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## ABSTRACT

The U.S. Senate held a hearing to address two issues facing the nation's armed service academies--honor systems and sexual harassment. This was the first of several oversight hearings to be held regarding the service academies. Two events prompted the Senate to hold these hearings: (1) a cheating scandal at the U.S. Naval Academy that began in 1992; and (2) the publication of a U.S. General Accounting Office (GAO) report in 1994 entitled "DOD Service Academies: More Action Needed to Eliminate Sexual Harassment." The hearing consisted of the presentations of three panels to the Subcommittee on Force Requirements and Personnel. The first panel, consisting of U.S. Ambassador Richard Armitage and Vice Admiral David M. Bennett, discussed the cheating scandal at the U.S. Naval Academy. The second panel, made up of GAO personnel, summarized the findings of their 1994 report on sexual harassment. The superintendents of the three service academies comprised the final panel. They discussed honor systems and sexual harassment at their institutions and the steps the academies had made to address these issues. The hearing document includes the presentations of all three panels as well as text from the GAO report and the "Report of the Honor Review Committee to the Secretary of the Navy On Honor at the United States Naval Academy." (CK)

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S. HRG. 103-550

ED 378 096

# HONOR SYSTEMS AND SEXUAL HARASSMENT AT THE SERVICE ACADEMIES

## HEARING BEFORE THE COMMITTEE ON ARMED SERVICES UNITED STATES SENATE ONE HUNDRED THIRD CONGRESS SECOND SESSION

FEBRUARY 3, 1994

Printed for the use of the Committee on Armed Services

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# HONOR SYSTEMS AND SEXUAL HARASSMENT AT THE SERVICE ACADEMIES

THURSDAY, FEBRUARY 3, 1994

U.S. SENATE,  
SUBCOMMITTEE ON FORCE REQUIREMENTS  
AND PERSONNEL,  
COMMITTEE ON ARMED SERVICES,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10:37 a.m. in room SD-106, Dirksen Senate Office Building, Senator Richard C. Shelby (chairman of the subcommittee) presiding.

Committee members present: Senators Shelby, Nunn, Byrd, and Coats.

Committee staff members present: Arnold L. Punaro, staff director; and Richard D. DeBobes, counsel.

Professional staff members present: Patrick T. Henry and Frank Norton.

Minority staff members present: Richard L. Reynard, minority staff director; and Charles S. Abell, professional staff member.

Staff assistants present: Cindy Pearson and Christina D. Still.

Committee members' assistants present: Phillip P. Upschulte, assistant to Senator Glenn; Terence M. Lynch, assistant to Senator Shelby; C. Richard D'Amato and Lisa W. Tuite, assistants to Senator Byrd; Randall A. Schieber, assistant to Senator Bryan; Christopher J. Paul, assistant to Senator McCain; Richard F. Schwab, assistant to Senator Coats.

## OPENING STATEMENT OF SENATOR RICHARD C. SHELBY, CHAIRMAN

Senator SHELBY. The committee will come to order. We have a number of members that are not here yet, but they will be coming in from time to time. The Subcommittee on Force Requirements and Personnel meets today to receive testimony on the Honor Systems, and on Sexual Harassment at the Service Academies.

This is the first of at least two oversight hearings the subcommittee is planning for this year, regarding the service academies. The timing and selection of the subject matter for today's hearing is the result of two events: The recent completion of important reviews of the honor concept at the United States Naval Academy; and the release of the General Accounting Office Report, entitled "DOD Service Academies: More Actions Needed to Eliminate Sexual Harassment."

The integrity of the honor systems of the Nation's service academies has long been viewed by the Armed Services Committee and

(1)

its subcommittees as a matter of serious national concern. These academies are national institutions, and we have a responsibility to the people of America to exercise on their behalf appropriate oversight of these institutions.

Today, the U.S. Naval Academy is embroiled in a cheating scandal of major proportions that stems from the alleged compromise of an electrical engineering exam. This scandal began in December 1992. It has been an albatross around the neck of the Academy, its leadership, and the brigade for almost 14 months.

The results of this scandal have the potential of dramatically affecting the careers of over 10 percent of the class scheduled to graduate this spring. I say this to emphasize just how seriously this matter is viewed within the committee, and just how important it is that we take the time today to address the facts of this very unfortunate and disappointing event.

In addition to receiving testimony on the honor systems, the subcommittee will also receive testimony on the progress of actions taken to eliminate sexual harassment at the service academies. The fact that the subcommittee will address these two issues in the same hearing should, in no way, be interpreted that we see one or the other issue as being of lesser importance. Quite the contrary. We are addressing both issues today, because they are both so very important.

We will hear witnesses on three panels today. The first panel consists of Ambassador Richard Armitage and Vice Adm. David M. Bennett, U.S. Navy.

Ambassador Armitage recently served as the Chairman of the Committee of the Naval Academy Board of Visitors. This was charged to review the honor concept at the Academy, in light of the December 1992 compromise. Vice Admiral Bennett is Inspector General of the Department of the Navy. He recently completed a 7-month investigation of the cheating scandal.

It is the subcommittee's hope that this panel will be able to help us understand the systemic problems that contributed to a climate in which such a large number of Midshipmen would find it acceptable to engage in activities at variance with the Academy's honor concept.

In the second panel, Mr. Mark Gebicke and Mr. William Beusse of the General Accounting Office will present the report of the GAO's review of the issue of sexual harassment.

In the third and final panel today, we will receive testimony on both of these issues from the three superintendents of our service academies: Army Lt. Gen. Howard Graves, Rear Adm. Thomas Lynch, and Air Force Lt. Gen. Bradley Hosmer.

At the outset, regarding these issues in general and the Naval Academy cheating scandal in particular, I would like to be very clear on several points.

First, this subcommittee needs to get to the bottom of a very serious, complicated matter. To do this, this subcommittee must understand the underlying or systemic causes of this scandal, and the evolution of events following the initial reports of a compromise. The subcommittee is not in any way involved in a witch hunt here. Nonetheless, I fully expect that our witnesses today will be asked some very tough, very direct, but very fair questions.

Second, I would note that the Department of the Navy is in the process right now of adjudicating the cases of those Midshipmen implicated in the cheating scandal. In order to ensure that our activities today do not, in any way, influence or create the appearance of influencing the outcome of these cases, I would ask that everyone involved refrain from the discussion of any individuals.

Before we begin our first panel, I would like to acknowledge Senator Coats, who is not here with us yet, but will join us as the ranking Republican member; and I am sure he will have an opening statement later.

Ambassador Armitage, any statements you would like to make? Your written statement will be made part of the record, in its entirety, as well as Admiral Bennett's.

**STATEMENT OF AMBASSADOR RICHARD L. ARMITAGE, CHAIRMAN, U.S. NAVAL ACADEMY, BOARD OF VISITORS COMMITTEE TO EXAMINE THE HONOR CONCEPT**

Ambassador ARMITAGE. Thank you very much, Mr. Chairman. I would like to make a few general opening remarks.

On September 27, 1993, the Secretary of the Navy established the Honor Review Committee and, as you suggested, charged us with reviewing the concept, the process, and the effectiveness of the U.S. Naval Academy honor concept.

The committee was made up of myself, Mr. Jim Cannon, and Senator John McCain. We were augmented by a group of distinguished attorneys: Lloyd Cutler, Ms. Ronnie Liebowitz and Judge Harold Wingate. Admiral James Calvert, a former Superintendent at the Naval Academy, joined our committee; and we were ably assisted by Mr. Jeff McFadden of Mr. Cutler's firm, and Mr. Chris Paul of Senator McCain's staff.

We conducted extensive interviews, 60-some hours of hearings. We met with and talked with representatives of the U.S. Military Academy, U.S. Air Force Academy, and are particularly grateful to both General Graves and General Hosmer for their enormous assistance in our investigations. We investigated the honor concepts and the honor theories at other universities, civilian universities, et cetera.

We, as a committee, came to the view that the timeless notions, Mr. Chairman, of the U.S. Naval Academy mission—that is: Honor and Integrity and Loyalty and Courage—make quite clear the Academy's primary goal. And the committee further took the view that the U.S. Naval Academy should be the soul of the Navy. It should be the repository of those core values and traditions we hold so dear.

But we noted that, over several decades, the U.S. Naval Academy had become a testing ground for the leadership theory of the day in the Navy: Whether it was technical competence, nuclear engineering, or men of letters. There was no consistent, steady emphasis on character development at the Naval Academy.

And, in our extensive hearings, the committee found that within each element of the Naval Academy community, of the Naval Academy family, there were some who held the blase attitude that honor was on the back burner. While it was assumed that honor was internalized by every Midshipman during the plebe summer

experience, it was equally clear that that assumption was undermined by the increasingly cynical attitude that developed towards honor during a Midshipman's next 4 years.

Mr. Chairman, it was that drift off course from the importance of honor as an aspect of character, and its crucial relationship to leadership, which formed the basis of our committee's report.

From induction day, a Midshipman must realize that it is the content of their character, and the degree of attention paid to it by the Academy, which are central to their development as future U.S. Navy or U.S. Marine Corps officers.

So our bottom line, Mr. Chairman, was that other universities could graduate excellent students, and that other universities could graduate excellent athletes. But service academies—and in this case, the U.S. Naval Academy—had a unique opportunity to focus on character development. We believe this is why you and I, as taxpayers, make investments in an Academy to afford that opportunity to focus on character development.

So we came to the view that the U.S. Naval Academy was, indeed, at a crossroads; and unless, once again, they can prove to be the crucible of leadership, then the very existence of these Academies will be called into question.

I would like to stress, Mr. Chairman, one thing: In our committee's deliberations, we would have to note that the present Superintendent, Admiral Lynch, and the present Commandant, Admiral Select Padgett are not responsible for the problems of honor at the Naval Academy. We were very clear in our view that this is a problem that has developed over decades.

And indeed, in our report, we gave credit to Admiral Lynch and to Commandant Padgett, for recognizing when they came aboard that something was wrong. Something was amiss at the U.S. Naval Academy, and they attempted to adopt a strategic plan, to bring together the Naval Academy family and to substitute positive leadership for negative leadership. So let us be clear on this: These problems at the Naval Academy did not just crop up 2 years ago, Mr. Chairman.

Finally, if character development and honor once again are to become the linchpins of the raison d'être of the Naval Academy, then the Secretary of the Navy or the Chief of Naval Operations are going to have to restore the traditional relationship between the Naval Academy and the Fleet: Where the U.S. Naval Academy sets the standard for the Fleet, and not vice versa.

And, to assist the Secretary and the CNO in this attempt, our committee made a series of recommendations, both on the substance of honor, as well as on the process of honor. We made 9 substantive recommendations on the substance of honor, and 14 on the process. We can go into those, at your pleasure, Mr. Chairman. So why do I not let it stop there? Our report is available, I believe, and you have made it a part of the record. I would be delighted to respond to questions.

[The Honor Review Committee Report referred to follows:]

**REPORT OF THE  
HONOR REVIEW COMMITTEE  
TO THE SECRETARY OF THE NAVY  
ON HONOR  
AT THE UNITED STATES NAVAL  
ACADEMY**

The Honorable John H. Dalton  
SECRETARY OF THE NAVY  
The Pentagon  
Washington, D.C.

December 22, 1993

Dear Secretary Dalton:

The Committee formed by the United States Naval Academy Board of Visitors at your suggestion to examine the Honor Concept at the Naval Academy has completed its work and provides its Report.

The Committee respectfully recommends that an honor review committee or the Board of Visitors be tasked to monitor and report on implementation of your recommendations at least twice a year for the time being.

The Committee feels honored and privileged to have had the opportunity to make a contribution to an institution vital to our Nation.

Respectfully submitted,

*Richard L. Armitage*  
Ambassador Richard L. Armitage, Chairman

*James F. Calvert*  
Vice Admiral James F. Calvert, USN (Ret)

*James M. Cannon*  
Mr. James M. Cannon

*Lloyd N. Cutler*  
Mr. Lloyd N. Cutler

*Ronnie F. Sapowitz*  
Ms. Ronnie F. Sapowitz

*John McCain*  
The Honorable John McCain

*Henry T. Wingate*  
The Honorable Henry T. Wingate

*William E. McEadden*  
Mr. William E. McEadden, Counsel

*Christopher J. Paul*  
Mr. Christopher J. Paul, Researcher

*Robert A. Manning*  
Mr. Robert A. Manning, Recorder

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## SUMMARY FINDINGS

There have been several serious honor violation incidents in the past five years at the Naval Academy, of which the current Electrical Engineering (EE311) compromise is the most extensive in scope and magnitude. Despite the number of recommendations directed at increasing and improving the thrust of honor education in a 1990 Special Report,<sup>1</sup> the steps taken to elevate honor education at the Naval Academy have not produced an overall program that organizes and integrates all parts of the Academy and focuses their attention on the primary goal of the institution: to educate and train officers of character.

The timeless notions of the Naval Academy's mission—honor, integrity, loyalty, courage—make clear the Academy's primary goal. But the words are not enough. The Committee recognizes the very dedicated, committed, and concerned elements of each part of the Academy—administration, faculty, coaches, and midshipmen—that have strived to focus attention on and develop honor training and the extensive efforts of the present Superintendent and Commandant. Nonetheless, in its extensive hearings, the Committee found within each element of the Academy community, there are some who have the *blasé* attitude that honor is on the back burner. While it is assumed that honor is internalized by every midshipman in the Plebe Summer experience, it is clear that this assumption is undermined by the increasingly cynical attitude that develops towards honor, in stark contrast to Plebe Summer, during a midshipman's next four years.

It is this drift off course from the importance of honor, as an aspect of character, and its crucial relationship to leadership, that forms the basis for the Committee's Report and Recommendations.

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<sup>1</sup> See Report of the Informal Review Board on the Honor Concept and Conduct System at the U.S. Naval Academy, Vice Admiral J.M. Boorda, Chairman; August 10, 1990.

## INTRODUCTION

The mission of the Naval Academy is

"To develop midshipmen morally, mentally, and physically and to imbue them with the highest ideals of duty, honor and loyalty in order to provide graduates who are dedicated to a career of naval service and have potential for future development in mind and character to assume the highest responsibilities of command, citizenship, and government."

OPNAV Notice 5450, December 1, 1987.

The Honor Concept of the Brigade of Midshipmen of the United States Naval Academy states,

"Midshipmen are persons of integrity: They do not lie, cheat, or steal."  
USNAINST 1610.3E.0101.

#### The Honor Review Committee of the Naval Academy Board of Visitors

Responding to concerns expressed by Secretary of the Navy John H. Dalton, the U.S. Naval Academy Board of Visitors created the Honor Review Committee at its meeting on September 27, 1993. It comprises seven members, three to represent the Board of Visitors: Senator John McCain, Ambassador Richard L. Armitage, and Mr. James M. Cannon. The Secretary of the Navy designated Mr. Lloyd N. Cutler, Esq., Judge Henry T. Wingate, and Ms. Ronnie F. Liebowitz, Esq. The Board of Visitors also appointed Vice Admiral James F. Calvert, USN (Ret.). Ambassador Armitage served as Chairman. Mr. Jeffrey E. McFadden, Esq., served as Counsel to the Committee, Mr. Christopher J. Paul served as resource and researcher, and Mr. Robert A. Manning served as recorder. Biographical information is contained in Appendix A.

The Committee was charged to

- (1) Review the circumstances of the December 1992 compromise of an Electrical Engineering exam and the investigations that followed; and
- (2) Review the concept, process, and effectiveness of the Naval Academy Honor Concept; and
- (3) Report its findings and recommendations concerning the investigating procedure and the Honor Concept as presently understood at the United States Naval Academy to the Board of Visitors...."

Minutes of the Board of Visitors meeting of September 27, 1993.

The Committee's mandate was given a particular sense of urgency by the turmoil surrounding the December 1992 Electrical Engineering exam (EE311) compromise. The Committee concentrated its research on how the Honor Concept works, how it fits into the implementation of the Academy's mission, and how the Academy has responded to concerns regarding honor raised by various members of the Academy community.

The Committee particularly commends Rear Admiral Thomas C. Lynch, USN, the present Naval Academy Superintendent, and Captain John B. Padgett III, USN, the present Commandant of Midshipmen, for their recognition of problem areas at the Academy and their immediate attempts to address them. The creation and adoption of a strategic plan to develop a leadership environment that encourages upperclassmen, officers, and faculty to provide pathways rather than obstacles to leadership deserve praise and are important first steps in accomplishing the orientation and focus that our recommendations will address. The Committee also notes the efforts of Brigade Honor Chairman Randy Stoker, Deputy Vice Chairman Kevin P. Shaeffer, and the Brigade Honor Committee to upgrade training, review weaknesses, and address them with concrete policy recommendations.

The Committee conducted a wide range of hearings, interviews, and discussions with a cross-section of the Academy community, including the Superintendent, the Commandant, faculty, officers, company officers, athletic staff, the Brigade Honor Committee, and midshipmen. The Committee also solicited and is grateful for the assistance of Lieutenant General Howard D. Graves, USA, Superintendent of the United States Military Academy, Lieutenant General Bradley C. Hosmer, USAF, Superintendent of the United States Air Force Academy, and those institutions' representatives who met with us. A list of hearings and activities is contained in Appendix B. The Committee reviewed an extensive inventory of documentation, a list of which is contained in Appendix C.

### Honor at the Naval Academy: An Overview

Honor...duty...loyalty...character. These words, which form the basis of the Naval Academy's mission, have as their common thread one irrefutable principle and mandate: the development of character. The Committee believes this singular and transcendent goal must be the polestar by which every member of the Naval Academy is guided, whether officer, faculty, athletic coach, or midshipman. Every other laudable goal, be it academic excellence, athletic prowess, or community involvement, is secondary to this overarching purpose.

Service Academies have a unique opportunity and special responsibility to provide an environment that cultivates, indeed demands, the internalization of honor, loyalty, integrity, and moral courage, the qualities essential to developing leadership. Instilling the highest sense of honor in midshipmen is at the heart of character development. Annapolis "must graduate special persons—officers who will place the interests of the country and the welfare and safety of their subordinates above their own."<sup>2</sup>

Character development is far more than not lying, cheating, or stealing. The Honor Concept is more than simply a set of rules or procedures; it is a "way of life."<sup>3</sup> Every future Navy and Marine Corps officer must weave honor into the fabric of his or her being, professional and personal. From Induction Day, midshipmen must realize that the content of their character, and the degree of attention given to it by the Academy, are central to their development as future officers. When midshipmen adopt and internalize the honor ethos, it must not be solely for fear of punishment, but because they aspire without reservation to the right course of action.

Indeed, for decades, the Naval Academy has put before its new Plebes the ideals embodied in the timeless notion of the professional naval officer and requires them to memorize the "Qualifications of a Naval Officer" attributed to John Paul Jones:

"It is by no means enough that an officer of the Navy should be a capable mariner. He must be that, of course, but also a great deal more. He should be as well a gentleman of liberal education, refined manners, punctilious courtesy, and the nicest sense of personal honor."

"He should be the soul of tact, patience, justice, firmness, and charity. No meritorious act of a subordinate should escape his attention or be left to

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<sup>2</sup> Vice Admiral William P. Lawrence, who, as a midshipman, developed the present Honor Concept. (*Washington Post*; August, 1980.)

<sup>3</sup> USNAINST 1610.3E.0108.

pass without its reward, even if the reward is only a word of approval. Conversely, he should not be blind to a single fault in any subordinate, though, at the same time he should be quick and unflinching to distinguish error from malice, thoughtlessness from incompetency, and well meant shortcoming from heedless or stupid blunder."

From a composite letter of John Paul Jones' phrases and clauses as compiled by Augustus C. Beull!

But upon the Brigade's return at the end of the summer, these lofty and enlightened ideals are soon overshadowed, as, to paraphrase Admiral Lynch, every midshipman is pulled at once in different directions by the extreme competing demands of academic, athletic, and training requirements. As a consequence, the Honor Concept has become, to many midshipmen, just another obstacle to be avoided or to overcome, rather than an ideal that can indeed change the way they live and the way they view themselves.

The Committee also observed that the Naval Academy has in recent times viewed the Honor Concept more as a punitive process than an aspirational ideal. This has led to false assumptions in regard to the role of the Honor Concept at the Academy—so long as the process was deemed to be working, the Concept itself was deemed intact and viable. The Committee believes that while the procedural aspects of the Honor Concept need strengthening, the process itself is workable.

However, the substance of the Honor Concept as the basis of character development has become seriously neglected. Consequently, the professional development of today's midshipman is measured more heavily by academic performance than by internalization of notions of honor, loyalty, integrity, and moral courage.

The Naval Academy is truly at a crossroads, and it must make the development of character its number one priority—ahead of every other goal, academic, athletic, or military. As stated above, the Service Academies are uniquely suited to accomplish this task and, unless they make it their keystone, they may be in serious difficulty. We, as a society, make the heavy investment in these time-honored institutions mainly because we recognize and embrace their capabilities in character building. Unless these institutions prove themselves crucibles of leadership that can add a special ingredient to our armed forces, the rationale for their continued existence will be called into question.

It is clear that confidence in the Honor Concept cannot be forced down from above. The Brigade itself must believe in, must operate, and within necessary legal constraints, must own the Honor Concept. The Honor Concept must be their property and their means of developing character within their own ranks and by their own efforts, if it is to succeed.

The Naval Academy and the Navy leadership at all levels have paid too little attention for too long a time to the development of character at the Naval Academy. To strengthen the process of character development through the Honor Concept, the Committee makes the following recommendations:

## I. THE SUBSTANCE OF THE HONOR CONCEPT

### A. The Navy Leadership and Character Development

Any examination of character development and honor at the Naval Academy cannot be conducted in a vacuum; as a microcosm of the larger Navy culture, the Naval Academy has come to reflect, and indeed sometimes intensify, the prevailing wisdom in the Fleet regarding theories of leadership development. The Committee believes that this state of affairs represents an inversion of the more traditional relationship between the Naval Academy and the Fleet: the Naval Academy, the very soul of the Navy, the repository of its core values, history, and traditions, the benchmark of its leadership, has become, over the last four decades, a testing ground for the leadership theory of the day, theories sometimes detached from the timeless principles of honor, loyalty, personal integrity, and moral courage.

If character development and honor are to once again become the linchpins of the Naval Academy mission, its *raison d'être*, the Secretary of the Navy and the Chief of Naval Operations must restore the traditional relationship between the Naval Academy and the Navy, in which the Naval Academy sets the Fleet standard for military professionalism. To assist the Navy leadership in these efforts, the Committee makes the following recommendations:

**Recommendation 1:** Increase the Superintendent's tour at the Naval Academy to four years. The Superintendent would serve at the rank of Rear Admiral (Upper Half) during the first two years in the billet, with promotion to Vice Admiral in the third year if the officer's performance so merits.

**Recommendation 2:** Detail only the most exceptional Navy and Marine Corps officers, both junior and senior, to Naval Academy billets. The Secretary of the Navy should task the Chief of Naval Personnel and the Superintendent personally to screen battalion and company officer candidates. Rate all such officers in the top one percent (1%) of their peer group without ranking.

**Recommendation 3:** The Secretary of the Navy and the Chief of Naval Operations should personally visit the Academy on an annual basis exclusively to address the Brigade on a topic of character development.

**Recommendation 4:** Create an O-6 billet at the Naval Academy for a Naval Academy Honor Officer (Honor Officer). The billet would be filled by a Navy or Marine Corps line officer who is a Naval Academy graduate with flag or general officer potential. This officer must be exceptional and would be personally screened by the Secretary of the Navy and the Chief of Naval Operations. The Honor Officer would serve a three-year tour and would report directly to the Superintendent. He or she

would be assisted full-time by an O-4 Navy or Marine Corps staff judge advocate (preferably a Naval Academy graduate) and a Chief Yeoman or civilian equivalent.

**Recommendation 5:** The Secretary of the Navy and the Chief of Naval Operations should consider the applicability of each of the recommendations contained in this Report for implementation at the Naval Academy Preparatory School.

### 8. The Naval Academy Role In Character Development

As noted above, the Naval Academy, like the Navy, has been buffeted by the shifting winds of what might be called the leadership theory of the day—winds blowing even more strongly in our society at large. Throughout, there has been a lack of sustained focus on the development of character as the essential mission of the institution.

This lack of sustained focus is exacerbated by the existence of an adversarial environment at the Naval Academy that has tended to pit upperclass midshipmen against Plebes, company officers against midshipmen, and faculty against students. The historical justification for such an environment was the apparent belief that the way to graduate good leaders was simply to drive out all of the bad ones. One result, whether intended or not, was that negative leadership in the form of meaningless harassment, degradation, and condescension, created an "us versus them" or "cops and robbers" mindset that subjugated institutional loyalty and professional collegiality to an unhealthy distortion of the proscription "don't bilge your classmate." It was thus inevitable that the Honor Concept, like the Administrative Conduct System, would come to be viewed as a collection of proscriptions ("thou shalt not") rather than prescriptions ("thou shalt").

The Academy's recent move towards an emphasis on positive leadership development is encouraging. But this move does not have as its primary goal the development of character. Therefore, the Committee makes the following recommendations:

**Recommendation 6:** Define the core duties of the Honor Officer to be as follows:

- Creation and Implementation of the Naval Academy Character Development Plan (the "Plan"). See Section I.B., Recommendation 8. The Honor Officer would ensure that the Plan embraces all substantive and procedural aspects of character development and the Honor Concept. Just as important, the Honor Officer would ensure that the Plan integrates character development across the Naval Academy community.

- The conducting of periodic surveys and discrete studies to evaluate the success of the Plan. Chief among these surveys would be an Honor Concept survey taken every other year and designed to measure the internalization of the Honor Concept by each class at least twice. Such duties would also include reports of the survey/study results in writing to the Superintendent.

- Maintenance of records, opinions, and statistics associated with the honor process.

- Service as principal advisor and trainer to the Brigade Honor Committee, its boards, midshipman advisors, and Midshipman Investigating Officers.

- Ensuring that each honor case clears all Academy processing within the minimal practicable time. See, e.g., Recommendation VIII(C) of the Final Report of the Commandant's Working Group on Honor, attached as Appendix D.

- Reviewing and recommending revisions of the Honor Instruction for overall simplification and incorporation of those recommendations in this Report implemented by the Secretary of the Navy.

Recommendation 7: Draft and publish to all hands at the Naval Academy a treatise on character development premised on "thou shalt" rather than "thou shalt not" principles. The goal of this treatise would be to set out, in clear and concise language, the philosophic underpinnings of naval leadership and leadership development at the Naval Academy. At a minimum, the treatise would address the following topics:

- honor
- loyalty, especially classmate loyalty and the concept of "loyalty up, loyalty down" (See Recommendation IX of the Final Report of the Commandant's Working Group on Honor, attached as Appendix D.)
- moral courage
- duty
- personal integrity
- courtesy, both up and down the chain of command
- conduct becoming a naval officer, with an emphasis on eliminating the distinction drawn by many midshipmen between honor and conduct as essential elements of character development

In deliberating the proper treatment of these time-honored principles, the Committee considered at length the possible inclusion of a non-toleration clause within the Honor Concept, as it appears in the honor codes of West Point and Colorado Springs.<sup>4</sup> The testimony heard by the Committee makes clear that the majority of the Naval Academy community, from the Superintendent down the chain of command and throughout the Brigade, does not believe that a non-toleration clause is a positive tool in character development. The Superintendent's Strategic Plan and other changes in the Academy's orientation have attempted to move away from a model of leadership grounded in fear rather than aspiration; to incorporate a non-toleration clause into the Honor Concept would undermine these laudable goals.

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<sup>4</sup> It is a separate honor offense at West Point and Colorado Springs to tolerate the commission of an honor offense.

The self-policing goal of a non-toleration clause has traditionally been handled at the Naval Academy by the option of approaching and counseling a midshipman suspected of an honor violation. As discussed below, the Committee has made a number of recommendations that greatly strengthen the approach-and-counsel option. Moreover, the data provided by the Service Academies demonstrate that midshipmen do report suspected honor violations to the same degree as the cadets at West Point and Colorado Springs.

**Recommendation 8:** Create a Character Development Plan that contemplates the following:

a. Unification of all Academy efforts aimed at character development. The efforts of the administration, the academic departments, the athletic department (including varsity athletics), extra-curricular activities, the Office of the Chaplains, and the Brigade Honor Committee must be integrated. Accordingly, the Plan would task the Honor Officer with the following:

- Work with the Academic Dean and Objectives Review Board to review the academic curriculum and ensure that academic courses contain a suitable emphasis on the goals of the Plan. At a minimum, the curriculum must afford every midshipman one two-hour course per academic year that is directly focused on character development. The Committee wishes to emphasize that any such effort should integrate character into the curriculum as it currently exists, not add to an academic load that already makes substantial demands on a midshipman's time.

- Work with the Director of the Division of Professional Development to overhaul the leadership curriculum such that it places effective emphasis on character development.

- Work with the Director of Athletics to ensure that all athletic curricula and programs support the aims of the Plan, with an emphasis on placing varsity athletes in meaningful leadership positions within the Brigade.

- Work with the Commandant and staff to ensure that the military administration and training conducted by the staff, particularly battalion and company officers, have character development as their primary purpose.

- Work with the Senior Chaplains to assure their appropriate input in the plan's development.

- Integrate the goals of the Plan with the efforts of the Strategic Plan to increase unit cohesion through a shift to positive leadership.

b. Provision of comprehensive education and training encompassing all four

years of a midshipman's tenure at the Naval Academy. The Committee strongly believes that substantial improvements must be made in the education and training of midshipmen in the areas of character development and honor. By "education," the Committee contemplates the means by which the substantive notions of character—honor, loyalty, personal integrity, and moral courage—are presented to, and internalized by, midshipmen. By "training," the Committee contemplates the means by which midshipmen are imbued with expertise in the honor process. This education and training would include the following:

- Inclusion in the candidate application package of a pamphlet on character and two recommendation forms requiring teachers, coaches, or other objective persons to write solely on the character of the applicant. These materials would serve to put the candidate on notice of the degree to which honor is emphasized at the Academy and would assist the Dean of Admissions in screening applicants.

- The requirement as a midshipman's first official act on Induction Day of the writing of an essay on character. These essays would be reviewed by summer company officers and would generate counseling as necessary by those officers. The summer company officers would then forward summaries of the results to the Honor Officer as a means of measuring the state of the new class' understanding of character.

- Revision by the Deputy Vice Chairman for Education and the Honor Officer of the Plebe Summer Honor Training Plan, using the West Point summer training plan as an initial model.

- Assignment of a first class mentor to each Plebe at the beginning of the academic year. The sole purpose of the mentoring role would be character development, and the first classman would be accountable to his or her company officer, the Commandant, and the Honor Officer for the character development of his or her charge.

- The requirement of mandatory attendance by every midshipman at a mock and/or live (when scheduled) Brigade Honor Board by the end of fourth class year.

- The development of incentives for participation as honor representatives.

- The requirement for company officers to give lectures on Fleet applications of character development and honor to each class in his or her company at least once per semester and to discuss the results of honor surveys with a view to developing company dialogue and direction.

c. Provision of Education and Training of Officers, Faculty, and Coaches. The Committee strongly believes that the education and training of officers, faculty, and coaches is as essential to the restoration of character development, as the core of the

Naval Academy experience, as is the education and training of midshipmen. No one should underestimate the responsibility the officers, faculty, and coaches have in character development at the Academy. Their education and training, as a means of reinforcing and cultivating this responsibility, must be sustained, consistent, meaningful, and must have the personal attention of both the Superintendent and the Honor Officer. To that end, this education and training should include the following:

- Annual, mandatory orientation developed by the Honor Officer and the Deputy Vice Chairman for Education on the Character Development Plan, including Honor Concept expectations and processes. Such orientation would 1) emphasize the importance of the role officers, faculty and coaches play in character development and 2) delineate specific responsibilities and the tools available to carry them out, including a reemphasis on aptitude and counseling reports. In particular, the training would make clear that the issuance of a bad or failing grade is a prohibited method of character development. See USNAINST 1610.3E.0501. See also Recommendation II of the Final Report of the Commandant's Working Group on Honor, attached as Appendix D.

**Recommendation 9:** The Committee feels strongly that one additional responsibility in the character development calculus must be borne squarely by the Academic Dean and the academic departments. The following special responsibilities should therefore be assigned to the Academic Dean:

- Preparation of an instruction for the Superintendent's signature

- 1) absolutely prohibiting the administration of an exam, test, or quiz more than once;

- 2) requiring the writing of a new exam if there is a suspicion that an exam has been lost, misplaced, or stolen; and

- 3) requiring that, if there is evidence that an exam has been compromised after its administration, the Superintendent and Honor Officer make an immediate determination if the extent of the compromise requires re-administration, without delay, of a new, rewritten exam.

- The tasking of academic department heads with development of academic honesty (plagiarism) standards and tasking division directors with ensuring uniformity of such standards across their respective academic departments.

- Ensuring promulgation of academic honesty standards to all midshipmen and faculty and further ensuring that such standards are fully incorporated into all character development education and training plans.

See also Recommendation III of the Final Report of the Commandant's Working Group

on Honor, attached as Appendix D.

Finally, the Committee would be remiss if it did not acknowledge the continuing problems surrounding the Electrical Engineering 311 course. The Committee does not pass judgment on the merits of the arguments on all sides of the issue, but believes that the Secretary should cause a review to be made of the content of the course, its consonance with the needs of the Navy, and the attitudes of both the midshipmen taking the course and the faculty teaching it. The Superintendent, the Commandant, and the Academic Dean have made efforts to address and correct these problems, which they believe have succeeded. The Committee strongly recommends that these initiatives be carried forward and not be permitted to lag or slacken.

## II. PROCEDURAL ASPECTS OF THE HONOR CONCEPT

The Honor Concept was developed by the midshipmen "to maintain their own highest ethical standards." USNAINST 1610.3E.0102. The Committee endorses the philosophy that the Brigade of Midshipmen has primary ownership of the Honor Concept pursuant to the authority of the Superintendent as commanding officer. Throughout its deliberations, however, the Committee found that confidence in and ownership of the Honor Concept has been substantially eroded.

The Committee believes the Honor Concept, as an administrative procedure with a maximum result of separation with an honorable discharge, does provide fundamental fairness. However, because of the need to instill ownership and restore confidence in the Honor Concept, the Committee makes the following observations and recommendations:

### A. Governing Instructions

Although the Committee recognizes that the definitions in USNAINST 1610.3E.0105 regarding lying, cheating, and stealing include all elements of the Honor Concept, these definitions are cumbersome and should be simplified. The definitions should be revised to reflect the Committee's observations and Recommendation 9 in Section I.B of this Report.

### B. The Counseling and Reporting Process

The Committee believes it is important that the Naval Academy maintain its present Honor Concept including the absence of a non-tolerance clause. See Recommendation 7 in Section I.B of this report for discussion.

**Observation 1:** The counseling of midshipmen regarding an honor offense and reporting of such counseling is neither consistent nor systematic.

**Recommendation 1:** Anyone who counsels a midshipman should make a written report of counseling and submit it to the Office of the Brigade Honor Chairman, unless the observer determines no violation occurred. The counseling records shall be kept confidential and be retained by the Office of the Brigade Honor Chairman for use at Brigade Honor Board sanction deliberations or Performance Evaluation Boards. Upon graduation, the midshipman's counseling record should be destroyed. The Committee endorses the 1993-1994 Brigade Honor Committee Formal Counseling Policy, attached as Appendix F, and recommend it be adopted.

**Observation 2:** The Brigade Honor Chairman has no written evidentiary standard guiding the decision to drop a reported violation, refer it for counseling, or refer it to 1) a

Midshipman investigating Officer pursuant to the Honor Instruction, 2) the Administrative Conduct System, or 3) the military criminal justice system (UCMJ). Moreover, although the Brigade Honor Chairman routinely consults with the Ethics Advisor and the Commandant's staff judge advocate in making the initial jurisdictional decision, there is no written requirement that he do so.

**Recommendation 2:** At both the pre-investigation and post-investigation stages, the Brigade Honor Chairman, in consultation with the Naval Academy Honor Officer and his staff judge advocate, should determine whether probable cause exists to refer the charge, and if so, whether it should be treated under the, 1) Honor Instruction, 2) Administrative Conduct System, or 3) military criminal justice system (UCMJ). If the matter falls within the jurisdiction of the Honor Concept, the Brigade Honor Chairman should be able to exercise his customary authority, including the authority to either drop the case or refer the midshipman for counseling. Additionally, the Committee recommends establishing a Battalion Counseling Board as proposed by the Commandant for inclusion in the Honor Instruction. See Commandant's Standard Operations and Regulations Manual, Section 3.0407, attached as Appendix E.

### C. The Investigative Process

**Observation 3:** Although the accused has the right to review evidence, it is unclear at what point in the process this occurs.

**Recommendation 3:** Once the Brigade Honor Chairman decides to refer a case to a Brigade Honor Board, the Brigade Honor Chairman should provide the accused immediate and complete access to the record of the investigation and all evidence, and should provide copies of documentation in furtherance of USNAINST 1610.3E.0302.h,i.

**Observation 4:** A Company officer is not consistently informed when a midshipman in his or her respective company is being investigated by the Brigade Honor Committee.

**Recommendation 4:** USNAINST 1610.3E.0404.a, which requires the Ethics Advisor to notify the accused's company officer upon receipt of a case by the Brigade Deputy Vice Chairman for Investigations, should be followed to the letter and enforced by the Honor Officer.

**Observation 5:** Large conspiracy cases involving honor offenses may overwhelm the honor process.

**Recommendation 5:** The Brigade Honor Chairman, in consultation with the Honor Officer and his staff judge advocate, should consider the complexity and scope of the suspected violation and may refer the matter for a Judge Advocate General Manual investigation and/or the convening of a special board by the Superintendent.

#### D. The Deliberative and Voting Process

**Observation 6:** Brigade Honor Board membership currently consists of seven voting members.

**Recommendation 6:** Increase the number of voting Brigade Honor Board members to nine. This would enhance training, education, participation, and deliberation.

**Observation 7:** A finding of violation requires only a simple majority vote (four out of seven).

**Recommendation 7:** A finding of violation should require a supermajority vote (six out of nine). This requirement is consistent with the gravity of the sanctions involved and should lead to fewer overturned decisions by the Commandant and Superintendent, who have been troubled in the past by close votes (i.e., 4-3). This would in turn serve to increase the Brigade's confidence in and sense of ownership of the Honor Concept.

**Observation 8:** An accused has the right to consult with and be advised by free military counsel and/or to retain civilian counsel at his or her own expense. However, counsel for the accused is not permitted to attend Brigade Honor Board proceedings. USNAINST 1610.3E.0302.b.

