

FOIA MARKER

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Folder Title:

Chron File - January 1994 #1 [3]

Staff Office-Individual:

Defense Policy-Bell, Robert

Original OA/ID Number:

263

Row:	Section:	Shelf:	Position:	Stack:
31	3	4	1	V

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	For Nancy Soderberg from Keith Hahn. Subject: Request from Keith Ferguson. Record ID: 9310059. (1 page)	01/10/1994	b(6)
001b. draft	Letter to Keith Ferguson from Nancy Soderberg. Record ID: 9310059 (1 page)	01/10/1994	b(6)
001c. memo	Duplicate of vz4511_005a. (1 page)	12/28/1993	b(6)
001d. memo	Duplicate of vz4384_001. (3 pages)	04/15/1993	b(6)
001e. note	Duplicate of vz4511_005d. (1 page)	12/27/1993	b(6)
001f. letter	Re-typed copy of vz4511_005e. (1 page)	12/14/1993	b(6)
001g. letter	Duplicate of vz4511_005e. (1 page)	12/14/1993	b(6)
001h. memo	Duplicate of vz4511_005b. (1 page)	12/28/1993	b(6)
001i. letter	To the United States Military Academy, Civilian Personnel Office from [applicant]. (1 page)	11/24/1993	b(2), b(6)
001j. resume	[Applicant for position at United States Military Academy] (3 pages)	11/24/1993	b(2), b(6)
001k. letter	To Nancy Hernrich from Keith Ferguson. (1 page)	12/14/1993	b(6)
002. cover sheet	[CIA Act] [partial] (1 page)	01/13/1994	P3/b(3)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - January 1994 #1 [3]

2016-0152-F

vz4524

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Withdrawal/Redaction Sheet

Clinton Library

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003. cover sheet	[CIA Act] [partial] (1 page)	01/12/1994	#Error

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National Security Council
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TO: ITOH

FROM: GROSSMAN, M

DOC DATE: 10 JAN 94
SOURCE REF: 9400516

KEYWORDS: DEMINING
AGENDA

IWG

PERSONS:

SUBJECT: NOTIFICATION OF IWG MTG ON DEMINING 21 JAN

ACTION: FOR RECORD PURPOSES

DUE DATE: 14 JAN 94 STATUS: C

STAFF OFFICER: NONE

LOGREF:

FILES: IFG

NSCP:

CODES:

DOCUMENT DISTRIBUTION

FOR ACTION

FOR CONCURRENCE

FOR INFO

BELL
CLARKE
ITOH
KENNEY
KRECZKO
NSC CHRON
PONEMAN
SODERBERG
WOLIN

COMMENTS:

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSJEB

CLOSED BY: NSJEB

DOC 1 OF 1

UNCLASSIFIED
ACTION DATA SUMMARY REPORT

RECORD ID: 9420036

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001

X 94011108 FOR RECORD PURPOSES

UNCLASSIFIED



S/S 9400516

United States Department of State

Washington, D.C. 20520

January 10, 1994

20036

UNCLASSIFIED

MEMORANDUM TO:

COL ROBERT P. MCALEER
EXECUTIVE SECRETARY
DEPARTMENT OF DEFENSE

COL T. R. PATRICK
SECRETARY, JOINT STAFF
JOINT CHIEFS OF STAFF

BARBARA STARR
EXECUTIVE SECRETARY
ARMS CONTROL AND DISARMAMENT
AGENCY

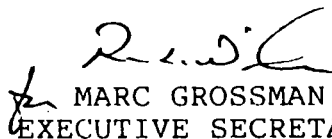
AARON WILLIAMS
EXECUTIVE SECRETARY
AGENCY FOR INTERNATIONAL
DEVELOPMENT

WILLIAM H. ITOH
EXECUTIVE SECRETARY
NATIONAL SECURITY COUNCIL

SUBJECT: IWG Meeting on Demining

Please transmit the attached meeting notification to principals of the Interagency Working Group on Demining.

Thank you for your assistance.


MARC GROSSMAN
EXECUTIVE SECRETARY

Attachments: As stated.

UNCLASSIFIED



United States Department of State

Washington, D.C. 20520

LIMITED OFFICIAL USE

MEMORANDUM

TO: IWG PARTICIPANTS

FROM: Amb. Thomas E. McNamara, *TM* Chairman
IWG on Demining

SUBJECT: IWG Meeting in Demining

The next meeting of the Interagency Working Group on Demining will be held to discuss demining and landmine control issues, as follows:

DATE: Friday, January 21, 1994

TIME: 1:00 p.m.

LOCATION: Room 6909, State Department

AGENDA: o Presentation by Mine Warfare Analyst
on Landmine Problems Found and
Demining Efforts Ongoing in
Northern Mozambique
o Demining Program Plans for FY94
o Moratorium Demarche Status Report
o Landmine (Export) Control Regime
Report on Policy Discussion
o Reports from Subgroups
o Action Item Review

Principals plus one are invited to attend the meeting, which will last 60 minutes. Participants should phone their attendance to Valerie Belon, (202) 647-4710.

LIMITED OFFICIAL USE

LIST OF DEMINING IWG PARTICIPANTS

THOMAS E. MCNAMARA, CHAIR
Principal Deputy Assistant
Secretary of State
for Political/Military Affairs

DOUGLAS J. BENNET
Assistant Secretary of State
for International Organizations

ALEXANDER F. WATSON
Assistant Secretary of State
for Inter-American Affairs

ROBIN RAPHEL
Assistant Secretary of State
for South Asian Affairs

WINSTON LORD
Assistant Secretary of State
for East Asian/Pacific Affairs

DON MAHLEY
Assistant Director (Acting)
for Multilateral Affairs
Arms Control and Disarmament
Agency

NAN BORTEN
Director
Office of Foreign Disaster
Assistance
Agency for International
Development

MIKE MATHESON
Legal Advisor (Acting)
Office of the Legal Adviser
State Department

DICK CLARKE
Senior Director
Office of Global Issues
and Multilateral Affairs
National Security Council

DAN PONEMAN
Senior Director
Office of Nonproliferation
and Export Controls
National Security Council

PATRICIA IRVIN
Assistant Secretary of Defense
(Acting)
for Democracy and Peacekeeping

STEPHEN A. OXMAN
Assistant Secretary of State
for European and Canadian Affairs

GEORGE E. MOOSE
Assistant Secretary of State
for African Affairs

EDWARD P. DJEREJIAN
Assistant Secretary of State
for Near East Asian Affairs

WARREN ZIMMERMAN
Director
Office of Refugee Programs
State Department

LOIS RICHARDS
Assistant Administrator
for Food and Humanitarian Assistance
Agency for International Development

RAYMOND DOMINGUEZ
Assistant Secretary of Defense
(acting)
for Special Operations and Low
Intensity Conflict

LTG BARRY R. MCCAFFREY
Director
for Strategic Plans and Policy J-5
Joint Chiefs of Staff

ROBERT BELL
Senior Director
Office of Defense Policy
and Arms Control
National Security Council

WHITE HOUSE STAFFING MEMORANDUM

DATE: 01/10/94 ACTION/CONCURRENCE/COMMENT DUE BY: 01/13/94
 1. REAR ADMIRAL JOHN B. LAPLANTE, USN
 2. REAR ADMIRAL EDWIN R. KOHN, JR., USN
 SUBJECT: MILITARY NOMINATIONS:

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	PASTER	☐	☐
McLARTY	☐	☐	QUINN	☐	☐
NEEL	☐	☐	RASCO	☐	☐
PANETTA	☐	☐	RUBIN	☐	☐
BAGGETT	☐	☐	SEGAL	☐	☐
EMANUEL	☐	☐	SEIDMAN	☐	☐
GEARAN	☐	☐	STEPHANOPOULOS	☐	☐
GERGEN	☐	☐	TYSON	☐	☐
GIBBONS	☐	☐	VARNEY	☐	☐
HALE	☐	☐	WATKINS	☐	☐
HERMAN	☐	☐	WILLIAMS	☐	☐
LAKE	☐	☐	BELL	☒	☐
LINDSEY	☐	☐	CLERK	☐	☒
McGINTY	☐	☐		☐	☐
MYERS	☐	☐		☐	☐
NUSSBAUM	☐	☐		☐	☐

REMARKS:

Do you have any objections?

RESPONSE:

The National Security Council staff concurs in the attached military nominations.

Anthony Lake

JOHN D. PODESTA
Assistant to the President
and Staff Secretary

NATIONAL SECURITY COUNCIL EXECUTIVE SECRETARIAT STAFFING DOCUMENT

TIME STAMP

SYSTEM LOG NUMBER: 0213

ACTION OFFICER: BELL

DUE: _____

- ☐ Prepare Memo For Lake/Berger
- ☐ Prepare Memo For Podesta
- ☐ Prepare Memo _____

- ☐ Appropriate Action
- ☐ Prepare Memo For Itoh
- to _____

CONCURRENCES/COMMENTS*

PHONE* to action officer at ext. _____

Concur	FYI		Concur	FYI		Concur	FYI	
☐	☐	Andreasen	☐	☐	Harris	☐	☐	Riedel
☐	☐	Andricos	☐	☐	Holl	☐	☐	Rosner
☐	☐	Aoki	☐	☐	Hooker	☐	☐	Saeed
☐	☐	Barth	☐	☐	Hull	☐	☐	Sanner
☐	☐	Beers	☐	☐	Indyk	☐	☐	Schwartz
☐	☐	Bell	☐	☐	Jett	☐	☐	Sheehan
☐	☐	Burns	☐	☒	Jones	☐	☐	Spalter
☐	☐	Canas	☐	☐	Kelly	☐	☐	Tenet
☐	☐	Clarke	☐	☐	Kristoff	☐	☐	Tilley
☐	☐	Clarke, P.	☐	☐	Kupchan	☐	☐	Van Eron
☐	☐	Claussen	☐	☐	Kyle	☐	☐	Waguespack
☐	☐	Farrell	☐	☐	Lowenkron	☐	☐	Walker
☐	☐	Fauver	☐	☐	Menan	☐	☐	Walsh
☐	☐	Feinberg	☐	☐	Merchant	☐	☐	Wayne
☐	☐	Forsythe	☐	☐	Morley	☐	☐	Wiedemann
☐	☐	Fry	☐	☐	O'Leary	☐	☐	Wilson
☐	☐	Gadi	☐	☐	Owens-Kirkpatrick	☐	☐	Witkowski
☐	☐	Gottmoeller	☐	☐	Poneman	☐	☐	_____
☐	☐	Gross	☐	☐	Primosch	☐	☐	_____
☒	☐	Hahn	☐	☐	Rice	☐	☐	_____

INFORMATION

☒ Itoh

☒ Lake

☒ Kenney

☒ Berger

☒ Soderberg

☒ Records Mgmt.

☒ Exec Sec Desk

COMMENTS

Logged By 48K

Return to Records Mgmt.
379 OEGB

THE WHITE HOUSE

WASHINGTON

January 6, 1994 84 JAN 10 P5:10

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN A. GAUGHAN *McRae*
DIRECTOR, WHITE HOUSE MILITARY OFFICE

SUBJECT: Navy Flag Officer Nomination

Forwarded for your approval and signature is the nomination of Rear Admiral John B. LaPlante, United States Navy, for his appointment to the grade of vice admiral and a recommendation for his assignment as Director for Logistics, J-4, Joint Staff.

As required by title 10, United States Code, section 601 (d) (1), the Deputy Secretary of Defense has attached an evaluation of Admiral LaPlante's performance in a joint duty assignment from the Chairman of the Joint Chiefs of Staff.

This nomination has been staffed by the Secretary of the Navy and approved by the Deputy Secretary of Defense.

Recommendation

That you approve and sign the attached.

