

U.S. Department
of Transportation

United States
Coast Guard



Commandant
US. Coast Guard

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COMDTINST 5527.2

COMMANDANT INSTRUCTION 5527.2

11 JUL 1994

Subj: INVESTIGATIONS INTO ADULT PRIVATE CONSENSUAL SEXUAL MISCONDUCT

Ref: (a) Title 10, United States Code, Sections 801-940
(Uniform Code of Military Justice, Articles 1-140)
(b) INVESTIGATIVE ASSISTANCE ((COMDTINST 5520,5(series)))

1. **PURPOSE.** This Instruction establishes policy regarding the initiation of criminal investigations into sexual misconduct, as defined herein. It provides that, as a matter of investigative priorities and resource limitations, U. S. Coast Guard Investigations ((CGI)) will normally refer allegations involving only adult private consensual sexual misconduct to the service member's commanding officer for appropriate disposition. It also provides that CGI may return a request for a criminal investigation to the commanding officer if CGI has independently determined that the request lacks credible information or is not in keeping with established policy.
2. **ACTION.** District Commanders ((ole/oii/diii)) shall ensure their staff and special agents are thoroughly versed in the contents of this Instruction and that investigative procedures detailed herein are implemented.
3. **DISCUSSION.** On 28 February 1994, the Secretary of Defense implemented new regulations on homosexual conduct in the Armed Forces of the United States of America. On 15 March 1994, the Secretary of Transportation directed the Coast Guard implement regulations paralleling those issued by the Department of Defense. Relative to criminal investigations, the new regulations state that "no

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A																										
B		8	26	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
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Defense criminal investigative organization or other **DOD** [Department of Defense] law enforcement organization will conduct an investigation solely to determine a service member's sexual orientation. Investigations will be conducted in an evenhanded manner, without regard to whether the alleged sexual misconduct involves homosexual or heterosexual conduct." In addition, the new regulations state that criminal investigations will not normally be initiated into sexual misconduct where such misconduct is the only offense involved. This instruction makes that guidance applicable to the **U. S.** Coast Guard.

4. DEFINITION.

Sexual Misconduct. Sexual misconduct, for the purposes of this instruction, is defined as a sexual act or acts in violation of Chapter 47 of Title 10 **U. S.** Code that occur between consenting adults, in private, whether on or off a military installation. It does not include any sexual act or acts that involve allegations of force, coercion, or intimidation; abuse of position or rank; fraternization; persons under the age of 16; or conduct that relates directly to applicable security standards for access to classified information. Such other acts may be investigated normally under the provisions of reference (b)!

5. POLICY.

- a. Coast Guard Investigations (**CGI**) shall not conduct a criminal investigation solely to determine whether a service member is a heterosexual, homosexual, or bisexual.
- b. Except pursuant to subsection 6.b.(1) on the following page, Coast Guard Investigations shall not normally initiate a criminal investigation into adult private consensual sexual misconduct where such misconduct is the only offense involved.
- c. Investigations by **CGI** shall be conducted in an evenhanded manner, without regard to whether the alleged adult private consensual sexual misconduct involves homosexual or heterosexual conduct.
- d! The provisions of this Instruction do not provide a basis for challenging the validity of any administrative or criminal proceeding or for excluding the use of any evidence in such proceeding.

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