**Recommendation 8:** Consistent with current practice, the Honor Instruction should state that an accused has the right to have legal counsel outside the hearing room and, at the discretion of the Presiding Officer, be allowed reasonable opportunity to consult with such counsel during the hearing.

**Observation 9:** No commissioned officer serves in either a voting or monitoring capacity on a Brigade Honor Board.

**Recommendation 9:** This practice should remain unchanged given the tasking of the Honor Officer. See Recommendation 6 in Section I.B setting forth the duties of the Honor Officer at the Naval Academy.

**Observation 10:** The current standard of proof for a finding of violation is a preponderance of the evidence.

**Recommendation 10:** The standard of proof should remain unchanged.

**Observation 11:** The Brigade has a general misperception that the Honor Concept is a single-sanction system, with no sanction short of separation. In fact, pursuant to USNAINST 1610.3E.0409, *et seq.*, there are other sanctions available to the

Commandant and Superintendent of which the Brigade is not generally aware: mandatory counseling and resort to punishments under the Administrative Conduct System, including probation.

**Recommendation 11:** Honor sanctions should be separate and distinct from punishments meted out under the Administrative Conduct System. In no case should Administrative Conduct System punishments be substituted for these sanctions. While the Committee recognizes that the Honor Concept derives its separation authority through the Administrative Conduct System, the Committee strongly feels that establishment of a separate and distinct set of honor sanctions will eliminate the general misperception that it is a single-sanction system. This will enhance the Brigade's sense of ownership in the Honor Concept.

The Committee recommends the creation of the sanction of Honor Probation. Honor Probation should include

- a. the development and completion of a personal honor development program, as per Recommendation IV(A) in the Final Report of the Commandant's Working Group on Honor, attached as Appendix D;
- b. restriction to the Yard;
- c. prohibition of participation in sports and extra-curricular activity contests or performances but permission to participate in practices;
- d. prohibition of representation of the Academy outside the Yard in any capacity;
- e. loss of stripes and any other position of authority;
- f. delayed graduation if the offense is committed by a first class midshipman with less than three months to graduation; and
- g. automatic separation if the accused commits any honor offense or 5000 or 6000 series conduct offense during the probation period.

The Committee believes that the time periods for honor probation should be limited to three or six months.

The decision to impose honor probation for one of these two time periods (as opposed to separation) should be guided, in the first instance, by a determination that the accused is capable of redeeming his or her honor. Once that determination is made, the duration of the probation should be guided by the following factors:

- a. the gravity of the offense;
- b. sincere self-referral
- c. sincere self-admission prior to a hearing by a Brigade Honor Board;
- d. the effect of the duration of the probation on the accused's rank, privileges, and activities; and
- e. the deterrent value of punishment to others.

Moreover, the Committee believes that Honor Probation should place a higher burden on and require a higher degree of accountability from those in leadership positions.

**Observation 12:** At present, a Brigade Honor Board makes no recommendation with respect to sanction. Recommendation 9 of the Vice Admiral J. M. Boorda Report of August 10, 1990, advised that a Brigade Honor Board should discontinue its practice of making a separation/retention recommendation to the Commandant. The Boorda Report did so on the basis of its expressed belief that the spectre of separating a fellow midshipman adversely affected a Brigade Honor Board's ability to make an objective finding of fact regarding violation.

**Recommendation 12:** An Honor Concept employing a multiple sanction system will substantially mitigate, if not eliminate, a Brigade Honor Board's unwillingness to make a finding of violation. A Brigade Honor Board should reassume responsibility for making a sanction recommendation. Deliberation for making a recommendation for sanctions suited to the gravity of the offense should be made immediately after a finding of violation. The deliberation should be conducted on the basis of the accused's full service record (precisely the same factors available to the Commandant and Superintendent when they make the same deliberation), including any record of honor counseling provided to a Brigade Honor Board by the Brigade Honor Chairman and the recommendation of the accused's company officer. A vote for a sanction recommendation should be by secret and written ballot and should require a simple majority vote (five out of nine). The Committee recommends a simple majority vote in this instance because the sanction recommendation is advisory in nature and does not carry the same weight as does a Brigade Honor Board's finding of violation/non-violation. See also Recommendation V(D) of the Final Report of the Commandant's Working Group on Honor, attached as Appendix D.

**Observation 13:** Honor hearings are currently open and may be observed by midshipmen, faculty, and officers (who are not permitted to discuss the proceedings outside the hearing). The option is not routinely exercised. Attendance would increase understanding and confidence in the Honor Concept.

**Recommendation 13:** Except in cases in which the Presiding Officer grants the accused's request to exclude observers for good cause, USNAINST 1610.3E.0406.e, every Brigade Honor Board should be attended by twelve non-voting members of the Brigade and faculty, including non-faculty athletic coaches, to be designated as follows:

- a. eight midshipmen, whose attendance is mandatory, chosen at random by the Brigade Honor Chairman;
- b. three faculty members designated by the President of the Faculty Senate; and
- c. one member of the athletic staff designated by the Director of Athletics.

Observers should be permitted to discuss any non-identifying aspect of the proceedings outside the hearing room.

#### E. The Review Process

**Observation 14:** There is a general misperception among the Brigade of subjectivity and undue political influence in the review and final determinations of honor cases by the Commandant, Superintendent, and the Secretary of the Navy. This problem stems from the unexplained retention of midshipmen found in violation, the unexplained overturn of Brigade Honor Board decisions, the unspecified standards of the review process, and the deficiencies in communication and informational feedback of determinations to the Brigade.

**Recommendation 14:** The Committee proposes the following series of measures:

- a. the Superintendent or the Commandant should remand in cases where either officer finds new evidence or technical error; in such cases the Superintendent or Commandant should communicate to the Brigade Honor Chairman a detailed rationale directing a new hearing by a newly constituted Brigade Honor Board, the dissemination of which to the Brigade should be the responsibility of the Brigade Honor Chairman;
- b. the Superintendent or Commandant should overturn a finding of a Brigade Honor Board only if the finding was clearly erroneous; in such cases the Superintendent or Commandant should communicate a detailed written rationale to the Brigade Honor Chairman, the dissemination of which to the Brigade should be the responsibility of the Brigade Honor Chairman;
- c. if the Superintendent or Commandant accepts the finding of the violation but modifies the sanction, the Superintendent or Commandant should communicate a detailed written rationale to the Brigade Honor Chairman,

the dissemination of which to the Brigade should be the responsibility of the Brigade Honor Chairman;

- d. reviews by the Secretary of the Navy should be completed in no more than thirty calendar days;
- e. with the foregoing recommendations, the process has been strengthened substantially so that the Secretary of the Navy's review of honor cases should give great deference to the recommendation of the Superintendent, and in those cases that the Secretary of the Navy determines to overturn the Superintendent's recommendation, the Secretary of the Navy should communicate a detailed rationale to the Superintendent, who should transmit it to the Brigade Honor Chairman for further dissemination.
- f. Recommendation I on feedback policy in the Final Report of the Commandant's Working Group on Honor, attached as Appendix D, should be adopted at the earliest possible date. In particular, a Brigade Honor Board should publish a redacted version of all its decisions - violation and non-violation in lieu of XYZ letters. The Committee also recommends that the uncodified changes of the 1993-1994 Brigade Honor Committee Feedback Policy, attached as Appendix G, be implemented.

#### CONCLUSION

The Committee would like to re-emphasize that the responsibility for character development at the Naval Academy does not lie solely with whatever administration happens to be in place at the Department of the Navy or the Academy at any given time. Rather, such responsibility must be rooted in the recognition of and deference to an overarching set of core values that pre-existed and will continue to exist after the stewardship of any particular Navy or Naval Academy leader.

## Appendix A

## MEMBERS OF THE COMMITTEE

**Ambassador Richard L. Armitage** is President of Armitage Associates, an international consulting company. He served as Assistant Secretary of Defense, International Security Affairs from 1983-89, Deputy Secretary of Defense for East Asia and Pacific Affairs, 1981-83. He has served as Presidential Special Envoy during the Persian Gulf War, Special Negotiator for the Philippines Bases, Mediator for the Middle East Water issues and Deputy to the Coordinator for Assistance to the NIS. Mr. Armitage is a 1967 graduate of the U.S. Naval Academy and served four combat tours in the Republic of Vietnam.

**Vice Admiral James F. Calvert, USN (Ret.)** was Superintendent of the U.S. Naval Academy from 1968-72. After commanding the First Fleet in the Pacific, he left the Navy in 1973 and entered the private sector. Over the past twenty years, he has served on five different corporate boards and has been the Chairman or Chief Executive Officer of two large companies. He is a 1942 graduate of the U.S. Naval Academy.

**James M. Cannon** is Chairman of the Board of Visitors of the U.S. Naval Academy, former Chief of Staff for Senate Majority Leader Howard Baker, and former domestic policy advisor to President Gerald R. Ford.

**Lloyd N. Cutler, Esq.,** served as Counsel to the President (1979-80); Special Counsel to the President on Ratification of the SALT II Treaty (1979-80); Senior Consultant, President's Commission on Strategic Forces (Scowcroft Commission), 1983-84; and as a Member, President's Commission on Federal Ethics Law Reform, 1985. He has been a partner in the law firm of Wilmer, Cutler, Pickering, where he is currently Counsel, and is a graduate of Yale College and Yale Law School.

**Ronnie Fern Liebowitz, Esq.,** is a partner, Hellring, Lindeman, Goldstein & Siegal, Newark, New Jersey; President, Presidential Scholars Foundation; Member and Finance Chair of the White House Commission on Presidential Scholars; Vice President and Chair of Agency Development Committee, United Family and Children's Society, Plainfield, New Jersey; Member of the Legal Affairs Committee of the Anti-Defamation League of B'Nai B'Rith; J.D. cum laude, New York University, School of Law; former University Counsel of Rutgers, the State University.

**The Honorable John McCain** is U.S. Senator from Arizona and serves on the Armed Services Committee; the Committee on Commerce, Science and Transportation; the Committee on Governmental Affairs; and is also Chairman of the International Republican Institute. He previously served two terms as a U.S. Representative. He is a 1958 graduate of the U.S. Naval Academy and was a prisoner of war in Vietnam for five and a half years.

Jeffrey E. McFadden, Esq. is a 1979 graduate of the U.S. Naval Academy and a 1990 graduate of the Georgetown University Law Center. From 1979-84 he served as a surface warfare officer in the Navy Nuclear Power Program. He subsequently served as the Special Assistant to the Secretary of the Navy and as a law clerk to the Honorable Francis D. Murnaghan, Jr. on the U.S. Court of Appeals for the Fourth Circuit. He is currently an associate at the law firm of Wilmer, Cutler & Pickering in Washington D.C.

The Honorable Henry T. Wingate is a United States District Judge, Southern District of Mississippi, the youngest and first black federal judge ever appointed in the history of Mississippi. He received his J.D. from Yale Law School. Judge Wingate served as a lieutenant with the Judge Advocate General Corps, United States Navy, from 1973-76.

Christopher J. Paul is a Legislative Assistant to U.S. Senator John McCain, responsible for Defense and Commerce legislation, and a 1982 graduate of the U.S. Naval Academy. He joined Senator McCain's staff after ten years in the Navy and currently is a lieutenant commander in the Naval Reserve. His Navy assignments included duty at sea as a surface warfare officer and in Washington D.C. on the staffs of the Chairman of the Joint Chiefs of Staff and the Secretary of the Navy.

## Appendix B

## THE HONOR REVIEW COMMITTEE'S ACTIVITIES

- o Held hearings with officials and Honor Board representatives of the United States Military Academy including Superintendent Howard D. Graves;
- o Held discussions with General Andrew Goodpastor, USA (Ret.);
- o Held hearings with the Chairman of the Philosophy Department, Ethics Advisor, and Honor Committee members of the U.S. Air Force Academy;
- o Held hearings with past and present Superintendents of the U.S. Naval Academy;
- o Witnessed company-level honor training at the U.S. Naval Academy and conducted one-on-one random discussions with midshipmen;
- o Held hearings with the Brigade of Midshipman Honor Committee Representatives;
- o Held hearings with a random cross-section of some two dozen midshipmen from all four classes;
- o Held hearings with the Commandant's Working Group on Honor, held an open forum for the Naval Academy faculty, and met separately with faculty members;
- o Held discussions with the Superintendent's staff judge advocate and the Commandant's staff judge advocate;
- o Held hearings with U.S. Naval Academy company officers;
- o Held hearings with representatives of the U.S. Naval Academy Athletic Department, including the head coaches of both men's and women's major sports;
- o Briefed by officials from the Office of the Navy Inspector General;
- o Participated in National Conference on Ethics in America at West Point, N.Y.; the conference encompassed both military academies and civilian universities; and
- o Held discussions with an official of the General Accounting Office.

## Appendix C

## DOCUMENTS AND RESOURCES

## United States Air Force Academy

- 1) 1993 Wing Honor Survey Report, Research Report 93-01, Office of Institutional Research, May 12, 1993
- 2) AF Regulation 53-30, "The U.S. Air Force Academy Board," March 28, 1986
- 3) The Honor Oath (Handout to Cadets)
- 4) A Report and Recommendation to the Secretary of Defense by the Service Academy Board (Stearns-Eisenhower Report), January 1950
- 5) Honor and Ethics Education, Honor Code Review Evaluation Sheet (Handout)
- 6) USAFA Honor Education Lesson Plans
- 7) USAFA Honor Education Committee "BCT Honor Reflection" (Lesson Plans)
- 8) Honor Code Reference Handbook of the Air Force Cadet Wing, June 1991, Vol.1
- 9) Outline of USAFA Honor Sanctions
- 10) USAFA Cadet Honor Code and System, USCC PAM 632-1
- 11) USAFA Cadet Honor Committee "BCT Honor Training" (Lesson Plans)
- 12) Memorandum dated January 6, 1993 re: Article 31(B) and the Honor Code

## United States Military Academy

- 13) USCC PAM 632-1, "The Honor Code and Honor System," August 1993
- 14) Outline, Cadet Honor Code and Honor System
- 15) Final Report of the Special Commission of the Chief of Staff on the Honor Code and Honor System at the United States Military Academy, May 30, 1989

## United States Naval Academy

- 16) Honor Offense Process Flow Chart (Handout)

- 17) Brigade Honor Committee Honor Handbook 1993-94
- 18) Proposed Changes to Section 3, Commandant Standard Organization Manual, COMDTMIDINST 5400.5A CH-1, June 10, 1993
- 19) Honor Concept of the Brigade of Midshipmen, USNAINST 1610.3E
- 20) USNA Strategic Plan, First Update, December 1992
- 21) XYZ Letters dated September 21 and 23, 1993
- 22) Class of 1997, Plebe Summer Lectures (Lesson Plan)
- 23) Edney, Leon A., ADM, USN, "Thoughts on Ethics in Military Leadership"
- 24) Commandant Standard and Organization Manual, COMDTMIDINST 5400.5A, CH-1, June 10, 1993
- 25) Gattuso, J.A., CDR, USN, "Out of the Bull's Eye," U.S. Naval Institute, Proceedings, October 1993
- 26) Calvert, James F., VADM, USN, "The Naval Profession," (2nd Edition), New York: McGraw-Hill, 1971
- 27) Report to the Secretary of the Navy on the Recent Incident on Honor Violations at the U.S. Naval Academy, February 24, 1988
- 28) Report of the Informal Review Board on the Honor Concept and Conduct System at the U.S. Naval Academy, Vice Admiral J.M. Boorda, Chairman, August 10, 1990
- 29) Final Report of the Commandant's Working Group on Honor, November 12, 1993
- 30) Memorandum to the Superintendent dated October 27, 1993 re: Due Process Under the Honor Concept
- 31) 1993-94 Brigade Honor Committee Feedback Policy/Formal Counseling Policy
- 32) Chronology of EE311 Final Exam Investigation
- 33) Honor Case Statistics 1965-1980, dated June 1980
- 34) Honor Case Statistics 1986-1993, dated September 23, 1993
- 35) 10 USC. Section 6961

36) U.S.N.A. Reef Points, 1993-94

37) Memorandum to the Honor Review Committee from LCDR D.G. Donovan, JAGC, USN dated October 22, 1993

38) Memorandum to the Honor Review Committee from Professor Karel Montor dated October 25, 1993

39) Letter to the Honor Review Committee Chairman from Director of Athletics, Jack Lengyel dated December 3, 1993

40) Memorandum dated March 17, 1993 re: Honor Training for Year 1992-1993

#### General Honor

41) U.S. Merchant Marine Academy, Kings Point, The Honor Code of the Regiment of Midshipmen

42) University of Virginia, The Honor System

43) "On My Honor..." Philosophy and Guidelines of the Honor System, University of Virginia, 1993

44) Code of Academic Integrity, University of Maryland at College Park

45) William and Mary College, Student Handbook, 1993-94

46) Bulletin of Duke University, Information and Regulations, 1993-94

47) Davidson College, Student Handbook 1993-94

48) Report of the Comptroller General of the United States, "Honor and Disciplinary Systems at the Three Military Academies," August 2, 1976

49) General Accounting Office, "Naval Academy: Low Grades in Electrical Engineering Courses Surface Broader Issues," July 22, 1991

50) General Accounting Office, "DOD Service Academies: More Changes Needed to Eliminate Hazing," November 10, 1992

51) General Accounting Office, "Naval Academy: Gender and Racial Disparities," April 30, 1993

52) General Accounting Office, "DOD Service Academies: Status Report on Review of

Student Treatment," June 2, 1992

53) Rose, Michael T., "A Prayer for Relief: The Constitutional Infirmities of the Military Academies Conduct, Honor and Ethics Systems," New York University School of Law, 1973

## Appendix D

From: Commandant's Working Group on Honor  
 To: Commandant of Midshipmen

Subj: FINAL REPORT OF THE COMMANDANT'S WORKING GROUP ON HONOR

Ref: (a) Commandant's memo to Chair, Working Group, 19 Aug 93  
 (b) Working Group's Preliminary Report, 3 Aug 93  
 (c) Working Group's Recommendation on Feedback, 31 Aug 93  
 (d) USNA Strategic Plan (First Update)

Encl: (1) USMA Honor Code Pamphlets  
 (2) Proposed Record of Formal Honor Counselling  
 (3) Proposed Briefing Sheet: Major Findings/Recommendations

1. After receiving our charter from you on 19 August (reference [a]), we set to work, generally meeting twice a week for two or more hours each time. We found the composition of our Working Group to be especially useful--the midshipman perspective represented by two midshipmen and two members of the just-graduated class; the Brigade officer outlook represented by the Summer Training Officer, two Company Officers, the Ethics Officer and his relief; the faculty view represented by four officer and civilian faculty members from the various academic divisions; and the athletic perspective represented by an Assistant Director of Athletics. When one of our members from the Class of 1993 left for The Basic School, we replaced him with a second class midshipman. From the start, it was apparent that, though we brought differing experiences with the Honor Concept to our discussions, no one felt that he or she was defending a particular group; rather the range of backgrounds allowed us to explore more fully the complexity of the issues involved and to avoid mistakes we might otherwise have made.

2. Initially, we read the reports on the USNA Honor Concept written in recent years by CAPT (then CDR) Harper (no date), by LT Cramer (21 Mar 86), by VADM Lawrence and his group (24 Oct 86), and by ADM Boorda (10 Aug 90). In addition, we had all of the input from USNA officers and faculty that you had provided to us in late July as well as a midshipman project examining the Honor Concept done for LT Sulmasy in NL202 (28 Apr 93). Subsequently, we found useful parts of the Senate Hearings on Honor Codes at the Service Academies (1976) and the honor codes of a variety of colleges and universities: U. S. Military Academy, U. S. Air Force Academy, U. S. Coast Guard Academy, U. S. Merchant Marine Academy, Duke University, William and Mary, University of Virginia, Virginia Military Institute, University of Maryland, Cornell University, and Princeton University. But when we began, we decided to use our Preliminary Report (reference [b]) as an initial guide, recognizing that we were likely to go beyond it as we continued our review.

3. Because we knew that both the midshipmen and the faculty and staff would have insightful things to tell us, we solicited their views in several ways. The Deputy Vice Chair for Education sent an electronic-mail message to all members of the Brigade, telling them of the composition of our Working Group and soliciting their input. We sent a similar E-mail memorandum to all USNA officers, faculty members, and librarians and followed that message up with another

E-mail reminder several weeks later. We asked all involved to send us their views by E-mail to an account we labelled HONOR. To date, we have received a number of messages with thoughtful, if sometimes contradictory, views.

Because midshipman ownership of the Honor Concept is so important, we also solicited their views in two other ways. First, during the Brigade honor training session held in late August, midshipmen were asked to list the problems they saw with the Honor Concept and the solutions to those problems. The Deputy Vice Chair for Education then collated that data and presented it to the Working Group. Second, because we wanted to let the midshipmen know just how important their ideas were to us and because we wanted feedback on several specific issues, we decided to visit the company areas for direct discussion with midshipmen during the noontime training period (13-17 September). We had planned to follow up by holding an open forum with midshipmen on 26 October, but decided to cancel that session because the Board of Visitors' Honor Review Committee met with the Brigade on that day. To meet directly with faculty members, Brigade officers, and coaches, we held open fora in Division, Bancroft Hall, and Athletic areas.

4. Following the pattern we established in our Preliminary Report, we began our discussion of problems with the Honor Concept by looking at the need for improved feedback. Because proper feedback is so important to the smooth operation of the honor system and because we thought that, if you wished, you might be able to put into effect this semester any recommendations we made on the subject, we provided you with our recommendation on feedback on 31 August (reference [c]). It is included here again. Since then we have examined the various problems we identified earlier as well as other issues that arose during the course of our discussions. In making our recommendations listed below, we tried to provide our reasoning for them so that you would get some sense of how we arrived at our conclusions. Since these are complex issues, we would welcome an opportunity to follow up with you, should you have any questions about our report.

5. Here, then, are our recommendations. To make reading the report easier, we begin each problem on a separate page; we have also added page numbers.

**PROBLEM 1 (FEEDBACK):** Lack of prompt feedback on honor cases to all concerned is a major problem.

**DISCUSSION:**

Almost every recent review of the Honor Concept has noted the importance of prompt feedback, and everyone currently involved in the administration of the honor system recognizes the value of promptly reporting the results of honor cases to those directly concerned and, where legally possible, to the Brigade and faculty. Complicating the feedback process, however, is the admirable concern for the privacy rights of those accused of an honor violation. In our institution as well as in our society at large, maintaining the balance between the needs of the individual and those of the society is at the heart of our democracy. That principle underlies our recommendation below.

We believe that a system that provides prompt feedback to all concerned and that protects the legal rights of individuals accused can be implemented. Whereas complete secrecy might best serve the needs of those accused, others have legitimate rights to some knowledge of what has occurred and what action has been taken. We believe that the recommendation given below both conforms to legal requirements and allows for enough information for all concerned to have faith in the operation of the honor system. We also note that electronic mail provides the quickest way of conveying information.

**RECOMMENDATION 1:** Provide appropriate and legally permissible feedback to everyone involved at each stage in the process.

Listed below are the several feedback stages and the individuals who should be notified at each stage:

**Feedback Stages:**

**STAGE 1 (HONOR CHAIR STAGE).** When the Honor Chair receives an allegation, he/she must decide whether to investigate.

a. If the Honor Chair decides not to turn the case over to be investigated, then the following should be notified:

- (1) Accused
- (2) Accuser
- (3) Company Officer

b. If the Honor Chair decides to turn the case over for investigation, then the following should be notified:

- (1) Accused
- (2) Accuser
- (3) Company Officer
- (4) Battalion Officer

These four people should be told two things: (1) that the Honor Chair has decided to turn the case over for investigation and (2) that the Honor Chair will make a decision on whether to hold an Honor Board after the investigation is completed.

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c. If, after reviewing the results of the investigation, the Honor Chair decides that a Board will not be held, the following should be notified:

- (1) Accused
- (2) Accuser
- (3) Witnesses
- (4) Company Officer
- (5) Battalion Officer

d. If, after reviewing the results of the investigation, the Honor Chair decides that a Board will be held, the following should be notified:

- (1) Accused
- (2) Accuser
- (3) Witnesses
- (4) Company Officer
- (5) Battalion Officer

Notification can be done by E-mail message. Because of the privacy issues involved, the Commandant may wish to remind the Company and Battalion Officers not to give their password to others.

#### STAGE 2 (HONOR BOARD STAGE).

a. If an Honor Board finds no violation (and tells the accused of the decision), the following should be notified first:

- (1) Accuser
- (2) Witnesses
- (3) Company Officer
- (4) Battalion Officer
- (5) Observers

Then, one day after the notification has gone out (via E-mail or hard copy) to the people listed above, the Brigade and faculty should be notified by an XYZ memorandum that conforms to existing legal requirements.

b. If an Honor Board finds the accused in violation and notifies him/her, the following should be notified:

- (1) Accuser
- (2) Witness
- (3) Company Officer
- (4) Battalion Officer
- (5) Observers

#### STAGE 3 (COMMANDANT'S STAGE).

a. After the Commandant has made a decision on the case, the Ethics Advisor should put out to the Brigade and faculty an XYZ memorandum that conforms to existing legal requirements and that provides the Commandant's decision and the reasons why he made his decision. If the decision is to retain the accused, any punishment awarded should also be included in the memorandum.

STAGE 4 (SUPERINTENDENT'S STAGE).

a. After the Superintendent has made his decision, the Brigade and faculty should be notified.

(1) If the Superintendent accepts the Commandant's recommendation, the Ethics Advisor should put out to the Brigade and faculty a brief memorandum indicating the Superintendent's acceptance of the Commandant's recommendation.

(2) If the Superintendent does not accept the Commandant's recommendation and the accused is retained, the Ethics Advisor should put out a new XYZ memorandum that conforms to existing legal requirements and that provides the Superintendent's reasons for his decision:

STAGE 5 (SECNAV STAGE).

a. If the SECNAV does not accept the Superintendent's recommendation and the accused is retained, the Ethics Advisor should notify the Brigade and faculty that the SECNAV has retained the accused.

PROBLEM II (EDUCATION): Both the educational and the training programs dealing with ethical development need to be coordinated carefully, developed more fully, and, in some cases, established.

DISCUSSION:

The Academy does not want for initiatives designed to foster integrity and ethical development: indeed, there are many programs already in place that focus on the moral dimension of the USNA mission. The courses in the Ethics Continuum, the midshipman-run training program in the Honor Concept, the various programs like CMEQ and Core Values Training mandated by the Department of the Navy (DON), and the many initiatives of the Chaplain Center are some of the more formalized efforts already underway. But there is no overall coordination of these programs, no overarching framework for them. The result is that there is a fragmentation of effort and a lack of focus so that the impact of these initiatives is not maximized.

We think that better coordination is essential. In addition, we believe that USNA is missing two opportunities to reinforce the ethical values for which the Academy stands. Though summer training is multiplicitous and diffuse, there are portions of the training like MLT and the YP and the CSTS cruises during which hands-on discussion of ethical issues can take place, perhaps prompted by events occurring in those programs. And the part that the coaches of various athletic teams and clubs play in the moral development of their players could be enhanced and regularized. For many midshipmen, coaches serve as powerful role models; the opportunities that they have to nurture moral growth, often at key points in a player's personal development, are enormous.

RECOMMENDATION II (A): Establish an Ethics Steering Committee, charged (1) with creating a comprehensive, coherent program--progressive through the four years--and (2) with coordinating the contributions of the Academic, Leadership, Training, and Athletic departments. (See reference [d], Goal 1, Strategy 1.2, Objective 1.2.1, Task 1.2.1.1; Goal 1, Strategy 1.4. These references apply to all the recommendations for Problem II.)

These programs include:

1. All courses in the ethics continuum: FP130, HH205-206, NL102, NL202, NL303, NL400, NS401.
2. The midshipman-run training program in honor and the Honor Concept.
3. DON-mandated programs: CMEQ, Core Values Training.
4. Programs run by the Chaplains.
5. New initiatives in the Summer Training Program during MLT and the YP and CSTS cruises.
6. New initiatives by the coaches.

RECOMMENDATION II (B): Create new initiatives in the Summer Training Program to promote hands-on discussion of ethical issues.

RECOMMENDATION II (C): Create a definitive program for coaches that both regularizes ethical training and promotes expanded opportunities for coaches to foster ethical development.

RECOMMENDATION II (D): A full-time person should chair the Ethics Steering Committee and should:

1. Be a person with a broad view of the world.
2. Be a person of stature--someone who would be able to talk with the Dean, the Commandant, and the Superintendent as a near equal and someone who would be able to gain the respect of the Academy community; a senior officer or a senior civilian faculty member or possibly a member of the retired community.
3. Be a person with effective administrative skills.
4. Be a person who would be able to do the job on a long-term basis.
5. Be a person with some military experience. (We see this as a desirable but not absolutely essential characteristic.)
6. Report directly to the Superintendent.
7. Have a YN3 or a GS-4/5 working directly for him or her to provide administrative support.

RECOMMENDATION II (E): Completely revamp the midshipman-run program of education and training in the Honor Concept, increase the time given to this education and training, and enhance its priority.

Specifically:

1. Develop a set, progressive program of midshipman-run training like that at the United States Military Academy (USMA) (see enclosure (1), The Four-Year Honor Education Plan).
2. Focus this program on moral/ethical development rather than on merely the operation of the Honor Concept.
3. Train midshipman Honor Investigating Officers (IO's) thoroughly in order to minimize procedural errors and provide a concise, accurate compilation of evidence. Training should take place during the reforming of the Brigade in August.

The Deputy Vice Honor Chair for Investigations (DVCI) is in the process of developing a three-phased training program, which the Working Group supports. This program includes training for first and second class IO's and the creation of an Investigating

Officer's Handbook; the Handbook should be ready for printing in January 1994.

In his training program, the DVCI is also addressing changes in investigating policies. Various changes such as scheduled meetings with the Ethics Advisor, case updates to those involved, and standardization of investigations are not novel ideas but rather duties that have been neglected.

RECOMMENDATION II (F): Provide for widespread observation of honor boards by midshipmen, Brigade officers, faculty, and staff.

RECOMMENDATION II (G): Develop a professionally prepared video (see the 1990 Boorda Report, p. 8). This video should be completed in time for use with the Class of 1998 during Plebe Summer.

Comment: What we have in mind here is a narrated documentary that could be used as an educational tool for the entire USNA community. The introduction would briefly address the importance of integrity, provide a short history of the Honor Concept, and then move on to a mock case itself. Complete with narrative, the film would take viewers through the case by focusing on its various stages--from the accuser's decision to turn in the alleged violation to the start of the Honor Board itself to questioning of witnesses to the deliberation and reaching of a conclusion and on up to the Commandant and the Superintendent. At each juncture, key decision-makers (Brigade Honor Chair, Commandant, and Superintendent) would talk to the camera about what they consider at their level--the issues they struggle with and their personal views about those issues. Whenever there is a new Brigade Honor Chair, Commandant, or Superintendent, that person's comments would be spliced into the film. To avoid the kind of dullness that educational films are prone to, the video must be professionally made and edited.

RECOMMENDATION II (H): Expand the scope of the current training program between youngsters and plebes to include a discussion each week on honor; task the new Ethics Steering Committee, called for in II (A) above, to develop the curriculum for these meetings as part of the four-year, progressive educational program.

Comment: The existing training program between element leaders and plebes provides an opportunity to address issues of integrity. With a carefully prepared curriculum, the educational benefits for both youngsters and plebes on matters of honor can be significant.

PROBLEM III (DOCUMENTATION AND GOUGE): Midshipmen do not have a good grasp of what cheating is in such areas as the use of other students' data/lab reports, the citation of library and other sources, and the use of gouge information.

DISCUSSION:

In the military, in government, in business, in the professions, indeed in many aspects of life in the last decade of the twentieth century, sharing of information and collaborating in solving problems are commonplace. In the educational process, too, students often work together in collecting and sharing data and in helping each other to master material, activities that are, of course, all to the good. Problems arise, however, when students do not give credit for the assistance they have received either from classmates or instructors or written sources. Most of the time, these lapses are unintentional, resulting from lack of knowledge or uncertainty about what does and does not need to be cited; and a part of the Academy's educational task is to teach midshipmen both how to give credit to others and why it is necessary to do so. Though, for the most part, this is the job of the academic departments, stressing the importance of honesty in academic pursuits and reinforcing the proper way to use and report on data gained through collaboration and from other sources should be part of the instruction that midshipmen provide in their portion of the honor education program.

RECOMMENDATION III (A): Make sure that instruction in academic honesty is an integral part of the midshipman-run honor education program.

RECOMMENDATION III (B): Require faculty members to include in their course policy statements a section defining their policy on collaboration, on proper documentation of sources, and on annotation of assistance received.

RECOMMENDATION III (C): The whole issue of gouge should be addressed, both on the faculty and the midshipman level, to define clearly the acceptable limits of assistance, whether that assistance is oral or written.

Specifically:

1. Departments should speak with unanimity in providing gouge information. No faculty member should give more information than others so that fairness is maintained.
2. Departments should talk routinely about this issue to reinforce the idea that no instructor should give his or her students an unfair advantage.
3. Departments should routinely be reminded of the contents and requirements of USNAINST 1531.26F (Preparation and Submission of Academic Course Work).
4. Midshipmen should not ask each other what was on a particular quiz or examination and should not give such information if they are asked.

PROBLEM IV (SINGLE-SANCTION PERCEPTION): The Honor Concept is viewed as an inflexible system of extremes with only two outcomes: a finding of "in violation," which means guilt and separation, or a finding of "no violation," which means innocence and retention. This perception affects the willingness of midshipmen, officers, faculty, and staff to report suspected violations of the Concept.

#### DISCUSSION:

Though the reality is quite different, many (perhaps most) members of the Academy community think of the Honor Concept as an inflexible, single-sanction system; they believe that separation is the punishment for someone who commits an honor offense and that turning someone in for a suspected violation is likely to result in dismissal. In fact, some--those whom the Commandant and the Superintendent feel have the potential to develop the integrity and other necessary qualities required of a commissioned officer--are retained, though with a heavy punishment. For the years 1986 through 20 September 1993, for example, only 66% of those found in violation (220 of 330) left the Academy; 34% were retained. Perhaps even more illuminating is the fact that during that same seven-year period, in which 781 honor cases were opened, 451 (58%) of them were terminated somewhere along the way, either because there was insufficient evidence to continue with the case or there was a problem with the procedures of the case or the accused was found innocent. And the number of those finally separated for honor offenses (220) is only 28% of all those (781) initially accused. In reality, then, as opposed to the prevailing assumption by members of the Academy community, turning in a suspected honor violator does not necessarily mean that that person will be separated.

There is, in addition, a great deal more flexibility in the day-to-day operation of the honor system than is generally recognized. In our discussion with midshipmen, faculty, coaches, and Brigade officers, we learned that, for a variety of reasons, including the severity of the assumed punishment, accusers often choose the counselling option of the Honor Concept, turning in only the most serious or most egregious cases to the Honor Chair. In practice, accusers tend to make distinctions between kinds of offenses, seeing some as more serious than others. Although accusers might accept the often-voiced comment that there are no degrees of honor, they do believe that there are degrees of offenses: they see a difference, for example, between the case of a plebe who lies about shining his or her shoes and that of a midshipman who steals from his or her roommate. They and the majority of those we talked with do believe that some option other than separation is appropriate. This conclusion was certainly not universal, a vocal minority believing that separation should be the result of any honor violation. But the large majority of midshipmen, officers, faculty, and coaches we met with thought that a system with a single punishment was too rigid.

We agree with them. Human motivation, development, and behavior are far too complex for any black-and-white system. We do not see recognizing this fact as a descent from a moral standard presumed to be in place in some earlier Golden Age at the Academy;

nor do we see acknowledging the complexity of human life as acceptance of some debased moral standard currently held by the Brigade. In our opinion, such views underrate the talented men and women who go to school here and oversimplify the complicated issues of integrity. Nor, with all due respect, do we agree with the Military Academy and the Air Force Academy that a strict honor code with a no-tolerance clause is better than the Honor Concept in place here. Even setting aside the fact that there have been no fewer cheating incidents at West Point or Colorado Springs than at Annapolis, we think that USNA's Honor Concept with its option to counsel an offender rather than merely turn him or her in is a far better way of developing integrity and of accepting responsibility than a system that takes decision-making out of the hands of the person who witnesses an apparent violation. The midshipman who has to struggle with the tension between loyalty to a classmate and what is right in a particular context is far more likely in our view to be developing the strength of character and the qualities of judgment that young officers must have if we are to entrust them with the welfare of enlisted men and women.

We do believe, however, that as a community we have emphasized the screening aspect of the Honor Concept while not stressing enough its developmental nature. It is, of course, essential that only those with a fully mature sense of integrity be commissioned. But in focusing on the Concept as a screening tool, we have not done enough to provide a framework for nourishing the development of integrity in those who commit honor offenses but who are retained. Our recommendations below are based on the creation of a program for strengthening integrity that will supplement efforts already underway.

RECOMMENDATION IV (A): Change the Honor Concept and make clear to the entire USNA community that separation is only one of the possible sanctions for those found in violation. Create a two-phase program involving both punishment and, for those retained, rehabilitation:

**PUNISHMENT:** Separation may still be a punishment for those committing honor offenses, but, if a person found in violation is retained, the punishment should be six months loss of liberty and leave if that person is a first, second, or third class midshipman. If a first class midshipman is retained and there is not enough time for him or her to stand the full six months of punishment, that person's graduation should be delayed. If a plebe violator is retained, the punishment should be three months loss of liberty and leave if the case is adjudicated during the fall semester and six months loss of liberty and leave if the case is adjudicated during the spring semester. If the violator is an athlete or a member of a BSA, ECA, or club sport, he or she may practice or rehearse with the group but may not participate in games or performances or public activities. The punishment phase begins when the Commandant or the Superintendent makes a final determination on the case. (To clarify any ambiguities: the midshipman involved loses liberty and leave but is not put on restriction with its requirements for mustering and so on.)

**REHABILITATION:** For a period of at least six months, midshipmen retained after having been found in violation of the Honor Concept

will participate in an Integrity Development Program (IDP). Because of constraints on our time and expertise, we believe that this program--the very heart of this recommendation--should be developed fully by the new Ethics Steering Committee called for in Recommendation II (A) above. But we do envision the IDP as including:

1. A mentorship program in which the midshipman involved would meet weekly with a mentor in order to discuss issues of integrity brought out by a series of readings and to foster the further development of ethical behavior.
2. Group discussion in which a small group of midshipmen in the program would meet every other week to complete a curriculum devised by the Ethics Steering Committee. This curriculum might include further reading (articles, essays), case studies founded perhaps on Fleet and Fleet Marine Force examples, and movies designed to highlight ethical issues.
3. Some sort of project or personal contribution that would not be so time-consuming that it would detract in a major way from academics but that would involve the midshipman's giving something back to the Academy.