Attachment



THE DEPUTY SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301-1000



- 3 JAN 1994

MEMORANDUM FOR THE PRESIDENT

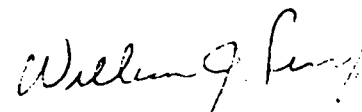
SUBJECT: Flag Officer Nomination

On behalf of the Secretary of Defense, I recommend you assign Rear Admiral John B. LaPlante as Director for Logistics, J-4, Joint Staff, and nominate him for appointment to the grade of vice admiral. Admiral LaPlante, age 53, currently serves as Vice Director for Logistics/Deputy Director for Mobilization, J-4, Joint Staff. He will succeed Lieutenant General Gary H. Mears, United States Air Force, who is retiring.

In order to carry out the duties and responsibilities of the proposed assignment, a flag officer must have demonstrated highly effective performance in senior leadership positions. He must be able to serve as the chief advisor to the Chairman and Vice Chairman, Joint Chiefs of Staff, and to the Joint Chiefs of Staff on worldwide joint and combined logistics and mobilization matters. He must be able to develop logistics policy for use by unified and specified commands worldwide. He must be able to prepare joint logistics, mobility and mobilization studies, estimates and plans to support national strategic plans. He must be able to assess logistics capabilities related to limited and general war situations. Admiral LaPlante meets these qualifications.

As required by title 10, United States Code, section 601(d)(1), I have attached an evaluation of Admiral LaPlante from the Chairman of the Joint Chiefs of Staff while assigned to a joint duty assignment and two joint equivalent assignments.

This action will not cause the Navy to exceed the number of officers authorized to be serving in the grade of vice admiral.


William J. Perry

Attachment



CHAIRMAN OF THE JOINT CHIEFS OF STAFF
WASHINGTON, D.C. 20318-9999

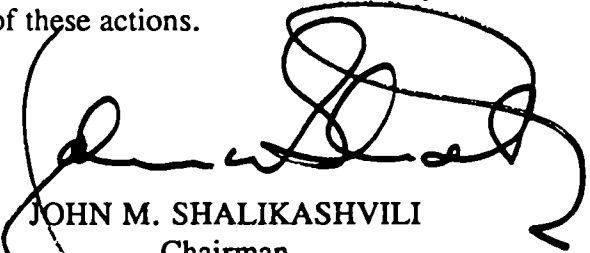
CN-289-93
19 November 1993

MEMORANDUM FOR THE SECRETARY OF DEFENSE

Through: Deputy Secretary of Defense

Subject: Flag Officer Nomination

1. In accordance with the provisions of title 10, United States Code, and DOD Instruction 1320.4, the Secretary of the Navy has recommended Rear Admiral John B. LaPlante for assignment as Director for Logistics, J-4, Joint Staff, appointment to the grade of vice admiral, approval of a Joint Specialty Officer Qualification Waiver for assignment to this Critical Joint Duty Assignment position, and approval of the waiver for serving over four years on the Joint Staff.
2. I have reviewed Rear Admiral LaPlante's performance in two joint equivalent assignments and one joint assignment. As head of the Amphibious Warfare Branch, Office of the Chief of Naval Operations, he expertly directed a joint Navy-Marine Corps effort that developed an amphibious warfare component for the US Navy's maritime strategy. As Research Fellow, Office of the Chief of Naval Operations, RADM LaPlante developed concepts for naval strategy and tactics; expanded maritime strategy; developed roles for Navy, joint, and combined forces; and conducted research and interviews at the CINC level across a spectrum of agencies. As Vice Director for Logistics/Deputy for Mobilization, J-4, Joint Staff, RADM LaPlante has demonstrated his ability as an effective and articulate advocate of our logistic programs to include sealift acquisition, war reserve stocking policy, and munitions requirements. He spearheaded and implemented a plan to restructure J-4, improving efficiency within the Joint Staff and improving Joint Staff responsiveness to support the participation in UN peacekeeping operations. Rear Admiral LaPlante is well qualified for this recommended assignment and advancement.
3. I approve the Joint Specialty Officer Qualification Waiver for assignment to this Critical Joint Duty Assignment position and recommend you approve the waiver for serving over four years on the Joint Staff. I concur in the Secretary's nomination of Rear Admiral LaPlante for this assignment and appointment to the grade of vice admiral and recommend you forward the enclosed nomination to the President for approval of these actions.



JOHN M. SHALIKASHVILI
Chairman
of the Joint Chiefs of Staff

Enclosure

THE WHITE HOUSE

WASHINGTON

January 24, 1994 P5:10

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN A. GAUGHAN *MA [signature]*
DIRECTOR, WHITE HOUSE MILITARY OFFICE

SUBJECT: Flag Officer Nomination

Forwarded for your approval and signature is the nomination of Rear Admiral Edwin R. Kohn, Jr., United States Navy, for appointment to the grade of vice admiral on the retired list.

Admiral Kohn retired as a rear admiral on July 1, 1993, his mandatory retirement date based on his age of 62 years. The Secretary withheld a nomination to retire him at the three-star grade pending the review of the Tailhook investigative files. Review of those files is now complete and Admiral Kohn was not the subject of any adverse action concerning Tailhook matters.

Admiral Kohn served successfully as a vice admiral in the position of Commander, Naval Air Force, U.S. Pacific Fleet. His distinguished career spans 38 years of service, in peacetime and in war. The delays in processing and reviewing the Tailhook '91 investigative material should in no way affect his retirement in the grade of vice admiral.

If you approve this nomination, the Assistant Secretary of Defense (Personnel and Readiness) will provide proper certification (TAB A) to the Senate Armed Services Committee.

This nomination has been staffed by the Secretary of the Navy and approved by the Deputy Secretary of Defense.

Recommendation

That you approve and sign the attached.

Attachment



THE DEPUTY SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301-1000



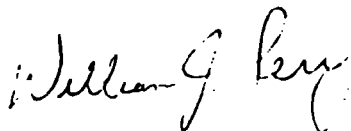
- 3 JAN 1994

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Flag Officer Nomination

On behalf of the Secretary of Defense, I recommend you nominate Rear Admiral Edwin R. Kohn for appointment to the grade of vice admiral on the retired list. Rear Admiral Kohn served as Commander, Naval Air Force, U. S. Pacific Fleet from December 1990 to June 1993.

Admiral Kohn retired as a rear admiral on July 1, 1993, his mandatory retirement date based on his age of 62 years. The Secretary withheld a nomination to retire him at the three-star grade pending the review of the Tailhook investigative files. Review of those files is now complete and Admiral Kohn was not the subject of any adverse action concerning Tailhook matters. I will provide details to the White House Military Office separately.


William J. Perry

Attachment

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

January 10, 1994

ACTION

MEMORANDUM FOR ANTHONY LAKE

FROM: ROBERT G. BELL *RGB*

SUBJECT: Nomination of Colonel Alex R. Garcia

On November 26, 1993, Deputy Secretary Perry recommended on behalf of Secretary Aspin that Colonel Alex R. Garcia be nominated by the President for appointment to the grade of Brigadier General in the Army Reserve. Dr. Perry's letter notes that Colonel Garcia was recommended for promotion by a board approved by the Acting Secretary of the Army. Dr. Perry's letter also notes that the Defense Department was recommending this promotion notwithstanding adverse information concerning Colonel Garcia that Dr. Perry had reviewed and was provided separately to the White House. The adverse information concerned a reprisal against a military "whistleblower." On December 7, 1993, John Podesta transmitted the file to me for my recommendation.

After reviewing the adverse information letter (signed by Assistant Secretary Dorn), I determined that it was not possible to reach a judgment on this matter without access to additional background information. I therefore requested that the Defense Department provide me with a copy of the National Guard Bureau (NGB) Inspector General's January 4, 1993 report that addresses the adverse information concerning Colonel Garcia. I received the NGB IG report on January 5.

After a careful review of the NGB IG report and other pertinent documents, I recommend that the President approve Deputy Secretary Perry's recommendation that Colonel Garcia be promoted. Although the NGB determined that Colonel Garcia had committed a reprisal against a subordinate officer for contacting the DoD IG Hotline, there were a number of mitigating circumstances, including the fact that Colonel Garcia sought and obtained the counsel and assistance of his Staff Judge Advocate before taking the action that was later deemed to constitute reprisal. A more detailed presentation of my rationale for making this conclusion is included in the attachment (Tab A) to the proposed memorandum from you to the President at Tab I.

RECOMMENDATION

That you forward the memo at Tab I to the President.

Attachments

Tab I Memo to the President
Tab A Background Information
Tab B White House Staffing Memorandum,
Document 046319

THE WHITE HOUSE

WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE

SUBJECT: Nomination for Promotion of Colonel Alex R. Garcia

On November 26, 1993, Deputy Secretary Perry recommended on behalf of Secretary Aspin that you nominate Colonel Alex R. Garcia for appointment to the grade of Brigadier General in the Army Reserve. Dr. Perry's letter notes that Colonel Garcia was recommended for promotion by a board approved by the Acting Secretary of the Army. Dr. Perry's letter also notes that the Defense Department (DoD) was recommending this promotion notwithstanding adverse information concerning Colonel Garcia.

After review by my staff of the adverse information letter concerning Colonel Garcia prepared separately by Assistant Secretary of Defense Dorn, the National Guard Bureau (NGB) Inspector General's January 4, 1993 report on this matter and other pertinent documents, I recommend that you approve Deputy Secretary Perry's recommendation that Colonel Garcia be promoted.

Although the NGB determined that Colonel Garcia had committed a reprisal against a subordinate officer for contacting the DoD IG Hotline, there were a number of mitigating circumstances, including the fact that Colonel Garcia had sought and obtained the counsel and assistance of his Staff Judge Advocate before taking the action that was later deemed to constitute reprisal.

The principal facts of this case are discussed in the attachment at Tab A.

RECOMMENDATION

That you nominate Colonel Alex R. Garcia for promotion to Brigadier General in the Army Reserve.

Approve _____

Disapprove _____

Attachments

Tab A Background Information
Tab B White House Staffing Memorandum,
Document 046319

cc: Vice President
Chief of Staff

BACKGROUND INFORMATION

ON

NOMINATION FOR PROMOTION OF COLONEL ALEX B. GARCIA

In August 1990, a Captain in the New Mexico Army National Guard (NMARNG), Jeffrey Howards, engaged in a verbal altercation with a Hispanic Non-Commissioned Officer (NCO), for which Captain Howards received a general officer letter of reprimand. Captain Howards believed he was innocent and contacted the Army and NGB Inspector Generals (IG's) to make accusations against the Adjutant General of the NMARNG, Major General (MG) Edward D. Baca. The Army IG determined these accusations to be unsubstantiated. Captain Howards believed the Army and the NMARNG had colluded to whitewash the matter and filed a letter of complaint repeating these same accusations with the DoD IG Hotline.

Colonel Garcia, the NMARNG Chief of Staff, regarded Captain Howards as a "problem officer." Upon learning about the DoD Hotline complaint, Colonel Garcia resolved to separate Captain Howards involuntarily from the NMARNG and submitted a memorandum proposing this action to MG Baca. In the memo, Colonel Garcia listed various reasons for separating Captain Howards, including making reckless and unsubstantiated accusations about MG Baca. Colonel Garcia later testified that he believed that since Captain Howards had been advised that the earlier Army IG investigation had concluded that these accusations were not substantiated, Captain Howards was slandering MG Baca by repeating them in the complaint he filed with the DoD IG. Upon being told that the separation action could give the appearance of being a reprisal for complaining to the DoD IG, Colonel Garcia withdrew the memorandum and revised it to delete the references to reckless and unsubstantiated accusations. The revised separation memorandum was ultimately not approved by MG Baca, and Captain Howards was not involuntarily separated from the NMARNG.

Although the NGB IG agreed that Colonel Garcia believed that Captain Howards had intentionally lied in filing the DoD IG complaint, it determined that in initiating the original involuntary separation action, the Colonel had violated Army regulations, DoD directives, and Federal law affording protection to military whistleblowers against retaliation with unfavorable personnel actions. The NGB IG determined that Colonel Garcia's action constituted a reprisal against Captain Howards' contacting the DoD IG because it threatened an unfavorable personnel action (involuntary separation), even though MG Baca ultimately disapproved the separation action.

