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DEPARTMENT OF THE NAVY  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20350-1000

SECNAVINST 5527.2  
NO9N  
25 April 1994

SECNAV INSTRUCTION 5527.2

From: Secretary of the Navy  
To: All Ships and Stations

Subj: INVESTIGATIONS OF SEXUAL MISCONDUCT WITHIN THE DEPARTMENT  
OF THE NAVY

Ref: (a) SECNAVINST 5520.3B  
(b) Title 10, United States Code, Chapter 47, "Uniform  
Code of Military Justice," Sections 801-940

Encl: (1) DoD Instruction 5505.8, "Investigations of Sexual  
Misconduct by the Defense Criminal Investigative  
Organizations and Other DoD Law Enforcement  
Organizations" of 28 Feb 94

1. Purpose. To implement enclosure (1) and clarify responsibilities for criminal investigations within the Department of the Navy (DON) delineated in reference (a).
2. Discussion. Enclosure (1) implements the Department of Defense policy regarding the initiation of criminal investigations into certain types of sexual misconduct. Enclosure (1) prohibits any investigation solely to determine whether a service member is a heterosexual, a homosexual, or a bisexual and defines the authority of the Naval Criminal Investigative Service (NCIS) to initiate criminal investigations into adult, private, consensual sexual misconduct. Enclosure (1) provides that investigations by NCIS shall be conducted in an even-handed manner, without regard to whether the alleged sexual misconduct involves homosexual or heterosexual conduct. It also provides that investigations shall be limited to the factual circumstances directly relevant to the specific allegations.
3. Definition. Sexual misconduct is defined in enclosure (1) as: a sexual act or acts in violation of Chapter 47 of Title 10, U.S.C. that occur between consenting adults in private, whether on or off a military installation. It does not include any sexual act or acts that involve allegations of force, coercion, or intimidation; abuse of position or rank; fraternization; persons under the age of 16; or conduct that relates directly to applicable security standards for access to classified information.



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4. Responsibilities

a. Naval Criminal Investigative Service

(1) Within the DoN, NCIS is primarily responsible for investigating actual, suspected or alleged major criminal offenses committed against a person, the United States Government, or private property, including the attempts or conspiracies to commit such offenses. A major criminal offense (felony) is defined as one punishable under the Uniform Code of Military Justice by confinement for a term of more than 1 year, or similarly framed federal statutes, state, local or foreign laws or regulations.

(2) Adult, private, consensual sexual misconduct, as defined, may constitute a major criminal offense. However, adult, private, consensual sexual misconduct, where such misconduct is the only offense involved, normally shall be referred to the commander of the service member concerned and shall not be investigated by NCIS, with the following two exceptions:

(a) Upon request of a commander under procedures detailed in paragraph F2 of enclosure (1); or

(b) Absent a request from a commander, the Director or Assistant Director for Criminal Investigations of NCIS may initiate a criminal investigation into adult, private, consensual sexual misconduct upon the determination that there is credible information of adult, private, consensual sexual misconduct and that such an investigation is an appropriate use of investigative resources.

(3) The Director, NCIS shall designate those managers and supervisors within NCIS with the authority to make the determinations required by paragraph F2 of enclosure (1).

(a) If a commander requests that NCIS initiate a criminal investigation into adult, private, consensual sexual misconduct, the Director of the NCIS, and those managers or supervisors designated to do so, shall independently evaluate and make a determination whether the request is based on credible information of adult, private, consensual sexual misconduct prior to initiating a criminal investigation.

(b) If NCIS determines that a request from a commander lacks credible information of adult, private, consensual sexual misconduct, or is not in keeping with established policy, the matter will be returned to the commander, without action, for appropriate disposition.

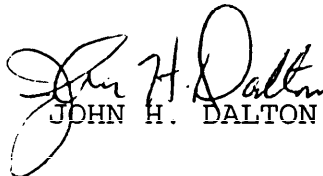
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(4) With the exception of adult, private, consensual sexual misconduct, all major criminal offenses shall be investigated under reference (a).

b. Commanders

(1) A commander may request a criminal investigation by NCIS under the procedures detailed in paragraph F2 of enclosure (1). In particular, upon receipt of any allegation of adult, private, consensual sexual misconduct, the commander shall review the allegation. If the commander determines that there is credible information of adult, private, consensual sexual misconduct, the commander may request a criminal investigation by the NCIS or command investigators.

(2) Under reference (a), use of command investigators for criminal and security investigations is limited to minor criminal offenses, except when NCIS declines jurisdiction. Navy and Marine Corps commands may use command investigators to investigate adult, private, consensual sexual misconduct under paragraphs F1 and F2 of enclosure (1). A declination of jurisdiction by NCIS is not required to initiate such an investigation, unless the commander requests that NCIS conduct an investigation. If the commander requests an NCIS investigation, then NCIS must decline before the commander initiates an investigation.



JOHN H. DALTON

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