The amount of time an individual would spend in the IDP program would be dependent upon his or her progress toward developing integrity. For a particular midshipman, this phase might well extend beyond the six-month initial assignment; departure from the IDP program would be case specific.

Above all else, however, this rehabilitative phase of the program should be DEVELOPMENTAL and NOT PUNITIVE. (See reference [d], Goal 1, Strategy 1.4.)

RECOMMENDATION IV (B): Separates a midshipman if he or she is found guilty of a second honor offense.

RECOMMENDATION IV (C): Allow midshipmen who have completed the IDP to be reentered into the rehabilitative phase of the program, if their behavior raises questions about their integrity in the minds of faculty members, coaches, or Brigade officers.

Comment: There may be a time when a Company Officer, a coach, a faculty member, or another Brigade officer feels that, though a midshipman who has completed the IDP may not have committed another honor offense, he or she has done something that calls into question that person's integrity. Such a midshipman may be required to reenter the rehabilitative phase of the IDP, though no loss of leave or liberty would be involved.

RECOMMENDATION IV (D): Require other midshipmen who may not have been found in violation of the Honor Concept but who have done something to raise questions about their integrity in the minds of faculty members, Company Officers, other Brigade officers, or coaches to participate in the rehabilitative phase of the IDP. No loss of liberty or leave would be involved. Candidates in this category would be those seen by Battalion Counseling Boards and

those referred to the IDP by a combination of the midshipman's Company Officer and either a faculty member, another Brigade officer, a coach, or another midshipman. Two people, one of them the midshipman's Company Officer, must agree that that person should be recommended for the rehabilitative phase of the IDP. The Company Officer will forward the recommendation to the Commandant, who will make the final determination.

**PROBLEM V (LACK OF CONFIDENCE):** Midshipman and faculty confidence in the Honor System is low.

**DISCUSSION:** In our discussions with midshipmen and faculty members, we confirmed our earlier assessment that confidence in the Honor System is low, though midshipmen have different reasons for their skepticism than do faculty. In general, many midshipmen become dismayed whenever the Commandant or the Superintendent comes to different conclusions from those of an Honor Board. Perhaps because midshipmen believe that only the most serious cases are turned in to the Honor Chair, they expect a person found in violation to be separated--and this, even though the Honor Concept is quite clear about the differing powers and responsibilities of Honor Boards and those of the Commandant and the Superintendent. Faculty members, on the other hand, have lost faith in the system for essentially two reasons: (1) they believe that, no matter how much evidence is submitted to support an accusation of cheating or plagiarism, Honor Boards will not find the accused in violation; and (2) the way in which some faculty members have been questioned in Honor Board hearings has led them to feel that their integrity is being questioned.

Though these are not easy problems to resolve, they are not insurmountable, especially over time. We believe that the feedback recommendation made earlier will help immensely in restoring both faculty and midshipman confidence, especially since the Commandant and the Superintendent will now provide their reasoning, to the degree that is consistent with the law, in cases in which they come to different conclusions from an Honor Board or in which they decide to retain a violator.

To resolve faculty concerns, we did, of course, discuss the possibility of including a faculty member or a Brigade officer on Honor Boards, but, for a variety of reasons, we decided against such a change. Most important, perhaps, is that including people other than midshipmen on the Boards would, we believe, tend to weaken the commitment that the Brigade has for the honor system. At bottom, this is an ownership issue. We feel that by leaving decision-making in the hands of the midshipmen, the Academy is making a powerful statement about trust. Even if faculty members or officers were to serve in some non-voting capacity, the midshipmen would be likely to feel that their ability or integrity was being questioned, and hence their commitment to the system would tend to erode. In addition, we think that there are other ways, listed below as recommendations, that will help to restore faculty confidence.

For reasons similar to those just advanced above, we also think that the powers of Honor Boards should be expanded. When Admiral Boorda made his recommendation in 1990 that midshipmen limit their decision-making to a finding of in violation or not, he noted that "The impact of this recommendation should be evaluated over several academic years." He and his group believed that "members of the Brigade and faculty (would) be more likely to report possible offenses if separate/retain recommendations (a doomsday event) (wers) not initiated at the midshipman level." Frankly, we see no evidence that the change made in 1990 has achieved the results it

was intended to bring about. In fact, in our view, the Brigade is likely to have more confidence in the honor system if the separate/retain recommendation is returned to individual Honor Boards. We do believe, however, that the recommendation of separation or retention should be based on more than merely the Honor Board's judgment about a single offense and the sense that Board members get about the accused's integrity during the honor hearing. Consequently, we recommend below that Honor Board members have other data available to them and that they make their decision about retention based upon their assessment of the whole person. We believe that increasing the Board's powers and responsibilities will not only serve as an opportunity for professional growth for Board members but will also--and more importantly--give the Brigade a greater sense of ownership of the honor system.

In addition, we believe that there are other ways, noted in the recommendations below, of restoring confidence in the Honor System.

RECOMMENDATION V (A): Implement the recommendation on feedback-- Recommendation I--made earlier in this report.

RECOMMENDATION V (B): On a regular basis, the Superintendent and the Commandant need to provide visible leadership on the issues of honor and integrity; specifically, they need to articulate their beliefs about and policies on these matters.

Comment: The "class calls" on sexual harassment that the Commandant held in September are good examples of the kind of visible leadership we have in mind. In these sessions, the Commandant made clear his personal feelings about and his position on sexual harassment. Similar meetings in which the Academy's senior leaders address issues of honor and integrity would be effective and motivational.

RECOMMENDATION V (C): Implement Recommendation II (F), which calls for widespread observation of Honor Boards.

Comment: Though it is important that as many members of the USNA community as possible have the opportunity to attend honor hearings, special focus should be placed on the Plebes. The goal should be that at least one-third of each Plebe class observe an Honor Board during their Plebe year.

RECOMMENDATION V (D): Expand the powers of the Honor Board to include a recommendation on retention or separation and provide the Honor Board with available data so that they make their recommendation based on an assessment of the whole person.

Comment: We recommend that the Honor Board now take two votes-- the first on whether a violation has occurred and the second on whether to recommend retention or separation. On the second vote, Board members will vote only to "separate" or "retain" the accused midshipman; the resulting recommendation to the Commandant will be made on the basis of a simple majority. If the accused has been found guilty of a

previous honor violation, the Board may recommend only separation (see Recommendation IV (B)). The timing of the second vote would be left up to the Presiding Officer. In some cases, the vote to recommend retention or separation could be taken immediately after the accused is found in violation; in others, in which, for example, the hearing has been lengthy or in which some time for reflection would be useful, the vote might be delayed. In these cases, the Presiding Officer will instruct Board members not to discuss the case with anyone, including each other, until the Board reconvenes. The Board should reconvene and vote within two days; the accused will be present to hear the judgment of the Board after each vote is taken.

Before a vote on separation or retention is made, the Presiding Officer should instruct the Honor Board to consider the severity of the act and the behavior of the accused during the entire process of the honor case. Specifically, the Presiding Officer should read the following precept to the Board:

"A lack of ethical behavior during the honor process will generally result in a vote for separation. To lie or to continue to deny a violation when the guilt of the accused may be factually determined is usually indicative of a significant problem of integrity. Such behavior is inconsistent with the ideals of the Naval Academy and with commissioning into the naval service."

In addition, before the second vote is taken, the Honor Board should have an opportunity to review a package of material that includes:

1. the Performance Jacket of the accused.
2. any honor counselling sheets turned in on the accused and any past findings of being in violation of the Honor Concept.
3. a brief character assessment in writing by each member of the accused's chain of command. (A few sentences by each member of the chain of command should generally suffice.)
4. a summary of the progress of the accused in the Integrity Development Program for those enrolled in the Program because they have been referred to it rather than because they have been placed in it for being found guilty of an honor offense.

RECOMMENDATION V (E): Require the entire Honor Board, not just the Presiding Officer, to attend the Commandant's Hearing, if an Honor Board finds an accused in violation.

Comment: We believe that having all the members of the Honor Board present at the Commandant's Hearing will minimize misunderstanding, when the Commandant does not accept one or

another of the Board's findings or recommendations. The Commandant will have an opportunity to discuss his decision with the Board, and Board members will be able to add anything that they feel is important. The result, we believe, is that confidence in the system will be heightened.

RECOMMENDATION V (F): Require the Presiding Officer to give a precept to the Honor Board that accusers and witnesses should be assumed to be honorable and should therefore be treated with proper respect.

Comment: We believe that a reminder to Honor Board members that accusers and witnesses should be assumed to be people of integrity and that treating them in any other way is inappropriate will be enough to prevent the kinds of abuses that have occurred occasionally in the past.

RECOMMENDATION V (G): Require the Investigating Officer to seek a second, expert opinion in faculty-submitted cases involving cheating or plagiarism.

Comment: The Investigating Officer should ask the Department Chair of the accuser's department to assign another faculty member to review the evidence of the alleged violation. The faculty member will review that evidence without consultation with the accuser and will provide a written statement of his or her findings to the Investigating Officer within two days.

RECOMMENDATION V (H): Require the Presiding Officer of an Honor Board to explain the Board's reasoning to an accuser in all cases in which the Board finds no violation.

RECOMMENDATION V (I): Place a midshipman whom the Superintendent recommends be separated on administrative leave, pending SECNAV disposition of the case.

Comment: Nothing erodes midshipman confidence in the honor system more than the perception that a known violator of the Honor Concept has gotten away with his or her offense. Currently, those whom the Superintendent recommends for separation are permitted to remain in Bancroft Hall and continue with their classes while the case is reviewed at the SECNAV level. Given legitimate privacy rights, the violator's presence seems to suggest that no action has been taken. Since the number of times that the SECNAV rejects the Superintendent's recommendation is very small, it seems wiser to send the violator home until final disposition of the case is complete. We do not recommend that the violator be allowed to remain and continue with classes but be housed in a separate area--Ricketts Hall or the Naval Station. Isolating a person recommended for separation from his or her usual support systems seems unwise; it seems better to us that the midshipman be returned to his or her family while the case is being reviewed in Washington.

**PROBLEM VI (GRADING ISSUES):** Section 0501 of USNAINST 1610.3E does not resolve all the grading issues raised when a case involving academic work has been forwarded to the Honor Committee.

**DISCUSSION:** We are not sure that we are the appropriate body to resolve this issue, but since we have been asked to address it, we are happy to do so. Although we grant that there are some problems involved here and although we might find it comforting (if probably impossible) to recommend a policy that would take care of every conceivable case, we believe that the existing USNA Instructions dealing with this issue are adequate and acceptable.

This is an area in which a certain amount of flexibility seems appropriate, even necessary. In general, we think that the wisest course for academic institutions, including the Academy, to take on matters involving grades is to trust to the professionalism and integrity of its teachers. USNAINST 1610.3E makes clear that "an academic grade can't be made a punishment for an honor violation"; the instruction also affirms that "the Honor Concept doesn't affect an instructor's prerogatives in assigning a grade." In most cases in which a conflict between these two dicta occurs, the instructor can easily require that the student involved take a new quiz or test or write another paper. Though such a solution may require some additional work on the part of both the instructor and the student, we assume that common sense and general reasonableness will prevail. In those very few cases in which the issue of unfairness is raised, we believe that the Department Chair and the instructor and the student involved are quite likely to resolve the issue in a satisfactory way (see Enclosure [3], paragraph 5, of USNAINST 1531.16T--Administration of Academic Programs).

**RECOMMENDATION VI:** Leave in place the current wording of Section 0501 of USNAINST 1610.3E and continue to resolve particularly troublesome cases on an ad hoc basis.

**PROBLEM VII (COUNSELLING OPTION):** The counselling option of the Honor Concept, as it is now defined, does not fully achieve one of its desired aims--highlighting the importance of even minor breaches of integrity.

**DISCUSSION:** In our discussion with midshipmen, we observed that virtually all counselling is done orally and perhaps sometimes too informally. The unintended result of this process may be that the person being counselled is likely to minimize the importance of his or her transgression. To heighten the seriousness of counselling and consequently of integrity, we believe that the counselling option should be redefined to include formal documentation. In the future, exercising the counselling option will mean meeting with the person suspected of committing an honor violation and writing up the results of that meeting, if an offense has occurred. The appropriate vehicle for such documentation might be a new Record of Formal Honor Counselling (see Enclosure (2)). Using this form would not only underscore the importance of any violation of the Honor Concept but could also serve other purposes, including the possibility of providing support for referral to the Integrity Development Program.

We are aware of potential problems here: the way in which counselling sheets are maintained and the way in which they are used are principal among our concerns. In addition, the introduction of this new definition of counselling must be handled skillfully--as part of the education given in the Honor Concept beginning in Plebe Summer and then continued throughout the entire four years. Since training in counselling is increasingly a part of the professional development curriculum, especially in NL202, introducing this change will be easier. Certainly, however, the confidentiality of these counselling sheets must be maintained, as we describe below.

**RECOMMENDATION VII (A):** Implement a new definition of the counselling option: counselling will not be considered to have occurred until the counselor fills out a counselling sheet, obtains the signature of the person being counselled, and forwards the sheet to the Brigade Honor Chair.

**RECOMMENDATION VII (B):** The Brigade Honor Chair will maintain the counselling sheets and ensure their confidentiality; he or she does not have the authority to take any action in regard to the person who has been counselled other than that described in Recommendation VII (C). Similarly, the information available on the counselling sheets will NOT be given to a person who has witnessed a potential honor violation and is in the process of deciding whether to turn in the suspected violator or use the counselling option. No one, except for the Commandant and the Superintendent, may have access to the information on the counselling sheets, except as provided in VII (C) below.

**RECOMMENDATION VII (C):** If the number of counselling sheets on an individual reaches two, the Honor Chair will contact that midshipman's Company Officer. Together they will discuss the possibility of recommending the person counselled to the Commandant for entry into the Integrity Development Program (IDP). As in

every other case, both parties must agree that such a recommendation should be made.

RECOMMENDATION VII (D): If a counselling sheet comes in on a person enrolled in the IDP, the information contained in that sheet will be passed on to the midshipman's mentor.

**PROBLEM VIII (PROCEDURE):** Some of the procedural aspects of USNAINST 1610.3E need to be examined and either retained or changed.

**DISCUSSION:** We especially wanted to reexamine here two issues: (1) deciding cases on the basis of the preponderance of evidence and (2) using a simple majority for finding an accused midshipman "in violation." After weighing the advantages and disadvantages of moving to a "beyond-a-reasonable-doubt" standard, we conclude that our present system makes sense in our context. Using preponderance of evidence as the guideline allows for more flexibility in the kind of evidence permitted, something which we believe is an advantage for both the accused and the institution in arriving at the truth. We also note that using preponderance of evidence as the standard is in line with the procedures of other types of administrative hearings in the military. Finally, given our recommendations for moving away from a single-sanction system, we believe that using preponderance of evidence is more in concert with an Honor Concept that includes retention and an active program of integrity development than is requiring beyond a reasonable doubt. For similar reasons, we think that deciding cases on the basis of a simple majority is acceptable. Since Honor Boards can now recommend retention (provided that Recommendation V [D] above is accepted) and since there are two more reviews at the Academy in cases involving a recommendation for separation, making decisions based on a simple-majority vote seems appropriate.

Another procedural issue we addressed involved the timeline used in processing honor cases. We believe that the current requirement for using work days rather than calendar days is inconsistent with other aspects of the Honor Concept. The reporting requirement--the time between a midshipman's learning of an offense and his or her taking action--is, for example, twenty-one calendar days. We see no compelling reason for having the rest of the timeline in work days, since the timeline serves only as a guide in processing cases; failure to complete a case within the stipulated time does not invalidate the case. In addition, the number of days currently recommended at each stage does not accurately reflect the actual time required. By making the change from work days to calendar days and by adjusting the timeline as recommended below, the Academy would remove inconsistencies, establish a guideline that accurately reflects the amount of time required at each stage, and shorten the total time involved in the process from six-and-a-half weeks (33 work days) to six (42 calendar days).

**RECOMMENDATION VIII (A):** Retain preponderance of evidence as the standard in Honor Board hearings.

**RECOMMENDATION VIII (B):** Retain simple-majority vote procedures currently in place.

**RECOMMENDATION VIII (C):** Switch from working days to calendar days and use the following timeline:

	New Time (Calendar Days)
Accusation Reported:	0
Turned over to DVCII:	1
Accused Notified:	2
Investigation Complete/ Charges Signed:	12
Brigade Honor Board Complete:	15
Separation/Retention Recommendation Complete:	17
Commandant's Hearing Complete:	25
Commandant's Memo to Supt. Complete:	30
Superintendent's Review:	35
Show Cause Statement Due:	40
Supt. Endorse/Forward to DC:	42

**PROBLEM IX (CLASSMATE LOYALTY):** Loyalty to classmates, roommates, companymates, and teammates sometimes supersedes loyalty to higher ethical values.

**DISCUSSION:**

From the moment a plebe enters the Academy to the day a midshipman graduates, the institution seeks to promote teamwork, cooperation, and loyalty to shipmates. There is little doubt that the Academy is successful in this attempt: members of the Brigade do internalize these values. Problems arise, however, when loyalty to classmates conflicts with higher ethical demands.

There are no easy ways of resolving this tension between commitment to friends and commitment to higher ethical requirements. But we think that some reemphasis is in order. Since the training program at the Academy is so effective, we believe that both redefining classmate loyalty and emphasizing when it must be put aside are essential. Stressing throughout the training program the need to place integrity above loyalty to classmates will help midshipmen choose the ethical path when they are confronted with painful choices involving close friends.

**RECOMMENDATION IX:** Incorporate into all aspects of the training program the proper value to be placed on classmate loyalty; redefine what it means and reemphasize the fact that commitment to the values of the institution must supersede friendship. (See reference (d), Goal 1, Objective 1.1.1, Task 1.1.1.3.)

Specific examples of the kinds of things that might be done include:

1. Training sessions before each set for the Plebe Summer Detailers so that they stress with the Plebes where loyalty to classmates ends and where commitment to higher ethical principles begins.
2. A training session for all midshipmen similar to that held for Plebe Summer Detailers, when the Brigade returns in August.
3. A section on the issues of classmate and institutional loyalty in the Plebe Pro Book.
4. A periodic address by senior leaders (the Commandant and the Superintendent) on the proper roles of classmate and institutional loyalty.
6. Since we believe that our report might be useful to the Board of Visitors' Honor Review Committee, we request that you forward our report to them, should both you and they feel that such an action would be appropriate. We enjoyed our discussions with the Committee but recognize the limitations of a two-hour meeting in dealing with the range and complexity of the issues involved here. Providing Committee members with a copy of our report would allow them to see exactly why we made our recommendations.

7. If you decide to accept all or parts of our report, we think that it is essential to hold a series of briefings about the changes throughout the Yard. Especially important would be the opportunity for various groups to ask questions and provide feedback on the proposed changes BEFORE they are implemented.

8. For historical purposes, we recommend that, after you have implemented whatever parts of our report you feel appropriate, you turn over a copy of the report along with all the ancillary material we have provided to the USNA Archives. All too often, we have noticed, the writing of Academy history is hampered because we do not preserve documents as well as we might.

9. We consider it a privilege to have been entrusted with this important review of the Honor Concept.

*T. P. Cann*  
T. P. CANN

*M. L. Elert*  
M. L. ELERT

*N. Ellenberger*  
N. ELLENBERGER

*B. M. Fitzpatrick*  
B. M. FITZPATRICK

*A. M. Hartlaub*  
A. M. HARTLAUB

*R. D. Jackson*  
R. D. JACKSON

*J. K. Krause, Jr.*  
J. K. KRAUSE, JR.

*J. C. Likens*  
J. C. LIKENS

*W. Nagy*  
W. NAGY

*C. J. Nolan, Jr.*  
C. J. NOLAN, JR.  
Chair

*B. L. Pooler*  
B. L. POOLER

*K. P. Shaeffer*  
K. P. SHAEFFER

*D. P. Smalley*  
D. P. SMALLER

## Appendix E

# Honor Concept of the Brigade of Midshipmen

UNITED STATES NAVAL ACADEMY

## 0407. BATTALION COUNSELING BOARD

1. General. After a case has been turned in or investigated, the Chairman may decide to send it to a Battalion Counseling Board. This option may be used when the nature of the alleged violation neither warrants nor contains sufficient evidence for a Brigade Honor Board.

2. Function and Attendance. The Battalion Counseling Board is a formal counseling and documentation session. See Battalion Counseling Board Presiding Officers Guide, Appendix A. Composition of the board includes the accused, the accused's chain of command up to the Battalion Commander, the Battalion and Company Honor representatives, and the presiding officer (a member of the Honor staff). Once the board has been convened, the midshipman cannot be sent to a Brigade Honor Board for the violation discussed.

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## Appendix F

1993-94

**BRIGADE HONOR COMMITTEE**FORMAL COUNSELLING POLICY

**POLICY:** The Brigade Honor Committee recommends that all persons who learn of a potential violation of the Brigade Honor Concept and who decide to exercise the option of discussing the incident with the suspected offender and then caution the offender, do so utilizing the Counsel and Guidance Interview Record. The Counsel and Guidance Interview record is the standard counselling sheet currently being used for academic, performance, and conduct areas.

The formal counselling sheets should be submitted to the Brigade Honor Chairman, via the counselor's I/C Battalion Honor Representative. The Honor Chairman will ensure the confidentiality of every counselling sheet submitted. Furthermore, the Honor Chairman does not have the authority to take further action on any counselled offender.

**PURPOSE:** Concurrent with the responsibilities upon learning of a possible Honor Offense (USNA 1610.E para. 0109) any person has the option to discuss the incident with the suspected offender and then caution the offender. Traditionally, the counselling option has been conducted mostly in a verbal, non-formal setting. However, the Brigade Honor Committee would like to emphasize that the counselling of a suspected offender is to be handled in a manner which belies the seriousness of a breach of integrity. The Honor Committee believes that formally documenting honor counselling will connote the seriousness of the situation to both the counselor and counselee, as well as provide the Honor Chairman with a measure of how much counselling is being done.

(see reverse side for counselling sheet example)

COUNSEL AND GUIDANCE INTERVIEW RECORD

DAY \_\_\_\_\_ MONTH \_\_\_\_\_ YEAR \_\_\_\_\_

1. Midshipman \_\_\_\_\_ Class of \_\_\_\_\_  
 \_\_\_\_\_ Company.

2. Areas discussed:     Academic                       Conduct  
                                   Performance                       Other

3. Trend of Performance:     Improving                       Declining  
     Consistent                       Not Applicable

4. Pertinent observations/comments:

STRENGTHS                                      WEAKNESSES

5. Narrative Summary (Problems discussed and recommended courses of action, evaluation of performance, etc.):

\_\_\_\_\_  
 Interviewer  
 (Continue on Reverse if necessary)  
 Exhibit 5

ES-1

NCM-USNA-38A-1230/56 (07-86)

## Appendix G

1993-94

## BRIGADE HONOR COMMITTEE

FEEDBACK POLICY

1. The Brigade Honor Committee recognizes the benefits of prompt feedback to all concerned with any given honor case. Those directly concerned include the accused, accuser, Company Officer, Battalion Officer, witnesses, and observers to a Brigade Honor Board. Those indirectly concerned include the Brigade of Midshipmen, officers at the Naval Academy, and civilian faculty members.
2. At each stage in the Honor Process (ie. after the Brigade Honor Board, after the Commandant's Hearing, etc.) the Honor Committee will provide prompt and appropriate feedback in the form of XYZ letters or reports of findings. These reports will be distributed over electronic mail and as hard copies to be placed on tables in King Hall.
3. It is the Honor Committee's hope that prompt feedback will alleviate many of the unfounded perceptions about the Honor Process, strengthen confidence, and increase awareness of the system.

Senator SHELBY. Thank you. Admiral Bennett?

**STATEMENT OF VICE ADM. DAVID M. BENNETT, USN,  
INSPECTOR GENERAL, DEPARTMENT OF THE NAVY**

Admiral BENNETT. Thank you, Senator Shelby. I appreciate this opportunity.

Senator SHELBY. Do you want to pull that microphone a little closer to you? Thank you. Your written statement will be made a part of the record, in its entirety.

Admiral BENNETT. Yes, sir. For those people who are not quite as familiar as you are, Senator, on how the Naval Inspector General got involved in this process: In June of 1993, you requested that the Secretary of Defense cause a look to be done by the Inspector General. It was determined that the Naval Inspector General was the appropriate place.

Senator SHELBY. This was a request that I made on behalf of the committee.

Admiral BENNETT. Yes, sir. Throughout the process, as is appropriate for the Department of Defense IG, I kept him informed of the nature of our investigation, our findings, and those kinds of things, and he conducted an appropriate oversight of our activities.

I was tasked in June, by the Acting Secretary of the Navy and the CNO, Admiral Kelso, to look into the application of the honor system; the integrity of the examination process; any disparities that may be apparent in the resolution of cases; and in the attempt to get to the bottom line of what had happened.

I would like to parenthetically state that Inspector Generals, in general, are tasked to develop the facts as they relate to a case. In this particular case, it was a very complex one because of the number of cases that were developed. The goal and the direction always was: take the time necessary, in order to determine the full extent. And our process was to examine each lead until we ran into non-productive or dead ends.

And, as a result, we developed 133 cases that we have provided for adjudication. We did not determine guilt or innocence. We simply stated, "These are the facts, as we determined them." In order to be fair, and in order to put it in perspective, I had, coming into this process 6 months after the examination was taken, the obvious advantage of 20/20 hindsight.

One of the difficult tasks in producing an investigation of this kind is to be empathetic enough to try to put into perspective the decisions that are made at various stages of the process, with the information available to those decisionmakers. That is what we attempted to do in the report.

We were critical of a number of aspects. We independently arrived at similar conclusions, with regard to attitudes toward the honor concept, that the Board of Visitors under Ambassador Armitage's direction arrived at: That, in many cases, while it was viewed as an important principle, at times some Midshipmen found it difficult to apply that to their daily lives.

It was an agonizing process, for a variety of reasons. I think the report stands on its own merit. We made a number of recommendations, provided some opinions to the Secretary of the Navy; and he

has appropriately, in my mind, released the report to the general public.

As my last statement, or the punchline of the examination said, and I feel it very strongly, the Naval Academy is not just another command within the Department of the Navy. It is a symbol of the highest ideals of the Navy, its commands and its people. And the manner in which we respond to these problems that we have identified at the Academy and discussed in the report, must demonstrate to the American people that the Navy is firmly committed to the nicest sense of personal honor and integrity. And I am absolutely convinced that the Department is dedicated to that principle.

[The Investigation report referred to follows:]

# NAVAL INSPECTOR GENERAL

(REDACTED FOR PUBLIC RELEASE)

## REPORT OF INVESTIGATION

COMPROMISE OF THE FALL 1992 ELECTRICAL ENGINEERING FINAL  
(EE 311) EXAMINATION AT THE UNITED STATES NAVAL ACADEMY

CASE NUMBER: 930857

20 JANUARY 1994



*D. M. Bennett*

VADM D. M. BENNETT, USN  
NAVAL INSPECTOR GENERAL

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## OFFICE OF THE NAVAL INSPECTOR GENERAL

Report of Investigation  
Case number: 930857

20 January 1994

Subj: COMPROMISE OF THE FALL 1992 ELECTRICAL ENGINEERING FINAL  
[EE 311] EXAMINATION AT THE UNITED STATES NAVAL ACADEMY

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## INTRODUCTION

1. By letter dated 4 June 1993, the Acting Secretary of the Navy, ADM Frank B. Kelso, USN, directed the Naval Inspector General (NAVINGEN) to conduct an investigation into "the application of the honor system and the integrity of the examination process at the U.S. Naval Academy with respect to allegations of honor violations arising from the Fall Semester 1992 examination in the course Electrical Engineering (EE 311)."
2. Prior to ADM Kelso's direction, the Naval Criminal Investigative Service (NCIS) had investigated criminal aspects of the allegations, and the Naval Academy had taken disciplinary and administrative actions based on information developed by NCIS. ADM Kelso's request originated after new allegations, made after completion of the NCIS investigation, were presented and complaints were received that the administrative disposition of individual cases may have been flawed. The Secretary of the Navy, John H. Dalton, reaffirmed ADM Kelso's direction to NAVINGEN after he assumed office.
3. This report describes the significant decisions made and actions taken following the first reports of the compromise. The conclusions and recommendations of NAVINGEN are also provided. A glossary which defines key terms associated with the Honor Concept is also provided. Individual cases of midshipman misconduct developed during the NAVINGEN investigation will be provided to the convening authority for disposition.
4. In addition to the approximately 600 midshipmen who were interviewed, the following provided information for this report by way of interviews and sworn statements, which are attached as enclosures (1) through (17):  
  
RADM Thomas C. Lynch, Superintendent;  
CAPT John B. Pedgett, Commandant of Midshipmen;  
CAPT Nicholas P. DeCarlo, SJA to the Superintendent;

Dr. Robert Shapiro, Academic Dean;  
 CAPT Philip F. Grasser, Director, Division of Engineering  
 and Weapons;  
 Prof. Richard Martin, Chairman, EE Department;  
 CDR David Wilson, EA to the Superintendent;  
 LCDR Timothy F. Nagle, SJA to the Commandant;  
 LCDR Larry Scalzitti, EE Department;  
 LT Thomas D. Cann, Ethics Advisor to the Commandant;  
 ENS Cory Culver, Honor Committee Chairman, Class of 1993;  
 ENS J. L. Chadwick, Deputy Vice Honor Chairman for  
 Investigations, Class of 1993;  
 ENS Joseph Foraker, Vice Honor Chairman, Class of 1993;  
 ENS Kelly Hoeft, Honor Committee Member, Class of 1993;  
 ENS Brendon Dibella, Brigade Honor Secretary, Class of 1993;  
 ENS John Miles, Brigade Honor Coordinator, Class of 1993;  
 and  
 ENS Christopher Harding, Honor Faculty Liaison,  
 Class of 1993.

#### BACKGROUND

5. The mission of the United States Naval Academy (Academy) is:  
 To develop midshipmen morally, mentally, and physically and to imbue them with the highest ideals of duty, honor and loyalty in order to provide graduates who are dedicated to a career of naval service and have potential for future development in mind and character to assume the highest responsibilities of command, citizenship, and government. (OPNAV Notice 5450, 1 December 1987).
6. The midshipmen and cadets of the service academies are taught to adhere to a code of conduct for professional military leaders that predates the founding of our nation and finds expression in the writings of men such as John Paul Jones and General Von Steuben. The Honor Concept of the Brigade of Midshipmen is elegant in its simplicity, relentless in its demands:  
 Midshipmen are persons of integrity: They do not lie, cheat, or steal. (USNAINST 1610.JE0101).
7. Honor Codes notwithstanding, the service academies have not been immune to cheating. In 1976, the EE Department at West Point gave 823 second classmen (juniors) a take home examination. The answers to which, upon analysis by the instructors, indicated widespread unauthorized collaboration. Eventually, about two hundred cadets were referred to administrative proceedings. In 1989, a special commission studying the Honor System at West Point made the following observations:

When serious breakdowns in the Honor Code and System have occurred at West Point and in the related Code and System at the Air Force Academy, they correlated with internal group loyalties contradictory to the spirit of the Corps of Cadets itself. Such groups were prep-school friends, company enclaves, and, most seriously, intercollegiate athletic teams. Indeed, the worst scandals and the most virulent threats to the Honor Code stemmed from deception connected with football. Groups of athletes cheated together in academic examinations, and were found out and dismissed. Coaches and supervisors misrepresented the necessary academic standards in a misplaced notion of the need to "win." That was a contagion of dishonesty that threatened the Academy itself. Today, officials at West Point are aware of the problem and are taking continual measures to contain the threat of its recurrence. However, given the temptations involved, constant vigilance is essential in respect to honesty in intercollegiate athletics and for full integration of athletes into the Corps of Cadets.

8. The Special Commission pointed out another problem in the daily application of the Honor Code at West Point:

There has been a recurring tendency toward trivialization of the meaning of honor, such as when the Honor System was used to enforce prohibitions against keeping liquor in hair tonic bottles, bed stuffing (using blankets to simulate a sleeping cadet), and various college pranks. The serious issue is that such misuse of the System has been a repeated source of antagonism, misunderstanding, grievous injustice to cadets, and harm to the reputa and regard for the Honor Code itself.

#### FIRST REPORTS OF THE COMPROMISE

9. The EE 311 course at the Academy is a core (mandatory) requirement for all non-engineering majors. Many midshipmen told NAVINGEN they believe the course is irrelevant; its mandatory nature constitutes a form of harassment. (Many cadets made similar comments about the EE course involved in the 1976 cheating incident at West Point.)

10. The EE 311 examination was administered at 0745, on Monday, 14 December 1992, to 663 midshipmen. Within hours of its completion, midshipman (MIDN) A sent an E-Mail message to a faculty member stating that the exam had been compromised. Similar messages were transmitted by other midshipmen later that day. Some of the reports indicated the football team had obtained an advance copy of the exam.

11. On the morning of 15 December 1992, Dr. Robert Shapiro, the Academic Dean, informed the Superintendent of reports the exam had been compromised. The information the Dean had at that time was scanty, and the Superintendent directed him to check with the Electrical Engineering (EE) Department to determine if the test results showed any evidence of cheating, such as inexplicable spikes in individual grades or an overall higher than expected course average. The Dean also told the Superintendent that the original test, sent to the copying center by the course coordinator, had been lost sometime between the 1st and 9th of December, and thus potentially compromised because it had not been rewritten after the loss was discovered.

12. The Superintendent then met with the Commandant of Midshipmen and directed him to talk to the midshipmen whose names had surfaced in connection with the reported compromise. The Superintendent and CAPT Nicholas DeCarlo, Staff Judge Advocate to the Superintendent, also discussed the matter. The Superintendent and his staff were in agreement that they needed additional information before making any firm decisions.

13. On 16 December 1992, the Dean briefed the Superintendent on the EE Department's information, consisting of a half page of data (enclosure (18)) prepared by LCDR Lawrence Scalzitti, an EE Department Instructor. They found no patterns or inexplicable spikes in grades. The information developed by the EE Department did not include a review of the actual answers contained on the examination papers themselves. (Even though the exam answers were eventually read and graded, it appears no one at the Academy ever compared the answers of different midshipmen for evidence of collaboration.)

14. Also on 16 December 1992, the Commandant reported to the Superintendent that his discussions with the midshipmen associated with the report of a compromise led him to believe the report was not credible. He told the Superintendent that all reports of the alleged compromise originated with one midshipman 2/C, who could only report overhearing a group of unidentified midshipmen talking about the football team having a copy of the EE 311 examination.

15. Based on this early information, the Superintendent and his staff agreed that if there was a compromise it was not widespread. Accordingly, the Superintendent decided there was no justification for ordering everyone to retake the test.

16. However, during that day and the next, additional reports of a compromise surfaced from other midshipmen. In light of the continuing reports of a compromise and the fact that the first copy of the examination sent to the copying center had reportedly

been lost, the Superintendent decided that further investigation was necessary.

17. The investigative options considered were: (1) requesting an NCIS investigation; (2) appointing an officer to conduct a JAGMAN investigation; or (3) conducting an investigation by midshipmen pursuant to the Honor Concept. Because he was concerned there could be criminal conduct, specifically, theft of the test and/or breaking and entering, the Superintendent decided to ask NCIS to conduct the investigation.

#### THE NCIS INVESTIGATION

18. The Superintendent met with NCIS agents on 16 December 1992. He told them what he knew about the alleged compromise and expressed his concern that there might be criminal conduct (theft or breaking and entering) beyond the actual cheating.

19. The Superintendent gave NCIS the limited analysis of the test results which had been performed by the EE Department, and designated CAPT DeCarlo as their point of contact during the investigation. According to the NCIS agents who attended the meeting, the Superintendent made no attempt to limit the scope of the investigation or to direct their activities. However, it was clear to all at the meeting that NCIS would conduct the investigation using procedures applicable to cases where criminal conduct is suspected.

20. Consequently, during the course of the investigation, NCIS properly provided most of the midshipmen with rights warnings pursuant to Article 31(b), Uniform Code of Military Justice (UCMJ). The warning most frequently informed the midshipman that he/she was suspected of Conduct Unbecoming an Officer, Larceny, Receiving Stolen Property, Concealing Stolen Property, etc., although variations were provided in specific circumstances.

21. Immediately after meeting with the Superintendent, NCIS began its investigation by interviewing MIDN A, who had initially reported the compromise by E-Mail. MIDN A said his roommates were in possession of the test on the evening of 13 December 1992.

22. The roommates, when interviewed, both identified MIDN B as the individual who gave them problems to work prior to the examination and which they recognized when they took the examination the following day. In later interviews, MIDN C named MIDN B as his source of the examination.

23. In a statement to NCIS, MIDN C identified 23 midshipmen he said had the exam. MIDN C admitted he had sold the exam to four of these midshipmen, and said he knew who they gave it to. MIDN C gave the agents a sworn statement detailing his knowledge.

24. NCIS obtained all 663 EE-311 examinations as evidence. Although consideration was given to requesting that Chief, Naval Education and Training (CNET) analyze the test results, that avenue of pursuit was dropped based on their belief that CNET was able to analyze only standardized tests.

25. The NCIS investigation attempted to identify the source of the compromised examination but was not able to do so. An early theory held that the first copy of the examination had been stolen from the Academy mail system between 3 and 9 December while enroute from the EE Department to the Office Services Branch Copy Center for printing. This theory was discredited by the investigation. The NCIS investigation did develop a theory regarding a particular individual being the source, but that theory also could not be proven.

26. The NCIS investigation was substantially completed in mid-January 1993, and the NCIS agents briefed the Superintendent on their progress during a meeting on 18 January 1993. CAPT DeCarlo and CDR Wilson were also present. During the meeting, one of the agents mentioned that they had interviewed the football team. At that point, the Superintendent, who earlier had been told by the Athletic Director that football players were complaining they had been unfairly targeted, became angry. He said that it appeared to be a "witch hunt" and that the agents' actions were giving credence to the rumors that the entire football team had the test. The agents explained that the investigation had led to the football team, and that it was necessary to interview its members to be thorough. The Superintendent accepted their explanation and the agents continued their investigation.

27. After the NCIS briefing, CAPT DeCarlo recommended the Superintendent consider referring one or two of the midshipmen identified by NCIS to a court-martial, although he counseled that the evidence might be insufficient for conviction. After thinking about the matter, the Superintendent decided it would not be appropriate to court-martial someone who only could be accused of cheating. Having made this decision, the Superintendent could have initiated a non-criminal investigation for the purpose of discovering the full extent of the cheating. However, other than to make additional pleas for midshipmen having knowledge of the compromise to come forward, the Academy took no action to identify additional cheaters after the NCIS criminal investigation was completed.