In considering this adverse information concerning Colonel Garcia, the following mitigating factors should be taken into account:

- The NGB Judge Advocate office's legal review of the case determined that there is no evidence that Colonel Garcia was motivated by malicious intent. Rather, it found that Colonel Garcia was convinced that Captain Howards had made his allegations to the DoD IG with the knowledge that they were false. Colonel Garcia believed (incorrectly) that this vitiated Captain Howards' protection rights as a military whistleblower.
- Colonel Garcia consulted with the NMARNG's Staff Judge Advocate (SJA), Lt Col Herbert, before taking the original separation action and followed his advice in the preparation of the memorandum. Indeed, Captain Howards alleges in one deposition that Lt Col Herbert wrote the original separation memorandum. An NCO in the NMARNG personnel office testified that Lt Col Herbert had reviewed the memorandum with Colonel Garcia "to insure it met regulatory requirements."
- In a January 15, 1993 memorandum to MG Baca forwarding the results of the NGB IG investigation, Lieutenant General John B. Conaway, Chief of the National Guard Bureau, stated on Colonel Garcia's behalf that he believed the Colonel "was acting in what he believed to be the best interests of the NMARNG." In addition, General Conaway pointedly left it to MG Baca's discretion "to decide what, if any, actions to take" with regard to this case.
- In a strongly worded February 8, 1993 letter of reply to General Conaway, MG Baca stated that he believed "either administrative or disciplinary action is entirely inappropriate" and informed General Conaway that he would take no action against Colonel Garcia. Indeed, MG Baca contended that "there was no reprisal." MG Baca based his contention on the fact that Colonel Garcia had obtained Captain Howards' letter to the DoD IG not from the DoD IG, but from Captain Howards, who had voluntarily provided it to Colonel Garcia. MG Baca argued that to take adverse action against an officer in these circumstances "would create the precedent of allowing a member of the Guard to write a letter containing complete falsehoods to the hotline, then send a copy of the letter to his or her command with an admission that all allegations in the letter are based on unsubstantiated speculation and thereby avoid an adverse action based entirely on separate grounds."

In submitting its recommendation that Colonel Garcia be nominated by the President for promotion to Brigadier General, the Defense Department concluded that the reprisal action, "when considered in light of Colonel Garcia's overall performance and potential for contributions, should not preclude favorable consideration of the nomination."

WHITE HOUSE STAFFING MEMORANDUM

DATE: 12/7/93 ACTION/CONCURRENCE/COMMENT DUE BY: 12/13

SUBJECT: MILITARY NOMINATION: COLONEL ALEX R. GARCIA TO BRIGADIER GENERAL
USA RESERVE

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	PASTER	☐	☐
McLARTY	☐	☐	QUINN	☐	☐
NEEL	☐	☐	RASCO	☐	☐
PANETTA	☐	☐	RUBIN	☐	☐
BAGGETT	☐	☐	SEGAL	☐	☐
EMANUEL	☐	☐	SEIDMAN	☐	☐
GEARAN	☐	☐	STEPHANOPOULOS	☐	☐
GERGEN	☐	☐	TYSON	☐	☐
GIBBONS	☐	☐	VARNEY	☐	☐
HALE	☐	☐	WATKINS	☐	☐
HERMAN	☐	☐	WILLIAMS	☐	☐
LAKE	☐	☐	<u>BELL</u>	☒	☐
LINDSEY	☐	☐	<u>CLERK</u>	☐	☒
McGINTY	☐	☐	<u> </u>	☐	☐
MYERS	☐	☐	<u> </u>	☐	☐
NUSSBAUM	☐	☐	<u> </u>	☐	☐

REMARKS:

Do you have any objection?

RESPONSE:

JOHN D. PODESTA
Assistant to the President
and Staff Secretary
Ext. 2702

THE WHITE HOUSE
WASHINGTON

December 6, 1993

MEMORANDUM FOR JOHN PODESTA

THROUGH: RONALD GEISLER *RG*
FROM: DAVID KALBAUGH *DK*

The attached military nomination has been reviewed. We are submitting it to you for the President's signature.

After approval we will hold the nomination until the Senate returns on January 25th.

THE WHITE HOUSE

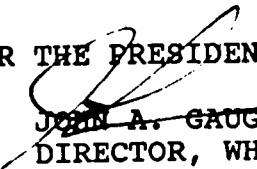
WASHINGTON

November 30, 1993

11:50

MEMORANDUM FOR THE PRESIDENT

FROM:


~~JOHN A. GAUGHAN~~

DIRECTOR, WHITE HOUSE MILITARY OFFICE

SUBJECT:

Army General Officer Nomination

Forwarded for your review and signature is the nomination of Colonel Alex R. Garcia, for appointment to the grade of brigadier general in the Reserve of the Army.

This nomination is submitted by the Deputy Secretary of Defense after considering adverse information pertaining to Colonel Garcia, which has been provided by the Assistant Secretary of Defense (Personnel and Readiness) (Tab A). If you approve this nomination, the adverse information will be provided to the Senate Armed Services Committee.

This nomination has been staffed by the Secretary of the Army and was approved by the Deputy Secretary of Defense.

Attachment



THE DEPUTY SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301-1000



26 NOV 1993

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Army General Officer Nomination

On behalf of the Secretary of Defense, I recommend you nominate Colonel Alex R. Garcia for appointment to the grade of brigadier general in the Reserve of the Army of the United States. Colonel Garcia was recommended for promotion by a board approved by the Acting Secretary of the Army.

This nomination will not result in the Army exceeding the authorized strength of general officers in an active status in the Reserve of the Army of the United States.

I have personally reviewed adverse information concerning Colonel Garcia and will provide the information to the White House Military Office separately. Should you approve this nomination recommendation, the Department will provide the same information to the Senate Armed Services Committee.

William J. Perry

Attachment

The White House

Washington

To the Senate of the United States:

I nominate:

The following United States Army National Guard officer for promotion to the grade indicated in the Reserve of the Army of the United States, under the provisions of Title 10, United States Code, sections 593(a), 3385 and 3392:

To be Brigadier General

Colonel Alex R. Garcia, 525-82-7472

BIOGRAPHICAL SUMMARY

12 July 1993

GARCIA, Alex R., 525-82-7472

Colonel, Air Defense Artillery, ARNGUS

Date and Place of Birth: 17 June 1941, Albuquerque, New Mexico

Mandatory Removal Date: 30 June 2001

Home Address: 3213 La Veta NE, Albuquerque, New Mexico 87110

Present Assignment: Assistant Adjutant General, New Mexico Army National Guard, Headquarters, State Area Command, New Mexico National Guard, Santa Fe, New Mexico 87502-4277

Civilian Occupation: Command Administrative Officer, New Mexico Army National Guard, Santa Fe, New Mexico

Enlisted Service:
Over 4 years

Source and Date of Commission:
New Mexico Military Academy (OCS), 22 June 1963

Years of Active Commissioned Service:
Over 29 years

Total Years of Service:
Over 34 years

Military Schools Attended:	Year Completed
Air Defense School, Air Defense Officer Basic Course	1968
Air Defense School, Air Defense Officer Advanced Course	1975
Command and General Staff College	1978
National Defense University, Reserve Components	
National Security Course	1985

Civilian Education:	Degrees Received
High School, Albuquerque, New Mexico	Graduated 1959
National College, Albuquerque, New Mexico	BS (Bus Admin)

Decorations/Badges:

- Meritorious Service Medal with One Oak Leaf Cluster
- Army Commendation Medal with One Oak Leaf Cluster
- Army Reserve Components Achievement Medal
- National Defense Service Medal
- Armed Forces Reserve Medal
- Army Service Ribbon
- Army Reserve Components Overseas Training Ribbon with Numeral One

GARCIA, Alex R., 525-82-7472

Chronological List of Appointments:

Second Lieutenant	ARNG	22 Jun 63
First Lieutenant	ARNG	21 Jun 66
Captain	ARNG	20 May 69
Major	ARNG	30 Jun 76
Lieutenant Colonel	ARNG	2 May 83
Colonel	ARNG	5 May 87

Chronological Record of Duty Assignments:

	From	To
ARNG - Not on Active Duty		
Assistant Platoon Leader, Battery C, 3rd Battalion,		
200th Air Defense Artillery	Jun 63	Mar 67
Executive Officer, Battery A, 3rd Battalion, 200th Air. . .		
Defense Artillery	Mar 67	Nov 68
Communications Officer, Headquarters and Headquarters Battery		
111th Air Defense Artillery Brigade	Dec 68	Feb 69
Commander, Headquarters Battery, 111th Air Defense Artillery		
Brigade	Mar 69	Aug 70
Commander, Battery B, 200th Air Defense Artillery.	Sep 70	Sep 72
Motor Officer, 3rd Battalion, 200th Air Defense Artillery. .	Oct 72	Feb 73
Assistant S3, 3rd Battalion, 200th Air Defense Artillery . .	Mar 73	Aug 75
S3, 3rd Battalion, 200th Air Defense Artillery	Sep 75	Oct 78
Operations Officer, New Mexico Military Academy.	Nov 78	Aug 79
ARNG On Active Duty		
S3, 3rd Battalion, 200th Air Defense Artillery	Sep 79	Jun 80
Readiness/Mobilization Officer, State Area Command,.		
New Mexico Army National Guard.	Jul 80	Sep 81
S3, 111th Air Defense Artillery Brigade.	Oct 81	Mar 83
Chief, Training Division, State Area Command, New Mexico . .		
Army National Guard	Apr 83	Aug 83
Military Support Officer, State Area Command, New Mexico . .		
Army National Guard	Sep 83	Jan 84
Chief of Staff, 111th Air Defense Artillery Brigade.	Feb 84	Nov 87
Deputy Commander, 111th Air Defense Artillery Brigade. . . .	Dec 87	Nov 90
Chief of Staff, State Area Command, New Mexico Army		
National Guard	Dec 90	Apr 92
ARNG - Not on Active Duty		
Assistant Adjutant General, State Area Command, New Mexico		
Army National Guard	Apr 92	

No.

MEMORANDUM FOR CORRESPONDENTS

Secretary of Defense Les Aspin announced today that the President has nominated Colonel Alex R. Garcia, United States Army National Guard, for promotion to the grade of brigadier general.

Colonel Garcia is currently assigned as Assistant Adjutant General, New Mexico Army National Guard.



PERSONNEL AND
READINESS

ASSISTANT SECRETARY OF DEFENSE

4000 DEFENSE PENTAGON
WASHINGTON DC 20301-4000



Honorable Sam Nunn
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The Secretary of Defense recommended the President nominate Colonel Alex R. Garcia for promotion to the grade of brigadier general in the Reserve of the Army of the United States. The Secretary made that recommendation after considering potentially adverse information pertaining to Colonel Garcia.

A January 1993 National Guard Bureau Inspector General investigation substantiated an allegation that Colonel Alex R. Garcia took reprisal actions against a captain in the New Mexico Army National Guard who made a protected disclosure to the DoD Hotline. Specifically, the captain wrote a letter to the DoD Hotline alleging improprieties in a previous Department of the Army Inspector General investigation concerning the New Mexico Adjutant General. During his interview with the National Guard Bureau Inspector General, Colonel Garcia confirmed that he used a copy of the captain's DoD Hotline letter to prepare a letter of proposed involuntary separation of the captain. Because of his firm belief the captain lied in the letter to the DoD Hotline, Colonel Garcia believed it was proper to use the letter in a separation action against the captain. The evidence indicates the captain reasonably believed in his allegations made to the DoD Hotline. Although the New Mexico Adjutant General disapproved separation against the captain, Colonel Garcia's proposal to separate him constitutes reprisal because it threatened unfavorable personnel action. No action was taken against Colonel Garcia as a result of this substantiated allegation. The New Mexico Adjutant General did not believe administrative or disciplinary action appropriate given his knowledge of all the facts of the case, and his disagreement with the results of the investigation. The selection board was advised of this substantiated allegation.

