.MIL. POC FOR LEGAL

ADVICE IS PERS-06L6 AT DSN 882-3160, EMAIL PERS-06L6"AT"PERSNET.NAVY.MIL. COMMERCIAL PREFIX IS (901) 874-XXXX.

8. MEMBERS ARE REQUIRED TO RECEIVE BRIEFINGS ON THE UNIFORM CODE OF MILITARY JUSTICE UPON ENTRY INTO THE NAVY AND PERIODICALLY THEREAFTER. REF A REQUIRES THESE BRIEFINGS TO INCLUDE A DETAILED EXPLANATION OF APPLICABLE LAWS AND REGULATIONS ON SEXUAL CONDUCT BY MEMBERS OF THE ARMED FORCES, INCLUDING HOMOSEXUAL CONDUCT POLICIES PRESCRIBED IN REFS B THROUGH F. PER REF H, TRAINING FOR ALL PERSONNEL SHOULD INCLUDE POLICIES IN THIS NAVADMIN WITH SPECIAL EMPHASIS ON INCORPORATING THIS IN TRAINING FOR COMMANDING OFFICERS, SUPERVISORS, JUDGE ADVOCATES, PARALEGALS, AND LAW ENFORCEMENT PERSONNEL. REF I DIRECTS THE SERVICE INSPECTOR GENERALS TO INCLUDE AS AN ITEM OF SPECIFIC INTEREST IN THEIR INSPECTIONS THE TRAINING OF THOSE CHARGED WITH

APPLICATION AND ENFORCEMENT OF THE POLICY ON HOMOSEXUAL CONDUCT,
I.E., COMMANDING OFFICERS, JUDGE ADVOCATES, AND INVESTIGATORS.

9. RELEASED BY VADM D. T. OLIVER, N1.//

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