28. In all, NCIS identified 39 midshipmen it believed possessed some or all of the EE 311 examination before it was given. The agents explained that many midshipmen had invoked their Article 31(b) rights upon being warned, and had refused to cooperate with the agents.

**ACADEMY ACTIONS**  
(Post NCIS Investigation)

29. On 4 February 1993, an NCIS agent briefed the results of the investigation to CAPT DeCarlo; LCDR Timothy Nagle, Staff Judge Advocate to the Commandant; LT Thomas Cann, Ethics Advisor to the Commandant; and MIDN Cory Culver, the Honor Committee Chairman. It was the first time any of them, other than CAPT DeCarlo, had officially received information on the investigation. The Commandant's staff had, however, been told unofficially to expect a large number of Honor cases and so had already started planning for the Honor Boards.

30. After the NCIS agent left the meeting, CAPT DeCarlo, LCDR Nagle, LT Cann and MIDN Culver discussed how they were going to proceed with the cases and what modifications to the Honor Board process would be necessary in order for the Boards to function properly with the number of cases involved.

31. Specific areas discussed for modification were: holding results until the completion of all Boards; redacting the NCIS report; selection of midshipmen for various duties related to Honor Boards; and, generally, the due process protection of the accused. The Superintendent later approved a recommendation that the results of each Board be kept secret until all Boards were completed. This was done to prevent early Board results from unduly influencing the outcome of later Boards and to prevent the Brigade from keeping score as the results became known.

32. CAPT DeCarlo told the Superintendent of the plan to redact the NCIS report of the criminal investigation for use as the basis of midshipmen Investigating Officer (IO) investigations and evidence before Honor Boards.

33. The Commandant approved a modification request to permit the use of midshipmen 2/C Honor Representatives as Honor Advisors in order to free up midshipmen 1/C Honor Representatives for assignment as IOs.

34. Because of a concern over the 21-day rule (the Honor Concept statute of limitation), CAPT DeCarlo decided that the last day a midshipman could be accused of an honor violation identified in the NCIS report was 8 February 1993 (21 days after the

Superintendent was briefed by NCIS and thus made aware of a violation).

35. CAPT DeCarlo and LCDR Nagle directed LT Cann to get a copy of the NCIS report, go through it, and identify midshipmen to be accused. He obtained a copy from an NCIS agent the next day and spent the weekend (6 and 7 February) reading it and making a list of midshipmen he would accuse of committing an honor violation.

36. LT Cann determined there was sufficient evidence to accuse 28 of the 39 midshipmen identified in the NCIS report. On Monday morning, 8 February 1993, LT Cann talked with CAPT DeCarlo by phone and informed him he had a list of midshipmen to be accused. CAPT DeCarlo had also generated a list and they discussed some of the names. CAPT DeCarlo did not attempt to substitute or change any of the names on LT Cann's list. LT Cann then drafted accuser letters and gave them to MIDN Culver to serve the named midshipmen.

37. At the 4 February 1993 meeting, LT Cann was told by CAPT DeCarlo and LCDR Nagle to redact the NCIS report, and he did so throughout the week of 8 February 1993. As he finished redacting a portion of the report relating to a particular midshipman, he would give it to MIDN John Chadwick, Honor Committee Vice Chairman for Investigations, who passed it on to the IO previously selected by the Honor Committee Chairman to investigate that case.

38. When he reviewed the 28 cases investigated by the IOs, MIDN Culver dismissed four of them, which was within his authority, and directed that the remaining 24 cases go before Honor Boards. On 1 March 1993, the Superintendent encouraged his staff to complete the Boards quickly, hopefully before Spring Break.

39. The first Board met on 3 March 1993, but then Spring Break interfered and caused a two-week delay before the second Board started. The final Board was held on 26 March 1993. Ultimately, the Honor Boards found 11 violations out of those 24 cases.

40. The 11 cases were forwarded to the Commandant of Midshipmen for his review. The Commandant dismissed four cases, and forwarded the seven cases in which he found a violation of the Honor Concept to the Superintendent. In all seven cases, he recommended the accused be separated from the Academy.

41. The Superintendent dismissed one case and forwarded the remaining six cases to the Secretary of the Navy, recommending in each case that the midshipman be separated from the Academy.

## THE NAVAL INSPECTOR GENERAL INVESTIGATION

42. Following the receipt of new allegations and complaints regarding disposition of the 24 Honor Board cases, NAVINSGEN was tasked on 7 June 1993 to conduct an additional inquiry.

43. The NAVINSGEN investigation began with a team of four: two lawyers and an investigator from NAVINSGEN; and the special agent who conducted the NCIS investigation. The team first reviewed all NCIS documents, verbatim transcripts of the Honor Boards, as well as, the Commandant's and Superintendent's hearings. The team received briefings from the Academy staff and then conducted a limited number of interviews.

44. Initially, the NAVINSGEN investigation focused on the new information provided by a midshipman in early May 1993. After pursuing those leads, NAVINSGEN determined that resolution of the disparities in individual cases and evidence would require an investigation into the scope of the compromise. In order to efficiently conduct the investigation, the team was expanded to nine members: two additional NCIS agents, one Marine Corps officer, and two activated reserve officers from the NAVINSGEN reserve unit. On 20 June 1993 the team arrived at the Academy and began the on-site investigation that lasted until 7 January 1994.

45. From the outset, the NAVINSGEN investigation assumed that the Superintendent's January 1993 decision not to court-martial identified cheaters would be adhered to in the majority of cases subsequently developed, although the possibility of referring especially egregious conduct to courts martial was not ruled out. Consequently, criminal investigative techniques were not used to interview midshipmen, e.g., they were not advised of their rights under Article 31(b), UCMJ (military right against self-incrimination). Unlike criminal proceedings, the absence of warnings in an administrative investigation normally has no drawbacks such as suppression of admissions. The decision was approved by the Acting Secretary of the Navy and later, Secretary Dalton, with the concurrence of the Judge Advocate General and General Counsel of the Navy.

46. NAVINSGEN conducted over 800 interviews, under oath, at the Academy between June 1993 and January 1994. Those interviewed ranged from the Superintendent to junior civilian employees. Among the midshipmen it included everyone who took the examination as well as roommates, sponsor mates, teammates and company mates of suspects.

47. All interviews of midshipmen suspects were conducted by at least two NAVINSGEN investigators. Interviews ranged in time

from 20 minutes to many hours, spread over several days. During the interviews the investigators took notes and then prepared typed statements. Statements were given to the persons interviewed, who were told to read them carefully and to make corrections, as they would become their sworn statements.

48. In all, 133 cases were developed that warrant further review. These include the six cases already forwarded to the Secretary of the Navy, seven cases of midshipmen who have already been separated from the Academy for other honor/conduct violations or for academic failure, and one case against a recent graduate, now on active duty. Eighty-one of the 133 cases have substantiated admissions.

49. In addition to following leads developed through interviews, NAVINSGEN obtained all 663 examinations and analyzed them. This analysis proved to be the most important investigative tool for identifying cheaters.

50. The investigators also obtained the complete engineering exam data that LCDR Scalzitti had developed but which never left the EE Department. This data identified 37 midshipmen who received unusually high grades. Of those 37, the NAVINSGEN investigation developed cases against 28. An analysis of the 133 suspects identified by NAVINSGEN indicated that 46 of them improved their final exam score by over 20 points from their 12-week exam. NAVINSGEN also requested the E-Mail system be checked for messages that may have been automatically saved, and several incriminating messages were found.

51. The NAVINSGEN investigation was unable to determine the actual source of the compromise. All evidence developed leading back to the source stopped at MIDN B and MIDN D neither of whom provided any information to the investigators. Identification of the B/D source requires the cooperation of one of those midshipmen. The NAVINSGEN investigation found no evidence that the examination lost in the mail system was the source of the compromise. The issue of the integrity of the process used at the Academy for printing large numbers of examinations will be examined during a NAVINSGEN inspection of the Academy to be conducted later.

#### NAVINSGEN ISSUES

52. During this investigation, NAVINSGEN developed six issues which merit discussion in this report. They are:

- A. EE Department input after allegations of a compromise;

- B. NCIS investigation;
- C. Decision to use Honor Boards and their conduct;
- D. Perception of a Conflict of interest;
- E. Handling of new allegations; and
- F. Honor Concept Climate at The Naval Academy

**A. EE DEPARTMENT INPUT AFTER ALLEGATIONS OF A COMPROMISE**

53. As soon as reports reached the EE Department that the EE 311 exam was compromised, several of the instructors in that department, led by LCDR Scalzitti, began collecting data on the tests. The first thing they looked at were grades, comparing the midshipmen's 6-week, 12-week and final grades. Because this was only one day after the examination, not all the tests were graded so they were unable to obtain input on the final grades from 18 of the 28 class sections.

54. When the Dean asked the EE Department to check the tests for unusual spikes in grades between the midshipmen's 12-week exam grade and final exam grade, he received the data LCDR Scalzitti had prepared (enclosure 18). On 16 December 1992, the Dean briefed the Superintendent on LCDR Scalzitti's half page of data.

55. The cover letter with the EE Department's input, signed by LCDR Scalzitti, did not indicate that the information was incomplete, and when that data was briefed to the Superintendent he was not told it was incomplete. The input identified 13 midshipmen with unusually high scores. However, 13 out of the 663 who took the examination was not considered beyond a normal range of unexpected individual improvement. Based on this information, the Superintendent decided, and the Dean agreed, that there was no indication that the compromise was widespread.

56. LCDR Scalzitti completed the data compilation (enclosure 19) the following week by insisting the other instructors grade the tests and give him their input. LCDR Scalzitti, working with another EE Department instructor, then prepared his complete report on the grade comparisons. It showed 37 midshipmen with higher than expected grades. The updated data did not leave the EE Department until it was given to the NAVINSGEN investigators. The Superintendent, his staff, the Dean, and NCIS never saw the updated input until the NAVINSGEN investigators showed it to them. Consequently, it is now apparent that the Superintendent and NCIS formed opinions and made decisions about the compromise based on incomplete information.

### B. NCIS INVESTIGATION

57. The NCIS was requested to conduct an investigation into the compromise on the initial theory that a criminal offense, such as larceny or breaking and entering may have occurred. It quickly became evident, however, that the origin of the compromised examination was not clear and that a felony offense had not been established. Nonetheless, in order to satisfy statutory requirements in criminal investigations, almost all midshipmen interviewed (interrogated) were advised of their rights against self incrimination as set forth in Article 31(b), UCMJ. This procedure had the cumulative effect of insulating the midshipmen from their military duty to respond to questions about the compromise.

58. In addition, NCIS, as the principal Navy organization chartered, trained and manned to conduct criminal investigations, conducted the investigation consistent with that charter. That is, the investigation focused on criminal activity. Conduct in violation of the Honor Concept, such as cheating, is not normally within the NCIS charter and therefore the NCIS agents did not pursue that issue to completion during their investigation. Senior Academy officials apparently never considered whether an NCIS criminal investigation remained appropriate after the Superintendent's decision not to court-martial those accused only of cheating. Although the principal NCIS Special Agent frequently briefed CAPT DeCarlo on the progress of the investigation, CAPT DeCarlo did not reconsider the decision to request NCIS to conduct a criminal investigation, and did not consider alternative forms of investigation in order to determine the actual extent of the cheating. Two such alternatives could have been: (1) requesting that NCIS assist the Academy by conducting an investigation using less stringent administrative procedures; or (2) convening an alternative inquiry, such as an investigation under the provisions of the Manual of the Judge Advocate General. Ultimately, NAVINSGEN was requested to conduct an administrative investigation.

### C. THE HONOR BOARDS

#### (1) DECISION TO USE HONOR BOARDS

59. At the Superintendent's 1<sup>st</sup> January 1993 briefing from NCIS, the issue of conspiracy was discussed as a possible criminal charge against some midshipmen. The agents provided information which implicated MIDN B and MIDN C in the theft of the exam and the issue of court-martialing them was discussed. The Superintendent decided against it for several reasons, the most significant of which was that CAPT DeCarlo advised him the cases

were not that strong and that they would probably lose at trial.

50. The Superintendent was satisfied that the number of potential cases was not so great as to preclude the use of Honor Boards as the means of resolution. From that date on, no other resolution method was considered. The discussions held by the Superintendent, Commandant and CAPT DeCarlo in reaching their conclusion to use Honor Boards focused on whether the Brigade could mechanically run so many Boards. They did not address whether Honor Boards could effectively decide cases in which 10 or so midshipmen could be engaged in a double-ended "conspiracy," i.e., engaged in the same common violation being heard by the Boards and involved in a common effort to "beat" the Boards. More specifically, none of the three officials considered whether an Honor Board could properly resolve a case in which the witnesses may conspire to lie in order to protect each other. The Commandant stated that he has given a great deal of thought about this subject in the past six months, but had no such concerns when the Honor Boards were chosen as the means of resolving the EE 311 cases.

(It must be remembered that Honor Boards are non-adversarial. Unlike criminal trials where justice is found through the clash of competing interests, the Honor Boards presume that midshipmen appearing before them are telling the truth.)

## (2) CONDUCT OF THE BOARDS

The NAVINSGEN investigation revealed two primary flaws in the manner in which the Honor Boards were conducted:

### A. MIDSHIPMAN C TESTIMONY:

61. MIDN C provided a four-page sworn statement to NCIS naming 23 midshipmen as having been involved in the cheating. He was to be the government's chief witness before the Boards. His statement to NCIS had provided the basis for much of the Boards' investigations and, based on his statement, senior Academy officials felt confident at the outset of the Honor Boards that cases against the accused were strong. However, on 17 March 1993, at the second Honor Board hearing, MIDN C disavowed his sworn statement to NCIS, stating that he was coerced into giving the statement and that he did not read it before signing. MIDN C would ultimately testify at 16 Boards (including his own) and disclaimed his sworn statement at each one of them.

62. It was obvious to the Honor Committee members, each of whom attended numerous Honor Boards as non-voting members, that MIDN C was lying to the Boards. The members repeatedly raised

this issue with LCDR Nagle and LT Cann. LCDR Nagle, LT Cann and MIDN Culver, Honor Committee Chairman, met with the Commandant early in the Board process to discuss the situation. CAPT DeCarlo was also informed of the situation, but the Superintendent was not. According to LCDR Nagle, neither he nor the Commandant were overly concerned with MIDN C's false testimony because it did not appear to be causing an inordinate number of dismissals. Collectively, they decided to assume that Honor Board members were intelligent and would conclude for themselves that MIDN C's testimony was perjured. MIDN Culver did, however, instruct Honor Board Presiding Officials to remind Board members that MIDN C's statement was sworn and signed, and therefore carried greater weight than his testimony. LCDR Nagle also stressed to LT Cann and the Honor Committee that an NCIS agent would testify at each hearing as to the circumstances under which MIDN C's statement was made.

63. Despite MIDN C's false testimony before the Boards, no specific action was taken to rebut it. During one Board, the Presiding Official asked LT Cann if redacted portions of MIDN C's sworn statement could be provided to the Board to show that he had, in fact, read the statement, since the pages bore corrections made in his handwriting and his initials. LT Cann denied the request. Additionally, witnesses who were available to impeach MIDN C's testimony about the compromise were not called. Nor was action taken to confront MIDN C with his false testimony and to hold him accountable. Ultimately, Honor Boards dismissed nine cases against midshipmen named in MIDN C's sworn statement to NCIS.

#### b. LIMITS ON INFORMATION:

64. Under Honor Board procedures, it is a common practice to redact (delete or edit) information that is not relevant to the case being heard. On 4 February 1993, LT Cann was instructed by LCDR Nagle to redact the NCIS report, the single most important part of which was MIDN C's sworn statement, so that only portions relevant to the individual accused midshipman were provided to the Investigating Officers. Neither CAPT DeCarlo nor LCDR Nagle, both of whom are Judge Advocates provided any guidance to LT Cann, a naval aviator. CAPT DeCarlo believed that LCDR Nagle was reviewing LT Cann's work. LCDR Nagle stated he was comfortable with LT Cann proceeding on his own, believing LT Cann understood relevancy and would contact him if he had difficulty. The Commandant acknowledged that he knew LT Cann was redacting the NCIS report but believed him to be up to the task. The Superintendent believed that CAPT DeCarlo and LCDR Nagle were directing the redaction effort.

65. LT Cann redacted the NCIS report throughout the week of 8 February 1993. As he finished redacting a portion relevant to a particular midshipman, he provided it to the Brigade Honor Committee Vice Chairman for Investigations, who then passed it to the IO assigned to investigate that particular case. The NCIS report redacted by LT Cann was not substantially reviewed by any Academy official, although LCDR Nagle believes he may have reviewed a portion of it. This lack of oversight was brought to the attention of CAPT DeCarlo when a defense attorney of an accused midshipman complained that LT Cann had refused to provide him with an unredacted copy of his client's own statement. Although this deficiency was corrected, no effort was made to review LT Cann's other redactions.

66. Honor Board procedures require that all relevant information be considered when processing the case of an accused. However, when the IOs received a redacted portion of the NCIS report, they realized it was but one portion of a larger, interrelated event. Many of the IOs received multiple pages of material containing only a few sentences among large blocks of whited-out print. They knew they were viewing only parts of the whole picture.

67. The IOs also learned that LCDR Nagle and LT Cann had a matrix, prepared by CAPT DeCarlo, showing the inter-connections of midshipmen and tests. When the IOs asked for a copy of the matrix, LT Cann denied their request.

68. The IOs asked LT Cann for permission to confer among themselves to understand the totality of the compromise. Their request was denied on the grounds that the Superintendent and his staff did not want to construct individual cases based on evidence concerning other midshipmen. Consequently, many IOs experienced difficulty in preparing their cases.

#### D. PERCEPTION OF A CONFLICT OF INTEREST

69. Once all of the Honor Boards were completed, the Commandant briefed the Superintendent on the results. The Superintendent knew the names of the 11 midshipmen who had been found in violation. They did not discuss the specifics of any cases. The Superintendent advised the Commandant to treat each case on its own merits and to be fair and impartial in his determinations.

70. The Superintendent and CAPT DeCarlo discussed one case which presented a potential conflict of interest problem. This was the case of MIDN E who is the son of a friend of the Superintendent's. and the Superintendent have known each other since they were teammates on the Academy football team in 1963. also later served a tour under the

Superintendent, and they have remained friends over the years. Their sons are also friends. CAPT DeCarlo is the sponsor of MIDN E. His parents, who are strong Academy fans and attend many sports events, stay in CAPT DeCarlo's quarters when they visit their son.

71. The Superintendent and CAPT DeCarlo knew that MIDN E was one of those found in violation by the Honor Boards, and discussed what to do if the Commandant forwarded the case to the Superintendent. They decided that the case should be sent to the Vice Chief of Naval Operations, the Superintendent's immediate superior, for action. They did not discuss whether the Commandant, as the Superintendent's subordinate, could render an impartial and independent judgment about the son of someone he knew to be a friend of the Superintendent.

72. When the Commandant reviewed MIDN E's case, he overturned the Honor Board's finding of violation. When interviewed, the Commandant said he knew about the friendship between the Superintendent and MIDN E's father, but that it did not impede his ability to make an impartial decision. The Commandant stated he has met at social events, usually after sporting activities, but that their conversations have never gone beyond small talk. He said he overturned the Board's finding because the NCIS agent who testified in the case was asked his opinion of MIDN E's guilt or innocence, to which the agent replied that he thought the midshipman was guilty. The Commandant believed permitting the agent to give an opinion on the ultimate question of guilt unduly influenced the Board.

73. Although we found no conflict of interest in the Superintendent and Commandant's handling of this case, we found that there was a definite perception of a conflict or lack of impartiality among the midshipmen and that the Academy officials were not sufficiently sensitive to this perception. This became particularly evident during the meeting on 22 April 1993 when the Superintendent met with the Brigade of Midshipmen to announce the final results of the EE 311 Honor cases. MIDN C stood up and asked the Superintendent to comment on MIDN E's presence in the Superintendent's quarters the night before his case was heard by the Commandant. The staff and the Admiral himself remember the exchange as a clarification of the basic facts stated by MIDN C. The Admiral did see MIDN E in his quarters, but told the Brigade that MIDN E was visiting his son and that he simply said hello to him and asked him if he had been to his Commandant's hearing. The Superintendent told the Brigade that nothing substantive was discussed.

74. The midshipmen interviewed remember the Superintendent's answer differently. They recall him first denying seeing MIDN E in his quarters and only acknowledging it after MIDN C kept pushing the issue. Various midshipmen remember snickering and the repeated chanting of MIDN E's nickname by members of the Brigade after the Superintendent's response.

75. The perception of a conflict of interest was raised again by four of the midshipmen recommended for separation. Writing in their "Show Cause" letters to the Secretary of the Navy, each midshipman raised conflict of interest issues in the MIDN E case, which they argued cast a shadow on the fairness of the other cases. Specifically, they assert that the Commandant, rather than the Superintendent, was either a roommate or company mate of at the Academy.

76. The Superintendent responded to the Show Cause letters in separate correspondence to the Secretary of the Navy. The responses, drafted for the Superintendent by CAPT DeCarlo, refute the assertion of a conflict of interest by stating the Commandant and were in different classes and were not in the same company. However, the Superintendent's letters fail to address the more generalized, and important, allegation of a personal relationship between MIDN E's family and high ranking officials at the Academy.

77. Before signing the letters to the Secretary of the Navy, the Superintendent asked CAPT DeCarlo about the fact that it did not mention his own relationship with MIDN E's father. CAPT DeCarlo advised the Superintendent that the midshipmen's assertions about the Commandant were incorrect and irrelevant to their particular Show Cause cases. He explained that there was no need for the Superintendent to provide details of his own relationship to MIDN E's father because the case in which that would be an issue never reached the Superintendent. The Superintendent then signed the letters.

#### X. HANDLING NEW ALLEGATIONS

78. At his meeting with the Brigade of Midshipmen on 22 April 1993, RADM Lynch stated that the investigation remained open and he encouraged anyone with information regarding the EE 311 compromise to come forward. The Superintendent repeated this request in a newspaper interview shortly thereafter. Picking up on this message, the Commandant told the Brigade midshipmen leaders that the investigation remained open and encouraged them to come forward with any new information on the EE 311 cheating.

79. At the end of April, MIDN F told MIDN Culver that he had more information on the EE 311 compromise. He implicated

several people, including some who had appeared before Honor boards but had not been found in violation. MIDN Culver met with the Commandant, LCDR Nagle and LT Cann and told them what MIDN F had told him. He also told them he wanted to address the entire Brigade immediately, and begin a new investigation.

30. The Commandant told MIDN Culver that they would not investigate until MIDN F provided a written statement. MIDN Culver asked for and received from MIDN F a letter setting forth the new information. The MIDN F letter, dated 3 May 1993, states in pertinent part:

On the night before the EE311 final, I walked into 2/C G's room at approximately 2100. 2/C H was seated at G's desk copying something onto a piece of paper. I walked over and began to talk to H. Near the beginning of the conversation, H showed me the paper he was copying. At the top it read something to the effect of "EE311 Final Exam Fall 1992." H began to tell me that this was the exam he was expecting to take the following day. He told me a scenario of how G had obtained the exam. He stated that a member of the football team had received it from a professor in another academic department. This professor was an officer who was the older brother of the football player who originally gained access to the exam and proceeded to give it to other members of the football team. Being a football player, G got it from a teammate. I asked if he actually believed that this was the exam, and not just another old exam that was passed down. He proceeded to tell me that he believed this was the final he would be taking the next day. He proved his point by showing me the date at the top, "Fall 1992." ...

31. MIDN Culver gave the letter to the Commandant at another meeting with him, LCDR Nagle, and LT Cann on 3 May 1993. The Commandant read the letter and noted that it was not signed. LCDR Nagle recalls the Commandant said he wouldn't do anything about the allegations until the letter was signed. The Commandant told the NAVINSGEN investigators he simply said to get the letter signed. LT Cann recalls that he, LT Cann, told MIDN Culver to get the letter signed. MIDN Culver recalls that when he pressed on initiating the investigation, he "was silenced" and told "that justice had been served and there was not 'enough' to reopen the investigation."

32. LCDR Nagle said he felt that MIDN Culver had lost all objectivity and that they all felt that MIDN Culver was too personally involved and it was time to pass the duties of Honor Committee Chairman to the incoming Honor Committee Chairman.

83. MIDN Culver and the Commandant do agree that before the meeting ended, the Commandant told someone to look into the matter (MIDN Culver says LT Cann got the assignment, the Commandant recalls tasking both LT Cann and LCDR Nagle). However, neither LCDR Nagle nor LT Cann thought they had been given any direction to look into the letter.

84. Also on 3 May 1993, there was a turnover meeting between the incoming and outgoing Honor Committees; CAPT DeCarlo, LCDR Nagle and LT Cann were also present. They discussed lessons learned from the recently-completed Honor Boards and listened to concerns about the way those cases were handled by the 1993 Honor Committee.

85. MIDN Culver thought one purpose of the meeting was to discuss the MIDN F letter and how it would be handled, so he raised the issue concerning what was going to be done with it. It quickly became obvious that nobody had told CAPT DeCarlo about the letter. The meeting ended with CAPT DeCarlo having it for action. CAPT DeCarlo said he was adamant that an investigation was needed because it appeared to be new evidence and the Superintendent had made a commitment to investigate any new information. CAPT DeCarlo left the meeting with a copy of the letter but assumed that LT Cann would interview MIDN F and the other midshipmen mentioned in the letter.

86. CAPT DeCarlo briefed the Superintendent on the MIDN F letter the day he received it (3 May 1993). The Superintendent asked him what they should do with it. CAPT DeCarlo told the Superintendent that he (the Superintendent) had asked for midshipmen to come forward with new information and now that one had done so they were obligated to look into it. He recommended that they try to establish some veracity in it, and if they did, to then turn it over to NCIS. Because CAPT DeCarlo was under the impression that LT Cann was going to interview the midshipmen, he told the Superintendent that they were, in fact, looking into the letter. However, he was wrong. LT Cann did not think he had any action on it.

87. Sometime thereafter, (LT Cann estimated at least one week later), CAPT DeCarlo called LT Cann concerning the part of the letter where MIDN F recounts that MIDN M told him the source of the test was a member of the faculty who had a brother on the football team. CAPT DeCarlo told LT Cann that there was no such person at the Academy. They did not discuss what LT Cann may have been doing about the letter.

88. The Commandant, who recalled having asked someone to look into the allegation about the faculty member first, told the investigators that in his opinion this inaccuracy affected the

credibility of the entire letter, as well as its importance and urgency. The other officers interviewed shared this sentiment. The most important assertion in the letter, that F had seen a printed copy of the examination with the words "EE 311 Final Exam Fall 1992" on the first page, appears to have been ignored in the initial inquiries.

89. Besides running down the faculty member/brother issue, CAPT DeCarlo checked MIDN H's record. Finding that he was an excellent student and on the Superintendent's list, CAPT DeCarlo determined that he might have been involved as an "answer man." CAPT DeCarlo also had discussions with LCDR Nagle and the Honor Committees about the impact of the 21-day rule and whether it would act as a bar to accusing anyone.

90. Except for CAPT DeCarlo's limited inquiries, no one took action on the MIDN F letter before 19 May 1993. On that date, the Academy received a fax inquiry from the Anne Arundel Sun (enclosure (20)). Based on the questions in the inquiry, it was obvious that some or all of the new information contained in the MIDN F letter had reached the paper.

91. At that point, CAPT DeCarlo realized they had not taken timely action on the MIDN F letter and needed to make up ground. He went to the Superintendent to discuss the matter and make recommendations. He says that in retrospect, he should have turned the MIDN F letter over to NCIS as soon as he learned of it. The Superintendent acknowledged that it was around this time that CAPT DeCarlo had come to him and admitted that "the ball had been dropped" in running down the MIDN F letter.

92. CAPT DeCarlo then gave LT Cann clear direction to talk to the midshipmen named in the letter. LT Cann was able to talk to MIDN F, MIDN I and MIDN J but was unable to talk to MIDN H or his roommate, MIDN K, both of whom had begun their summer cruise.

93. LT Cann estimated that he talked to the midshipmen within a day or two of when he was told to do so by CAPT DeCarlo. Based on the date the summer cruise began, he believes he reported his findings shortly after 24 May 1993. The reason he was not sure of the date is the memorandum he prepared (enclosure (21)) outlining his findings was undated. In this memorandum, LT Cann concludes that he will talk to MIDN H and MIDN K upon their return to the Academy, but that the matter did not seem worth pursuing.

94. On 26 May 1993, the Baltimore Sun ran an article critical of the Academy (enclosure (22)), suggesting that new information had surfaced on the cheating but that no action was being taken. The

article was followed, two days later, by Senator Richard Shelby's (D, Ala) letter to the Deputy Secretary of Defense requesting an inspector general investigation.

95. Because it was necessary to develop reliable information quickly, it was suggested, and the Superintendent agreed, to issue grants of immunity and to have NCIS send them, along with a series of questions, to the NCIS agents at the commands where MIDN H and MIDN K were attached. On 4 June 1991, the Superintendent signed two grants of immunity. Subsequently, NCIS served one of the two grants, but before the other was served NAVINSGEN began its investigation and preempted further action.

#### F. THE HONOR CONCEPT CLINGATE AT USNA

96. Despite the clear words of the Honor Concept that midshipmen are persons of integrity expected to apply the highest standards of honor, duty, loyalty and character, this investigation found that many midshipmen do not always measure up to these ideals.

97. Throughout the numerous interviews NAVINSGEN conducted with midshipmen, the message the investigators received from the midshipmen was that they viewed the Honor Concept as an ideal that simply could not be applied to many of the problems that arise in the daily life of a midshipman at the Academy. Their conduct during the investigation reinforced their views.

98. For example, only a handful of midshipmen admitted their involvement in the EE 311 exam compromise when first asked the direct question. In most cases, they repeatedly lied until confronted with irrefutable proof of their involvement. It quickly became apparent that the midshipmen had to see the strength of the case the investigators had against them before they would tell the truth. In many cases, midshipmen admitted their participation only after the investigators provided a detailed analysis of their examination answers that showed a correlation with the answers of others who had already confessed. A common reaction was something to the effect of: "okay, now that I know you got me, I'll tell the truth."

99. Many midshipmen tried to rationalize their actions by denying that they really knew they had the actual exam. In doing so, they exposed their shallow commitment to the Honor Concept. We found that only a handful of midshipmen knew the exam had been compromised and anticipated receiving a copy before the evening of 13 December 1992. For most, the exam appeared spontaneously after 2100 on the 13th, and circulated among roommates, small groups of friends, and teammates who couldn't believe their good fortune. Some midshipmen reported speculating that it couldn't really be the exam, but the clear import of their message was

that they certainly hoped it was. Most important, in the ten or so hours the exam circulated within Bancroft Hall before it was administered at 0745 on the 14th, not one midshipman stepped forward to expose the compromise to Academy officials.

100. The extent of the compromise also demonstrated to the investigators the scope of the midshipmen's failure to embrace the Honor Concept. The compromised examination travelled throughout the Brigade, ultimately involving midshipmen from 29 of 36 companies. However, it did not come with answers, so groups of midshipmen, normally groups with a preexisting connection, e.g., team mates, roommates and close friends, would gather to work out the solutions. All types of midshipmen were involved, not just football players: midshipmen on the Superintendent's list, as well as midshipmen who were flunking: of the football, soccer, wrestling, lacrosse, water-polo, heavyweight crew, baseball, tennis and basketball teams; Honor Representatives as well as the Brigade Honor Committee (class of 1994); members of the glee club; eight three strippers (midshipman lieutenants), three midshipmen with medical school aspirations; 57 midshipmen who graduated from the Naval Academy Preparatory School.

101. Although we found little evidence of conspiracy to obtain the exam, we found much to demonstrate that midshipmen conspired to conceal their involvement to NCIS, the Honor Boards, and to the NAVINSGEN investigators. Indeed, the second part of MIDN F 's letter focuses on his observations of midshipmen working over a computer to coordinate and perfect the testimony they would give to the Honor Boards in order to protect each other. Midshipmen interviewed by NAVINSGEN lied to protect their friends, even after admitting their own guilt.

102. The actions of one group of midshipmen merit particular mention. Although many midshipmen lied, most did make some response to the investigators' questions. But 14 midshipmen implicated in the cheating, 11 of whom were athletes, presented a united wall of silence by invoking the Fifth Amendment. Despite that amendment's criminal nexus and nonavailability in an administrative investigation, after methods of compelling these midshipmen to cooperate were studied, the legal Recommendation was to request written grants of immunity from the convening authority. The Superintendent concurred in the request, and 14 grants of immunity were issued and served on the midshipmen. Nevertheless, only two came anywhere close to telling the truth in their subsequent interviews. Eight lied and swore to those lies. Five refused to be interviewed, even in the face of the Superintendent's grant of immunity and orders compelling their cooperation. One midshipman expressed his conviction that the Navy would take no additional action against him for refusing to

cooperata even after the grant of immunity. He told the investigators the Navy was bluffing (in taking additional action against him for his failure to cooperate after receiving the grant) and that he was "calling their bluff."

103. The majority of midshipmen interviewed did not feel that truth was found, or even seriously sought, during the Honor Boards' attempts to implement the Honor Concept at the Academy. Many examples were given, the most common of which involved the perceived special breaks given to MIDN E due to his family connections with the Superintendent.

104. The majority of midshipmen we interviewed also believed the system punishes anyone who tells the truth. The example given most often is the outcome of the EE 311 cases. They point out that only midshipmen who admitted they cheated were ultimately found in violation and recommended for separation by the Superintendent.<sup>1</sup> Whether this was a conscious, subconscious or coincidental outcome is impossible to say, but the factual result is consistent with the perception that telling the truth does not pay. A related perception expressed by some was that cheating on the EE 311 exam was justified because it was unfair of the Academy to require midshipmen to take the course.

105. Members of the Honor Committee felt that the lack of timely response by the Superintendent and Commandant on the information received from MIDN F evinced their lack of real commitment to the Honor Concept. The Committee members believed that the only reason the Academy took any action on the F letter was because word of it reached the newspapers.

106. The class of 1993 Honor Committee was universally critical of the way the EE 311 cases were handled, from the beginning through the Commandant's and Superintendent's review and their follow up when additional evidence was received. Committee members did not understand the reasons for the decisions made, nor did they believe they were supported in their efforts to enforce the Honor Concept.

107. Some members of the Honor Committee mentioned an incident involving the definition of cheating that is instructive. At an early stage of the Honor Board proceedings, the Honor Committee members had a discussion with LCDR Nagle and LT Cann during which they thought all agreed that midshipmen who did not realize they

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<sup>1</sup> Each of the six midshipmen who were recommended for separation by the Superintendent admitted they cheated and said so under oath to NCIS. They later, at their boards, tried to recant their statements but were unable to do so convincingly.

had been studying the actual exam Sunday night until they took the test Monday morning would be guilty of cheating if they did not report it to an Academy official. Later, after the Boards were completed, this question came up in CAPT DeCarlo's presence. He said that because intent was required for cheating, people who did not know they had the exam on Sunday night could not be guilty of cheating. The members of the Honor Committee recall that LCDR Nagle and LT Carn immediately agreed with CAPT DeCarlo's position, and denied ever taking a contrary position. LCDR Nagle and LT Carn told the NAVINSGEN investigators they did not recall ever giving the midshipmen a different definition. Apparently overlooked in this debate, which resurfaced during the NAVINSGEN investigation, is the obligation a midshipman has to report the compromise after discovering it, regardless of the label that may be used to describe the midshipman's conduct on Sunday night.

108. Many midshipmen said the Superintendent was overly supportive of the football team. There is a widely held perception within the Brigade that football players receive too many special breaks, e.g., preselection of courses, standing no weekend duty during season, and eating at team tables, even as plebes, thereby avoiding the training which takes place at company tables during meals. These views were strengthened when, according to some midshipmen, the Superintendent told the Brigade on 22 April 1993, in announcing the results of the 24 cases, that he was glad to report that no football players were involved. In this regard, the remarks of the West Point Special Commission cited at the beginning of this report bear special consideration.

109. Ultimately, responsibility for acceptance of the Honor Concept at the Academy rests with the Superintendent, not merely in the sense that the Captain is responsible for his ship, but in the real sense that the midshipmen must believe he has an unwavering and total commitment to its principles and that he lives by them every day of his life. And thus, finally, we must examine the Superintendent's commitment to the Honor Concept.

110. We believe that, unlike many midshipmen, the Superintendent does believe the Honor Concept can be applied to all facets of daily life. Of all those interviewed, he had the clearest, most direct understanding of the application of the Honor Concept to the compromise of the EE 311 exam. He said, quite simply, that if a midshipman had any reason to believe the problems he studied were from the exam and used them anyway, the midshipman accepted the risk that, if the problems turned out to be actual exam problems, then he had cheated.

111. Yet we believe the Superintendent's personal commitment to the Honor Concept creates a dilemma for him. On the one hand,

the Superintendent will not tolerate those who violate the Honor Concept, and believes there is no room for them at the Academy. The Superintendent is reported to have said on one occasion that he would dismiss the entire class of 1994 if they were all cheaters. On the other hand, he has such a high regard for midshipmen that he considers it virtually inconceivable one of them would not adhere to the Honor Concept. Therefore, when faced with deciding whether a midshipman has violated the Honor Concept, he requires nearly irrefutable evidence before making a finding of violation.

112. The Superintendent's dilemma is best illustrated when midshipmen make accusations of honor violations based on trivial acts or statements that literally fall within the definition of an honor violation, but which the Honor Boards were never intended to address. For example, a midshipman one minute late for muster might spontaneously exclaim "I wasn't late!" when his company commander asks "Why are you late for muster?" Such a statement is, in the literal sense, a lie, for which separation as an honor violation is the normal punishment. It is also one that most reasonable people would agree should not be brought before the Honor Boards for resolution.

113. But when overzealous midshipmen insist on presenting such accusations, and the evidence is clear, a finding of violation is warranted. To avoid the absurdity of separating a midshipman for such a trivial matter, the Boards, the Commandant, or the Superintendent are likely to find "no violation." The problem with this approach is that it corrupts the entire Honor system. While this may work in isolated cases, when applied too often, the whole concept crumbles and the hypocrisy of the system is exposed. On the surface, the answer would appear to rest with the concept of progressive punishment. However, for some, including perhaps the Superintendent, the dilemma would only be compounded were he to find the midshipman did lie, but allow him to remain in the Brigade with some form of punishment short of separation. To do so would be to admit that some midshipmen are liars and cheaters, a proposition which can not be reconciled with an Honor Concept applied absolutely.