The Department has carefully considered this information; it should not preclude favorable consideration of the recommended nomination. Colonel Garcia's record has been uniformly outstanding. His service in a variety of key State assignments is distinctive: He is a former deputy brigade commander, chief of staff, and is currently the Assistant Adjutant General. This information, when considered in light of Colonel Garcia's overall performance and potential for contributions, should not preclude favorable consideration of the nomination.

Sincerely,

Edwin Dorn

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	For Nancy Soderberg from Keith Hahn. Subject: Request from Keith Ferguson. Record ID: 9310059. (1 page)	01/10/1994	b(6)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - January 1994 #1 [3]

2016-0152-F

vz4524

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001b. draft	Letter to Keith Ferguson from Nancy Soderberg. Record ID: 9310059 (1 page)	01/10/1994	b(6)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - January 1994 #1 [3]

2016-0152-F

vz4524

RESTRICTION CODES

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001c. memo	Duplicate of vz4511_005a. (1 page)	12/28/1993	b(6)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - January 1994 #1 [3]

2016-0152-F

vz4524

RESTRICTION CODES

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001d. memo	Duplicate of vz4384_001. (3 pages)	04/15/1993	b(6)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - January 1994 #1 [3]

2016-0152-F
vz4524

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001e. note	Duplicate of vz4511_005d. (1 page)	12/27/1993	b(6)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - January 1994 #1 [3]

2016-0152-F

vz4524

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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001f. letter	Re-typed copy of vz4511_005e. (1 page)	12/14/1993	b(6)
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COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - January 1994 #1 [3]

2016-0152-F

vz4524

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001g. letter	Duplicate of vz4511_005e. (1 page)	12/14/1993	b(6)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
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FOLDER TITLE:

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Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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001h. memo	Duplicate of vz4511_005b. (1 page)	12/28/1993	b(6)
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COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - January 1994 #1 [3]

2016-0152-F
vz4524

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Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001i. letter	To the United States Military Academy, Civilian Personnel Office from [applicant]. (1 page)	11/24/1993	b(2), b(6)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - January 1994 #1 [3]

2016-0152-F

vz4524

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001j. resume	[Applicant for position at United States Military Academy] (3 pages)	11/24/1993	b(2), b(6)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - January 1994 #1 [3]

2016-0152-F

vz4524

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001k. letter	To Nancy Hernrich from Keith Ferguson. (1 page)	12/14/1993	b(6)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - January 1994 #1 [3]

2016-0152-F

vz4524

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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

January 11, 1994

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ROBERT BELL *RLB*

FROM: KEITH HAHN *KLH*

SUBJECT: Nomination of Rear Admiral Robert E. Kramek to be
Commandant, U.S. Coast Guard

At Tab A, Secretary of Transportation Federico Pena recommends that the President appoint Rear Admiral Robert E. Kramek to serve as Commandant of the U.S. Coast Guard. Because of the importance of this position, we believe you should forward the memorandum at Tab I to the President providing additional background information on RADM Kramek's professional qualifications.

RECOMMENDATION

That you forward the memorandum at Tab I to the President.

Attachments

Tab I Memorandum for the President

Tab A Nomination of Rear Admiral Robert E. Kramek

Tab B Flag Officer Biography

THE WHITE HOUSE

WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE

SUBJECT: Nomination of Rear Admiral Robert E. Kramek, USCG,
to be Commandant, U.S. Coast GuardPurpose

To nominate Rear Admiral Robert E. Kramek, USCG, to be Commandant, U.S. Coast Guard.

Background

Rear Admiral Kramek has been nominated for a term of four years as the senior officer in the U.S. Coast Guard. His appointment as Commandant would also mean a promotion to the grade of Admiral. Title 10 U.S. Code permits the promotion of any officer above the rank of Captain to Admiral. Tab B provides highlights of RADM Kramek's outstanding professional service.

The term of the current Commandant, Admiral J. William Kime, expires on May 31, 1994. Submission of RADM Kramek's nomination at this time allows at least three months for the Senate to act on this nomination.

RECOMMENDATION

That you sign Tab A nominating RADM Kramek to be Commandant of the U.S. Coast Guard.

Attachments

Tab A Nomination of Rear Admiral Robert E. Kramek
Tab B Professional Background of RADM Kramek

cc: Vice President
Chief of Staff

The White House

Washington

TO THE SENATE OF THE UNITED STATES:

I nominate Rear Admiral Robert E. Kramek, U. S. Coast Guard, to be Commandant, United States Coast Guard, for a term of four years with the grade of admiral while so serving.

1.
*original held
in John Podesta's
office.*



**REAR ADMIRAL ROBERT E. KRAHEK
CHIEF OF STAFF
UNITED STATES COAST GUARD**

Rear Admiral Robert E. Kramek has been nominated to be the 20th Commandant of the United States Coast Guard. Rear Admiral Kramek is presently the Chief of Staff of the U. S. Coast Guard. In this position he is also Commanding Officer of USCG Headquarters and the Service's Senior Rear Admiral. He is responsible for the management, administration and financial resources of the Coast Guard. He is both a Surface Operations Specialist and Naval Engineer with extensive service in all CG regions including the Atlantic, Pacific, Caribbean and Alaska. Rear Admiral Kramek's assignments include command of two CG Districts, the 13th District in the Pacific Northwest and the 7th District in the Southeast U. S. and Caribbean. He has also commanded the CG's largest Base at Governors Island, New York; commanded the newest High Endurance Cutter and the Haitian Migration Task Force where he led the interdiction and rescue of 37,000 Haitians. At the same time he was also the Drug Czar's Coordinator for the War on Drugs in the Southeast U.S. and Caribbean. He served as Regional Emergency Transportation Coordinator (RETCO) for the Secretary of Transportation in the Pacific Northwest. He also commanded Maritime Defense Zone sectors Pacific Northwest and Sector 7 Southeast U.S. which are Navy Coastal Defense Commands.

A New York City native and now a resident of California he graduated with honors, from the USCG Academy with a B.S. in Engineering in 1961. Admiral Kramek attended post graduate schools at the University of Michigan, Johns Hopkins University and the University of Alaska. He has received Master of Science Degrees in Naval Architecture and Marine Engineering, Mechanical Engineering and Engineering Management. He also attended the U.S. Naval War College in Newport, RI and graduated with Highest Distinction. Rear Admiral Kramek was selected for Flag rank in 1986. After selection for Flag rank he completed the "Capstone" Program at the National Defense University Institute of Higher Defense Studies.

The Admiral's awards include the CG Distinguished Service Medal, two Legion of Merit awards, the Meritorious Service Medal, four CG Commendation Medals, the CG Achievement Medal, CG Unit Commendations, the Meritorious Unit Commendation, the Special Operations Ribbon with silver star, the Humanitarian Service Medal with bronze star, and the Sea Service Ribbon with bronze star.

Admiral Kramek is a physical fitness enthusiast. He participates in road races, biathlons and triathlons, is an avid tennis player, golfer and skier.

Admiral Kramek is married to the former Patricia Havard of Washington, DC. They have four children: Tracy, Joseph, Suzanne, and Nancy.

-----TO BE NEXT COMMANDANT OF THE COAST GUARD

President Clinton announced his intention today to nominate Rear Admiral Robert E. Kramek, USCG to be the 20th Commandant of the United States Coast Guard.

"Admiral Kramek has served his country proudly and with distinction for 33 years. He has had a number of challenging assignments, and demonstrated the strong leadership ability that this country needs for our Coast Guard to continue to be the outstanding Service that it has always been," said the President. "I am certain that he will perform up to the high standards set by his predecessor, Admiral Bill Kime, in this key leadership position."

Admiral Kramek, a native of New York City, joined the military as a cadet at the U. S. Coast Guard Academy in 1957. Most recently he has been serving as Chief of Staff, U. S. Coast Guard. Other recent assignments have included command of the Seventh Coast Guard District in the southeastern U. S. and Caribbean, command of the Thirteenth Coast Guard District in the Pacific Northwest, command of Coast Guard Support Center Governors Island, New York, and command of Coast Guard Cutter MIDGETT.

In addition to a B.S. from the Coast Guard Academy, Admiral Kramek attended post graduate school at the University of Michigan, Johns Hopkins University and the University of Alaska and received Master of Science Degrees in Naval Architecture and Marine Engineering, Mechanical Engineering and Engineering Management. He also attended the U. S. Naval War College and

graduated with "highest distinction." He and his wife, the former Patricia Havard, have four children. Admiral Kramek is 54 years old.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

January 12, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *RB*

FROM: PETER FEAVER *PDF*

SUBJECT: Defense Proposed Report on Policies Governing the
Assignment of Family Members to an Imminent Danger
Area and to the Same Unit or Ship

Tab B is a proposed report, prepared by the Department of Defense pursuant to House Report No. 102-60 which accompanied the National Defense Authorization Act for Fiscal Years 1992 and 1993. The Defense report examines DoD policies on the assignment of family members to the same unit or to an imminent danger area.

Currently, servicemembers assigned to an imminent danger area must request reassignment if they learn that a family member has been injured or killed in combat. Defense, upon review of the policy and consideration of Congressional input, has decided to revise that policy. In the future, the Department will initiate reassignment and service members will have the option to suspend reassignment.

Defense does not see a need to revise current policy to prohibit family members to serve in the same unit or ship. Noting that all service members serve voluntarily, and further noting that many service members prefer to serve with family members, Defense concludes that the current policy is appropriate.

RECOMMENDATION

That you sign and forward the memorandum at Tab A concurring in the proposed report.

Attachments

Tab A Memorandum for Signature
Tab B Incoming Correspondence

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

MEMORANDUM FOR CONNIE J. BOWERS

FROM: WILLIAM H. ITOH

SUBJECT: Defense Proposed Report on Policies Governing the
Assignment of Family Members to an Imminent Danger
Area and to the Same Unit or Ship

The National Security Council staff concurs in the proposed
report.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

January 3, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #M-991

TO: Legislative Liaison Officer -

TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
NSC - William H. Itoh - (202)395-3723 - 249

FROM:

Connie J. BOWERS (for) *Connie J Bowers for*
Assistant Director for Legislative Reference

OMB CONTACT: Melissa COOK (395-3924)
Secretary's line (for simple responses): 395-7362

SUBJECT: DEFENSE Proposed Report on Policies Governing
the Assignment of Family Members to an
Imminent Danger Area and to the Same Unit or
Ship

DEADLINE: C.O.B. January 14, 1993

OMB requests the views of your agency on the above subject before
advising on its relationship to the program of the President, in
accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or
receipts for purposes of the the "Pay-As-You-Go" provisions of
Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:

Jim Fish
Tom Lewis
Chris Bertram
Jennifer Palmieri
Janet Forsgren
Delphine Motley

_____ Concur

_____ No objection

_____ No comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this
_____ response sheet

PERSONNEL AND
READINESS

ASSISTANT SECRETARY OF DEFENSE

4000 DEFENSE PENTAGON
WASHINGTON DC 20301-4000

Honorable Ronald V. Dellums
Chairman, Committee on Armed Services
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

In House Report No. 102-60 (extract included) which accompanied the National Defense Authorization Act for Fiscal Years 1992 and 1993, the Secretary of Defense was asked to study policies regarding the assignment of family members to an imminent danger area and to the same unit or ship.

Enclosed is an examination of the current DoD policies on assignment of family members, to include the origin of the policies and the assumptions that underlie them. After a thorough review by the Services and the Joint Staff, the Department has concluded that the current policies are effective but can be improved upon. The Department believes that some modifications to our policy governing assignment of family members, as proposed by the House Report, are in order. The Department will continue to review all personnel policies to best serve the readiness needs of the force and the men and women who faithfully dedicate themselves to meet our objective of fielding the most competent fighting force in the world.

I have sent a similar letter, with enclosures, to the Chairman and Ranking Republican of the Senate Committee on Armed Services.

Sincerely,

Edwin Dorn

Enclosures:

- 1) Discussion of Policy
- 2) Extract from House Report 102-60

cc:

Honorable Floyd D. Spence
Ranking Republican



JAN 3 '84 12:11 FROM OSD-IRF

TO FORARFEN

PAGE.000

House Report 102-60

ASSIGNMENT OF FAMILY MEMBERS IN DESIGNATED HOSTILE FIRE OR
IMMINENT DANGER AREAS AND THE SAME UNIT OR SHIP

During Operation Desert Storm, the committee noted that the DOD policy on the assignment of family members to hostile fire or imminent danger areas requires a member to apply for reassignment from the hostile fire area when a family member is killed or dies, disabled, missing, or captured while serving in the same area. The committee is concerned that some members will be reluctant to exercise the option to leave the hostile fire area if required to bear the burden of requesting such reassignment. It would appear that the member should be directed to leave the hostile fire area, unless the member requests exemption from the policy.

The committee also noted that the DOD policy concerning the assignment of family members to the same unit or ship requires a member to apply for reassignment to a different unit or ship, and that approval of such application is contingent on military requirements. The committee recalls the tragedy of the Sullivan brothers who were all killed when their ship was sunk during World War II, and would suggest that assignment of family members to the same unit or ship should be prohibited unless exemption is requested by the family members.

The committee directs the Secretary of Defense to conduct a study of the policies concerning the assignment of family members to hostile fire or imminent danger areas and the same unit or ship, and report the results of the study to the Committees on Armed Services of the Senate and House of Representatives. The study should reexamine the wisdom of requiring an application from the member before the protection afforded by either policy can be provided to the member, and outline the rationale to either change the policy or maintain the status quo. This report should be submitted no later than February 15, 1992.

Current Assignment Policies

Department of Defense (DoD) personnel assignment policies exist to enhance the capability of the Military Services to meet national security objectives. These policies assign members based on their qualifications to fill valid personnel requirements. Each member similarly qualified takes his or her turn at assignments to various geographic regions and positions (both desirable and undesirable). These assignments include duty in imminent danger and hostile fire areas on an equal basis, without regard to relationship to other Service members.

The volunteer nature of the force helps shape assignment policies. The decision to enlist is made by legal adults (or counter-signed by a parent/guardian in the case of minors), cognizant of the possibility of assignment to hazardous duty for themselves or any other family member who may be serving. Entering the military is a voluntary acceptance of the risk that they or a family member (who also volunteered) might be killed, disabled, missing in action, or captured while serving in the defense of the nation. It is this sense of shared sacrifice that helps to bind the military together, enhances morale, and is the basis of an effective fighting force.

The underlying principles of equity and voluntary acceptance of the inherent dangers associated with military service form the basis for current family assignment policies. The Department, however, tempers these policies in an attempt to ensure that no single family is asked to bear an inordinate share of the burden of armed conflict.

Assignment of Service Members from the Same Family to an Imminent Danger Area

Current DoD policy permits Service members to request reassignment out of an imminent danger area in the event that a family member dies as a result of the hazards incident to combat, is captured, or is missing in action. The Services routinely honor these requests, as they have since the policy was first announced in 1944. With respect to this policy, the House Armed Services Committee expressed concern in House Report 102-60 that "some members will be reluctant to exercise the option to leave the hostile fire area if required to bear the burden of requesting such reassignment." The Committee believes that the Department should direct the member to leave the hostile fire area

unless that member specifically requests exemption from the policy. The Committee called upon the Department to reexamine its current policy of requiring the Service member to initiate an application for reassignment under these circumstances and to report its findings.

The Department has considered the issues involved in implementing the Committee's recommendation and found that some Service members are indeed reluctant to leave their units because of the sense of unit cohesion and camaraderie built into an effective fighting force. However, family members removed from the military often work very hard to have their military relation reassigned out of potential danger. To address this difference in perspective and to accommodate the needs of the men and women in uniform, the Department is pursuing a course of action that will implement the Committee's recommendation.

The Department believes that by altering procedures associated with casualty notification, we may be able to accommodate all parties concerned. Currently, the Services strive to notify a member's immediate family (spouse or parents) of the Service member's death or other significant change in their status within 24 hours of an incident. In conjunction with this notification, the Service will notify surviving family member(s) of the intent to reassign him or her to a duty station outside the imminent danger area. Under current policy, these Service members are frequently granted emergency leave to assist their family in its time of need. Service members may then request to defer returning to combat duty or their units. Under the new policy, the Department will notify surviving Service members of the intent to reassign them. Those members will either accept or reject the Service's offer for reassignment. In certain rare instances, a military member may be filling a role vital to the continued combat effectiveness of his/her unit. In these cases, immediately reassigning the member may not be in the best interest of the unit. Theater commanders will retain the authority to delay reassigning these members in only the most extreme cases.

Permanent Assignment of Service Members from the Same Family to the Same Unit or Ship

In House Report 102-60, the Committee also recalled the tragedy suffered by the Sullivan family during World War II in losing five brothers when their ship was sunk. The Committee suggested "that assignment of family members to the same unit or ship should be prohibited unless exemption is requested by the family members." The existing family

assignment policy is general in nature and does not prohibit such assignment because of the difficulty in accurately defining the parameters of prohibition. It further recognizes that today's force consists of volunteers who have accepted the responsibility to go where military necessity dictates and that Service members may desire to serve with other family members. As with the previous policy, however, the Department also tempers this policy with compassionate recognition of the possibility of any one family suffering a devastating loss.

DoD policy does permit permanent assignment of members of the same immediate family to the same unit or ship if the family members desires, valid requirements for particular skills in question exist, and their assignment is not prejudicial to the maintenance of good order and discipline. The policy also allows for all but one Service member of a family serving in the same unit to request reassignment in the event the members concerned do not desire to serve together when that unit is deploying to a hostile fire region. The Department recognizes that most military service is spent in non-combat situations and that some Service members may desire to spend this time serving alongside members of their family. This is particularly true for many of our younger members who may be away from home for the first time. In the case of married military couples, this can often mean the difference between collocation or extended family separations.

The Navy has been more restrictive in approving requests for assignment of Service members from the same family to the same unit, due primarily to the command structure in a shipboard environment. The close quarters and compressed chain of command often make it difficult to assign Service members of the same immediate family to a single ship without placing one member in a supervisory role over another. Consequently, the Navy also requires the commanding officer's concurrence prior to approving requests to assign Service members from the same immediate family to the same ship.

The concept of "unit" in the other Services is more difficult to define, as "unit" is a generic term meaning any grouping of Service members from squads to armies. Moreover, the composition and employment of units differ among the Services, sometimes making the distinction between units meaningless for the purposes of limiting the concurrent assignment of Service members from the same family. Consequently, the Services determine the circumstances, often on an individual basis, when the

assignment of Service members from the same family affects good order and discipline. In general terms, "unit" refers to the lowest organizational level possessing a unique Unit Identification Code (UIC).

The Department believes that the existing personnel assignment policy successfully meets the concerns of the members, their families, and the Services. Under current DoD policy, all but one of the members reserve the right to request reassignment if their unit deploys to an imminent danger area. This policy appears to be the most manageable and cost-effective method for continuing to address the needs of all parties concerned.

A policy that prohibits assignment of family members to the same unit unless they specifically request such assignment creates significant administrative problems without conferring substantial benefits to the members or the Services. Given the provision for reassignment of all but one of the family members if their unit were to deploy to an imminent danger area, the net result of such a policy change would be effectively to restrict the family members' ability to serve together during peacetime operations.

The restrictive family assignment policy as proposed would require the Services to maintain a database with every member's current unit and their family relationships. Because the Services are not currently required to maintain data identifying military members from the same family, there is no means to prevent involuntary assignment of family members to the same unit. The Department is currently developing a Military Personnel Tracking Project. The initial scope of this project is to provide the ability to identify the physical location and the unit to which a Service member is assigned when he or she is deployed. However, the fact that military members from the same family are not currently captured in any database field makes cross-checking this data for family relationships prior to writing Permanent Change of Station orders exceedingly burdensome. Maintenance of this database would also require every Service member to update his/her list of military relatives every time a family member joined or separated from the Service. The Department believes that the initial input and upkeep of this database may be cost prohibitive for the Services and yield little return on their investment, especially when the current system provides the required flexibility to accomplish the same goals.

Conclusion

Existing DoD policies with regard to permanent assignment of Service members of the same family ensure that all members are assigned based on the same criteria, but strive to ensure that no one family is asked to bear a disproportionate share of the burden. These policies are written to ensure the Service member's needs are best met, while also maintaining combat readiness throughout the force.

We will change our procedures to ensure the Department initiates the reassignment of a member from a hostile fire area when a family member is killed, captured, or missing in action. Implementation of the Military Personnel Tracking System will provide DoD with the capability to automatically locate, by the unit to which he/she is attached, any Service member. An expanded scope of this project may include the ability to cross reference the database for other members of the same immediate family, but at significantly greater cost. Any new policy must, however, recognize that every member of an all-volunteer force entered into a lifestyle with some inherent risks involved. As these members progress through their careers, they receive training and develop expertise that then makes them an integral part of the combat effectiveness of the units to which they are assigned. Assignment policies must strike a delicate balance that meets the needs of the members, their families, and the men and women who must continue to serve in harm's way.

The Persian Gulf Conflict tested the Department's long-standing deployment and assignment policies. The Department recognizes that isolated cases of family hardship resulted from the rapid deployment and sheer magnitude of forces involved. However, for the vast majority of the members and for the good of the force, we found that existing policies are an equitable way to assign Service members. We believe that the refinements supported in House Report No. 102-60 are meritorious and will enhance our assignment policies.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506



January 13, 1994

MEMORANDUM FOR: LYNN DAVIS
Department of State

FRANK WISNER
Department of Defense

JOHN KELIHER
Department of Energy

CRAIG CHELLIS
Central Intelligence Agency

GENERAL MICHAEL RYAN
Joint Chiefs of Staff

JOHN HOLUM
Arms Control and Disarmament Agency

SUBJECT: IWG on SCC-46 Preparation (X)

The Arms Control IWG will meet Tuesday, January 18, from 9:00 - 10:30 AM in Room 208 to review preparations for the continuation of SCC-46. The discussion will focus on (a) ACDA's draft guidance cable, (b) ACDA's CBMs paper and (c) OSD's additional criteria paper. The materials should be circulated by the relevant agencies by COB today.

Robert G. Bell

Robert G. Bell
Special Assistant to the President
and Senior Director for Defense
Policy and Arms Control

~~CONFIDENTIAL~~

Declassify on: OADR

DECLASSIFIED
E.O. 13526
White House Guidelines, September 11, 2006
By *VL* NARA, Date *10/3/2016*
2016-052 -f

~~CONFIDENTIAL~~

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. cover sheet	[CIA Act] [partial] (1 page)	01/13/1994	P3/b(3)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - January 1994 #1 [3]

2016-0152-F

vz4524

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RR. Document will be reviewed upon request.

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~~CONFIDENTIAL~~

TO: SITUATION ROOM

PLEASE LDX THE ATTACHED ~~CONFIDENTIAL~~ DOCUMENT FOR ROBERT BELL TO
THE FOLLOWING

Lynn Davis
State/T
Room 7510
647-1049

John Keliher
Department of Energy
Room 7B222
Forrestal Building
586-0645

Frank Wisner
OSD/ISP
Room 4E830
Pentagon
703-697-7200

(b)(3)

[002]

Michael Ryan
JCS
Room 2E868
Pentagon
703-695-4605

John Holum
ACDA
Room 5930
647-9610

Thanks

UNCLASSIFIED UPON REMOVAL
OF CLASSIFIED ATTACHMENTS
Initials: v Date: 10/10/201

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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

January 13, 1994

MEMORANDUM FOR: LYNN DAVIS
Department of State

FRANK WISNER
Department of Defense

JOHN KELIHER
Department of Energy

CRAIG CHELLIS
Central Intelligence Agency

GENERAL MICHAEL RYAN
Joint Chiefs of Staff

JOHN HOLUM
Arms Control and Disarmament Agency

SUBJECT: IWG on SCC-46 Preparation (X)

The Arms Control IWG will meet Tuesday, January 18, from 9:00 - 10:30 AM in Room 208 to review preparations for the continuation of SCC-46. The discussion will focus on (a) ACDA's draft guidance cable, (b) ACDA's CBMS paper and (c) OSD's additional criteria paper. The materials should be circulated by the relevant agencies by COB today.