114. Moreover, the Superintendent's understandable pride in the football team has unfortunately led to the appearance that he gives football players preferential treatment that is inconsistent with the Honor Concept. Should any cases involving football players come before him, this perception will make it virtually impossible for him to treat those cases fairly. Unless he finds a violation in every one, his review of the football players' cases will cause the midshipmen to believe he has again afforded them preferential treatment. The following examples,

consistent with the perception of the midshipmen mentioned earlier, are noted:

a. During the NCIS brief on 18 January, the Superintendent became angry when he was told that NCIS interviewed the football team. He said that it appeared to be a "witch hunt" and that their actions were giving credence to the rumors that the entire football team had the test. He made no similarly emotional remarks about finding all the cheaters. [The Superintendent did not try to direct the NCIS investigation and NCIS in fact did conduct an independent investigation.]

b. On 3 August 1993, the Superintendent was briefed by three NAVINSGEN investigators on the findings of the investigation to date and the direction it was headed. The Superintendent asked if the investigation would be over by 15 August 1993, the Brigade's return date. He was told the investigation would likely not be over until the late Fall. He said he had hoped to tell the Brigade upon their return the results of the NAVINSGEN investigation, but if that was impossible, then the investigators should take their time and do a thorough job because the Army-Navy game was 5 December 1993. The Head Coach made the same remarks when interviewed.

115. Taken individually, these considerations may not constitute a definitive assessment of the Superintendent's priorities regarding the Honor Concept. Taken collectively, they create the perception of a lack of appropriate commitment.

#### CONCLUSIONS, RECOMMENDATIONS AND OPINIONS

##### CONCLUSIONS

1. The EE Department's failure to provide the Superintendent a complete and accurate examination grade analysis caused senior Academy officials and the NCIS to believe mistakenly that the extent of the compromise was very limited.
2. NCIS responded to the request of the Superintendent and conducted an appropriate criminal investigation. However, when it became apparent that criminal activity would not be pursued for prosecution, Academy officials did not take action to initiate an investigation that would be more likely to reveal the full extent of the cheating.
3. The Honor Board system in its current form was designed to handle individual cases. The structure and procedures are not in place to handle a large volume of interrelated cases.

4. Evidence gathered by NCIS was excessively redacted and Boards were not given access to the examinations of the accused. As a result, the Honor Boards did not have complete information upon which to make their decisions.
5. Academy officials responsible for the direct oversight of the Honor Board proceedings failed to effectively counter MIDN Walker's disavowal of his sworn statement to NCIS.
6. There was no actual conflict of interest in the Commandant's handling of MIDN Ingraham's case. However, there was a definite perception of a conflict or lack of impartiality among the midshipmen, and the Academy officials were not sensitive to this perception, nor is it evident they took any action to counter it.
7. Academy officials failed to act in a timely manner when they received MIDN Smith's letter.
8. For a variety of reasons detailed in this report, a climate was created and/or allowed to exist at the Academy that resulted in a failure of leadership, staff, and midshipmen to understand, embrace, and/or support the Honor Concept.
9. Decisions made by Academy officials to unduly restrict information available to midshipmen investigators and Honor Boards constituted mismanagement and hindered the Boards' ability to effectively consider the Honor Cases brought as a result of the NCIS investigation.
10. The cases developed by the NAVINSGEN investigation should not be referred to the Academy for action.

#### RECOMMENDATIONS

1. That the cases developed by the NAVINSGEN investigation be referred to a forum other than the Academy Honor Boards for resolution.
2. That, in the event recommendation number one is not adopted, the Secretary of the Navy direct that the Superintendent, United States Naval Academy, take such action as necessary to ensure that:
  - a. Honor Boards are given sufficient evidence to reasonably evaluate each case (i.e., no excessive redacting of previous sworn statements);
  - b. Honor Boards receive proper instruction as to the evidentiary standard to be applied (decisions on violations are

to be made based on a preponderance of the evidence; a certainty that is beyond reasonable doubt is not required);

c. potential Honor Board members are questioned to ensure that. (1) they do not have so much knowledge of the events surrounding the exam's compromise that they can not make a fair decision; and (2) they are not inclined to convict the accused for the purpose of vindicating the reputation of the Class of 1994.

d. Honor Board members are made to understand that not all midshipmen who present evidence to them will tell the truth, the precepts of the Honor Concept notwithstanding.

e. Honor Board members are made to understand that their only function, as the Boards are currently constituted, is to determine whether it is more likely than not that a midshipman committed an honor violation, without regard to the penalty to be imposed.

3. That, if the cases are referred to the Academy for disposition, the Superintendent and Commandant should recuse themselves from the review process in: (1) any case involving midshipmen they have already rendered a decision on; and (2) any other case that could reasonably create the appearance of a conflict of interest or lack of impartiality.

4. That the United States Naval Academy Board of Visitors recommendations which are supported by the findings of this investigation be implemented; specifically, recommendations that relate to:

- a. need for revised procedures, clear definition of terms, and written guidance;
- b. midshipmen attitudes;
- c. character development and training;
- d. procedural aspects of the Honor Concept, particularly those governing honor sanctions; and
- e. the review process.

Additionally, further review is necessary to define how the system should function in the future.

## OPINIONS

1. Service on Honor Boards prepares future Naval officers to make the hard decisions required in disciplining subordinates. Effective decision-making requires an understanding of the concept of progressive discipline. As presently constituted, Honor Boards do not provide adequate training in this area. Moreover, the perception that separation is the only penalty for an Honor violation encourages midshipmen Honor Board members to distort the Board decision making process in order to obtain a "just" result in those cases where the violation does not appear to warrant separation. With proper training, permitting midshipmen to make recommendations on disciplinary action will prepare them to be better officers at the same time it promotes the integrity of Board decisions.
2. The application of the Honor Concept through Honor Boards at the Academy must struggle with the fact that the Academy emphasizes the value of loyalty to one's classmates. Many midshipmen function by the cardinal rule "don't bilge a classmate." To counter this inclination, Academy officials must provide a more vigorous and evident endorsement of honor proceedings than was forthcoming in this instance.
3. Without further change to the Honor Board process, midshipmen who eventually experience remorse and admit to Honor violations are likely to be found in violation and recommended for separation, whereas those who continue to lie may receive no punishment at all.
4. It would be counterproductive for the Navy to separate everyone who committed an honor violation in connection with the compromise of the exam, without regard to the facts and circumstances surrounding the violation. Our investigation clearly revealed that there were varying degrees of culpability, ranging from midshipmen who sold the test to others, to those who were given answers by "friends" at the very last minute. Some of the midshipmen who committed honor violations have admitted their mistakes and learned from them. The Navy should consider whether this experience has the potential to make those midshipmen better Naval officers. For example, in our opinion, those who ultimately admitted their involvement to the investigators, despite near certain knowledge that they would be separated for doing so, merit favorable consideration.
5. While RADM Lynch's interest in the football team is understandable in light of his history as Captain of the 1963 football team, the perception that any small, special interest group is treated preferentially is detrimental to the functioning

of the Brigade of Midshipmen and to the sanctity of the position of Superintendent, United States Naval Academy.

6. The Naval Academy is not just another command within the Department of the Navy. It is the symbol of the highest ideals of the Navy, its commands, and its people. The Navy's response to the problems at the Academy we have discussed in this report must demonstrate to the American people that the Navy is firmly committed to the nicest sense of personal honor and integrity.

## GLOSSARY

**ACCUSATION:** A charge alleging that a midshipman has violated the Honor Concept.

**BILGING A CLASSMATE:** To tell or squeal on a classmate.

**HONOR ADVISOR:** A midshipman 1/C Honor Representative appointed by the Honor Committee Chairman to assist midshipmen accused prepare for their Honor Board. Honor Boards are nonadversarial; accordingly, the advisor is not a defense counsel. His purpose is to advise the accused on the Honor Board process.

**HONOR BOARD.** An administrative board, established in accordance with the USNA Honor Concept, to resolve accusations of honor violations against midshipmen. The board consists of seven voting members, five of whom are class honor representatives. Six of the Board members are midshipmen 1/C and the seventh is a midshipman 2/C unless the accused is a midshipman 1/C. There are also two non-voting members on the board, the presiding official and the recorder. The two non-voting members are midshipmen 1/C on the Honor Committee. The hearings are not conducted under oath and no midshipman accused can be forced to testify against himself. A violation is found on a simple majority vote. Votes are by secret ballot. The results are immediately announced. Punishment is not recommended: the case is simply forwarded to the Commandant. The Commandant conducts his own hearing, and if he finds a violation, he awards punishment unless it is separation. If the recommended punishment is separation, the case is forwarded to the Superintendent. The Superintendent conducts his own hearing, and if he finds a violation and concurs in the separation recommendation, the case is forwarded to the Secretary of the Navy.

**HONOR COMMITTEE CHAIRMAN:** Midshipman 1/C who Chairs the Honor Committee. Holds the rank of Midshipman Commander. Responsible for reviewing accusations of honor violations and has authority to refer accusations to an Honor Board or to dismiss the accusation.

**HONOR COMMITTEE STAFF:** Seven midshipmen 1/C who enforce the Honor Concept and run the Honor Boards.

**HONOR CONCEPT.** A USNA regulation. It sets forth the rules by which all midshipmen must act. Its fundamental tenant is "A midshipman will not lie, cheat or steal." Also provides the due process protections and details of Honor Boards.

**HONOR REPRESENTATIVE:** A midshipman who serves on the Honor Committee. The Honor Committee has 72 members, one 1/C and one 2/C midshipman from each company.

Appendix

**MIDSHIPMAN INVESTIGATING OFFICER (IO):** A midshipman 1/C Honor Representative appointed by the Honor Committee Chairman to investigate accusations of possible honor violations. The IO reports to the Honor Committee Chairman, and if the Chairman refers the accusation to an Honor Board the IO acts as the presenter of evidence before the board (also in a non adversarial capacity).

**21 DAY RULE:** Under the Honor Concept, midshipmen, faculty and staff members are eligible to make accusations against a midshipman suspected of committing an honor violation. The Honor Concept requires that the accusation be made within 21 days of the date the accuser becomes aware of the violation. If an accusation is made, the Honor Committee Chairman will appoint an IO to conduct an investigation and report back to him his findings. The Chairman may then dismiss the charges or forward them to an Honor Board.

Appendix

Senator SHELBY. We are joined by the chairman of the full committee, Senator Nunn. Senator Nunn, do you have any opening statement, or remarks that you want to make?

Chairman NUNN. No, Mr. Chairman, I am just pleased that you are having these hearings, too. I think that the whole question of honor and conduct in our military services begins at the very early stages of careers, and I think the way the pattern is set, and the example is set, and the discipline is set, and the seriousness of purpose by all leaders is set, make an enormous difference, not just to the immediate but to the long-term honor and integrity of the military services.

And, without honor and integrity, we would have an eroding military. It is built on honor and integrity and respect in command, and I think this is enormously important. I remember, when I chaired the Manpower Subcommittee, one of the first hearings that we really put together was around 1974, 1975, and I know Ambassador Armitage remembers that.

And I have always felt that the Honor Code and the respect for the Honor Code and the way it is carried out at the military academies really, in a way, distinguishes those institutions from others. There are honor codes in other institutions around the country, but I think it is enormously important, as to how it is implemented.

So, I am interested in the hearings, and I will follow it as much as I can and be here as much as I can. We have the Perry nomination, and we are going to try to vote at 11 o'clock; so we may have to run over and do that, and I hope it will not take too long. Then we have a vote. But I will be here as much as I can, Mr. Chairman. I appreciate your leadership, and we appreciate the witnesses here.

Senator SHELBY. Thank you, Mr. Chairman.

Mr. Ambassador, I would like to begin to thanking you for joining us this morning. I would also like to thank you for your excellent record as the Chairman of the Naval Academy's Board of Visitors Honor Review Committee. Through your work, and that of the other distinguished Americans who serve with you on the committee, you have made an important contribution to the Academy and to this Nation.

I have a few questions that I would like to get into, one by one. The committee's report, on page 1, refers to, quote, "a drift off course from the importance of honor as an aspect of character." Would you describe, Mr. Ambassador, for the subcommittee, what you personally believe to be the underlying cause or causes of that drift off course? Was the committee able to isolate any systemic causes or reasons for this drift?

Ambassador ARMITAGE. Well, I believe the drift off course is a function of several factors. The first is the lack of sustained emphasis on character development after plebe summer. We heard time and again from Midshipmen, that they came in with relatively idealistic expectations; and over the course of their matriculation at the U.S. Naval Academy, became increasingly cynical.

I believe, as I have stated, this is not a particular problem that resides just with the present administration.

Senator SHELBY. What is the cynicism grounded on?

Ambassador ARMITAGE. It is grounded on several things. First of all, they find that their seniors at the Naval Academy, whether

first-, second-, or third-class, may talk the talk, but they do not walk the walk when it comes to making honor the foremost aspect of their personal lives. They view this also in society, I might say; I would be remiss, not to point that out.

They have similar experiences in the fleet, which, on the one hand, are quite interesting and beneficial professionally, in terms of professional expertise. In terms of what they see regarding personal honor, however, I think it is somewhat disappointing; at least, as it has been reported to us by various Midshipmen.

All of these things, I think, are exacerbated by what we saw as a Naval Academy community which was pulled in a lot of different directions: Athletics, academics, military science, all pulling in different directions; and the normal pressures that any young man or woman, 18 to 22 years old, feels in the societal process and in the socialization process. All these things are additive. Finally, there are the pressures of the day for a Midshipman.

It occurred to us that, over time, by the time they are in their second year or third year, many Midshipmen have come to view the honor process as just another obstacle; not unlike the mile and a half run, or some other physical standard, or some other examination that they have to pass in order to graduate. It becomes an obstacle to graduation, rather than something they internalize and weave into their daily lives.

Senator SHELBY. How long do you think this erosion of the Honor Code, or the idea of it, has been going on?

Ambassador ARMITAGE. I think I would say from the late sixties. I believe that those, in 1951, Admiral Lawrence, and others who were responsible for the Naval Academy Honor Code, probably kept it pretty alive. But from the late sixties on, I believe it has been slowly eroding.

And, as I said, the fact that Navy leadership, successive Secretaries and CNOs, have not focused on the Naval Academy as a place, a crucible of character development, but rather as an experimental laboratory for leadership theories, has exacerbated the situation.

Senator SHELBY. But historically, much of the honor of the Navy has come out of the Academy as far as the concept of the Code, hasn't it?

Ambassador ARMITAGE. Well, indeed, the concept. But I would very much hesitate to say that the honor emanates from the Naval Academy. There are extraordinarily honorable people who have graduated from ROTC.

Senator SHELBY. But to some extent, it does indeed come from there?

Ambassador ARMITAGE. Yes, indeed so.

Senator SHELBY. Would you elaborate for the committee regarding the specific problem areas to which the report refers; the actions taken by the Superintendent and the Commandant to address the problem areas; and the timing of these actions, with regard to the compromise of the electrical engineering exam in December 1992?

Ambassador ARMITAGE. I believe that is a question more for Admiral Bennett than for me.

Senator SHELBY. Very well. Do you want to answer that, Admiral Bennett?

Admiral BENNETT. When the examination was compromised in December, shortly thereafter there became known through some Midshipmen—and I think that that is important to recognize—that the initial report of a possible compromise did come from Midshipmen, via electronic mail to one of the professors in the Electrical Engineering Department. That started the Naval Academy's process of investigation of those—

Senator SHELBY. This is the sequence of events you are talking about?

Admiral BENNETT. Yes, sir. Because there was an implication that conceivably the examination had been stolen, there might have been breaking and entering or other felonious kinds of activities involved, the Superintendent of the Naval Academy asked the Naval Criminal Investigative Service to conduct the initial investigation.

As is outlined in my report, for a number of reasons, including some erroneous information that was provided to the Superintendent, the determination was made that it was a relatively isolated incidence. Consequently, I think we got off to an investigative process that really did not get to the bottom of the matter.

As I say again, with 20/20 hindsight—and I am sure Admiral Lynch would be the first to suggest that, if he had it all to do over, he would do it all over again differently.

Senator SHELBY. Sure, but are you saying that the initial investigation was too narrow in scope?

Admiral BENNETT. Yes, sir, I think so.

Senator SHELBY. From your point of view today?

Admiral BENNETT. Yes, sir, from my perspective, that is precisely right.

Senator SHELBY. The committee's report notes that the honor concept must be the property of the brigade. It must be their means of developing character within their own ranks, and by their own efforts. It is my understanding there is nothing new in this. It has, to my knowledge, been widely accepted that the brigade should own their own honor concept if it is to succeed.

I do not believe, however, that this notion of ownership by the brigade is intended to absolve the leadership of the Academy of responsibility regarding the honor concept. How would you, Mr. Ambassador, describe the specific responsibilities of a Superintendent of the Naval Academy, in regard to the honor concept?

Ambassador ARMITAGE. I would say that the Superintendent has the primary responsibility to make the internalization of the honor concept and the development of character the primary goals of the Naval Academy. He is given this duty, in my view, by the Secretary of the Navy.

I would say that there is no higher function that he or she would perform; and, in the words of General Graves, the Superintendent of the U.S. Military Academy, when he appeared before our committee, "You know, my job is character development. Period." And I could not have put it better. That is the job.

Senator SHELBY. Mr. Ambassador, how would you describe the specific responsibilities of a Commandant of Midshipmen at the

Naval Academy, in regard to the honor concept? Would it be similar?

Ambassador ARMITAGE. Well, no. I think the Commandant has a different responsibility, as he is responsible for conduct, for punishment, meting out punishments, administrative duties, et cetera, et cetera. So I think he is sort of the first line of entry, if you will, between the brigade and the administration, regarding matters of honor.

Senator SHELBY. My time is up on this round. I now want to recognize Senator Coats, who has joined us and is the Ranking Republican of the committee.

Senator COATS. Mr. Chairman, I apologize for being late. As Senator Nunn knows, a prayer breakfast is a wonderful event, but it is a logistical nightmare.

I am glad you convened this hearing. There are a number of questions that need to be asked. I am also aware of the fact that, in just 3 minutes or so, we are to meet and mark up the nomination of Dr. Perry.

Senator SHELBY. That is right.

Senator COATS. We also have a vote.

Senator SHELBY. We will recess. Do you want to wait?

Senator COATS. Rather than starting in on my questions, perhaps we could just help out Senator Nunn, if he has some questions. He may not be able to get back, so I would be happy to defer to him.

Senator SHELBY. Senator Nunn?

Chairman NUNN. I think, Mr. Chairman, since we start at 11 o'clock in the other building, it probably would be better if I head on over there and come back.

I do think, as I mentioned, this is an enormously important hearing; not because of this incident—we are going to have incidents from time to time—but because of the importance of leaders. We are elected to be leaders, emphasizing to the people who are going to be in the military, whether it is ROTC or the Naval Academy, that you cannot have a strong military, as the Ambassador said, without character.

Every day that goes by up here we depend on the word and the honor of those who testify from the military. We take that, and we never put anybody under oath. We consider the people who testify before our committee, particularly those in uniform, to be under oath, and that concept—that sense of character—is enormously important.

If I look back at the problems we have had in the military, whether it is procurement, whether it is battlefield, or whatever it is, it is usually because someone has not upheld that. So, I think the emphasis on it, the fact that you are having this hearing, shows that we think it is very important.

I know, I remember from years ago, that one of the real differences between the academies—and I am really not clear exactly which one has which Code—but not lying, cheating and stealing is one concept; and then, I believe it is West Point that goes further than that. It says, "nor tolerate those who do." I remember how much difficulty we had, with that last phrase; and I will be interested in these hearings, to develop this.

I know that the Naval Academy, I believe, says that it will not lie, cheat, or steal, period. And I think the question of "nor tolerate those who do" has always been difficult, and probably still is. So I am interested in this, beyond this incident.

And I think, in our society today—I do not want to start preaching here—but I think in our society today, in spite of the fact we are the strongest Nation in the world, that we are eroding in terms of values in America. An awful lot of our problems in our broad society that we try to struggle with everyday here stem from that.

So the military is unique. The military has got to be—it reflects society, but it has got to be better than society, and that is the challenge here.

So we will be voting at 11 o'clock on Dr. Perry's nomination, and I think it will be better if we go on up there.

Senator SHELBY. We will recess now. We will recess for 20 or 30 minutes. We will try to get back in 20, but it might be 30.

[Whereupon, at 10:59 a.m., the hearing was recessed, to reconvene at 11:38 a.m.]

Senator SHELBY. The committee will come back to order. Senator Coats?

Senator COATS. Thank you, Mr. Chairman. First of all, I want to say to Ambassador Armitage and Admiral Bennett that this was not an easy task that you were assigned. I appreciate your willingness to undertake this difficult assignment and do it well. We thank you for that.

Admiral Bennett, I have a couple of questions that I would like to ask you; and then, a couple for Ambassador Armitage.

Admiral, in your report, you cite examples from a 1989 report of the special commission studying the honor system at West Point, indicating that internal group loyalties develop which undermine the Honor Code. Could you elaborate on this, and, particularly in reference to this occasion, was that element a substantial factor in this particular instance?

Admiral BENNETT. I do not think it was an overpowering factor, but there clearly is the dichotomy of the concept of "Don't bilge your classmate, or "Don't rat on a friend," along with the honor concept that says you should counsel or make known any information you have on a violation of honor.

It is a very complex thing. I mean, it is kind of a pat answer to say, I think it is just one of many elements that were in play in this particular instance. We found some of the things that were mentioned in the Board of Visitors Report to be true.

The perception—it is not a reality—but the perception that it is sort of a single sanction system, for instance, that says if you are guilty of an honor violation, you get thrown out of the Naval Academy. While that may be an administrative action, it is kind of in the category of a capital punishment for a Midshipman to face. And, if there is only that sanction, there is very little motivation for individuals to be truthful about the fact that they cheated.

If I am going to get thrown out for cheating, I can only get thrown out once. And so, that motivation to come forward and do the honorable thing is, frankly, not there.

The system can be multiple. There can be punishments, and there often are, in the administration of the honor system. I think,

as history would kind of point out, that as Midshipmen get more senior, Second-Class, First-Class, and there are honor violations, then the punishment usually is dismissal; and that is a pretty big thing to take home to a mother and a father, and to deal with.

Senator COATS. Regarding group loyalty, did you uncover any specific instances of group loyalty? A prep school class comes to the Academy. Obviously, they would have spent more time together even before entering the Academy. Or those that are on athletic scholarship, or participating in athletics. Would you tend to have some type of segregation in terms of living and eating?

Admiral BENNETT. We did not find that there was any one particular group that conducted a conspiracy. I think, like most institutions of higher learning, you have certain study groups. There are usually people you have common interests with. Certainly, the people that had been together at prep school had a tendency to continue to be friends. People that play athletics have a tendency to associate with other athletes.

But we tried to look at this as individual cases. And there were Midshipmen who happened to play football, or Midshipmen that happened to be in the Glee Club, and not as—we did not find that there were teams dedicated to this principle.

There was evidence that groups of individuals got together, whether they were Company mates or had some other relationship, and got their stories straight. I think conspiracy is too strong a word. But there was definitely that, "Let's circle the wagons" mentality, and "Take care of each other."

Senator COATS. In your report, you stated that further review of the honor system is necessary, to find where we go with this in the future. Do you have in mind a specific process that ought to be followed, in terms of outlining where the honor code process should go?

Admiral BENNETT. Well, I think that we have, in both my report and in Ambassador Armitage's report, we talk in rather general terms about the kinds of things we need to do.

I think, in this particular case, the devil is in the details. I think there needs to be very clearly written standards, and we need additional, and a continuum of, training throughout the time at the Naval Academy.

I think we need to really address the kind of evidence that is necessary to prove an honor violation, and a clear-cut understanding that what we are really after are, in my mind, two things: First, we want to train people, educate them to become honorable officers in the military. And second, we want to use discipline for its intended purpose which, in my mind, is to make better people.

It has long been a function of military discipline not to say, "Off with their heads," but to make them into productive members of society. We have many, many cases throughout history, of people who have made a mistake yet become the most honorable of people, and some people who seem pristine, perhaps only because they never faced a temptation.

It is those kinds of processes. Who should do that? It has got to be done at the military academy. And it has got to be done, in my mind, with the leadership of the military academy, the Midshipmen themselves, the academic departments, the athletic de-

partments, the military or professional development people. It is either an all-hands effort, or in my mind, it is destined to fail.

The other principal thing that I think is relevant is that we, the military people, in general, like to be confronted with a problem, find an answer to it, execute the answer, and forget about it. This is one of those evolutions that you can never forget about; that is either a steady strain, involving all the people associated with Midshipmen at the Naval Academy, or we are going to continue to have problems.

The devil is kind of in the details, and I think that is where we are now. I think there is recognition by the leadership of the Department of the Navy that we need to do some refinement of the system. I do not in any way, shape or form, mean to intimate that the honor concept is totally broken, or we should throw it away. It is very important that we refine it and make it relevant to the world we live in.

Senator COATS. My time has expired. I will try to return to the hearing with some additional questions.

Ambassador ARMITAGE. I wonder if I might make a comment, Mr. Chairman, and Mr. Coats?

I find myself on the horns of a dilemma, having spent the last 12 years or so sparring with the legislative branch, trying to keep the legislative branch out of executive branch business. I find myself now in the dilemma of actually suggesting some action by the legislative branch.

The Secretary of the Navy has looked at the recommendations of the Honor Review Committee, and has already ordered that some be implemented; and he is due, in the near future, to judge the other recommendations and, hopefully, order many of those to be implemented.

It seems to me a perfectly reasonable thing to suggest that this subcommittee come up with either report language, or something more direct, that requires the Navy to report on not only what they have implemented, but the effectiveness of what has been implemented, in a reasonable timeframe, as a way of assuring that people, although people may be transferred from positions of responsibility in the Navy hierarchy act upon this.

Senator SHELBY. The recommendations of the committee, Mr. Ambassador, included recommendations concerning the tour of duty of the Superintendent, and the quality of officers assigned to the Naval Academy.

In the case of the Superintendent, the report recommends promotion to Vice Admiral after 2 years, if the officer's performance so merits. If the magnitude of the responsibility of the position of Superintendent is such that it should be designated as a, quote, "position of importance and responsibility," unquote, and filled at the 3-star level, should not the Secretary of Defense recommend to the President that he appoint as Superintendent an individual who is capable of serving in the position as a 3-star from day one, and not someone who requires what amounts to a 2-year probationary period?

Ambassador ARMITAGE. I guess the short answer would be yes. But the longer answer is, I think you want people at the Naval Academy, or the Midshipmen, to be exposed to different ideas and

different views. We did not want to have a situation where a Superintendent necessarily ended his career at the Naval Academy, DOPMA being taken into consideration, of course.

And, we wanted to have the ability to have a Superintendent who was judged worthy, and still young enough to go out and serve yet again in the fleet. That is why we made our recommendation.

The important part of that recommendation is the length of time. We did find, and it has been a view of the Board of Visitors reinforced by the Honor Review Committee, that Superintendents generally are not at the Naval Academy long enough to really own what is going on there. That is the problem we were trying to get at.

Senator SHELBY. Okay. In case of officers assigned to the Naval Academy, the report, I understand, recommends that they be automatically rated in the top 1 percent of their peer group, without ranking. Why is this necessary?

Ambassador ARMITAGE. Well, if you were what is referred to as a "head-and-shoulders" officer, Mr. Chairman, it would be something you would have to think about, if you knew you were going to have to go down and be rated with all the "head-and-shoulders" officers. You could well turn out to be 36th out of 36, the last of the litter, and actually be an excellent, excellent officer.

We have noticed, and I think many Naval Academy graduates have noticed, a dichotomy between the way the Marine Corps and the Navy assigns officers to the U.S. Naval Academy. This has existed, I am willing to say, since I was there; wherein Marine Corps officers are generally "head-and-shoulders" officers, and generally judged by the Midshipmen to be absolutely superior. And yet, naval officers are a very mixed group.

We are trying to assure that the naval officers who are assigned there are the same caliber as the Marine officers.

Senator SHELBY. Are you saying that service at the Academy is seen by some as having a negative effect on one's career?

Ambassador ARMITAGE. Well, let us be clear that service at the Academy is not exactly sea duty; and if it is not judged to be extraordinarily important by the Secretary and the CNO, it is going to be less valued.

Senator SHELBY. Admiral Bennett, your report indicates that in mid-December of 1992, during the days immediately following the first indications of a compromise, attempts to determine the scope of the possible compromise were limited to a review of exam grades for any unexplicable spikes in grades. /

The report further indicates that, even though exam answers were eventually read and graded, it appears that no one, no one at the Academy ever compared the answers of different Midshipmen for evidence of collaboration. I believe the importance of comparing answers seems so intuitively obvious, it is hard to imagine why this was not done.

Why, in your personal opinion, was this step not taken? To your knowledge, was it ever discussed as an option?

Admiral BENNETT. First of all, I think there was initially a direction: Compare those exams, to see if there are any unexplained spikes, or grades significantly higher. The report that came back was that there were—with the initial, incomplete data—only 13

grades that were higher. And out of 663 people taking the examination, the EE Department said that is well within normal variance.

Yes, in my mind, comparing the grades was an obvious step. However, if you got some erroneous information and thought you had a very limited event, that might not be quite as obvious a step. It was a very useful investigative tool to my investigation, but I had the advantage of knowing a bit more information.

Senator SHELBY. Hindsight, as you said.

Admiral BENNETT. Yes, sir.

Senator SHELBY. Your report also indicates that on December 16, 1992, the Commandant, after speaking with the Midshipmen associated with the report of compromise, advised the Superintendent that he thought the report of compromise was not credible, because it originated with one individual who could only report overhearing a group of Midshipmen talking about the football team having the exam.

Your report also indicates that on December 16, 1992, the same day, the NCIS agents interviewed Midshipman A, who sent the initial report of compromise to a faculty member. Midshipman A told NCIS that his roommates were in possession of the exam the night before it was to be given.

Now, sir, can you resolve the apparent inconsistency between the Commandant's basing his assessment of the credibility of the report of compromise on hearsay about the football team, and Midshipman A's reporting to NCIS that his roommates actually had the exam?

Admiral BENNETT. I think, if you will recall, the initial reports of the compromise were electronically mailed to one of the faculty members, and were not nearly as discreet as the information provided to the NCIS investigator. I have no way of knowing, but I suggest there are all kinds of allegations of wrongdoing in the normal course of business; I would be guessing if I tried to figure out what the Commandant was thinking at that particular time.

Senator SHELBY. I am continuing to refer to your report, though.

Admiral BENNETT. Yes, sir.

Senator SHELBY. Your report also indicates that the Superintendent could have initiated a noncriminal investigation to discover the full extent of the cheating. However, it appears that the Academy took no action to identify additional cheaters after the NCIS investigation was completed.

Sir, did your investigation reveal any information that might help us understand why this aspect of the problem, the full extent of the cheating, was not fully pursued?

Admiral BENNETT. Again, I think, and also mentioned in the report, that it seemed like a natural stopping point.

Senator SHELBY. Why?

Admiral BENNETT. Well, NCIS had been asked to look at criminal activity.

Senator SHELBY. Okay.

Admiral BENNETT. They had reported back that they could not determine the actual course of the exam, but they were quite sure that it had not been stolen and that there was no breaking and entering. And while they had turned up some evidence of criminal ac-

tivity, it was the legal opinion of the staff's Judge Advocate to the Superintendent that it was not a strong case and would probably not stand up, if it was handled as a judicial matter.

NCIS gave them 39 names at that time. I think that seemed to the Superintendent that is quite a large number. We have, obviously, gotten—

Senator SHELBY. Now we know that those 39 names were not all-inclusive, were they?

Admiral BENNETT. All-inclusive, sir?

Senator SHELBY. In other words, there were others besides the 39?

Admiral BENNETT. Yes.

Senator SHELBY. You did not know that, did you?

Admiral BENNETT. It was not pursued.

Senator SHELBY. It was not pursued. Was it a botched investigation?

Admiral BENNETT. I would not call it a botched investigation, but I do not—I think, because of the nature of—

Senator SHELBY. You would not call it a thorough investigation either, would you?

Admiral BENNETT. No, sir.

Senator SHELBY. Okay, thank you. Senator Coats?

Senator COATS. This question is directed to either one or both of you. Senator Nunn alluded to a decline in our cultural standards in the last 2 or 3 decades. I believe there has been a standard that is more relative than absolute, that pervades our society, and particularly pervades our campuses and universities.

It seems to me there is a significant gap widening, between the standards that we are attempting to establish at the academies, and what society and the peers of Midshipmen, cadets and others are living under. These individuals go home during breaks and go home for Christmas. They meet up with their high school friends who are now in colleges and universities, many of them distinguished colleges and universities.

I would guess, if the question of the Honor Code comes up, that it would be viewed by their peers as somewhat of an anachronism.

My question is: How have attitudes changed? In your investigation, did you discover a prevalent attitude that the Code is out of touch with reality, out of touch with society? Therefore is it possible, and I am not excusing it here; just playing devil's advocate—that potentially lead to some actions and behaviors that you would not have identified 20 years ago or 30 years ago? It is a broad question, and a philosophical one.

Ambassador ARMITAGE. I will take a cut at it, Senator Coats. I think the members of the Honor Review Committee decry, as you do, moral relativism. And all of us realize that what assaults our senses, and has assaulted our senses, masquerading as daytime television and other things, has chipped away at the fabric of society.

But I have got to tell you, as we looked around at the honor codes at other universities—Washington and Lee, and the University of Virginia, and William and Mary, and places of this nature—we found a very strong attachment to the honor code. And it is, indeed, not an anachronism.

I would say that, based on discussions with Midshipmen and the comments I made earlier, they come to the Naval Academy as pretty good material. They are pretty good putty. But they become cynical during that time, and they decry that cynicism that creeps in.

So I think that we cannot blame this problem on society. Indeed, I personally would find it dangerous to do so. My parents would tell me stories of the flappers in the twenties, and that was going to be the end of Western Civilization; and yet we survived. And we have had renaissances of culture and morality. And I think that will happen to society, as a whole.

But I prefer to focus only on what exists within the walls of the Naval Academy, because I think, to talk too much about moral relativism in our report, is to give people who are inclined to be lazy leaders an easy way out. They can just decry the lower standards as an excuse not to take action. And I do not buy it, personally.

Senator COATS. Well, I am very pleased to hear that answer. I agree with you, 100 percent.

But my question is, in your investigation, did you discover, an attitude that would lead you to believe that those individuals are bringing from society less of a commitment to absolute values than, perhaps, existed in the past?

Ambassador ARMITAGE. No. We found, I am sorry to say, quite the contrary.

They come in with quite good values, and they leave the Naval Academy with the values chipped away. Hence, the cynicism. This is the problem I am talking about. This was the problem that we tried to elucidate in our report.

Senator COATS. And the reasons for that are—?

Ambassador ARMITAGE. I think they see a "Do as I say, and not as I do" attitude among senior upperclassmen at the Naval Academy, to some extent. They certainly see lessened standards in the fleet, once they go out on summer cruise; and I think these are additive.

I think there are varying degrees of appreciation among Midshipmen for the officers with whom they come into contact at the Naval Academy, ranging from extraordinarily good to extraordinarily bad; this is another area that we tried to address in our report, by trying to assure that only first-class men and women are assigned to the Naval Academy.

Senator COATS. Is there anything you want to add to that, Admiral Bennett?

Admiral BENNETT. I am not sure I agree with all of that; but I did not find a pervasive attitude even among those people that we ultimately developed cases on, that they did not know the difference between right and wrong.

I think, perhaps, at times, their definitions of some words may have some different meanings for them, as a direct result of the societies they come from. And that is one of the reasons that I think that both the Ambassador and I feel it is very important, that we make sure we tell them what it is we want them to do.

If, indeed, there is that degradation of ethical standards and conduct within society, it seems to me all the more reason that we have to work very hard to ensure that that is not allowed to exist within the military.

And, as I mentioned before, I do not consider the concept outdated, or the system totally broken. But I think there are some things that we need to do, to make it a dynamic system that is reflective of the world we live in, and not the world we want it to be.

Senator COATS. Senator Nunn talked about the question of the non-toleration clause. I do not know if he is going to be able to come back, or not. I think, Ambassador Armitage, your report recommended against adding the non-toleration clause.

Admiral Bennett, I do not recall whether you touched on that subject or not. I do not believe you did.

Admiral BENNETT. I did not. I have personal views, but they are not, necessarily, directly related to this.

I think the principal issue is that the Naval Academy has felt for a long time that a Midshipman is required to examine his own ethical standards, and is not simply required to pass it on to higher authority to deal with.

As a commanding officer of ships, I have had a lot of young sailors that had captain's mast because division officers, frankly, did not deal with it, did not do their job. It was easy; they could pass it on to me. I usually told them that I would be glad to do it one time; the second time, I would get half their pay.

And I think that there is a positive aspect. I spent some time talking to Honor Committee members during this investigation, on this very subject, and they felt very strongly that the counseling aspect of a toleration concept, if you will, requires that Midshipman to examine the difference between trivial things that he can deal with and counsel, or more important things that need to be made a matter of record.

I think that is the basic difference, and I guess we can get an opinion on both sides of the issue. My personal feeling is that there is more to be gained by not adopting a non-toleration policy.

Ambassador ARMITAGE. I must say, the Honor Review Committee had really split views about this going in, Senator. We had, perhaps, our most energetic debate among ourselves on the question of toleration. Senator McCain had very strong views on this question.

In our investigations, in our deliberations, and in our discussions with the Naval Academy, we found no one, whether they were critical of the present situation or not, who wanted to change from the toleration clause.

Number two, all of us on the Honor Review Committee finally came to the view that a toleration clause, as exists at the Naval Academy, is much more like the real world.

Number three, we were affected somewhat in our view by some information which we received from the GAO; they will follow us up here. They can speak with numbers and graphs, et cetera, to this question.

But I think it is fair to say that, as a general matter, we found that the number of honor cases—if you put aside this big problem right now at the Naval Academy—at West Point, and the Air Force Academy, and the Naval Academy, the numbers are about the same for the student population, whether there is toleration or non-toleration.

In private questionnaires provided to cadets and Midshipmen, you will find that toleration at the Naval Academy might actually be lower, in terms of what the GAO found, than at the other service academies. But they can address it very well, from a factual standpoint.

Senator COATS. Thank you. Once again, my time has expired. I appreciate your answers.

Senator SHELBY. Mr. Ambassador, let me pick up on something Senator Coats asked you, and see if I understood your answer. Correct me, if I misinterpret.

Did you basically say that a lot of the cadets that go to the Naval Academy, or most of them, are more honorable when they get there, are more ethical, than when they get out because of the cynicism and so forth that they pick up there?

Ambassador ARMITAGE. Yes, well, let me change—

Senator SHELBY. Do you want to clarify that?

Ambassador ARMITAGE. Yes, I would like to clarify it. I think I would like to change it to say they are much more idealistic when they arrive at the Naval Academy than they are when they graduate. I will stand, then, on that.