Robert G. Bell

Robert G. Bell
Special Assistant to the President
and Senior Director for Defense
Policy and Arms Control

DECLASSIFIED
E.O. 13526

White House Guidelines, September 11, 2006
By VZ NARA, Date 10/3/2016

2016-052-F

~~CONFIDENTIAL~~

Declassify on: OADR

~~CONFIDENTIAL~~

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. cover sheet	[CIA Act] [partial] (1 page)	01/12/1994	#Error

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - January 1994 #1 [3]

2016-0152-F

vz4524

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

~~CONFIDENTIAL~~

TO: SITUATION ROOM

PLEASE LDX THE ATTACHED ~~CONFIDENTIAL~~ DOCUMENT FOR ROBERT BELL TO
THE FOLLOWING

Lynn Davis
State/T
Room 7510
647-1049

John Keliher
Department of Energy
Room 7B222
Forrestal Building
586-0645

Frank Wisner
OSD/ISP
Room 4E830
Pentagon
703-697-7200

[003]

(b)(3)

Michael Ryan
JCS
Room 2E868
Pentagon
703-695-4605

John Holum
ACDA
Room 5930
647-9610

Thanks

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OF CLASSIFIED ATTACHMENTS
Initials: VL Date: 10/10/10

~~CONFIDENTIAL~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

January 12, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *RB*

FROM: PETER FEAVER *PFF*

SUBJECT: Defense Proposed Report on Abused Dependents

Tab B is a proposed report, prepared by the Department of Defense pursuant to section 653(c), Public Law 102-484. The report provides statistics and other information about members of the Armed Services who are discharged for offenses involving abuse of their dependents.

RECOMMENDATION

That you sign and forward the memorandum at Tab A concurring in the proposed report.

Attachments

Tab A Memorandum for Signature
Tab B Incoming Correspondence

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

MEMORANDUM FOR JANET R. FORSGREN

FROM: WILLIAM H. ITOH

SUBJECT: Defense Proposed Report on Abused Dependents

The National Security Council staff concurs in the proposed report.

0162

19

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

January 5, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #M-1001

TO: Legislative Liaison Officer -

TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
VA - Robert Coy - (202)535-8113 - 229
NSC - William H. Itoh - (202)395-3723 - 249

FROM: JANET R. FORSGREN (for *Janet R. Forsgren*)
Assistant Director for Legislative Reference

OMB CONTACT: Melissa COOK (395-3924)
Secretary's line (for simple responses): 395-7362

SUBJECT: DEFENSE Proposed Report on Abused Dependents

DEADLINE: C.O.B. January 18, 1993

COMMENTS: For your convenience, I have attached a copy of H.R. 2067 that is referenced in the "Cost Estimates" section of the report.

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:

{Jim Fish
Wendell Waites
Chris Bertram
Todd Grams (p. 6)
Don Blanchon (p. 6)
Bob Damus
Art Stigile
Ed Springer
(especially p. 4)
Clarissa Cerda
Al Maldon
Janet Forsgren
Delphine Motley

JAN 4 '94 11:34 FROM OSD-LRS

TO FORSGREN

PAGE.003

PERSONNEL AND
READINESS

ASSISTANT SECRETARY OF DEFENSE

4000 DEFENSE PENTAGON
WASHINGTON DC 20301-4000

Honorable Sam Nunn
Chairman, Committee on Armed Services
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am enclosing the Department of Defense study mandated by section 653(e), Public Law 102-484, October 23, 1992, codified at 10 USC 1408. The requirement is to provide statistics and other information about ~~dependents~~ members of the Armed Services who are discharged for offenses involving abuse of dependents. The purpose of this study is to provide information to be used by both the Department of Defense and the Congress in evaluating the need for additional legislation or other actions. *then*

I have sent a similar letter to the Chairman and Ranking Republican of the House Committee on Armed Services.

Sincerely,

Edwin Dorn

Enclosure:
As Stated

cc:
Honorable Strom Thurmond
Ranking Republican



JAN 4 '94 11:35 FROM OSD-LRS

TO FORSGREN

PAGE.004

PERSONNEL AND
READINESS

ASSISTANT SECRETARY OF DEFENSE

4000 DEFENSE PENTAGON
WASHINGTON DC 20301-4000

Honorable Ronald V. Dellums
Chairman, Committee on Armed Services
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am enclosing the Department of Defense study mandated by section 653(c), Public Law 102-484, October 23, 1992, codified at 10 USC 1408. The requirement is to provide statistics and other information about ~~dependents~~ *their* members of the Armed Services who are discharged for offenses involving abuse of dependents. The purpose of this study is to provide information to be used by both the Department of Defense and the Congress in evaluating the need for additional legislation or other actions.

I have sent a similar letter to the Chairman and Ranking Republican of the Senate Committee on Armed Services.

Sincerely,

Edwin Dorn

Enclosure:
As Stated

cc:
Honorable Floyd D. Spence
Ranking Republican



**Department of Defense
Study on
Abused Dependents**

**Prepared By
Department of Defense
October 1993**

Department of Defense Study on Abused Dependents

REQUIREMENT FOR STUDY

The National Defense Authorization Act for Fiscal Year 1993 (section 653(e), PL 102-484) requires a study containing estimates of the incidence of discharges for dependent abuse through the year 2000 and other information. The Act provided protections for abused dependents of members who were retirement eligible, but did not address cases where the member had completed fewer than 20 years of service. The purpose of this study is to collect information to be used by both the Department of Defense and the Congress in evaluating the need for additional legislation or other actions.

The data presented in this study were extremely difficult to collect. For example, the Air Force's Automated Military Justice Analysis and Management System (AMJAMS), provides statistical and management information on the administration of military justice. However, it does not track any information about the victims of crimes, only the accused. For this study, it was therefore necessary to identify every case in the pertinent time period in which the victim may have been the accused's dependent; then manually examine the records of trial to determine the exact status of the victim and the nature of the offense. The other Services faced similar problems. All Services screened the records closely to provide the most accurate information possible.

REQUIRED INFORMATION

Data required by Public Law 104-484, section 653(e)(1):

"(A) the number of persons who will become eligible to receive payments under subsection (h) of section 1408 of title 10, United States Code (as added by subsection (a)), during each of fiscal years 1993 through 2000;

Table 1. Numbers Eligible For Payments Under 10 USC 1408 (h)

Year	Service				DoD Total
	Marine Corps	Air Force	Army	Navy	
1993	3	9	6	5	23
1994	3	8	5	5	21
1995	3	8	5	5	21
1996	3	8	5	5	21
1997	3	8	5	5	21
1998	3	8	5	5	21
1999	3	8	5	5	21
2000	3	8	5	5	21

Source: 1992 Service data proportioned to projected endstrengths through 2000.

(B) for each of fiscal years 1993 through 2000, the number of members of the Armed Forces who, after having completed at least one, and less than 20, years of service in that fiscal year, will be approved for separation from the Armed Forces as a result of having abused a spouse or dependent child."

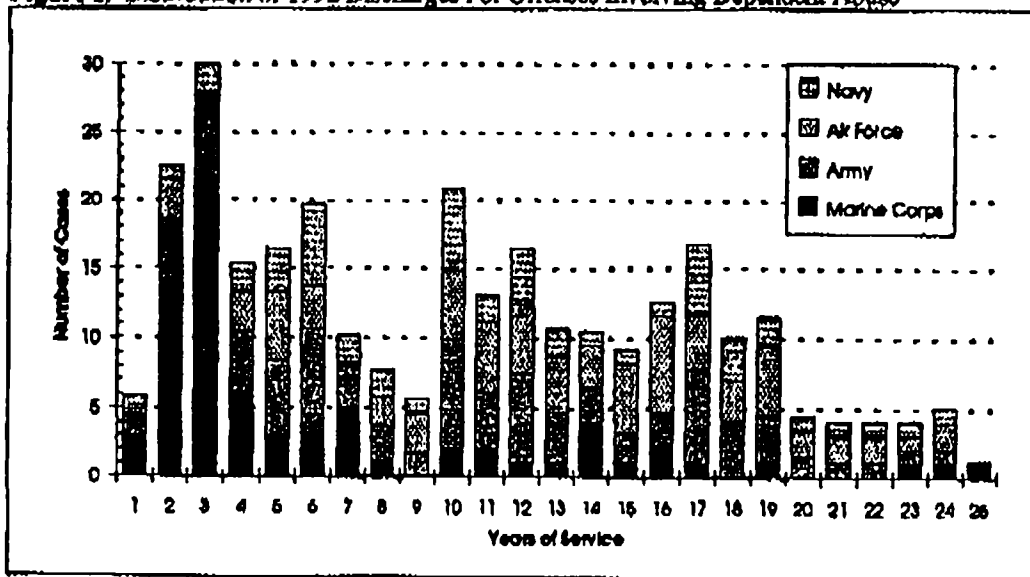
Table 2. Numbers With 1 to 20 Years of Service Separating For Offenses Involving Dependent Abuse

Year	Service				DoD Total
	Marine Corps	Air Force	Army	Navy	
1993	70	62	79	100	311
1994	68	59	75	95	297
1995	65	57	72	93	287
1996	63	56	70	93	282
1997	61	55	70	93	279
1998	61	55	70	93	279
1999	61	55	70	93	279
2000	61	55	70	93	279

Source: 1992 Service data proportioned to projected endstrengths through 2000.

Figure 1 shows the year of service distribution of the actual FY 1992 cases from which the above data were estimated.

Figure 1. Distribution of 1992 Discharges For Offenses Involving Dependent Abuse



Source: The Services.

Note: Army data were received in an aggregated form, in five-year increments--1-5 years of service (YOS), 6-10, 11-15, 16-19, and 20+ YOS. For this figure, the Army data within those 5-year aggregations were distributed over YOS in same pattern as the other Services' data. For the Navy, YOS detail was available for 35 of 110 cases; the rest were distributed in the same proportions as the 35.

JAN 4 '94 11:37 FROM OSD-LRS

TO FORSGREN

PAGE.008

Information required by Public Law 102-484, section 653 (e)(2):

"(2) The study shall include a thorough analysis of--

(A) the effects, if any, of appeals and requests for clemency in the case of court-martial convictions on the entitlement to payments in accordance with subsection (h) of section 1408 of title 10, United States Code (as added by subsection (a));"

The entitlement of a spouse or a former spouse to payments under the authority of 10 U.S.C. S 1408(h) does not commence until the clemency process and the appellate process prescribed by the Uniform Code of Military Justice is completed--a period that averages between 9 months and 2 years--and the member's punitive discharge is executed or the member is discharged administratively. Until the member is discharged the member's potential eligibility to receive retired pay is not terminated.

The exercise of clemency under Article 71 or Article 74 of the UCMJ, for example, normally occurs before the appellate process is completed. But restoration, under Article 75, while not common, could terminate payments to the spouse or former spouse if it restores the eligibility of the member to receive retired pay or returns the member to active duty.

Action by a correction board under the authority of 10 U.S.C. S 1552 "to correct an error or remove an injustice" that restores a member's eligibility for retired pay would have the same effect. In such cases the spouse or former spouse might then be entitled to proceed against the member for a share of the restored retired pay or active duty pay.

In sum, the appellate process under the UCMJ could result in a delay in receiving benefits under 10 U.S.C. S 1408(h). An amendment of the statutory language used in that section is necessary to effect a different result (section 555 of P.L. 103-160, the FY94 Authorization Bill, corrects this).