Senator SHELBY. Insofar as their idea and concept of the Honor Code?

Ambassador ARMITAGE. Yes, indeed.

Senator SHELBY. That is a sad commentary, is it not? Thank you.

Your report describes various actions on the part of the Academy leadership, Admiral, that could be construed as limiting the activities of the Brigade Honor Committee.

The report includes a recommendation that, in the event cases are referred to the Brigade Honor Boards, that the honor boards be given sufficient evidence to reasonably evaluate each case. The presence of such a recommendation leads to the conclusion that the Brigade Honor Boards were not given sufficient information to evaluate this case.

Do you believe, Admiral, that is a correct conclusion? Were the honor boards given sufficient information to evaluate each case? If not, in your opinion, why, and by whom, was the information restricted from the boards? I think this is central here.

Admiral BENNETT. Yes, sir. The answer to the first part is no, I do not think they were given all the information they should have been given.

Senator SHELBY. Why not?

Admiral BENNETT. I think there were two reasons. I think, correctly, the Academy was very interested in providing due process and protection for individual cases. I also was critical, for instance, that the honor boards, as currently set up, are not well designed to deal with interrelated cases.

The decision was made by the leadership, and I have no argument with it, that they did not want to provide information to a single honor board, that would implicate other Midshipmen, since they were to treat each individual case as an individual thing.

As a result, the investigations had to be redacted, to eliminate referral to other Midshipmen. I think that the procedure for redaction was badly handled, frankly, and badly overseen.

Senator SHELBY. Sir, let me ask you this: When there is evidence of widespread violation of the Honor Code—I realize that each individual is responsible for their own conduct, and so forth—but would it not lead a reasonable person to believe that you have got to investigate it as a whole? And then, break it down into individual cases?

Admiral BENNETT. Yes, sir.

Senator SHELBY. And that was not done much?

Admiral BENNETT. Well, it was investigated kind of as a whole. You know, we have already gotten to the point that it was not as thorough, perhaps, as it should have been.

Senator SHELBY. But you said it was not a botched investigation? I believe that was my word. It was not botched, but was it a poor investigation?

Admiral BENNETT. No. I think the information available, taken collectively, provided enough information for honor boards to function. I am not suggesting that every case that goes to an honor board should be found guilty.

Senator SHELBY. Sure, I agree with that.

Admiral BENNETT. I think that there was adequate information there, however, to address it. When it was improperly, in my view, redacted, then the honor boards—by their own testimony—did not feel they had adequate information.

Senator SHELBY. Sir, let me go farther. Why, and by whom, was the information restricted from the boards?

Admiral BENNETT. This was one of the issues. I was quite critical of the administrative procedures regarding redaction; the Honor Officer, a Lieutenant aviator was given that task. Normally, he would be overseen by the judge advocate generals. In this particular case, he—

Senator SHELBY. Did he fail, in that task?

Admiral BENNETT. They did. He, I think, was doing the best job he could. I was critical because there were indications—for instance, he redacted the entire record of one of the individuals that was before the honor board. When that was pointed out, it might have been a clue that maybe someone had better look at the rest of the redaction.

Senator SHELBY. Was that showing preferential treatment?

Admiral BENNETT. No, sir. I have no indication that there was an attempt to show preferential treatment—just simple errors in the administrative process.

Senator SHELBY. Why was there not proper oversight given to the Lieutenant's task?

Admiral BENNETT. I do not know.

Senator SHELBY. And whose responsibility was it, to give that oversight?

Admiral BENNETT. Well, I think ultimately the Commandant.

Senator SHELBY. You think or you know?

Admiral BENNETT. The Commandant is responsible for the conduct of the honor boards.

Senator SHELBY. Sure.

Admiral BENNETT. The staff judge advocates are responsible for providing appropriate oversight. They did not do that.

Senator SHELBY. They failed. In this regard, your report addresses the use, to which you have already referred, of the redacted documents, restrictions on the Brigade investigating officers' conferring among themselves to understand the totality of the compromise, and the manner in which allegations, which arose after completion of the NCIS investigation, were handled.

Do you have any reason to believe that the leadership of the Academy, or any other official, attempted in any way to limit improperly the scope of the various investigations?

Admiral BENNETT. No, sir; I do not.

Senator SHELBY. Have you looked beyond this? Have you investigated every aspect of that?

Admiral BENNETT. I think so. Yes, sir.

Senator SHELBY. Do you believe, sir, that there was, among the leadership of the Academy, a conspiracy to cover up all or part of the problem, for any reason?

Admiral BENNETT. Sir, we found no evidence to indicate that, in any way.

Senator SHELBY. Do you believe that the actions taken by the leadership of the Academy were guided by any motives, other than a desire to get to the bottom of the truth of a very complex emotional and politically charged issue?

Admiral BENNETT. I think they were anxious to get to the end.

Senator SHELBY. To the end, but maybe not to the bottom?

Admiral BENNETT. And I was critical of—

Senator SHELBY. Do you agree with that?

Admiral BENNETT. Yes, sir.

Senator SHELBY. Go ahead. You were going to say something.

Admiral BENNETT. I think, as I mentioned, our approach was—and I have the advantage of not having been there for the initial part of the examination; I have no emotional attachment; I did not know any of the Midshipmen personally—but our direction was: As long as we have a clue, we will run that down. What we want to do is find the whole truth.

I think there was a very natural desire to get this done, and behind them. As a result, I do not think it was as thorough as it should have been.

Senator SHELBY. But you do not want to use the strong words, "botched the investigation," do you, although that is what it looks like?

Admiral BENNETT. As I say, I think the original investigation—

Senator SHELBY. Admiral, what is your terminology, to describe the investigation?

Admiral BENNETT. Incomplete.

Senator SHELBY. Incomplete. Thank you. Senator Coats?

Senator COATS. I have no more questions.

Senator SHELBY. We appreciate the first panel. We appreciate your candor and your waiting for us, and we will move along. Thank you.

The subcommittee is pleased to welcome here for the second panel Mr. Mark E. Gebicke, Director of Military Operations and Capability Issues of the General Accounting Office; and Mr. William Beusse, Assistant Director, Military Operations and Capabilities Issues, General Accounting Office.

Your reports will be made a part of the record in their totality. Following an incident in 1989 in which a female Midshipman was handcuffed to a urinal at the Naval Academy, the Chairman of the Armed Services Committee and the former Chairman of the Subcommittee on Manpower and Personnel asked the GAO to undertake a review of sexual harassment at the three service academies. This review is part of a broader view of student issues at the service academies, and the GAO has previously issued reports on academics, gender, and racial disparities, and hazing and treatment of Fourth Class cadets and Midshipmen. The subcommittee appreciates the GAO's efforts in this matter.

[The information referred to follows:]

**GAO**

United States General Accounting Office  
Report to Congressional Requesters

January 1994

# DOD SERVICE ACADEMIES

## More Actions Needed to Eliminate Sexual Harassment



GAO/NSIAD-94-6

GAO

United States  
General Accounting Office  
Washington, D.C. 20548

National Security and  
International Affairs Division

B-254494

January 31, 1994

The Honorable Sam Nunn  
Chairman, Committee on  
Armed Services  
United States Senate

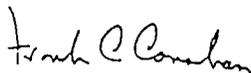
The Honorable John Glenn  
Chairman, Subcommittee on  
Military Readiness and Defense  
Infrastructure  
Committee on Armed Services  
United States Senate

The Honorable Richard C. Shelby  
Chairman, Subcommittee on  
Force Requirements and  
Personnel  
Committee on Armed Services  
United States Senate

As requested, we reviewed the issue of sexual harassment at all three of the service academies. This report addresses (1) the extent to which sexual harassment occurred at the academies, the forms it took, and its effects on those subjected to it and (2) an evaluation of the academies' efforts to eradicate sexual harassment. This report expands upon the preliminary results we presented at the hearing on the service academies before the Subcommittee on Manpower and Personnel on June 2, 1992.

We are sending copies of this report to interested congressional committees; other interested Members of Congress; the Secretaries of Defense, the Army, the Air Force, and the Navy; and the Superintendents of the Military, Air Force, and Naval academies. We will also make copies available to other parties on request.

This report was prepared under the direction of Mark E. Gebicke, Director, Military Operations and Capabilities Issues. If you or your staff have any questions concerning this report, he can be reached on (202) 512-5140. The major contributors to this report are listed in appendix III.



Frank C. Conahan  
Assistant Comptroller General

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## Executive Summary

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### Purpose

In the spring of 1990, a student in her second year left the Naval Academy after an incident in which she was handcuffed to a urinal in the men's room and other midshipmen gathered, with some taking pictures. The Academy investigated the incident, and two midshipmen received demerits. One of the reasons the woman cited for leaving the Academy was her disillusionment with Academy officials over their inability to see that what had happened to her was not an isolated incident and her belief that Academy norms regarding the treatment of women were not appropriate. This and other incidents at the Naval Academy in 1989 and 1990 increased congressional interest in the treatment of students at the service academies.

At the request of the Chairman of the Senate Committee on Armed Services and the former Chairman of its Subcommittee on Manpower and Personnel, GAO undertook a review of sexual harassment of students at the Air Force, Naval, and Military academies. The objectives of the review were to (1) determine the extent to which sexual harassment occurred at the academies, the forms it took, and its effects on those subjected to it and (2) evaluate the academies' efforts to eradicate sexual harassment.

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### Background

Sexual harassment can be broadly defined as words, gestures, or actions with sexual connotations which are unwelcome and tend to intimidate, alarm, or abuse another person. The Department of Defense (DOD) established a Human Goals Charter in 1969 that calls for respect for the serviceman, servicewoman, civilian employee, and family members. The charter is the foundation of DOD's equal opportunity programs. DOD also has a formal policy to provide "an environment free from sexual harassment." In July 1991, the Secretary of Defense directed each DOD component to implement a program to eradicate sexual harassment and established minimum requirements for such a program.

At the core of GAO's review were surveys of academy students, faculty, and staff, and focus groups of academy students. Because the surveys were conducted in late 1990 and early 1991, GAO reviewed the results of more recent surveys conducted by the academies to determine whether its results were still valid.

The proportion of men to women at the academies has remained fairly constant over the last few years. In the class of 1996, women constitute 13.7 percent of the 1,240 midshipmen at the Naval Academy, 11.4 percent

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of the 1,188 cadets at the Military Academy, and 12.6 percent of the 1,221 cadets at the Air Force Academy.

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 Results in Brief
 

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The academies have not met DOD's broad human charter goals or its policy of providing an environment that is free from sexual harassment. Although only a few cases of sexual harassment are formally reported, responses to GAO's survey indicated that between 93 and 97 percent of academy women reported experiencing at least one form of sexual harassment during academic year 1991. The most common forms of harassment were derogatory personal comments and comments that standards had been lowered for women. GAO's survey showed a relationship between students experiencing a high degree of sexual harassment and those feeling stress.

The academies generally have complied with the minimum requirements DOD has established for sexual harassment eradication programs. For example, the academies have issued policy statements on the issue and have conducted prompt and thorough investigations of reported incidents. An exception to this compliance has been the lack of inspector general reviews conducted at the academies that included sexual harassment prevention and education as an item of special interest.

None of the academies has developed usable trend data to assess the effectiveness of its sexual harassment eradication program. The Military and Air Force academies, in particular, have not conducted routine, systematic program evaluations. A disciplined evaluation approach is critical to determining whether current efforts to eradicate harassment are working or new efforts should be tried.

In reviewing the efforts of other organizations, GAO also identified several approaches to sexual harassment prevention that may prove effective at the academies.

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 Principal Findings
 

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 Sexual Harassment  
 Continues at Academies
 

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Between half to about three quarters of academy women experienced various forms of harassment at least twice a month, GAO's survey shows. Women said the basis for the harassment was most often gender, rather than race, religion, or ethnic origin. The vast majority of men reported

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never having experienced sexual harassment. Academy studies conducted after the GAO survey confirmed that sexual harassment remains a problem at the academies.

The harassment women experienced usually took the form of derogatory personal comments; comments that standards had been lowered for women; comments that women did not belong at the academy; exposure to offensive posters, signs, graffiti, or T-shirts; or mocking gestures, catcalls, accents, or slang. Few reported unwanted pressure for dates or unwanted sexual advances.

Only a small fraction of sexual harassment complaints are formally reported. For example, GAO's survey shows that between 93 and 97 percent of academy women reported experiencing at least one form of sexual harassment during academic year 1991. However, only 26 incidents were formally reported, and most of these involved more grievous forms of sexual misconduct. For instance, the most common type of reported behavior involved a male student entering a female student's room after hours and making unwanted sexual advances (such as kissing, touching, fondling) toward the sleeping student.

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 Sexual Harassment Can Produce Stress

GAO's survey results indicate that sexual harassment can have detrimental effects on cadets and midshipmen. A correlation exists between a student's reported exposure to sexual harassment and higher levels of stress. Similarly, a correlation exists between levels of stress and decreased interest in staying at the academy and making the military a career. However, because many factors may contribute to stress, GAO could not draw a direct link between harassment and decreased interest in staying at the academy and making the military a career.

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 Academy Programs Generally Met DOD Standards

To varying degrees, sexual harassment eradication programs at each of the academies met the minimum criteria established by DOD. For example, each academy

- issued a policy statement, though the content varied as to the extent of information on ways to deal with sexual harassment and on the consequences of harassing someone;
- offered training as part of leadership courses or human relations/equal opportunity training courses; and

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- took some steps to evaluate its equal opportunity climate, although there was not always a clear link between the evaluation results and changes in training or other programs.

However, one area where the academies had not met the DOD criteria was inspector general reviews. As of September 1993, no inspector general reviews had been conducted at the academies that included sexual harassment prevention and education as an item of special interest. The Navy Inspector General intends to specifically examine sexual harassment during an inspection scheduled for late 1994. The Air Force Inspection Agency has scheduled a review at the Air Force Academy for 1995.

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**Academies Have Not Evaluated Their Sexual Harassment Eradication Programs in a Routine, Systematic Manner**

The academies have evaluated their sexual harassment eradication programs to varying degrees. The Naval Academy has conducted three assessments of its equal opportunity climate since 1990 by surveying and interviewing students and collecting other types of data. The assessments have focused on identifying equal opportunity/sexual harassment problems and recommending solutions. However, the Academy had difficulty compiling the data needed for these assessments, and the data developed for each assessment cannot be readily compared to analyze trends. The Military and Air Force academies have evaluated elements of their equal opportunity programs, but these efforts were less focused and systematic than the evaluation approach taken by the Naval Academy.

As part of their sexual harassment eradication programs, other institutions have undertaken efforts that may be effective at the academies. Examples of these actions include preparing and distributing pamphlets or brochures on the issue; expanding the explanation of the range of behaviors that can be regarded as sexual harassment; offering a variety of personal strategies for dealing with sexual harassment; and varying the methods used in, and the content of, sexual harassment prevention training.

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**Recommendations**

To better achieve DOD's goal of a sexual harassment-free environment, GAO recommends that the academy superintendents take the following actions:

- Gather and analyze data, through routine reviews of case files, student surveys, and focus groups, on the extent of reported and unreported incidents of sexual harassment.
- Evaluate, on a systematic basis, the effectiveness of sexual harassment eradication programs on the basis of such data.

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- If the eradication programs are not proving to be effective, insulate and evaluate different approaches to work toward eradicating sexual harassment. These approaches may include expanding the explanation of behaviors that could constitute sexual harassment, issuing sexual harassment pamphlets or brochures, offering lower risk confrontation options, and varying the methods and content of training.

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Agency Comments

DOD generally agreed with GAO's findings, conclusions, and recommendations (see app. I). In commenting on the report, it stated that it is aware of continuing problems and is comprehensively addressing these problems at each of the academies. It also stated that the academies are leading institutions in establishing gender and racial tolerant climates.

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 Abbreviations
 

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DOD	Department of Defense
EEOC	Equal Employment Opportunity Commission
UCMJ	Uniform Code of Military Justice

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## Introduction

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Sexual harassment has become an issue throughout American society, and the U.S. military has been no exception. Some recent, highly publicized cases of sexual harassment—the treatment of women during the Persian Gulf War, the conduct of Navy officers at the 1991 Tailhook convention, and the treatment of women at the Naval and the Air Force academies—have raised questions about how well the Department of Defense (DOD) and the military services are dealing with the issue. Sexual harassment at the service academies is the specific focus of this report.

The proportion of men to women at the academies has remained fairly constant over the last few years. In the class of 1996, women constitute 13.7 percent of the 1,240 midshipmen at the Naval Academy, 11.4 percent of the 1,188 cadets at the Military Academy, and 12.6 percent of the 1,221 cadets at the Air Force Academy.

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## Background on Sexual Harassment

In 1980, the Equal Employment Opportunity Commission (EEOC) defined sexual harassment as a form of discrimination based on gender and a violation of title VII of the Civil Rights Act of 1964:

"Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."<sup>1</sup>

The EEOC guidelines and subsequent court decisions delineated two types of sexual harassment in work environments: (1) quid pro quo harassment and (2) hostile environment harassment. Quid pro quo harassment involves the exchange of employment benefits by a supervisor or employer for sexual favors from a subordinate employee. Hostile environment harassment consists of conduct, such as verbal or physical abuse, that creates an intimidating or offensive working environment. The prohibitions against sexual harassment for civilian workers are contained in federal law and guidelines, while the prohibitions for military personnel are contained in DOD policy statements, directives, and instructions on equal opportunity. Title VII of the Civil Rights Act of 1964 prohibits discrimination in "terms, conditions, or privileges, of employment"

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<sup>1</sup>29 C.F.R. 1604.11(a) (1997).

because of race, color, religion, sex, or national origin.<sup>2</sup> Since the early 1970s, the courts and EEOC have interpreted the law to mean that employers must strive to maintain a workplace environment that is free of racial, sexual, ethnic, or religious discrimination, and employers have been held liable when racial or ethnic harassment created a psychologically debilitating environment. During the 1970s, the concept of harassment was extended to include the basis of sex.

Sexual harassment has been reported as a problem throughout American society, including the private sector, the federal civil service, the military, and the academic world. Accordingly, sexual harassment, to the extent it occurs in the service academies, reflects the societal problem. A number of studies have found that more than half of the female college students surveyed reported experiencing some form of harassment. The most frequently reported type of harassment experienced at civilian colleges was sexist or derogatory remarks or comments.<sup>3</sup> In addition, a 1993 Harris Poll of public school students in grades 8 through 11, commissioned by the American Association of University Women, showed that four of every five students have experienced some form of sexual harassment in school. The most frequently experienced forms of sexual harassment were sexual comments, jokes, gestures, or looks, followed by being touched, grabbed, or punched in a sexual way and being intentionally brushed up against in a sexual way. While the negative impact of sexual harassment in school is significant for all students, girls suffer greater effects than boys.

### Sexual Harassment Is Not Easy to Define

Determining precisely what actions constitute sexual harassment has been the subject of some debate. While the Civil Rights Act of 1964 declared that discrimination on the basis of sex was illegal, it was not until the 1970s that sexual harassment was cited as a form of illegal discrimination. In 1986, the Supreme Court, in a unanimous decision in Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57 (1986), held that the claim of hostile environment sexual harassment is a form of sex discrimination actionable under title VII of the Civil Rights Act of 1964.

While the concept of hostile environment is now accepted, consensus regarding what constitutes such an environment and whose perspective it should be viewed from has been problematic. The most consistent finding

<sup>2</sup> 42 U.S.C. 2000e-2(a)(1). Title VII does not apply to the uniformed members of the armed services. See Keane v. Department of the Army, 638 F.2d 247 (2nd Cir. 1987).

<sup>3</sup> A 1981 survey at Iowa State University, a 1986-86 Department of Education survey at two large public universities, and a 1989 survey of students at all five University of Minnesota campuses.

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of studies aimed at defining sexual harassment has been that men and women differ in their views regarding what constitutes sexually harassing behavior, with women more likely to label a given situation as harassment than men. A 1984 article in the Harvard Law Review noted that studies

"show a high incidence in the workplace of conduct that working women perceive to be sexually harassing. Some of these studies, however, also show that many of the actions women find offensive are perceived by men to be harmless and innocent. This gap between male and female perceptions indicates a lack of social consensus on appropriate standards of behavior and reflects the ambiguity of existing social norms."<sup>1</sup>

Examples of the different perspectives can be seen in the results of a study reported in 1985. Whereas 67 percent of men surveyed said they would be complimented if they were propositioned by a woman at work, only 17 percent of women said they would take such a proposition as a compliment. In addition, 84 percent of the women considered sexual harassment to include sexual touching, but only 59 percent of the men did.<sup>2</sup>

The different perspectives of men and women have recently been recognized in the courts. Historically, the standard used to determine the existence of a hostile environment has been what the "reasonable person" would find offensive. However, in a 1991 case, Ellison v. Brady, 924 F.2d 872 (9th Cir. 1991), the 9th Circuit Court of Appeals found that the reasonable person standard was implicitly biased toward a male perspective. The Court relied instead on the "reasonable woman" standard. Other courts have adopted the reasonable woman standard.<sup>3</sup> In 1993, the Supreme Court, in Harris v. Forklift Systems, Inc., 507 U.S. (1993), held that an abusive or hostile work environment is one that a reasonable person would find hostile or abusive and which the victim subjectively perceives to be abusive. It went on to hold whether an environment is hostile or abusive can be determined only by looking at all the circumstances, which may include the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance.

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<sup>1</sup>"Sexual Harassment: Climate of Abusive Work Environment Under Title VII," 97 Harvard Law Review 1469 (1984).

<sup>2</sup>Barbara A. Gott, Sex and the Workplace (San Francisco: Jossey-Bass Publishers, 1985).

<sup>3</sup>Robinson v. Jacksonville Shipyard, Inc., 780 F.Supp. 1488 (M.D. Fla. 1991); Schwartz v. NBC News Bureau, 84 FEP 1498 (E.D. Fla. 1991); and Smith v. Evening, 84 FEP 983 (Mich. Ct. App. 1991).

Defining what actions constitute sexual harassment has been no less problematic in the military and at the academies. A Navy study found that the extent of sexual harassment varied depending upon how the question was phrased. For instance, fewer women responded affirmatively that they had been subjected to sexual harassment than responded affirmatively to questions on specific forms of harassing behavior. Similarly, after viewing videotaped role plays as part of the Naval Academy's sexual harassment eradication program, midshipmen disagreed about whether a given vignette did or did not constitute sexual harassment.

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### Effects of Sexual Harassment

Social science research over the past decade has documented that sexual harassment can have both psychological and physical effects. According to the American Psychiatric Association, stress as a result of sexual harassment is recognized as a specific, diagnosable problem. Among the stress effects suffered is "emotional stress," which covers a range of responses, including anger, fear of physical safety, anxiety, depression, guilt, humiliation, and embarrassment.

In 1982, the Working Women's Institute found that about 90 percent of sexual harassment victims experienced some form of psychological stress. In a 1988 study of the harassment of women by their male peers on college campuses, researchers found the following impact on women:

"The cumulative effect of repeated harassment can be devastating. It reinforces self-doubt and can affect a woman's entire academic experience. Some women who experience the more severe forms of harassment may even find it difficult to trust or have friendships with men. When harassment comes primarily from classmates in a particular field, some women may change classes or majors, change schools, or drop out altogether. . . . Besides these psychological effects, peer harassment can cause physical symptoms such as headaches, stomachaches, and pinched nerves in the neck. . . ."

Physical stress of harassment victims may manifest itself as sleeping problems, headaches, weight changes, and other physical ailments. The Working Women's Institute survey found that 63 percent of questionnaire respondents who experienced harassment also experienced physical stress problems, most frequently nausea, headaches, or tiredness.

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<sup>1</sup>Jean O'Garrahan Hughes and Bernice R. Sandler, *Project on the Status and Education of Women*, Association of American Colleges, *Peer Harassment: Hazards for Women on Campus*, September 1988, pp. 1-2.

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### Responses to Sexual Harassment Incidents

Research has found that because of a long history of silence on the subject, many women feel uncomfortable, embarrassed, or ashamed when they talk about personal incidents of sexual harassment. In a 1978 survey conducted by the Working Women's Institute, the women who took action to stop the harassment found that nothing was done, they were not taken seriously, or they suffered repercussions.

As a consequence of these fears, women tend to respond to sexual harassment with various coping behaviors. In testimony during a 1991 sexual harassment case, *Robinson v. Jacksonville Shipyards, Inc.*, a national consultant in the area of sexual harassment prevention stated that typical coping methods include: (1) denying the impact of the event or blocking it out, (2) avoiding the workplace or the harasser, (3) engaging in joking or other banter to defuse the situation, (4) telling the harasser to stop, and (5) threatening to make or actually making a complaint. According to a 1990 study on the use of sexual harassment grievance procedures, most victims of harassment stated that they simply wanted to end the offending behavior rather than punish the offender. The goal of a coping strategy would be to end the harassment rather than judge (and punish, if appropriate) the offender.<sup>3</sup>

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### EEOC and DOD Provisions Regarding Sexual Harassment

EEOC provides policy guidance on preventing sexual harassment in the workplace. DOD provisions on sexual harassment are largely based on this guidance. EEOC Notice N-915-060, "Policy Guidance on Current Issues of Sexual Harassment" (Mar. 19, 1990), states that management must

"take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned."

DOD provisions regarding sexual harassment are contained in various equal opportunity documents. These documents include the DOD Human Goals Charter, first issued in August 1969; DOD Directive 1350.2, "The Department of Defense Military Equal Opportunity Program," dated December 23, 1988; DOD Instruction 1350.3, "Affirmative Action Planning and Assessment Process," dated February 29, 1988; and a Secretary of Defense memorandum, "Department of Defense Strategies to Eradicate Sexual Harassment in the Military and Civilian Environment," dated July 12, 1991.

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<sup>3</sup>Michaela Riger, "Gender Differences in Sexual Harassment Policies and Procedures," *AMERICAN PSYCHOLOGIST*, May 1991, pp. 497-408.

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The Human Goals Charter is the foundation of DOD equal opportunity programs. Since it was issued, it has been endorsed by each Secretary of Defense, most recently by former Secretary of Defense Cheney on April 17, 1990. According to a DOD equal opportunity official, the charter is being revised and will be submitted for approval by the Secretary of Defense and the secretaries of the military services once the secretaries' nominations have been confirmed by the Senate. The charter states:

"Our Nation was founded on the principle that the individual has infinite dignity and worth. The Department of Defense, which exists to keep the Nation secure and at peace, must always be guided by this principle. In all that we do, we must show respect for the serviceman, the servicewoman, the civilian employee, and family members, recognizing their individual needs, aspirations, and capabilities."

DOD's equal opportunity directive states that it is DOD policy to "provide for an environment that is free from sexual harassment by eliminating this form of discrimination in the Department of Defense." The directive further states that it is DOD policy to support the military equal opportunity program and to use the chain of command to promote, support, and enforce the program. The directive contains a definition of sexual harassment that is consistent with the EEOC guidelines.

DOD's affirmative action instruction focuses on the DOD policy for the military services to monitor and report on selected dimensions of their personnel programs to ensure equal opportunity and fair treatment for all service members through affirmative actions and other initiatives. The instruction also assigns responsibilities and establishes minimum reporting requirements.

In response to the findings of the 1988 Ment Systems Protection Board survey of federal employees and the 1989 survey of DOD employees that sexual harassment was a problem in the government and the military, the Secretary of Defense, in a July 12, 1991, memorandum, directed each DOD component to implement a sexual harassment eradication program that would incorporate, at a minimum, the following seven elements:

- (1) annual policy statements;
- (2) training programs for all personnel;
- (3) quality control mechanisms to ensure that training is working;
- (4) prompt, thorough investigations and resolutions of complaints;
- (5) procedures to hold commanders, supervisors, and managers accountable for providing guidance to personnel;
- (6) designation of sexual harassment as a special interest item for DOD Inspector General inspections/visits; and
- (7) accountability for compliance reflected in

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annual performance ratings and fitness reports as well as possible loss of benefits and imposition of penalties. Annual reports are required in response to this memorandum. The reports are to include a record of accomplishments as well as plans for the future.

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**Summary of  
Regulations at the  
Service Academies**

Each academy has provisions in its disciplinary system prohibiting harassment based on gender, religion, race, and ethnic origin. These prohibitions may be either explicit or implicit under standards of behavior. Punishments can vary from minor administrative sanctions (such as demerits) to dismissal, depending upon the severity of the behavior and a student's prior record.

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**Naval Academy**

Naval Academy regulations distinguish aggravated sexual harassment from other forms of sexual harassment. Aggravated sexual harassment includes requests for sexual favors to a member of a lower class when submission to such a request is made a condition to the receipt of some privilege, right, or other benefit. Such actions constitute quid pro quo sexual harassment. Other sexual harassment comprises forms of harassment that are not specifically stated, regardless of seriousness.

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**Military Academy**

At the Military Academy, the regulations of the U.S. Corps of Cadets define sexual harassment as (1) influencing, offering to influence, or threatening the pay or job of another person in exchange for sexual favors and (2) deliberate or repeated offensive comments, gestures, or physical contact of a sexual nature in a work- or duty-related environment. The regulations state that harassment in any form or for any reason is unacceptable and will not be tolerated.

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**Air Force Academy**

Air Force Academy definitions regarding sexual harassment are contained in (1) Air Force Regulation 30-2 (Social Actions Program) and (2) Air Force Cadet Wing Regulation 537-6 (Personal and Professional Conduct).

Air Force Regulation 30-2 provides the following definition of sexual harassment:

"Unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of sexual nature when:

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"(a) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career, or

"(b) submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or

"(c) such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment, or

"(d) any person in a supervisory or command position uses or condones implicit or explicit sexual behavior to control, influence or affect the career, pay, job of a military member or civilian employee, or

"(e) any military member or civilian employee makes deliberate or repeated unwelcomed verbal comments, gestures, or physical contact of a sexual nature."

Air Force Cadet Wing Regulation 537-6 contains a briefer, but similar definition. The regulation defines sexual harassment as

"sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature if (1) such behavior is made explicitly or implicitly a term or condition of a person's job, pay, or career, or (2) submission to or rejection of such conduct has the purpose or effect of interfering with an individual's performance or creating an intimidating, hostile or offensive environment."

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**Sexual Harassment Under  
the Uniform Code of  
Military Justice**

The academies also can prosecute an individual charged with sexual harassment under the Uniform Code of Military Justice (UCMJ). This code applies to uniformed members of the military services, including cadets and midshipmen. A September 2, 1988, Secretary of Defense memorandum to the secretaries of the military departments provides examples of conduct which might constitute both sexual harassment and an offense under UCMJ (see table 1.1).

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Table 1.1: Sexual Harassment  
Offenses Under the Uniform Code of  
Military Justice

If the sexual harasser:	The sexual harasser may also be guilty of:	Violation of:
1. Threatens to influence adversely the career, salary, or job of another in exchange for sexual favors.	Extortion, Assault, Communicating a threat.	Article 127 Article 128 Article 134
2. Offers rewards for sexual favors.	Bribery and grant.	Article 134
3. Makes sexual comments and/or gestures.	Indecent, insulting, or obscene language prejudicial to good order, Provoking speech or gestures, Disrespect.	Article 134 Article 117 Article 89 Article 91
4. Makes sexual contact.	Assault consummated by a cadet, Indecent assault, Rape.	Article 128 Article 134 Article 120
5. Engages in sexual harassment to the detriment of job performance.	Dereliction of duty.	Article 92
6. Is an officer.	Conduct unbecoming an officer.	Article 133
7. Is cruel to or mistreats any person subject to his/her orders.	Cruelty and mistreatment.	Article 93
8. Uses his/her official position to gain sexual favors or advantages.	Failure to obey a lawful general order.	Article 92

Punishment under UCMJ usually takes one of two forms: a trial by court martial or commanding officer's nonjudicial punishment under article 15. Nonjudicial punishment is available to any commanding officer as disciplinary punishment for minor offenses and may consist of such punishments as restriction, confinement, forfeiture of pay, or extra duties.

### Objectives, Scope, and Methodology

The Chairman of the Senate Committee on Armed Services and the former Chairman of its Subcommittee on Manpower and Personnel asked us to undertake a broad review of student issues at the military service academies. We have issued separate reports on academics, gender and racial disparities, and hazing and the treatment of fourth class cadets and midshipmen. This report focuses on sexual harassment at the academies. Specifically, our objectives were to (1) determine the extent to which sexual harassment occurred at the academies, the forms it took, and its effects on those subjected to it and (2) evaluate the academies' efforts to

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Chapter 1  
Introduction

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eradicate sexual harassment. We testified in June 1992 on the preliminary results of our review.<sup>1</sup>

We reviewed the EEOC guidance, DOD provisions, and Department of Education regulations relating to sexual harassment. At the academies, we reviewed their rules and regulations on conduct in general and sexual harassment specifically, studies related to the treatment of academy women and sexual harassment, and files on disciplinary cases involving sexual harassment and sexual misconduct related offenses. We interviewed academy officials, faculty, and cadets and midshipmen. We also obtained information on sexual harassment prevention programs at other institutions to determine whether they had features that could be effective at the academies.

We administered questionnaires at each of the three academies to samples of cadets, midshipmen, and faculty and to all members of the commandant's staff during late 1990 and early 1991. A detailed discussion of our survey and related methodological issues appears in appendix II. We reviewed the results of more recent surveys conducted by the academies to determine whether our results were still valid. At each academy, we conducted several focus group discussions with student representatives of various academy organizations that emphasized professional interests, ethnic interests, athletic interests, and gender interests to clarify information obtained from our questionnaires.

We performed our review at the Naval Academy in Annapolis, Maryland; the Air Force Academy in Colorado Springs, Colorado; and the Military Academy in West Point, New York.

We requested written comments from DOD, and it generally agreed with our findings, conclusions, and recommendations.

We performed our review from June 1990 to September 1993 in accordance with generally accepted government auditing standards.

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<sup>1</sup>DOD Service Academies Status Report on Reviews of Student Treatment (GAO/T-NSIAD-92-41, June 2, 1992).

## Chapter 2

## Many Academy Women Experience Sexual Harassment on a Recurring Basis

More than half of the academy women responding to our survey indicated experiencing various forms of sexual harassment at least twice a month. The primary type of sexual harassment they experienced was verbal. Fewer women reported unwanted pressure for dates or unwanted sexual advances. Our data, as well as the results of subsequent surveys by the academies, indicate that the academies are a long way from achieving the Secretary of Defense's goal of "an environment that is free from sexual harassment." Furthermore, our review indicates that the number of sexual harassment incidents that are formally reported understates the extent of the sexual harassment problem.

### Academy Students Experienced Various Forms of Harassment

The percentage of female academy students who reported experiencing one or more forms of harassment<sup>1</sup> on a recurring basis was as follows:

- 50 percent at the Naval Academy,
- 76 percent at the Military Academy, and
- 59 percent at the Air Force Academy.<sup>2</sup>

About 90 percent of the women perceived that the harassment they experienced was based on their gender, as opposed to race, religion, or ethnic origin. The most frequently reported forms of harassing behavior were verbal. Few women reported experiencing the quid pro quo form of harassment. For example, female students complained very little about unwanted pressure for dates and unwanted sexual advances. The survey results were corroborated by individual write-in comments and focus group discussions.

The majority of men reported never having experienced harassment. The percentage of male academy students who reported experiencing one or more forms of harassment on a recurring basis was as follows:

- 11 percent at the Naval Academy,
- 24 percent at the Military Academy, and
- 20 percent at the Air Force Academy.

<sup>1</sup>Our survey included 16 forms of harassment that were derived from previous surveys of harassment conducted among federal workers by the Merit Systems Protection Board in 1989 and 1987 and a 1988 survey of active duty military personnel conducted by the Defense Manpower Data Center. We tailored the items specifically to the academy environments.

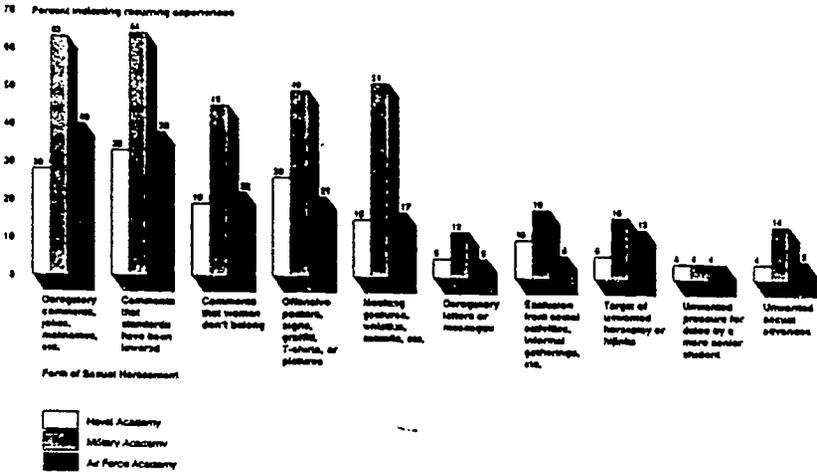
<sup>2</sup>We asked respondents to indicate how often they experienced each of 16 forms of harassment. The response categories were "Never," "1 or 2 times a year," "A couple of times a semester," "A couple of times a month," "A couple of times a week," and "Daily or almost daily." For presentation purposes, we have combined the last three categories into one covering "A couple of times a month or more often," which we use as representing a recurring pattern.

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Of the men who reported experiencing recurring harassment at the Naval Academy, 9 percent perceived that the harassment they experienced was based on their gender, as compared to 12 percent at the Military Academy and 15 percent at the Air Force Academy.

Figure 2.1 shows the percentage of academy women who responded as having experienced recurring sexual harassment for each of the 10 forms of harassment included in our survey.

Figure 2.1: Percentage of Academy Women Reporting Having Experienced Sexual Harassment in Academic Year 1990-91



Source: Response to GAO questionnaire.

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Examples of the behaviors women experienced included a full-page list of reasons why beer is better than women appearing in an academy humor magazine, the distribution of a former Secretary of the Navy's statement critical of the role of women in the Navy through the midshipmen's mail and display of the statement on dormitory bulletin boards, and the spreading of unfounded rumors about female students' dating upperclassmen.<sup>3</sup> One focus group characterized the types of harassment as follows: a lot of little things, such as comments about women in their uniforms, prank phone calls, and comments from alumni, faculty, officers, guests, and sponsors.<sup>4</sup> The group indicated that derogatory comments about their gender occurred primarily in the dormitory but also in classrooms and social settings.

The following write-in comments by respondents to the questionnaire show the extent to which some male students resist the presence of women at the academies and the cost of reporting harassment as seen by some female students.

"Women don't belong here! The majority of the women here expect special treatment because they are women. They enter a world that has been dominated for a long time by men and they expect us all to get along. It doesn't work! . . . I know a great number of women come here just to have a 10:1 man/woman ratio so they can have sex as often as they'd like . . . . The last thing we need is more woman officers here."

"I wish I had been born with my parents' generation before females destroyed this place. The West Point I attend is nothing like that I read about that produced MEN like Lee, Eisenhower, and the many other brave SOLDIERS. What makes them want to become men? Even [though] I would never openly harass wom. s, I hope they understand they are not welcome here."

"While the academy has done a good job of bringing women into the academy, it seems that lately all that they have been doing is patting themselves on the back. There is still a lot of resentment of women being here and a lot of harassment and sexual harassment cases that never get reported because if a girl complains her male classmates will resent her."

"I am a female plebe and I know for a fact that I'd get reprisals for turning someone in for a [conduct] violation ESPECIALLY upperclassmen. I spoke to a female upperclassman in my company about my team leader. I had been feeling very sexually harassed by him. She is the one who teased him in, and now, about a month and a half after she turned him in, I'm

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<sup>3</sup>Fraternization (dating between a freshman and an upperclassman) is prohibited at the academies.

<sup>4</sup>Sponsors are officer and civilian families residing near the academies with whom students can associate informally.

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still catching all kinds of heat about it. Very few people among the upperclass in my company will speak to me, and my own classmates treat me like a crybaby . . . My team leader hates me now openly, and my chain of command does nothing to hide their feelings either. I feel like I'm being harassed in 2 ways. First, by my team leaders, secondly by everyone who knows, which is about 40% of my company.'

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**Fewer Academy**  
**Faculty Members and**  
**Staff Perceive Sexual**  
**Harassment as a**  
**Problem**

Compared with female students, fewer academy faculty and staff perceived that sexual harassment was a problem. In response to our questions on the extent of harassment students experienced in academic year 1989-90, the percentage of commandant's staff who perceived that the average female student was exposed to some form of harassment on a recurring basis was as follows:

- 41 percent at the Naval Academy,
- 59 percent at the Military Academy, and
- 41 percent at the Air Force Academy.

The percentage of academy faculty who perceived that the average woman was exposed to some form of harassment on a recurring basis was as follows:

- 40 percent at the Naval Academy,
- 35 percent at the Military Academy, and
- 32 percent at the Air Force Academy.

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**Academies' Own**  
**Surveys Found Sexual**  
**Harassment**

In addition to our survey, each academy has collected information, to varying degrees, from its students regarding sexual harassment. The results of those surveys conducted more recently than ours indicate that sexual harassment continues to exist at the academies. Because the methodologies of these studies were not consistent with our methodology, we were not able to evaluate whether the level of sexual harassment had changed.

The 1993 Naval Academy's command assessment of the equal opportunity climate indicated that about 53 percent of female students totally or moderately agreed that sexual harassment (subtle or overt) was a problem, compared with about 31 percent of male students.

The Military Academy's survey of the senior class of 1993 indicated that 80 percent of the female respondents either observed or personally

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experienced sexist comments being made at movies or sporting events. In the last year, 52 percent of the women reported that they had frequently heard disparaging remarks about women at West Point from other students. Twenty percent of the women responded that they had experienced the situation at night, after lights out, where a cadet entered their rooms and improperly touched them.

Since our survey, the Air Force Academy surveyed cadets on the Academy's social climate in March 1992. In describing the results of this survey to the Defense Advisory Committee on Women in the Services, the Academy stated that:

"There were some indications of a chronic nature that the cadet climate may be offensive, intimidating, or threatening to women, if not discriminatory in some ways. The common attitude that sexism or harassment exists is evident in the lower endorsement for women to be as effective in leadership roles, for women to be respected for their leadership, and for their ability to give constructive feedback. Additionally, there is evidence that sexist jokes or demeaning remarks are fairly pervasive, and the superior/subordinate relationship between male and female cadets is more than occasionally compromised by their transmission."

Specific results from the survey indicated that 52 percent of male cadets heard sexist jokes or demeaning remarks about women on a daily basis. Seventy-eight percent of the female cadets reported the same.

Additionally, in September and December 1992, the Air Officers Commanding (the commissioned officers in charge of student squadrons) conducted focus groups within their squadrons to determine the extent of sexual harassment among cadets and awareness of human relations issues. During the first series of focus group discussions, cadets raised several issues from these discussions, including the destructive nature of the verbal harassment throughout the cadet wing and the offensiveness (to some cadets) of adult reading material (magazines and pictures) in dormitory rooms. The second series of focus group discussions found that (1) a minority of cadets were unfamiliar with or unwilling to see the importance of human relations, (2) more education was necessary, (3) human relations programs needed more emphasis, (4) racial as well as gender issues needed to be addressed, (5) clarification was needed on the perceived issue of quotas, and (6) cadets wanted more feedback when problems occurred to avoid rumors.

The Air Force Academy's Ad Hoc Committee on Respect and Dignity reported to the Superintendent in May 1993 that

"disturbing numbers of female cadets reported to the Superintendent that instances of sexual assault, improper fondling, and sexual harassment and discrimination had occurred to them while at the Academy. Only a tiny fraction of these instances had ever been reported. Perhaps for that reason, male cadets tended to be far less aware of the extent of such problems than the female cadets were. For example, a much larger percentage of female cadets than male cadets said they personally knew a cadet who had been a victim of sexual assault while at the Academy. In other words, something that was relatively common knowledge among female cadets was far less well known by the males."

### Sexual Harassment Appears to Be Underreported

From 1988 to 1993, students at the three academies officially reported 107 sexual misconduct incidents, including incidents of sexual harassment. Our survey results suggest that the reported sexual harassment cases represent a small fraction of the total that actually occur. The wide gap in the number of actual and reported incidents is understandable given the tendency of women to deal with harassment informally and their hesitancy to formally report an incident. Specifically, of the female respondents, 43 percent at the Military Academy, 37 percent at the Naval Academy, and 53 percent at the Air Force Academy indicated a hesitancy to report harassment for fear of reprisal. (See ch. 3 for a discussion of the negative consequences associated with reporting harassment.)

Because sexual harassment may be prosecuted under various offense categories, we reviewed all available misconduct cases filed between June 1988 and May 1993. The academies had identified some cases as being within their definitions of sexual harassment (discussed in ch. 1). At the Naval Academy, we reviewed cases charged under the two sexual harassment conduct codes as well as sexual misconduct cases and cases involving possible violations of UCMJ. Since the Military and Air Force academies did not have specific conduct offense categories for sexual harassment, we reviewed all available misconduct cases, paying particular attention to cases charged under conduct unbecoming an officer and error in judgment with major effect. We applied the definitions in EROC guidance and academy regulations and the examples used in the DOD and GAO questionnaires to the descriptions in the cases to identify possible sexual

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misconduct cases. Table 2.1 shows the distribution, by academy, of the 107 sexual misconduct<sup>3</sup> cases we identified.

Table 2.1: Academy incidents involving Sexual Misconduct, Academic Years 1988-93

Academic year	Naval Academy	Military Academy	Air Force Academy
1988	1	1	3
1989	3	2	10
1990	5	3	10
1991	13	9	5
1992	2	12	6
1993	2	8	7
Total	26	40	41

Our survey results indicate that the number of formally reported cases involving sexual harassment significantly understates the extent of the problem. According to our survey, between 93 and 97 percent of the 1,415 women at the academies experienced some form of sexual harassment during academic year 1991. However, we found only 26 reported incidents of sexual misconduct during this period.

The incidents that were formally reported tended to be more grievous forms of sexual misconduct. Generally, the forms of sexual harassment included in the written responses to our questionnaire and discussed in the focus groups were not the kind that students would report to a formal complaint system. For example, women reported to us that

- it was commonplace for men to make remarks and tell jokes at meals or in classes;
- unchecked comments and jokes would be made about a female commander in drill trousers;
- harassment was a lot of little things, such as comments about women in their uniforms, derogatory name calling, prank phone calls, offensive posters, and comments from alumni, faculty, guests, and sponsors; and
- they were subjected to upperclassmen entering their rooms during study time and bothering them.

On the other hand, examples of sexual misconduct being formally reported more frequently are the following:

<sup>3</sup>At the Naval Academy, sexual misconduct is a specific conduct offense and refers to certain sexually related conduct, both consensual and nonconsensual. A conviction under this conduct offense could result in separation from the Academy. The term "sexual misconduct" in this discussion is used in a more general sense to include a range of behaviors that could be considered sexual harassment.

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- A male student entering a female student's room after curfew and making unwanted sexual advances (such as kissing, touching, or fondling) toward the sleeping student.
- An upperclass male student conducting the training of an underclass female student in a sexually offensive manner. For example, an upperclass male student ordered a freshman female student to stay with him after he dismissed the rest of the squad and to stand near him. He then attempted to kiss her against her will.
- A male student making various unwanted sexual advances (physical contact) toward a female student.

In addition, examples of sexual misconduct being formally reported at least once are the following:

- A male student videotaping or watching a female student taking a shower.
- A male student sexually assaulting a female student.
- A male student raping a female student.
- A male student making unwanted sexual advances toward an underage civilian female.
- A male student exhibiting sexually suggestive behavior toward another male student.

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## Women at the Academies Tend to Deal With Sexual Harassment Informally

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Academy students reported that taking no action or avoiding the person responsible were the least effective strategies for dealing with harassment, while they reported that confronting the person or reporting the incident to the chain of command were the most effective strategies. Further, there was general agreement that if an incident was reported, it would be thoroughly investigated and the offender would be appropriately disciplined. However, there was also general consensus that there would be negative consequences to reporting the harassment, such as being viewed as a "crybaby," being viewed less favorably by the student and officer chains of command, or receiving lower military performance grades. Consequently, students tended to deal with sexual harassment informally if possible.

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### Academies Have Many Channels for Surfacing Grievances

All the academies have a policy of encouraging students to resolve problems at the lowest level possible, starting with confronting the individual with whom one has a problem. The student may also try to resolve the problem informally by consulting with an academy chaplain, counselor, or others outside the official chain of command. However, all the academies have procedures for formally reporting a grievance to the chain of command. In addition, the academies offer alternative official channels. Finally, students may make use of external channels, such as reporting the incidents to the media or Members of Congress.

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### Informal Channels

Students at the academies have access to a variety of means for informally seeking advice and counseling on personal problems, including sexual harassment. For instance, they may consult with chaplains, counselors (including legal advisers), friends, doctors, nurses, mentors, sponsors, and faculty advisers. If a student is sensitive about keeping any discussions of problems confidential, the chaplains and legal advisers are bound by a privileged relationship, while others provide limited confidentiality and may report problems to academy authorities.

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### Formal Channels

If a student wishes to formally report a grievance, or if more informal attempts at resolving the problem have failed to be satisfactory, he or she may report the problem to the student chain of command. If this approach was not satisfactory, the matter could then be reported to the officer chain of command. All the academies have procedures for investigating and resolving formal complaints of sexual harassment. In general, the complaints are handled through the academy disciplinary systems.

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 Alternative Channels

Because a victim of sexual harassment may be reluctant to file a complaint with the chain of command, the academies have established alternative official channels for reporting sexual harassment. The alternative channels are unique to each academy.

## Naval Academy

The Academy Commandant established an ombudsman program in August 1990 to provide an alternative channel for reporting grievances. Such a program was recommended in an internal study on the assimilation of women at the Academy. Two commissioned officers outside the chain of command serve as ombudsmen to assist in hearing any problems not resolved within the chain of command. According to Academy officials, the ombudsmen maintain no formal records of grievances brought before them. The Academy also has six senior enlisted advisers who can discuss problems with midshipmen and provide information and advice. Communication with neither the ombudsmen nor the senior enlisted advisers is considered privileged or confidential.

Within the Office of the Inspector General of the Navy, there is a toll-free fraud, waste, and abuse hotline that may be used for reporting grievances. This hotline is available to all naval personnel, including Academy midshipmen.

## Military Academy

The Military Academy offers three alternative channels to cadets. First, cadets may send electronic mail messages to the Commandant. Second, two noncommissioned officers outside the chain of command are specially trained to handle harassment issues. Third, a problem may be reported to the Inspector General of the Military Academy, who has conducted investigations in response to allegations concerning human relations problems.

## Air Force Academy

Cadets have several alternatives for reporting incidents of sexual harassment. First, cadets may contact the Cadet Counseling Center. As part of the Academy's Social Actions Program, the staff of the Cadet Counseling Center provides professional counseling and conducts complaint clarifications and investigations of possible equal opportunity and treatment violations. The Center has also employed other strategies such as writing letters to students who have engaged in sexually harassing behavior and mediating on behalf of students.

Cadets also may turn to the Way of Life Committee for assistance. The Way of Life Committee was established about 20 years ago to address social climate and "quality of life" issues that had a direct impact on both

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enrollment and attrition rates for minority cadets. Since then, the Way of Life Committee has evolved into a weekly forum that provides a sociocultural support base for those cadets who might otherwise find it difficult to acclimate to a predominately white setting.

Other alternative channels available to cadets are talking to peer counselors called specialists (a trained second-class student in the cadet chain of command who serves as an adviser to fourth-class cadets), contacting the commandant directly through an electronic mail system similar to that in use at the Military Academy, or filing a complaint with the Academy's Inspector General. Academy officials told us that student support is also formally provided by the newly established Center for Character Development and by the Air Officers Commanding. Additionally, any academy staff member who a cadet trusts may listen to the problem and then report it to the appropriate agency.

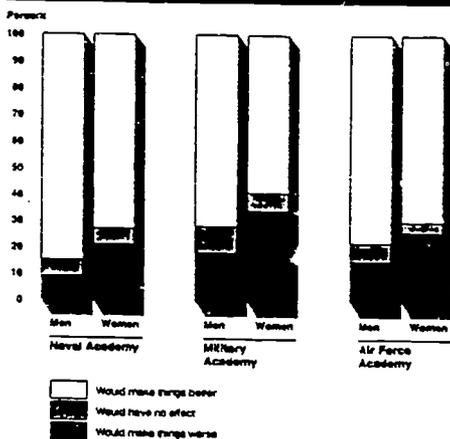
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**Perceived Effectiveness of Various Strategies for Dealing With Harassment**

Academy students responding to our survey generally considered the strategy of confronting the harasser as the most effective, while the more passive strategies, such as taking no action or avoiding the person responsible, were seen as the least effective. (See figs. 3.1 and 3.2.) At all three academies, female students were somewhat less likely than male students to indicate that confronting the person responsible was likely to make things better.

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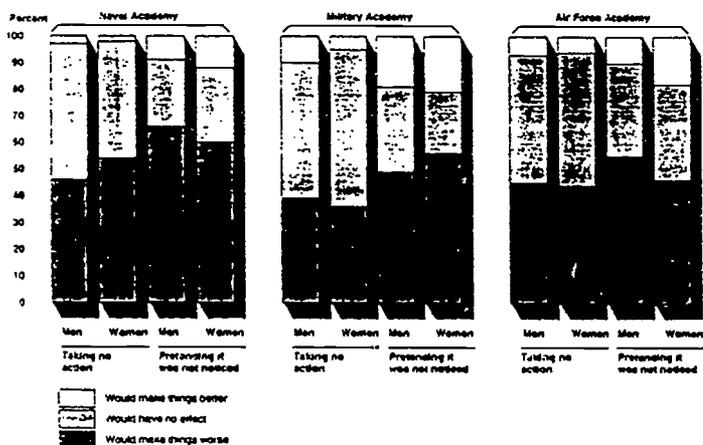
Figure 3.1: Perceived Effectiveness of  
 the Strategy of Confronting the Person  
 Responsible



Source: Responses to GAO questionnaire.

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Figure 3.2: Perceived Effectiveness of Other Personal Strategies for Dealing With Sexual Harassment



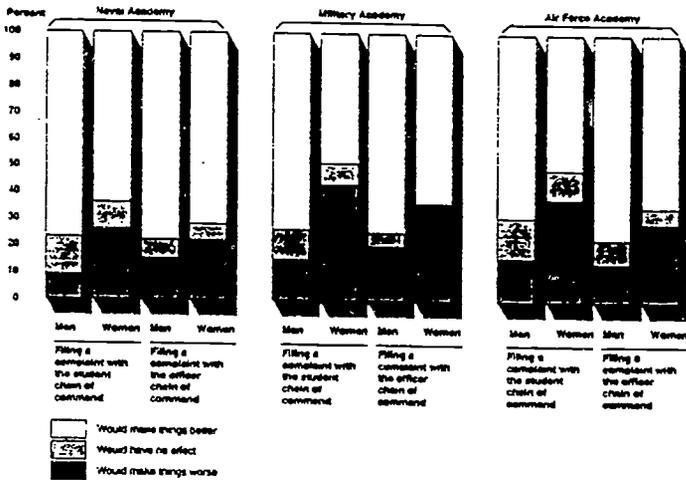
Source: Responses to GAO questionnaire.

Students reported that the informal channels were somewhat effective. For instance, about half or more of the respondents believed that telling a chaplain or counselor would make things better.

Students generally perceived that using the student and officer chains of command to formally report grievances was likely to make things better. (See fig. 3.3.) However, men indicated more confidence than women in the chain of command, especially the student chain of command.

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Figure 3.3: Perceived Effectiveness of Formal Reporting Channels



Source: Responses to GAO questionnaire.

Students were somewhat less confident in using the alternative official channels. About half or fewer of the respondents saw the alternative channels (such as reporting the harassment to the Commandant, the Inspector General, a "hotline", or the Way of Life Committee) as making things better. The exceptions were the Naval Academy's ombudsmen and the Air Force Academy's cadet specialists. At the Naval Academy, 78 percent of the women perceived that reporting an incident to an ombudsman would make things better. At the Air Force Academy,

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70 percent of the women perceived that reporting an incident to a cadet specialist would make things better.

The students indicated that the external channels were the least effective option for surfacing grievances and were more likely to make things worse. At the Naval Academy, 94 percent of the women believed that reporting an incident of harassment to the media would either have no effect or make things worse, compared to 87 percent at the Military Academy and 90 percent at the Air Force Academy. Similarly, 38 percent of the women at the Naval Academy believed that reporting an incident to a Member of Congress would either have no effect or make things worse, compared to 70 percent at the Military Academy and 80 percent at the Air Force Academy.

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**Student Perceptions  
of Consequences of  
Reporting Harassment**

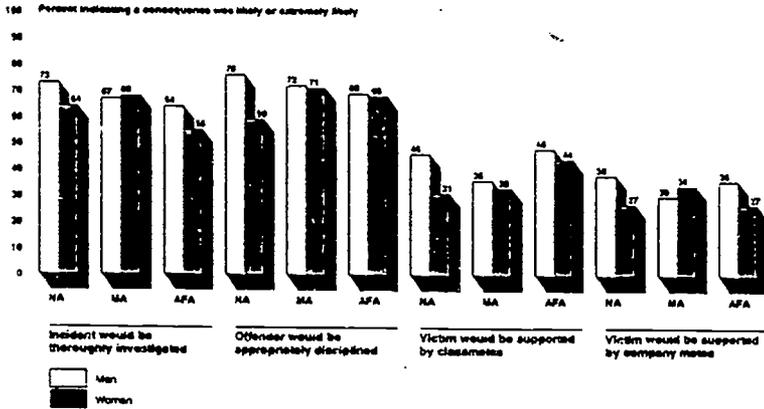
Students saw both positive and negative consequences to reporting harassment. The majority of students believed that if reported, harassment incidents would be thoroughly investigated and the offender disciplined. But students also saw negative consequences of reporting, such as receiving little support from the chain of command and peers, being viewed as a crybaby or shunned, and receiving lower military performance grades. Students saw as the least likely negative consequence of reporting that the victim would be given extra duties.

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**Students Perceived That  
Incidents Would Be  
Thoroughly Investigated  
and the Offender  
Disciplined**

At each of the academies, the majority of women indicated that it was likely or extremely likely that an incident of harassment reported to the chain of command would be thoroughly investigated and the offender would be appropriately disciplined (see fig. 3.4).

Figure 3.4: Student Perceptions of Positive Consequences of Reporting Sexual Harassment



Source: Responses to GAO questionnaire.

However, as shown in the figure, less than half the students felt that the victim would receive peer support. At the Naval Academy, 31 percent of the women believed that it was likely or extremely likely that the victim would be supported by classmates, compared to 33 percent at the Military Academy and 44 percent at the Air Force Academy. Similarly, at the Naval and Air Force academies, 27 percent of the women believed that it was likely or extremely likely that the victim would be supported by company mates/squadron mates, compared to 34 percent at the Military Academy.

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At the Air Force and Military academies, the men and women were generally in agreement as to how likely the positive consequences were. At the Naval Academy, women were less optimistic than men about the likelihood of positive consequences from reporting harassment.

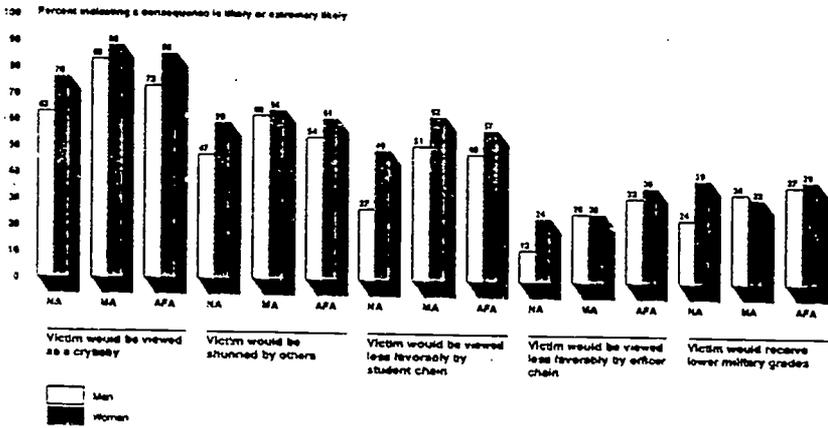
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Many Students Associated  
Negative Consequences  
With Reporting  
Harassment

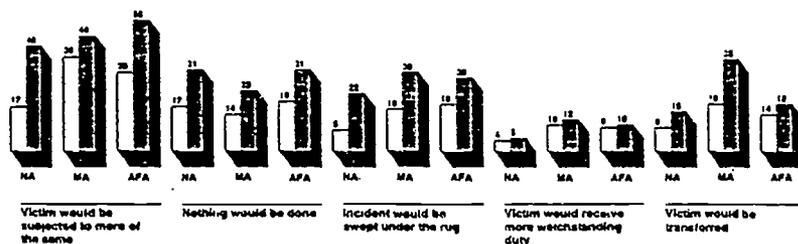
Our questionnaire asked respondents to indicate how likely the following 10 negative consequences were if harassment were reported: the victim would be viewed as a crybaby, the victim would be shunned by others, the victim would be viewed less favorably by the student chain of command, the victim would be viewed less favorably by the officer chain of command, the victim would receive lower military grades, the victim would be subjected to more of the same treatment, nothing would be done, the incident would be swept under the rug, the victim would receive extra duties, and the victim would be transferred. Generally, a higher proportion of women than men saw the negative consequences as likely or extremely likely. (See fig. 3.5.)

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Figure 3.5: Student Perceptions of Negative Consequences of Reporting Sexual Harassment



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Legend

NA = Naval Academy  
 MA = Military Academy  
 AFA = Air Force Academy

Source: Responses to GAO questionnaires.

The most likely consequence of reporting harassment was that the victim would be viewed as a crybaby. Overall, students reporting harassment were believed to be more likely to experience negative consequences from their peers than from officers. For example, at each academy, fewer respondents believed that it was likely or extremely likely that the victim would be viewed less favorably by the officer chain of command than by the student chain of command.

## Sexual Harassment Can Produce Stress

Our survey results indicate that sexual harassment can have detrimental effects on cadets and midshipmen. A correlation exists between a student's reported exposure to sexual harassment and higher levels of stress, and higher levels of stress were correlated with decreased interest in staying at the academy and making the military a career. However, because many factors may contribute to stress, we could not draw a direct link between harassment and decreased interest in staying at the academy and making the military a career.

Past studies by the Merit Systems Protection Board have suggested that sexual harassment costs the federal government millions of dollars each year. In surveys of federal employees in 1980 and 1988, the Board estimated the annual cost of sexual harassment to the government at \$189 million and \$267 million, respectively. The estimates were based on costs related to job turnover, emotional stress, reduced productivity, and absenteeism.

### Victims of Sexual Harassment Experienced Higher Levels of Stress

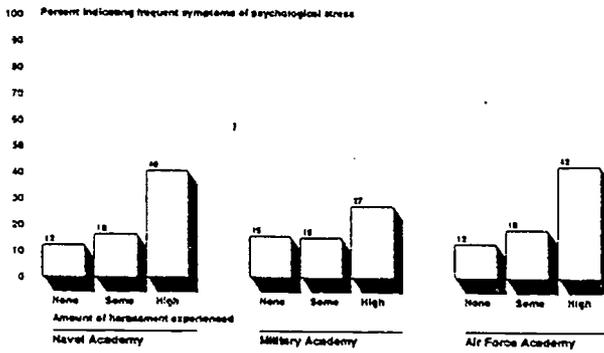
Our questionnaire included items aimed at assessing how often respondents had experienced various psychological and physical symptoms of stress. On the basis of social science research, we delineated 8 psychological stress symptoms—anger, frustration, isolation, powerlessness, self-doubt, nervousness, depression, and feeling that your superiors are against you—and 15 physical stress symptoms—trouble breathing, trouble sleeping, back pains, stomach problems, skin rash, headaches, stiffness or swelling of joints, indigestion, fatigue quickly, trouble staying asleep, difficulty getting up in the morning, heart racing, sweaty hands, dizziness, and poor appetite. These items were summed to provide scales of psychological and physical stress. Similarly, we summed each respondent's answers across all 10 harassment items to construct a measure of the amount of harassment experienced. We transformed these stress and harassment scales into categories of none, some, and high.<sup>1</sup>

Figures 4.1 and 4.2 show the relationship between the amount of harassment experienced by academy students and the two measures of stress.

<sup>1</sup> Respondents' scores were categorized as "none" if they fell within one standard deviation above the mean and "high" if more than one standard deviation above the mean. The mean was "none" since most significantly outnumber women at each academy and very few men indicated they experienced sexual harassment.

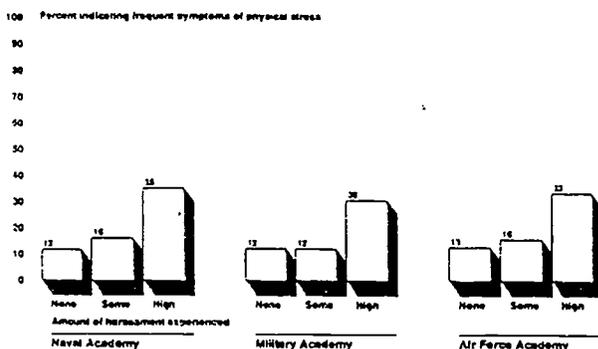
Chapter 4  
Sexual Harassment Can Produce Stress

Figure 4.1: Relationship Between Sexual Harassment and Psychological Stress Among Academy Students



Source: Responses to GAO questionnaire.

Figure 4.2: Relationship Between Sexual Harassment and Physical Stress Among Academy Students



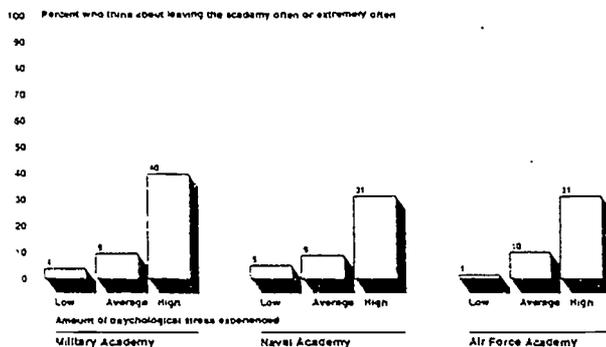
Source: Responses to GAO questionnaires.

For the students at all three academies, greater exposure to harassment was associated with higher levels of psychological and physical stress. For example, figure 4.1 shows that about 40 percent of the students at the Naval Academy whose responses to the set of harassment questions put them in the high harassment category were also in the high psychological stress category, compared with only about 12 percent of students in the none harassment category and 16 percent in the some harassment category. In terms of individual psychological stress symptoms we found a relationship between those students who reported experiencing a high degree of harassment and those who reported experiencing a high degree of feelings of self-doubt. Regarding the individual physical stress symptoms, there was a relationship between those students who reported experiencing a high degree of harassment and those who reported experiencing a high degree of tiring quickly.

### Stress May Increase Attrition

Our survey included a question aimed at assessing how often students think about leaving the academies. Figure 4.3 shows that those students at each of the academies who reported experiencing a higher degree of psychological stress tended to think more frequently about leaving the academy. For example, about 40 percent of the cadets at the Military Academy whose responses to the set of psychological stress symptoms put them in the high stress category were also those who often or extremely often thought of leaving the Academy.<sup>2</sup>

Figure 4.3: Relationship Between Psychological Stress Experienced and Frequency of Thoughts About Leaving the Academy



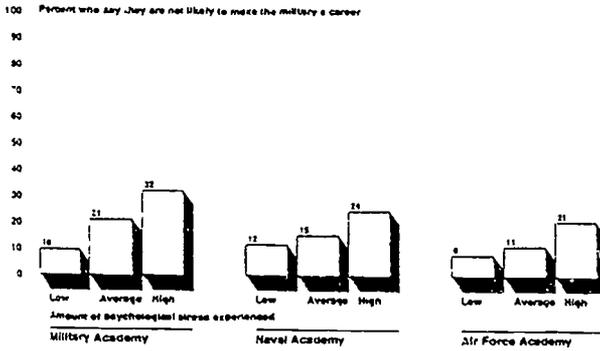
Source: Responses to GAO questionnaire.

### Stress May Deter Some From Making the Military a Career

Academy students were asked how likely they were to make the military a career. Figure 4.4 shows that the greater the amount of psychological stress experienced, the less likely the students at all three academies were to express an intent to make the military a career.

<sup>2</sup> Respondents' scores were categorized as "low" if they were more than one standard deviation below the mean, "average" if they fell within one standard deviation above or below the mean, and "high" if they were more than one standard deviation above the mean.

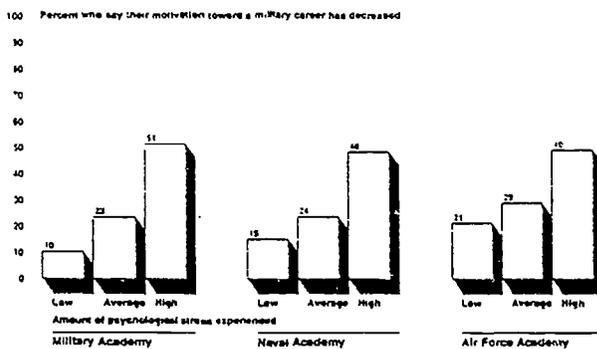
Figure 4.4: Relationship Between Psychological Stress Experienced and Likelihood of Not Making the Military a Career



Source: Responses to GAO questionnaire.

The lower career intent of those who experienced greater stress is not merely a reflection of lower career intent when they entered the academy. When respondents were asked whether their motivation to make the military a career had changed since they entered the academy, those at all three academies who experienced greater psychological stress were more likely to indicate that their motivation to make the military a career had decreased (see fig. 4.5).

Figure 4.5: Relationship Between Psychological Stress Experienced and Decreased Career Motivation



Source: Responses to GAO questionnaire.

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## Academy Actions to Eradicate Sexual Harassment

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The academies generally have complied with the DOD minimum criteria for the military services to use in developing programs to eradicate sexual harassment. In some areas, the academies have gone beyond these minimum criteria. However, the academies have not routinely gathered data on the extent of sexual harassment over time. This has precluded them from evaluating how well their policies and programs have worked. The sexual harassment prevention programs we reviewed at other organizations offer different approaches that may help the academies to improve their own programs.

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### Academies Have Generally Met DOD's Criteria for Effective Sexual Harassment Prevention Programs

In his July 1991 memorandum, the Secretary of Defense directed each DOD component to implement a sexual harassment eradication program that would incorporate, at a minimum, the following seven elements:

- annual policy statements that explain sexual harassment and reaffirm that sexual harassment will not be tolerated;
- required training programs for all personnel, with special emphasis on how to identify and prevent sexual harassment;
- quality control mechanisms (for example, unit climate assessments) to ensure that sexual harassment training is working;
- prompt, thorough investigations and resolutions of every sexual harassment complaint;
- procedures to hold commanders, supervisors, and managers accountable for providing guidance to personnel on what constitutes sexual harassment and how they can seek redress if they believe they are victims;
- designation of sexual harassment as a special interest item for review in appropriate Inspector General reviews; and
- accountability for compliance reflected in annual performance ratings and fitness reports as well as possible loss of benefits and imposition of penalties.

Annual reports are required in response to this memorandum. The reports are to include a record of accomplishments as well as plans for the future.

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### Academy Actions to Comply With DOD Criteria

For the most part, the three academies complied with the elements of DOD guidance on sexual harassment prevention. However, Inspector General reviews have not included sexual harassment as a special interest item.

#### Annual Policy Statements

The policy statements of the academies are generally the same as those issued by their parent services. Each academy either makes reference to

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Academy Actions to Eradicate Sexual  
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the service's language in its own statements or issues the service policy statement with an academy transmittal memorandum. An examination of these policy statements revealed some common elements but also variations in the amount of information provided. The common elements were references to the definition of sexual harassment, a statement that sexual harassment will not be tolerated, a provision concerning the responsibility of commanders and supervisors in dealing with and eliminating sexual harassment, and some information about ways to deal with sexual harassment.

The policy statements varied in the information provided about formal and informal avenues of dealing with sexual harassment, in references to the possible consequences of sexually harassing someone, and in references to education and training. For example, the Navy's policy statement, which was disseminated throughout the Naval Academy, included a reference to an annual training requirement for all Navy personnel. The policy statement of the Military Academy also contained a reference to training, but the Air Force Academy's policy statement did not.

Training Programs

Each academy provided sexual harassment prevention training to students either as part of leadership courses or in human relations/equal opportunity courses. This training covered such topics as values, prejudices, stereotypes, and discrimination. In addition, the Naval Academy conducted 1 day of training specifically on sexual harassment in September 1992. The Naval and Military academies' training offered expanded explanations of the types of behavior that constitute sexual harassment, while the Air Force Academy's training provided the limited explanation contained in Air Force Regulation 30-2, as well as language referring to quid pro quo and hostile environment situations.

Quality Control Mechanisms

Although the academies had each taken some steps to evaluate their equal opportunity climate, it is not clear that the results of the evaluations were linked to the effectiveness of their training programs. Since August 1990, the Naval Academy has evaluated its training program through annual command assessment reviews that are part of its equal opportunity program. The reviews made general recommendations about the need to continue sexual harassment education, emphasizing that information on the definition, examples of behavior, and procedures to follow should be included. In the fall of 1992, the Naval Academy conducted sexual harassment training that included these elements.

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In February 1992, the Military Academy submitted a report on the integration and performance of women at West Point to the Defense Advisory Committee on Women in the Services. The report made reference to the results of several years of annual surveys administered to seniors that included questions on the integration of women, sexual harassment, and other equal opportunity issues. The report also provided information on the extent of human relations training cadets received. However, the report did not link the survey results to the effectiveness of training. In addition, in the fall of 1993, the Military Academy's Inspector General began conducting an equal opportunity climate assessment at the Academy. According to Academy officials, the assessment has been expanded to include students.

At the Air Force Academy, there have been two efforts involving a survey or interviews of cadets and a discussion of human relations training. In May 1992, the Academy submitted a report to the Defense Advisory Committee on Women in the Services that referred to the March 1992 survey on cadet attitudes and behaviors, including sexual harassment (the survey results are discussed in ch. 2). The report noted that the type and magnitude of problems revealed by the survey could be directly managed with creative forms of education and proper role models. However, while the report described the human relations core curriculum, it did not link the survey results to the training program.

In early 1993, at the Academy's request, the Defense Equal Opportunity Management Institute assessed the equal opportunity and treatment/human relations training programs at the Academy. The Institute assessed the "human relations climate as good, even though personal interviews (with cadets) revealed that sexist and racist attitudes/behaviors and sexual harassment exist in the cadet environment." The Institute raised concerns about the development and presentation of the human relations training lessons. Specifically, it noted:

"All of the lessons contain biases and often focus attention on women and minorities. This constant focus on minorities and women could create the perception that this training is specifically for majority members to learn about minority and women problems . . . . Additionally, cadets stated during personal interviews that human relations presentations are not serious and are conducted in a joking manner."

In its report to the Academy, the Institute made several specific recommendations regarding education and training, including one to establish a requirement for periodic reviews of lessons to keep them

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current, accurate, and applicable. These recommendations were based on interviews with cadets and staff and a review of lesson plans. According to Academy officials, the introductory human relations lesson and the instructional approach used were significantly revised during the summer of 1993. Through an experiential approach, the exercise is aimed at allowing cadets to feel the effects of either enjoying special favor or being totally disregarded, both forms of discrimination. The training includes viewing a video, followed by class discussion, and presents human relations in a leadership context. Institute personnel have conducted training workshops on equal opportunity policies and provided facilitator training at the Academy.

Complaint Investigation and  
Resolution

Each academy has a process for investigating and resolving formal sexual harassment complaints, usually through the disciplinary system. In addition to its disciplinary system, the Air Force Academy has a Social Actions program to deal with equal opportunity issues. However, the Defense Equal Opportunity Management Institute's 1993 review at the Air Force Academy found that the Social Actions program was not consistent with Air Force-wide social actions programs. The Academy's Social Actions Office is authorized only to clarify the circumstances surrounding complaints and to make recommendations to commanders as to whether an inquiry or investigation should be conducted. According to the Institute, "A majority of the cadets interviewed perceived Social Actions as a threat and disciplinary tool rather than a proactive agency for helping individuals. They said they were very hesitant to use the program." In response to the Institute's recommendations, Academy officials told us they plan to assign the responsibility for human relations to the newly established Center for Character Development in order to address the student perception. The Center was created to address the internalization of core values by cadets with the goal of making human respect and dignity, moral and ethical development, and honorable conduct standard throughout the Academy.

Accountability of Commanders  
and Supervisors

The accountability of commanders and supervisors is discussed in the policy statements of all three academies. The policy statements make reference to the role of commanders and supervisors and the procedures for ensuring that sexual harassment is prevented and eliminated. The Naval and Air Force academies' policy statements include language prohibiting commanders and supervisors from condoning sexual harassment. They also refer to the responsibility of commanders and supervisors to take action to ensure that the recipient of sexual harassment is not subsequently the victim of reprisal or retaliation.