(B) the socio-economic effects on the dependents of such members of the Armed Forces described in subsection (h)(2) of such section that result from terminations of the eligibility of such members to receive retired or retainer pay;

The socio-economic effects experienced by families where the Service member is no longer eligible for retired or retainer pay are known only anecdotally or by inference. Obtaining specific information directly from victims would require a lengthy and sensitive process of identifying such families, obtaining OMB clearance to contact and interview them, and then locating them to assess changes in their socio-economic situation as a result of the abuse-related termination. It is reasonable to assume, however, that the socio-economic effects on most military families that would result from loss of eligibility for retired or retainer pay would be deleterious. In these cases, the family would lose the member's military pay and allowances, tax advantage, commissary and exchange privileges, and medical benefits, as well as any potential share of the retired pay for which the member would otherwise have been eligible. Figure 1 shows that the greatest incidence of discharges for offenses involving dependent abuse occurs in

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TO FORSGREN

PAGE.009

families of members who have completed three years of service. For an E-4 with three years of Service, average Regular Military Compensation (RMC) is \$21,965. The value of the medical benefit is unique to each family and depends in part on the frequency of use; however, medical insurance to provide equivalent protection is costly, particularly in those instances in which the abuse may have generated a requirement for extended care.

Even though many spouses in today's military are employed, they frequently are underemployed or are unable to maintain career seniority because of frequent moves by the military member. As a result, the Service member's income is the primary source of income for the family. According to the 1992 DoD Survey of Officer and Enlisted Personnel and their Spouses, only 16.2 percent of first-term spouses with dependents reported 1991 income over \$10,000; while 45.4 percent earned no income at all. If these proportions hold true for spouses of members discharged for dependent abuse, close to half of families lose all income. Potentially, spouses in this situation must, with no immediate income, provide food, clothing, shelter and medical care for themselves and their children. In addition, the trauma of abuse may make it more difficult to obtain employment.

An Abuse Victims Study is being conducted by OASD (PSF&E) to provide input for the report required by Public Law 102-484, section 653 (d) on:

"...actions taken and planned to be taken in the Department of Defense to reduce or eliminate disincentives for a dependent of a member of the Armed Forces abused by the member to report the abuse to appropriate authorities."

The Abuse Victims Study will provide statistics and information relating to the reporting of spouse and child abuse and its consequences, as well as a report on actions needed to reduce disincentives for military dependents to report abuse to appropriate authorities. The project has three separate and concurrent research components.

The first is a study of Family Advocacy Program (FAP) policies and procedures in practice at the installation level of the four military Services. Through visits to eight military installations, two in each of the Services, this component examines the nature and extent of treatment and support services provided to abuse victims, family members, and perpetrators, as well as the military response to abusive Service members. It also includes an analysis of factors that affect the reporting of abuse and likely disincentives to report family violence.

The second involves a survey of newly reported abuse cases at all military FAPs world-wide. The purpose of this component is to examine factors that affect reporting of spouse and child abuse as well as the nature and duration of ongoing abusive family situations.

The third study component examines the extent to which involvement in abuse cases adversely affects a Service member's military career. This analysis involves a comparison of substantiated family violence cases where the abuser is the Service member. The cases are compared with master military personnel files to determine whether the Service member is still in the military, and if not, the nature of the discharge and whether it was related to the family violence situation. To date, site visits have been conducted at five of the eight installations,

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TO FORSGREN

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including at least one from each Service. Data collection activities for the other two study components also are underway.

At each of the installations visited, interviews have been conducted with key Family Advocacy Program staff, a sample of unit commanders, groups of senior enlisted personnel, groups of officer and enlisted spouses, chaplains, military police, Judge Advocate General (legal) representatives, and at CONUS sites, civilian treatment providers. Preliminary findings from the first five sites suggest that there is a clear perception across all groups interviewed that a Service member's military career can be adversely affected by a report of spouse or child abuse. The types of career impacts cited range from letters of reprimand and other forms of non-judicial punishment, to being passed over for promotion or not being recommended for re-enlistment, or, in the worst cases, to court-martial. Family members fear the loss of income and other benefits, particularly medical, that would result if the Service member were to be put out of or not retained by the military.

(C): the effects of separations of such members from the Armed Forces on the mission readiness of the units of assignment of such members when separated and on the Armed Forces in general."

The relatively small number of these dependent abuse cases renders their impact on mission readiness of individual units, or the Armed Forces in general, as minimal and insignificant.

COST ESTIMATES

The following 1994 budget estimates are based on actual statistics for FY 1992 and projected Service endstrengths through 2000. In addition to an estimate of the costs of the program in subsection (h) of section 1408, we estimate the cost of a program which would pay up to 3 years of Dependent Indemnity Compensation (DIC) to abused dependents of members who have fewer than 20 years of service and are not retirement eligible (per the provisions of H.R. 2067, "Indemnity Compensation for Dependents of Members of the Armed Forces Discharged for Dependent Abuse").

1. 10 U.S.C. 1408(h): Payment of benefits under court orders in the case of dependents who are victims of abuse by members of the Armed Forces losing the right to retired pay.

Assumptions:

- a) 21 cases in 1994 and thereafter
- b) Average member is an E-7 with 22 years of service
- c) Court order grants former spouse 50% of member's retired pay
- d) Monthly payment = \$618 (50% of 55% of \$2247 basic pay, E-7 >22)
- e) To estimate a steady-state cost, assume payments may continue for 36 years and that, on average, former spouses are remarried half way through that period (some will remarry sooner, some will not remarry), ending payments.

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PAGE.011

Cost:

FY94 - \$155,736

FY95 - \$311,472

FY96 - \$467,208

FY97 - \$622,944

FY98 - \$778,680

FY99 - \$934,416

FY00 - \$1.09M

Each year the total will increase by approximately \$155,736, less those payments stopped due to death and remarriage (not deducted in the above estimates through 2000).

Steady-state cost estimate: \$2.8M ($\$155,736 * 18$)

2. Indemnity compensation for dependents of members of the Armed Forces with 1 to 20 years of service discharged for dependent abuse.

Assumptions:

- a) 297 cases in 1994; 287 in 1995; 282 in 1996; and 279 in 1997 and thereafter
- b) Two children per family
- c) Monthly DIC payment = \$750 + \$150 for each child = \$1050 total per family; for FY95 and beyond assume \$200 per child
- d) Payments continue for three years

Cost:FY94 - \$3.7 Million ($297 * \$1050 * 12$)FY95 - \$7.7 Million ($\$3.7M + (287 * \$1150 * 12)$)FY96 - \$11.7 Million ($\$7.7M + (282 * \$1150 * 12)$)FY97 - \$12.9 Million ($\$8.0M + (279 * \$1150 * 12)$)FY98 - \$11.7 Million ($\$7.9M + (279 * \$1150 * 12)$)FY99 and Steady State - \$11.6 Million ($\$3 * (279 * \$1150 * 12)$)

side the United States for children accompanying members of the armed forces on duty at stations outside the United States. The foster care services provided under such a program shall be similar to those services provided by State and local governments in the United States.

"(b) EXPENSES.—Under regulations prescribed by the Secretary concerned, the expenses related to providing foster care services under subsection (a) may be paid from appropriated funds available to the Secretary."

"(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 1045, the following new item:

"1045. Overseas temporary foster care program."

52 SEC. 901. REIMBURSEMENT FOR ADOPTIONS COMPLETED DURING INTERIM BETWEEN TEST AND PERMANENT PROGRAM.

"(a) REIMBURSEMENT OF ADOPTION EXPENSES.—Section 1052 of title 10, United States Code, and section 514 of title 14, United States Code, shall apply with respect to the reimbursement of adoption expenses incurred for an adoption proceeding completed during the period beginning on October 1, 1990, and ending on December 4, 1991, to the extent the adoption expenses would be covered by one of those sections if the adoption proceeding had been completed after December 4, 1991.

"(b) TIME PERIOD FOR APPLICATION.—Subsection (a) shall apply to a person covered by such subsection only if the person applies to the Secretary of Defense or the Secretary of Transportation for the reimbursement of adoption expenses under section 1062 of title 10, United States Code, or section 514 of title 14, United States Code, whichever applies, within one year after the date of the enactment of this Act.

* SEC. 902. PROTECTIONS FOR DEPENDENT VICTIMS OF ABUSE BY MEMBERS OF THE ARMED FORCES.

"(a) PAYMENTS UNDER COURT ORDERS.—Section 1406 of title 10, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h) BENEFITS FOR DEPENDENTS WHO ARE VICTIMS OF ABUSE BY MEMBERS LOSING RIGHT TO RETIRED PAY.—(1) If, in the case of a member or former member of the armed forces referred to in paragraph (2)(A), a court order provides (in the manner applicable to a division of property) for the payment of an amount from the disposable retired pay of that member or former member (as certified under paragraph (4)) to an eligible spouse or former spouse of that member or former member, the Secretary concerned, beginning upon effective service of such court order, shall pay that amount in accordance with this subsection to such spouse or former spouse.

"(2) A spouse or former spouse of a member or former member of the armed forces is eligible to receive payment under this subsection if—

"(A) the member or former member, while a member of the armed forces and after becoming eligible to be retired
the member on the of y of
eligibility to retired terminated as a result of mis-

conduct while a member involving abuse of a spouse or dependent child (as defined in regulations prescribed by the Secretary of Defense); and

"(B) the spouse or former spouse—

"(1) was the victim of the abuse and was married to the member or former member at the time of that abuse; or

"(H) is a natural or adopted parent of a dependent child of the member or former member who was the victim of the abuse.

"(3) The amount certified by the Secretary concerned under paragraph (4) with respect to a member or former member of the armed forces referred to in paragraph (2)(A) shall be deemed to be the disposable retired pay of that member or former member for the purposes of this subsection.

"(4) Upon the request of a court or an eligible spouse or former spouse of a member or former member of the armed forces referred to in paragraph (2)(A) in connection with a civil action for the issuance of a court order in the case of that member or former member, the Secretary concerned shall determine and certify the amount of the monthly retired pay that the member or former member would have been entitled to receive as of the date of the certification—

"(A) if the member or former member's eligibility for retired pay had not been terminated as described in paragraph (2)(A); and

"(B) if, in the case of a member or former member not in receipt of retired pay immediately before that termination of eligibility for retired pay, the member or former member had retired on the effective date of that termination eligibility.

"(5) A court order under this subsection may provide that whenever retired pay is increased under section 1401a of this title (or any other provision of law), the amount payable under the court order to the spouse or former spouse of a member or former member described in paragraph (2)(A) shall be increased at the same time by the percent by which the retired pay of the member or former member would have been increased if the member or former member were receiving retired pay.

"(6) Notwithstanding any other provision of law, a member or former member of the armed forces referred to in paragraph (2)(A) shall have no ownership interest in, or claim against, any amount payable under this section to a spouse or former spouse of the member or former member.

"(7)(A) If a former spouse receiving payments under this subsection with respect to a member or former member referred to in paragraph (2)(A) marries again after such payments begin, the eligibility of the former spouse to receive further payments under this subsection shall terminate on the date of such marriage.

"(B) A person's eligibility to receive payments under this subsection that is terminated under subparagraph (A) by reason of remarriage shall be resumed in the event of the termination of that marriage by the death of that person's spouse or by annulment or divorce. The resumption of payments shall begin as of the first day of the month in which that marriage is so terminated. The monthly amount of the payments shall be the amount that would have been paid if the continuity of the payments had not been interrupted by the remarriage.

"(8) Payments in accordance with this subsection shall be made out of funds in the Department of Defense Military Retirement Fund established by section 1461 of this title.

"(9)(A) A spouse or former spouse of a member or former member of the armed forces referred to in paragraph (2)(A), while receiving payments in accordance with this subsection, shall be entitled to receive medical and dental care, to use commissary and exchange stores, and to receive any other benefit that a spouse or a former spouse of a retired member of the armed forces is entitled to receive on the basis of being a spouse or former spouse, as the case may be, of a retired member of the armed forces in the same manner as if the member or former member referred to in paragraph (2)(A) was entitled to retired pay.

"(B) A dependent child of a member or former member referred to in paragraph (2)(A) who was a member of the household of the member or former member at the time of the misconduct described in paragraph (2)(A) shall be entitled to receive medical and dental care, to use commissary and exchange stores, and to have other benefits provided to dependents of retired members of the armed forces in the same manner as if the member or former member referred to in paragraph (2)(A) was entitled to retired pay.

"(C) If a spouse or former spouse or a dependent child eligible or entitled to receive a particular benefit under this paragraph is eligible or entitled to receive that benefit under another provision of law, the eligibility or entitlement of that spouse or former spouse or dependent child to such benefit shall be determined under such other provision of law instead of this paragraph.

"(10) In this subsection, the term 'dependent child', with respect to a member or former member of the armed forces referred to in paragraph (2)(A), means an unmarried legitimate child, including an adopted child or a stepchild of the member or former member, who—

"(A) is under 18 years of age;

"(B) is incapable of self-support because of a mental or physical incapacity that existed before becoming 18 years of age and is dependent on the member or former member for over one-half of the child's support; or

"(C) if enrolled in a full-time course of study in an institution of higher education recognized by the Secretary of Defense for the purposes of this subparagraph, is under 23 years of age and is dependent on the member or former member for over one-half of the child's support."

(b) CONFORMING AMENDMENTS.—Chapter 74 of such title is amended—

(1) in section 1461(b)—

(A) by striking out "and" at the end of paragraph

(1);

(B) by striking out the period at the end of paragraph

(2) and inserting in lieu thereof "and"; and

(C) by adding at the end the following:

"(3) the authority provided in section 1408(h) of this title";

and

(2) in section 1463—

(A) by striking out "and" at the end of paragraph

(3);

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "and"; and

(C) by adding at the end the following:

"(5) amounts payable under section 1408(h) of this title."

(c) PROSPECTIVE APPLICABILITY.—No payments under subsection (h) of section 1408 of title 10, United States Code (as added by subsection (a)), shall accrue for periods before the date of the enactment of this Act.

(d) REPORT ON OTHER ACTIONS.—(1) Not later than December 15, 1993, the Secretary of Defense shall transmit to the Congress a report on the actions taken and planned to be taken in the Department of Defense to reduce or eliminate disincentives for a dependent of a member of the Armed Forces abused by the member to report the abuse to appropriate authorities.

(2) The actions considered by the Secretary should include the provision of treatment, child care services, health care services, job training, job placement services, and transitional financial assistance for dependents of members of the Armed Forces referred to in paragraph (1).

* (e) STUDY REQUIRED.—(1) The Secretary of Defense shall conduct a study in order to estimate—

(A) the number of persons who will become eligible to receive payments under subsection (h) of section 1408 of title 10, United States Code (as added by subsection (a)), during each of fiscal years 1993 through 2000; and

(B) for each of fiscal years 1993 through 2000, the number of members of the Armed Forces who, after having completed at least one, and less than 20, years of service in that fiscal year, will be approved in that fiscal year for separation from the Armed Forces as a result of having abused a spouse or dependent child.

(2) The study shall include a thorough analysis of—

(A) the effects, if any, of appeals and requests for clemency in the case of court-martial convictions on the entitlement to payments in accordance with subsection (h) of section 1408 of title 10, United States Code (as added by subsection (a));

(B) the socio-economic effects on the dependents of members of the Armed Forces described in subsection (h)(2) of such section that result from terminations of the eligibility of such members to receive retired or retainer pay; and

(C) the effects of separations of such members from the Armed Forces on the mission readiness of the units of assignment of such members when separated and on the Armed Forces in general.

(3) Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study.

TITLE VII—HEALTH CARE PROVISIONS

SEC. 704. REFERENCE TO HEALTH CARE SERVICES IN TITLE XLIV.

For provisions of this Act regarding health care services as a consequence of the defense drawdown, see section 4406 relating to improved conversion health policies as part of transitional medical care and section 4409 relating to continued coverage for members' dependents.

1 of 1 items

CQ's WASHINGTON ALERT 01/05/94

HR2067 Kyl (R-AZ) 05/11/93 (230 lines)
Introduced in House

To amend title 10, United States Code, to authorize the Secretaries of the military departments to provide temporary transitional and indemnity compensation payments to the dependents of a member of the Armed Forces who is separated from the Armed Forces following conviction for an offense involving the abuse of one of those dependents, and for other purposes.

Special typefaces used in this bill version:

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Item Key: 4371

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103D CONGRESS
1ST SESSION

H. R. 2067

To amend title 10, United States Code, to authorize the Secretaries of the military departments to provide temporary transitional and indemnity compensation payments to the dependents of a member of the Armed Forces who is separated from the Armed Forces following conviction for an offense involving the abuse of one of those dependents, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

May 11, 1993

Mr. KYL (for himself and Mrs. FOWLER) introduced the following bill;
which was referred to the Committee on Armed Services

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A BILL

To amend title 10, United States Code, to authorize the Secretaries of the military departments to provide temporary transitional and

indemnity compensation payments to the dependents of a member of the Armed Forces who is separated from the Armed Forces following conviction for an offense involving the abuse of one of those dependents, and for other purposes.

//Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,\\

!!SECTION 1. INDEMNITY COMPENSATION FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES DISCHARGED FOR DEPENDENT ABUSE.!!

(a) IN GENERAL.--(1) Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

!!"S 1058. Abused dependents: payment of transitional and indemnity compensation!!

"(a) AUTHORITY TO PAY COMPENSATION.--If a member of the armed forces is separated from the armed forces as described in subsection (b), the Secretary of the military department concerned may pay monthly transitional and indemnity compensation in accordance with this section to dependents or former dependents of the member as specified in subsection (d).

"(b) SEPARATIONS COVERED.--(1) This section applies in the case of a member of the armed forces on active duty for a period of more than 30 days--

"(A) who is convicted of a dependent-abuse offense (as defined in subsection (c)) and whose conviction results in the member being--

"(i) administratively discharged with a general discharge or under other than honorable conditions; or

"(ii) discharged or dismissed from the armed forces by sentence of a court-martial; or

"(B) against whom court-martial charges were preferred for a dependent-abuse offense and who is discharged in lieu of trial by court-martial in that case upon approval of the member's request or application for discharge or, in the case of an officer, for resignation.

"(2) For purposes of this section, a member of the armed forces who is incarcerated by sentence of a court-martial with total forfeiture of pay and allowances shall be treated as a former member dismissed or discharged by sentence of a court-martial.

"(c) DEPENDENT-ABUSE OFFENSES.--(1) For purposes of this

section, a dependent-abuse offense is conduct by an individual while a member of the armed forces on active duty for a period of more than 30 days--

"(A) that involves abuse of the spouse or a dependent child of the member; and

"(B) that is a criminal offense specified in regulations prescribed by the Secretary of Defense under paragraph (2).

"(2) The Secretary of Defense shall prescribe by regulation the criminal offenses, or categories of offenses, under the Uniform Code of Military Justice (chapter 47 of this title), Federal criminal law, the criminal laws of the States and other jurisdictions of the United States, and the laws of other nations that are to be considered to be dependent-abuse offenses for the purposes of this section.

"(d) **RECIPIENTS OF PAYMENTS.**--In any case of a separation from active duty as described in subsection (b) in which the Secretary of the military department concerned determines that transitional and indemnity compensation should be paid under this section, the Secretary shall pay such compensation to dependents or former dependents of the former member as follows:

"(1) If the former member was married at the time of the commission of the dependent-abuse offense resulting in the separation, such compensation shall (except as otherwise provided in this subsection) be paid to the spouse or former spouse to whom the member was married at that time.

"(2) If there is a spouse or former spouse who (but for subsection (g)) would be eligible for compensation under this section and if there is a dependent child of the former member who does not reside in the same household as that spouse or former spouse, such compensation shall be paid to each such dependent child of the former member who does not reside in that household.

"(3) If there is no spouse or former spouse who is (or but for subsection (g) would be) eligible under paragraph (1), such compensation shall be paid to the dependent children of the former member.

"(4) For purposes of paragraphs (2) and (3), an individual's status as a 'dependent child' shall be determined as of the date on which the member is convicted of the dependent-abuse offense or, in a case described in subsection (b)(1)(B), as of the date on which the member is discharged.

"(e) **COMMENCEMENT AND DURATION OF PAYMENT.**--(1) Payment of transitional and indemnity compensation under this section shall

commence as of the date of the discontinuance of the member's pay and allowances pursuant to the separation or sentencing of the member.

"(2) Payment of such compensation shall terminate at the end of the dependents' transitional period. The dependents' transitional period is the period (A) beginning on the date on which the member is convicted of the dependent-abuse offense or, in a case described in subsection (b)(1)(B), on the date on which the member is discharged, and (B) ending at the end of the transitional period determined by the Secretary concerned. Such transitional period may not exceed 36 months, except that if the length of the member's service on active duty was less than 36 months, the transitional period may not exceed the length of such service.

"(f) AMOUNT OF PAYMENT.--(1) Payment to a spouse or former spouse under this section for any month shall be at the rate in effect for that month for the payment of dependency and indemnity compensation under section 1311(a)(1) of title 38.

"(2) If a spouse or former spouse to whom compensation is paid under this section has custody of a dependent child or children of the member, the amount of such compensation paid for any month shall be increased for each such dependent child by the amount in effect for that month under section 1311(b) of title 38.

"(3) If compensation is paid under this section to a child or children pursuant to subsection (d)(2) or (d)(3), such compensation shall be paid in equal shares, with the amount of such compensation for any month determined in accordance with the rates in effect for that month under section 1313 of title 38.

"(g) FORFEITURE PROVISIONS.--(1) If a former spouse receiving compensation under this section remarries, the Secretary shall terminate payment of such compensation, effective as of the date of such marriage. The Secretary may not renew payment of compensation under this section to such former spouse in the event of the termination of such subsequent marriage.

"(2) If after the separation of the former member as described in subsection (b) the former member resides in the same household as the spouse or former spouse, or dependent child, to whom compensation is otherwise payable under this section, the Secretary shall terminate payment of such compensation, effective as of the time the former member begins residing in such household. Compensation paid for a period after the former member's separation,

but before the former member resides in the household, shall not be recouped. If the former member subsequently ceases to reside in such household before the end of the period of eligibility for such payments, the Secretary may not resume such payments.

"(3) In a case in which the victim of the dependent-abuse offense resulting in the separation of the former member was a dependent child, the Secretary concerned may not pay compensation under this section to a spouse or former spouse who would otherwise be eligible to receive such compensation if the Secretary determines (under regulations prescribed under subsection (i)) that the spouse or former spouse was an active participant in the conduct constituting the dependent-abuse offense.

"(h) COORDINATION OF BENEFITS.--The Secretary concerned may not make payments to a spouse or former spouse under both this section and section 1408(h)(1) of this title. In the case of a spouse or former spouse for whom a court order provides for payments by the Secretary pursuant to section 1408(h)(1) of this title and to whom the Secretary offers payments under this section, the spouse or former spouse shall elect which to receive.

"(i) REGULATIONS.--The Secretary of each military department shall prescribe regulations to carry out this section with respect to members of the armed forces under the jurisdiction of that Secretary. Such regulations shall be as uniform as practicable and shall be subject to the approval of the Secretary of Defense.

"(j) DEPENDENT CHILD DEFINED.--In this section, the term 'dependent child', with respect to a member or former member of the armed forces separated as described in subsection (b), means an unmarried child, including an adopted child or a stepchild, who was residing with the member at the time of the dependent-abuse offense resulting in the separation of the former member and--

"(1) who is under 18 years of age;

"(2) who is 18 years of age or older and is incapable of self-support because of a mental or physical incapacity that existed before the age of 18 and who is (or was at the time of the former member's separation) dependent on the former member for over one-half of the child's support; or

"(3) who is 18 years of age or older but less than 23 years of age, is enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense and who is (or was at the time of the former member's separation) dependent on the former member for over one-half of the child's support."

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1056 the following new item:

"1058. Abused dependents: payment of transitional and indemnity compensation.".

(b) EFFECTIVE DATE.--(1) Section 1058 of title 10, United States Code, as added by subsection (a), shall apply with respect to former members of the Armed Forces discharged or dismissed as described in subsection (b) of such section after the date that is three years before the date of the enactment of this Act.

(2) Notwithstanding paragraph (1), no payment may be made under such section 1058 with respect to any period before the date of the enactment of this Act.

There are no more items to read.