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 Inspector General Reviews
 

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As of September 1993, no inspector general inspections that included sexual harassment prevention and education as a special interest item had been conducted at any of the three academies. The DOD Inspector General has been conducting inspections that included sexual harassment prevention as a special interest item since early 1992. However, since the DOD Inspector General generally conducts inspections of only DOD-wide agencies, it has not conducted an inspection of the academies. The military service inspectors general, which would be the appropriate agencies to inspect the academies, have not conducted inspections of the academies that included sexual harassment as a special interest item.

The Naval Inspector General, by regulation, has designated sexual harassment prevention and education as a special interest item for command inspections. As part of a 3-year cycle of inspecting the three major Navy educational institutions,<sup>1</sup> the Inspector General has scheduled an inspection of the Naval Academy for late 1994.

The Army Inspector General has designated sexual harassment as an item of interest and further described it as one of seven significant areas of Army concern. According to an Inspector General official, the office has not conducted an inspection of the Military Academy within the last 3 years.

As of September 16, 1993, the Air Force Inspector General had designated sexual harassment prevention and education as a special interest item for review during inspections. At this time, the Air Force Inspection Agency has scheduled a management inspection of the Air Force Academy for 1996.

 Performance Ratings and  
 Fitness Reports

The military services hold their personnel accountable for compliance with DOD sexual harassment policy in annual performance ratings and fitness reports. The applicable category on the personnel evaluation form is support of equal opportunity for the Navy and the Army and leadership skills for the Air Force. The academies use the service personnel evaluation forms in evaluating personnel assigned to the academies. Also, the academies use a form similar to the service form to evaluate student performance.

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<sup>1</sup>The Naval Academy, the Naval Postgraduate School, and the Naval War College are the Navy's major educational institutions.

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### The Academies Have Taken Additional Steps to Deal With Sexual Harassment, but Program Evaluation Efforts Lack Systematic Approach

The academies have taken a number of actions regarding their sexual harassment prevention and education programs that go beyond the seven minimum elements outlined in the 1991 000 memorandum. The additional steps cover tracking and monitoring sexual harassment incidents, establishing sexual harassment hotlines, providing counseling support networks, employing lessons learned from actual sexual harassment incidents in training situations, conducting student surveys and discussions on sexual harassment and sexual misconduct, providing training on fraternization, teaching students how to write a letter to a harasser to stop the offensive behavior, offering training on civil in the classroom<sup>2</sup> and date-rape, and making various other insitutional changes in dealing with human relations concerns. However, none of the academies has developed usable trend data to assess the effectiveness of its sexual harassment eradication program. The Military and Air Force academies, in particular, have not conducted routine, systematic program evaluations.

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### Additional Steps Academies Have Taken

The disciplinary system of each academy permits the tracking and reporting of certain categories of misconduct. The Naval Academy's disciplinary system allows the tracking specifically of reported incidents of sexual harassment, whereas the Military and Air Force academies' systems allow tracking by general offense codes, such as conduct unbecoming an officer and a gentleman/gentlewoman or error in judgment. The cases tracked within each academy's disciplinary system do not include all cases that originate outside the system, such as cases initiated by another investigative entity.

Additionally, as part of the Command Managed Equal Opportunity program, the Naval Academy has begun maintaining a log of all informally resolved, in-company complaints of harassment or denial of equal opportunity. According to Academy officials, the logs will be used to review the frequency and seriousness of complaints being made that would not reach a level requiring formal conduct action.

Two of the academies have established advice/counseling hotlines. In December 1992, the Navy established a toll-free sexual harassment advice/counseling hotline. The Naval Academy publicized the Navy hotline in daily printed schedules of Academy events. In 1983, the Air Force

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<sup>2</sup>The Military Academy defines a "chilly" classroom as an atmosphere that alienates any student group from the learning process. The Association of American Colleges describes a chilly classroom climate as a learning climate that subtly or overtly communicates different expectations for women than for men.

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Academy established a rape crisis hotline, staffed by a commissioned officer. In February 1993, the hotline was renamed the sexual assault hotline, and it is now staffed by a nurse at the Academy hospital. Unlike the Navy hotline, the Air Force Academy hotline was established to deal specifically with rape and sexual assault, but not to provide advice or counseling regarding sexual harassment. The Military Academy does not have a hotline for cadets.

A third step the academies have taken is setting up counseling support networks. Each academy provides counseling support through student counseling centers and chaplains. The centers are staffed by trained psychologists. Generally, students seeking such counseling are free to schedule an appointment during a free period in their schedules. Counselors are able to provide the student with limited confidentiality. Chaplains also provide counseling support and are able to provide full confidentiality.

Another action involves the practice of employing lessons learned from actual human relations incidents in training situations. In conducting core values training in January 1993,<sup>3</sup> the Naval Academy modified the Navy version of the training and included some case examples based on Academy incidents. The Air Force Academy recently initiated a similar approach in human relations education. Drawing from an earlier practice of using "Cadet X" letters for honor education,<sup>4</sup> the Academy developed Cadet X letters for human relations problems. According to the 1993 report by the Ad Hoc Committee on Respect and Dignity, "this can be an extremely useful mechanism for educating cadets about problem behavior as well as increasing awareness of the actual disposition of incidents."

According to Naval Academy officials, in August 1993, the Commandant of Midshipmen met with more than 500 female students to conduct an on-the-spot survey on sexual harassment and sexual misconduct. He tabulated the survey results and discussed the results with the women. The Commandant later met with male students to discuss the women's survey results, solicit questions, and encourage further discussion. Another action taken by the Naval Academy was to conduct training for all students on fraternization in the fall of 1993.

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<sup>3</sup>This training course is designed to teach the Navy's core values of honor, commitment, and courage to all Navy and Marine Corps personnel.

<sup>4</sup>These letters are summaries of actual honor relations that are used for training.

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The Military Academy is providing training to second class (junior) cadets on writing a structured letter to the harasser. Such letters are designed to describe the incident, how the victim felt about what happened, and what the victim wants to happen to resolve the matter. The Military Academy also offers two additional programs, Chill in the Classroom and a Date-Rape Psychodrama, which Academy officials characterized as trendsetters in the field of gender integration. Academy officials said they are continually being sought out by other institutions of higher learning for advice and counsel regarding gender integration issues.

Air Force Academy officials said they have instituted changes in how the Academy addresses human relations concerns. These changes include focus groups with nonattribution that allow for the free cross flow of information between students and staff; informal chats between Academy senior leadership and students; increased student involvement in human relations education and the adjudication of human relations concerns; teams to deal with issues identified in past surveys and focus groups; and increased efforts to provide timely and meaningful feedback to students on human relations issues.<sup>4</sup>

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Academies Have Not  
Evaluated Their Sexual  
Harassment Eradication  
Programs in a Systematic  
Manner

As discussed previously, the academies have, to varying degrees, evaluated their sexual harassment eradication programs. However, their evaluations have not been systematic and have not ensured that data are comparable from year to year. Without trend data, the academies have no way of knowing whether the level of sexual harassment is decreasing.

Although a formal program evaluation is not part of the OOD criteria for sexual harassment eradication programs, evaluations provide feedback from the environment and are a basic tool for gauging progress.<sup>5</sup> Evaluations may be undertaken for a variety of reasons: to judge the worth of ongoing programs and to estimate the usefulness of attempts to improve them, to assess the utility of innovative programs and initiatives, to increase the effectiveness of program management and administration, and to meet various accountability requirements.

Since 1990, the Naval Academy has conducted three annual command assessments to evaluate its equal opportunity climate (which includes identifying and resolving equal opportunity/sexual harassment problems

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<sup>4</sup>Department of Education regulations (34 C.F.R. sec. 106.3), although not applicable to the service academies, require that "Each recipient education institution shall, within one year of the effective date of this part . . . evaluate . . . its current policies and practices and the effects thereof concerning . . . the treatment of students . . ."

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and concerns). According to Academy instructions, the assessment is to focus on the treatment and achievements of individuals, the overall effectiveness of the equal opportunity program, and follow-up actions on previously identified equal opportunity issues. The assessments have involved the collection of academic, military, physical education, and conduct data, including data from surveys and interviews of students. The assessments have concluded with reports to the Commandant, consisting of a summary of the findings, conclusions, and recommendations for changes in the program. However, the Academy has had difficulty compiling the data needed for these assessments, and the data developed for each assessment cannot be readily compared to analyze trends. Comparing the data is difficult in part because different teams have conducted each assessment, and the team that conducted the most recent assessment had difficulty determining the source and understanding the significance of data collected from the previous two assessments.

Although the Military and Air Force academies have evaluated elements of their equal opportunity programs, their efforts have been less focused and systematic than the approach taken by the Naval Academy. The efforts of the Military Academy to evaluate the effectiveness of its equal opportunity program have largely consisted of including several questions relating to the program in a survey administered annually to seniors. Beginning in 1989, the survey included questions on sexual harassment, integration of women and minorities, and other human relations topics. Since then, however, some of the sexual harassment questions in the survey have been reworded or dropped, hindering the comparison of responses across the years. Also, by surveying only seniors, the Academy missed the experience of three-quarters of the student body each year. The Academy official at the office responsible for administering these surveys knew of no documented actions taken as a result of the survey responses.

Since the spring of 1992, the Air Force Academy has taken several steps toward evaluating its equal opportunity program. In March 1992, the Academy administered a climate survey on attitudes and behaviors toward sexual harassment and racial discrimination to 3,900 of its students. In February and March 1993, the Defense Equal Opportunity Management Institute evaluated the human relations program at the Academy and made recommendations to improve it. In February 1993, prompted by a female cadet's allegations that she had been sexually assaulted, the Superintendent established the Ad Hoc Committee on Respect and Dignity. Focus groups were held to discuss the human relations climate at the Academy, and data were collected through student and staff

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questionnaires. On May 20, 1993, the committee issued a report exploring human relations issues at the Academy and recommending major initiatives to correct the deficiencies it discovered. These recent steps show that the Academy is taking a hard look at its human relations climate. However, these actions appear sporadic, rather than part of a systematic evaluation of all elements of the Academy's equal opportunity program.

As of November 1993, Air Force Academy officials informed us that they were considering a proposal to establish an office for institutional assessment reporting directly to the Superintendent. If established, such an office would combine institutional quality initiatives and assessment efforts into a single office.

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### Other Options for Sexual Harassment Prevention Programs

The increased attention to the issue of sexual harassment over the past few years has generated additional ideas from a variety of sources on how to improve programs aimed at preventing or dealing with harassment. During our review, we identified approaches that might prove effective at the academies. Specifically, these approaches are (1) expanding the explanation of the range of behaviors that could be considered appropriate, questionable, inappropriate, or sexual harassment; (2) publicizing sexual harassment policy and procedures through student and staff handbooks and pamphlets; (3) suggesting various personal strategies for informal resolution, such as approaching the offender with a friend, roommate, or adviser; and (4) experimenting with new approaches and topics for sexual harassment training.

Marine Corps actions provide an example of how new training approaches can be incorporated. In 1992, the Corps' sexual harassment elimination training was revised to include an expanded explanation of potentially harassing or unacceptable behaviors. The course contained a discussion of using a traffic light to classify behaviors. The green was unoffensive behavior, the red was offensive behavior in any circumstance, and the yellow was behavior that most people would find unacceptable and should be avoided. Specific examples of behaviors in each color zone were presented. This approach was included in a January 1993 Secretary of the Navy instruction on Navy policy on sexual harassment.

The American Council on Education's sexual harassment guidelines noted that brochures describing what kinds of behavior constitute sexual harassment and what the person who is harassed should do about it have

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been used very successfully on a number of college campuses. Although the academies have no plans to publish such brochures, two services plan to do so. The Navy plans to issue pamphlets explaining the complaint resolution system and the investigation and complaint procedures. The Army has plans to publish a pamphlet on sexual harassment.

Researchers on sexual harassment have offered various personal strategies for dealing with sexual harassment.<sup>6</sup> Among these options were the writing of a structured letter, described earlier as outlined in the Military Academy sexual harassment training course. Keeping a diary was another option similar to writing the structured letter in that both options provided documentation of the incident(s) and the victim's feelings about it. They had the double benefit of allowing the victim to put the feelings down on paper (an act that may provide some relief) and providing legal evidence if needed. Another option was a person a victim could consult with in confidence without having to take any further action, if so desired. Such a person could act as a third party in helping the victim and the harasser resolve the issue or in accompanying the victim when talking with the harasser. This option is particularly useful because it helps people of unequal rank to save face.

A 1992 assessment of the U.S. Coast Guard Academy recommended that the Academy modify its approach to training about sexual harassment to move away from large lectures about the topic. Instead, the report suggested the Academy train human relations representatives to work in small groups and use videotapes to explore case situations. The report recommended that, as part of the small group training sessions, the Academy employ both men and women in role-playing situations designed to illustrate the types of situations that are off-limits, ambiguous, permissible under certain situations, and permissible at all times. In terms of the training content, the report recommended that the Academy present the training in the context of understanding how sexual harassment or

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<sup>6</sup>Mary P. Rowe, "Dealing with Sexual Harassment," *Harvard Business Review*, Vol. 59, No. 3, pp. 1-9, May-June 1981; Mary P. Rowe, "Halting Peacocks Help Identify an ADR Option for Interpersonal Conflict," *Negotiation Journal*, pp. 238-44, July 1990; Mary P. Rowe, "The Ombudsman's Role in a Dispute Resolution System," *Negotiation Journal*, pp. 383-81, October 1991; Susan L. Webb, *Step Forward: Sexual Harassment in the Workplace: What You Need to Know* (Massachusetts: New York, New York, 1991); Judith A. Pollack, *Heaven, No! Why Power: Sexual Harassment on Campus* (State University of New York Press: Albany, New York, 1990); The National Council for Research on Women, *Sexual Harassment: Research and Resources* (National Council for Research on Women: New York, New York, 1991); American Council on Education, *Sexual Harassment on Campus: A Policy and Program of Deterrance* (American Council on Education: Publications Department, 1992); and the Princeton Economic Research, Inc.'s *Recommendations Related to the Culture and Climate Assessment of the U.S. Coast Guard Academy*, July 1992.

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discrimination affects working conditions, environments, and the quality of the leadership that future leaders will provide.

According to Academy officials, as of the spring of 1991, the Air Force Academy has modified its human relations training in the direction of smaller class sizes to increase classroom participation. In the spring of 1993, cadet human relations training included films, developed by the Academy, depicting scenarios for use in discussions between students or between students and facilitators. Academy officials also have told us that they are bringing in speakers as part of the leadership series to address human relations and character development issues.

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## Conclusions

The data being collected by the academies is not adequate to judge the progress they are making in eradicating sexual harassment. For example, the Military Academy is not gathering data from the total population (only senior cadets) and is not asking similar questions from year to year so that comparisons can be made. The Air Force Academy's recent steps focused separately on certain elements of its program, but did not address all aspects of its program systematically. The Naval Academy has conducted three climate assessments, but the data collected in these efforts cannot be readily compared across time.

Without trend data, the academies cannot effectively evaluate their sexual harassment programs, including those efforts to deter the harassment from occurring in the first place. The principal objective of such evaluations should be to assess the extent to which specific academy efforts are contributing to the overall goal of eliminating sexual harassment. However, without knowing whether sexual harassment has been declining, the academies will not be able to assess the effectiveness of their programs or to decide whether to continue existing programs, restructure them, or institute new ones. We believe that with little additional investment, the academies should be able to collect and analyze relevant data.

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## Recommendations

To better achieve DOD's goal of a sexual harassment-free environment, we recommend that the academy superintendents take the following actions:

- Gather and analyze data, through routine reviews of case files, student surveys, and focus groups, on the extent of reported and unreported incidents of sexual harassment.

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- Evaluate, on a systematic basis, the effectiveness of sexual harassment eradication programs on the basis of such data.
  - If the eradication programs do not prove to be effective, institute and evaluate new approaches to work toward eradicating sexual harassment. These approaches may include expanding the explanation of behaviors that could constitute sexual harassment, issuing sexual harassment pamphlets or brochures, offering lower risk confrontation options, and varying the methods and content of training.
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### Agency Comments

In commenting on our report, DOD officials generally agreed with our findings, conclusions, and recommendations. They stated that DOD is aware of continuing problems and is comprehensively addressing these problems at each of the academies. They also stated that the service academies are leading institutions in establishing gender and racial tolerant climates. On the basis of discussions with agency officials, we have incorporated their comments where appropriate.

Appendix I

## Comments From the Department of Defense

	<b>ASSISTANT SECRETARY OF DEFENSE</b> 4000 DEFENSE PENTAGON WASHINGTON DC 20301-4000	
DEC 11 1993		
<p>Mr. Frank C. Conahan          Assistant Comptroller General          National Security and          International Affairs Division          U. S. General Accounting Office          Washington, DC 20548</p>		
<p>Dear Mr. Conahan:</p> <p>This is the Department of Defense (DoD) response to the General Accounting Office (GAO) draft report entitled, "DOO SERVICE ACADEMIES: More Actions Needed to Eliminate Sexual Harassment," dated October 7, 1993 (GAO Code 351205/OSD Case 35371). The Department concurs with the report.</p> <p>The DoD appreciates the GAO acknowledgment of the progress made and actions taken at the academies to eliminate sexual harassment. The Service academies are leading institutions in establishing gender and racial tolerant climates. The DoD is, however, aware of continuing problems, and is comprehensively addressing these problems at each of the academies.</p> <p>The detailed DoD comments on the draft report are provided in the enclosure. The Department appreciates the opportunity to respond to the draft report.</p> <p style="text-align: right;">Sincerely,</p> <p style="text-align: right;"> Edwin Dorn</p> <p>Enclosure: As Stated</p>		
Printed on  Recycled Paper		

## Appendix II

## Description of Questionnaire Methodology

The purpose of this appendix is to describe the methodology we used in developing our questionnaire, our sampling approach, the response rates, the weighting of the data, the processing of completed questionnaires, the sampling error, and other methodological issues.

## Questionnaire Development

Questionnaire items were developed to address the full scope of our review, which included other issues besides sexual harassment. Our initial questionnaire was developed, on the basis of interviews and a review of previous internal and external studies of the academies, for administration to Naval Academy midshipmen. In addition, two separate questionnaires were developed for administration to academy faculty members and to the commandant's staff, chaplains, and counselors.

We pretested the Naval Academy questionnaire with a diverse group of midshipmen, representing different classes, genders, and race. The questionnaires then went through extensive reviews, including reviews by (1) internal Naval Academy research personnel, (2) the research staff of the Navy's study group on the treatment of women, (3) the Defense Advisory Commission on Women in the Services, and (4) our consultants familiar with the academies.

The Naval Academy questionnaires were subsequently modified to apply to the Military Academy and the Air Force Academy. Questionnaire items were reviewed by the institutional research and commandant's staffs at each academy to modify the terminology to apply to their academy, eliminate questions or response items that did not apply, and add questions or response items to address issues unique to their academy. The modified questionnaires were pretested at the Military and Air Force academies among groups of six to eight cadets, including women and minorities, and members from all four classes. We used the same pretest procedures as we had at the Naval Academy.

## Sampling Methodology

To ensure an adequate number of women and minorities would be included, we used a stratified random sample design that would allow us to oversample those two groups. Randomization was accomplished by using the last digit of the social security number for selection.<sup>1</sup> We selected one final digit for all cadets and midshipmen and an additional final digit for women and minority males, aimed at producing a sample of

<sup>1</sup>The last four digits of social security numbers are essentially a random field based on the order in which individual social security offices process the applications they receive. Selecting one final digit could be expected to yield a sample of about 10 percent.

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Description of Questionnaire Methodology

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about 10 percent of white males, 20 percent of females, and 20 percent of minority males.

For faculty members, we used a simple random sample design, using the last digit of the social security number to select a target sample of about 20 percent at each academy.

Because of their limited numbers, we targeted the entire population of the commandant's staff officers overseeing the student units, chaplains, and counselors at each academy rather than sampling.

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### Questionnaire Response Rates and Weighting of Data

The questionnaires were administered to Naval Academy midshipmen in December 1990 and to cadets at the Military and Air Force academies in March 1991. Those selected for the sample were notified through academy channels to report to rooms designated for the questionnaire administration. The questionnaires were administered by our staff during what would otherwise be free time for the respondents. Respondents were assured of anonymity and attendance was not taken at the survey administration.

Completed questionnaires were received from 527 Naval Academy midshipmen (a response rate of about 34 percent), 469 Military Academy cadets (a response rate of about 86 percent), and 493 Air Force Academy cadets (a response rate of about 91 percent).

Since we oversampled females and minorities, we needed to apply weights to the responses to obtain population estimates. Raw weights were computed by dividing the number of subgroup responses into the subgroup population. However, applying raw weights would artificially increase the number of cases and inflate tests of statistical significance. To avoid inflated tests of significance, we used the raw weights to compute constrained weights, which when applied to the data make the number of weighted cases equal the number of unweighted cases.<sup>2</sup> Weights applied in this manner yield data that represent the total population without distorting significance tests.

For the faculty, the questionnaires were administered in person by our staff at the Naval and Military academies and through the mail at the Air Force Academy. Questionnaires were completed by 122 faculty members (19 percent of the population) at the Naval Academy, 132 (26 percent of

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<sup>2</sup>SPSS-X User's Guide, 3rd edition, Chicago, IL: SPSS, Inc., 1988.

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the population) at the Military Academy, and 154 (27 percent of the population) at the Air Force Academy.

For the Commandant's staff, the questionnaires were administered in person by our staff at the Naval and Military academies and through the mail at the Air Force Academy. Questionnaires were completed by 49 staff members (94 percent of the population) at the Naval Academy, 61 (95 percent of the population) at the Military Academy, and 65 (36 percent of the population) at the Air Force Academy.

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Processing of  
Completed  
Questionnaires

We reviewed and verified each returned questionnaire. Responses were double-keyed, creating two files for each completed questionnaire. The two files were then compared for consistency and corrections made as necessary. We then checked the overall accuracy of the keyed data by verifying every tenth record back to the responses in the completed questionnaire. None of the nine sets of questionnaires reached an error level of 1 percent.

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Sampling Error

Since we surveyed samples of cadets, midshipmen, and faculty rather than the entire populations, the results we obtained are subject to some degree of uncertainty, or sampling error. Sampling errors represent the expected difference between our sample results and the results we would have obtained had we surveyed the entire populations.

On the basis of our response rates, we estimate that our results can be generalized to the cadet and midshipman populations at the 95-percent confidence level with a maximum sampling error of plus or minus 4.3 percent at the Air Force Academy, 4.4 percent at the Military Academy, and 4.1 percent at the Naval Academy.

For the academy faculties, we estimate that the results can be generalized to the faculty populations at the 95-percent confidence level with a maximum sampling error of plus or minus 7 percent at the Air Force Academy, 7.9 percent at the Military Academy, and 8.4 percent at the Naval Academy.

The sampling errors for various subgroups for which data are cited in this report appear in table III. The decimal figures in the table show the sampling errors that correspond to various percentages of respondents selecting a particular response alternative. For example, if we state that

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10 percent of Naval Academy midshipmen responded in a given way, the table shows a sampling error of 2.7 percent corresponding to "all midshipmen" and a 10 to 90 percent response split. This means that we can be 95-percent confident that the percentage of midshipmen responding that way in the population would be within 10 percent plus or minus 2.7 percent, or between 7.3 and 12.7 percent.

Table II.1: Sampling Errors for Various Academy Subgroups

Subgroup	Population	Sample	Percentage split in responses									
			05/95	10/90	15/85	20/80	25/75	30/70	35/65	40/60	45/55	50/50
<b>Naval Academy</b>												
All midshipmen	4,391	527	2.2	2.7	3.0	3.3	3.6	3.8	3.9	4.0	4.1	4.1
Men	3,990	434	2.4	3.0	3.3	3.7	4.0	4.2	4.4	4.5	4.5	4.6
Women	411	93	5.9	5.9	7.8	9.5	8.8	8.8	9.1	9.3	9.5	9.5
Faculty	530	122	5.2	5.0	5.8	7.3	7.8	7.5	8.1	8.3	8.4	8.4
<b>Military Academy</b>												
All cadets	4,296	469	2.3	2.9	3.2	3.5	3.8	4.0	4.2	4.3	4.4	4.4
Men	3,842	393	2.5	3.2	3.7	3.9	4.2	4.4	4.6	4.7	4.8	4.8
Women	454	76	7.0	5.4	9.1	9.8	10.3	10.6	10.5	10.8	10.9	11.0
Faculty	512	132	4.6	5.5	6.3	6.7	7.1	7.2	7.4	7.6	7.7	7.8
<b>Air Force Academy</b>												
All cadets	4,354	493	2.2	2.8	3.1	3.4	3.7	3.9	4.1	4.2	4.2	4.3
Men	3,804	379	2.6	3.3	3.8	4.0	4.3	4.5	4.7	4.8	4.9	4.9
Women	550	114	5.2	5.2	7.0	7.6	8.0	8.3	8.3	8.5	8.6	8.6
Faculty	565	154	4.0	5.0	5.6	6.0	6.4	6.4	6.7	6.9	7.0	7.0

## Methodological Issues

### Scale Development

Our questionnaire included a set of 10 items aimed at determining the extent to which cadets and midshipmen personally experienced various types of harassment. These items were developed based on a review of previous studies of harassment in other environments such as civil service and the military, as well as discussions with academy students and officials. A scale measuring the extent of harassment experience was created by summing cadet and midshipmen responses across all 10 forms of treatment. This scale was highly skewed since most males reported no exposure to any of the 10 forms. The reliability of the scale was tested

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using Cronbach's coefficient alpha, which ranged from 0.86 to 0.89 for the three academies.

Our questionnaire also included items aimed at assessing how often respondents experienced various physical and psychological symptoms of stress. These items were adapted from sets of somatic complaint and similar items used in various studies as indicators of stress and mental health.<sup>3</sup> We constructed scales of physical and psychological stress by summing, respectively, the responses to 15 physical symptom items and 8 psychological symptom items. These summed stress scales had high internal consistency (coefficient alpha ranging from 0.83 to 0.85 for the physical stress symptom scale and was 0.88 for the psychological stress symptom scale at the three academies). Both scales approximated a normal distribution.

We transformed these stress scale scores into categories of low, average, and high. The transformation assigned respondents scoring between one standard deviation above and below the mean to the category of "average." In a normal distribution, this typically accounts for slightly over two-thirds of the cases. Scores more than one standard deviation below the mean were assigned to the "low" category, and those more than one standard deviation above the mean were assigned to the "high" category.

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<sup>3</sup>O. Gurin, J. Veroff, and S. Field, *Americans View Their Mental Health* (New York: Basic Books, Inc., 1990); T.S. Langer, "A Psychiatric Exam Screening Score of Psychosomatic Symptom Indication Impairment," *Journal of Health and Human Behavior*, Vol.3 (1982) pp. 288-278; S.M. Hunt Jr., K. Singer, and S. Cobb, "Components of Depression Identified from a self-rating depression inventory for survey use," *Archives of General Psychiatry*, Vol. 16 (1967) pp. 441-447; R.D. Caplan, S. Cobb, J.R.P. French Jr., R.V. Harrison, and S.K. Pinneus Jr., *Job Demands and Worker Health: Main Effects and Occupational Differences* (Washington, DC: U.S. Department of Health, Education, and Welfare, 1978).

## Appendix III

## Major Contributors to This Report

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Senator SHELBY. I would ask you gentlemen to summarize any opening statements you want to make before we get into questions.

**STATEMENT OF MARK E. GEBICKE, DIRECTOR OF MILITARY OPERATIONS AND CAPABILITY ISSUES OF THE GENERAL ACCOUNTING OFFICE**

Mr. GEBICKE. Thank you, Mr. Chairman. I would be glad to do that.

I would like to introduce Ms. Marti Dey, right behind Mr. Beusse, here. She was the principal evaluator for GAO on this particular assignment and deserves a lot of the credit for the findings that we are going to present today.

As you mentioned in your opening remarks, we did review sexual harassment at the U.S. Military, Naval, and Air Force Academies, and we undertook this review at the request of Senator Nunn and Senator Glenn. Also, we have addressed the report to this particular subcommittee, as you are well aware.

I am going to be presenting information, and I am going to do this in just about 5 minutes for you, on the extent to which sexual harassment occurred at the academies, the forms that it took, and its effects on those who were subjected to it, as well as the academies' efforts to eradicate sexual harassment. Our report issued this week provides the detailed results of our review.

Sexual harassment can be very broadly defined as words, gestures, or actions with sexual connotations which are unwelcome and tend to intimidate, alarm, or abuse another person. It has been reported as a problem throughout American society, including the private sector, the Federal Civil Service, the military, and the academic world. Accordingly, sexual harassment reflects a societal problem. A number of studies have found that more than half of the female college students surveyed reported experiencing some form of sexual harassment.

DOD has a formal policy to, "provide an environment free from sexual harassment." In July of 1991, the Secretary of Defense directed each DOD component to implement a program to eradicate sexual harassment and established seven minimum requirements for such a program.

The bottom line of our study is that the academies are not free from sexual harassment. Although relatively few cases of sexual harassment are formally reported, responses to our survey indicated that nearly all academy women experienced at least one form of sexual harassment in the 1991 academic year. We found that between half and three-quarters of academy women experienced one or more forms of harassment at least twice a month. Women said that the basis for the harassment was most often gender rather than race, religion, or ethnic origin. Now, the most common forms of harassment were verbal comments. Relatively few women reported unwanted pressure for dates or unwanted sexual advances.

We also questioned the academy faculty and the staff, and the findings were somewhat similar to what the students told us. For instance, between 41 and 59 percent of the Commandant's staff at each academy, and between 32 and 40 percent of the faculty, perceived that the average female academy student was exposed to some form of sexual harassment on a recurring basis.

Our survey took place in 1990 and 1991. Since then, the academies individually have done some of their own work, and their studies corroborate the information that I have just presented to you. For instance, a Naval Academy study found that 53 percent of female students and 31 percent of male students indicated sexual harassment, whether it be subtle or overt, was a problem at the Academy.

A Military Academy survey of last year's senior class indicated 80 percent of female cadets either observed or personally experienced sexist comments in the last year. In a March 1992 Air Force Academy survey, 78 percent of the female students and 52 percent of the males said that they had heard sexist or demeaning remarks about women on a daily basis.

Now, because the methodologies of the studies conducted by the academies were dissimilar from the methodology that we used, we really cannot tell whether there is an upward trend, a downward trend, or if the situation is staying basically the same.

Senator SHELBY. How is the methodology different?

Mr. GEBICKE. Well, Mr. Chairman, the methodology that we used was one of a random sample of all students in the academies at that point in time, which was late 1990 and 1991. In an area like this, to really look for trend data and to be able to analyze it, you really want to ask the same questions the same way year after year.

Senator SHELBY. Where you can follow the trend?

Mr. GEBICKE. Where you can follow the trend, exactly. The questions were posed a little bit differently.

Senator SHELBY. Why?

Mr. GEBICKE. I cannot answer that. I guess just different design, different methodologies. There is no right way or wrong way to do this. We are just talking about consistency, I think, and that is one of the points I am going to make in just a minute, the area where I think the academies could help themselves. Because if they had a little better data and if it was a little more consistent, they could then note the trends in the frequency of sexual harassment.

Senator SHELBY. All right. Go ahead.

Mr. GEBICKE. I mentioned to you at the beginning of my presentation that the DOD had set forth seven minimum requirements for a sexual harassment program. The academies have implemented those seven steps, and they have even gone beyond those steps in their attempt to eliminate or eradicate sexual harassment at the academies. They published statements on the issue, they have conducted prompt and thorough investigations of all reported incidents, and they have put into place an extensive tracking monitoring of incidents. So what has been done on the part of the academies?

One area where there was a falling short of the seven minimum requirements is in the area of the Inspectors' General review. One of the seven requirements is that the IGs include sexual harassment prevention and education as an item of special interest. That has not been done. It is planned for two of the academies, but has not been done in any of the three completely.

Moreover, and this is the point that you just made, Mr. Chairman, none of the academies has developed useable trend data to

assess the effectiveness of its sexual harassment eradication program. The Military and Air Force Academies have not conducted routine, systematic program evaluations, and we believe that a disciplined evaluation approach is critical to determine whether current efforts to eradicate harassment are working or new efforts should be tried.

So in summary, academy officials have recognized the seriousness of sexual harassment problems. They have taken significant steps aimed at meeting DOD's goal of eradicating sexual harassment. However, the data being collected by the academies is not adequate to judge their progress. Without trend data to determine whether sexual harassment is declining, the academies will not be able to assess the effectiveness of their programs or to decide whether to continue the existing programs, restructure those programs, or institute new ones. In our report, we make several recommendations to the superintendents to help fill the gaps in the academies' sexual harassment programs.

Mr. Chairman, that is a very brief summary of our report, and my longer statement, I assume, you will enter into the record.

Senator SHELBY. We have entered it into the record in its totality.

Mr. GEBICKE. I appreciate that, and Mr. Beusse and I will be glad to respond to any questions you may have.

[The prepared statement of Mr. Gebicke follows:]

PREPARED STATEMENT BY MARK E. GEBICKE, DIRECTOR, MILITARY OPERATIONS AND CAPABILITIES ISSUES, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION

FURTHER EFFORTS NEEDED TO ERADICATE SEXUAL HARASSMENT

Mr. Chairman and members of the subcommittee: I am pleased to be here today to discuss our review of sexual harassment at the U.S. Military Academy, the U.S. Naval Academy, and the U.S. Air Force Academy. We undertook this review at the request of Senators Nunn and Glenn, following several highly publicized incidents that occurred at the Naval Academy in 1989 and 1990.

I will be presenting information on the extent to which sexual harassment occurred at the academies, the forms it took, and its effects on those subjected to it, as well as the academies' efforts to eradicate sexual harassment. Our report, *DOD Service Academies: More Actions Needed to Eliminate Sexual Harassment* (GAO/NSIAD-94-6, Jan. 31, 1994), provides the detailed results of our review. Some preliminary results were first presented at a hearing before the Subcommittee on Manpower and Personnel on June 2, 1992.

In conducting this review, we used a variety of data sources. We reviewed academy files on sexual misconduct cases, internal and external studies, and other indicators (such as student publications and posters hung on bulletin boards). We administered questionnaires to academy students, faculty members, and the Commandant's staff at each of the academies during late 1990 and early 1991. We reviewed the results of more recent surveys conducted by the academies to determine whether our results were still valid. Also, we conducted focus group meetings and informally met with other students to validate information from other sources. The data we collected from the academies covered 1988 to 1993.

BACKGROUND

Sexual harassment can be broadly defined as words, gestures, or actions with sexual connotations which are unwelcome and tend to intimidate, alarm, or abuse another person. It has been reported as a problem throughout American society, including the private sector, the Federal civil service, the military, and the academic world. Accordingly, sexual harassment reflects a societal problem. A number of studies have found that more than half of the female college students surveyed reported experiencing some form of harassment. In addition, a 1993 Harris Poll of public school students in grades 8 through 11, commissioned by the American Association

of University Women, showed that four of every five students have experienced some form of sexual harassment in school.

The Department of Defense (DOD) established a Human Goals Charter in 1969 that calls for respect for the serviceman, servicewoman, civilian employee, and their family members. The charter is the foundation of DOD's equal opportunity programs. DOD also has a formal policy to provide "an environment free from sexual harassment." In July 1991, the Secretary of Defense directed each DOD component to implement a program to eradicate sexual harassment and established seven minimum requirements for such a program.

#### RESULTS IN BRIEF

The academies have not met the goals of DOD's Human Goals Charter or its policy of providing an environment that is free from sexual harassment. Although relatively few cases of sexual harassment were formally reported, responses to our survey indicated that nearly all academy women reported experiencing at least one form of sexual harassment during academic year 1991. The most common forms of harassment were verbal comments. Our survey also showed a relationship between students experiencing a high degree of sexual harassment and those feeling stress.

The academies generally have met and gone beyond the minimum requirements DOD has established for sexual harassment eradication programs. For example, the academies have published policy statements on the issue and have conducted prompt and thorough investigations of reported incidents. Among the additional actions taken by the academies are more extensive tracking and monitoring of incidents and providing more options for reporting and dealing with harassment.

However, the inspectors general have not conducted reviews at the academies that included sexual harassment prevention and education as an item of special interest. Moreover, none of the academies has developed usable trend data to assess the effectiveness of its sexual harassment eradication program. The Military and Air Force academies have not conducted routine, systematic program evaluations. A disciplined evaluation approach is critical to determining whether current efforts to eradicate harassment are working or new efforts should be tried.

In reviewing the efforts of other organizations, we also identified several approaches to sexual harassment prevention that may prove effective at the academies.

#### SEXUAL HARASSMENT CONTINUES AT THE ACADEMIES

The vast majority of men reported never having experienced sexual harassment. We found that between half to about three quarters of academy women experienced one or more of the following forms of harassment at least twice a month:<sup>1</sup>

- derogatory comments, jokes, nicknames, or stories;
- comments that standards have been lowered for women;
- comments that women don't belong;
- offensive posters, signs, graffiti, T-shirts, or pictures;
- mocking gestures (whistles, catcalls, mock accents, slang expressions, etc.);
- derogatory letters or messages;
- exclusion from social activities, informal gatherings, or excursions;
- target of unwanted horseplay or hijinks;
- unwanted pressure for dates by a more senior student; and
- unwanted sexual advances.

The harassment women experienced usually was verbal in nature. Few reported unwanted pressure for dates or unwanted sexual advances. Women said the basis for the harassment was most often gender, rather than race, religion, or ethnic origin.

Academy faculty and staff also perceived that sexual harassment of women was a problem. For instance, between 41 and 59 percent of the commandant's staff at each academy and between 32 and 40 percent of the faculty perceived that the average female academy student was exposed to some form of sexual harassment on a recurring basis.

Academy studies conducted in 1992 and 1993 confirmed that sexual harassment remains a problem at the academies. In a 1993 Naval Academy climate assessment, 53 percent of the female students and 31 percent of the male students indicated sexual harassment (subtle or overt) was a problem at the Academy. A Military Acad-

<sup>1</sup>The 10 forms of harassment that were included in our survey were derived from previous surveys of harassment conducted among Federal workers by the Merit Systems Protection Board in 1980 and 1987 and a 1988 survey of active duty military personnel conducted by the Defense Manpower Data Center. We tailored the items somewhat to the academy environments.

emy survey of the senior class of 1993 indicated 80 percent of female cadets either observed or personally experienced sexist comments in the last year. In a March 1992 Air Force Academy survey, 78 percent of the female students and 52 percent of the males said that they had heard sexist or demeaning remarks about women on a daily basis. Because the methodologies of these studies were not consistent with our methodology, we were not able to evaluate whether the level of sexual harassment had changed.

#### WOMEN AT THE ACADEMIES TEND TO DEAL WITH SEXUAL HARASSMENT INFORMALLY

Research has found that because of a long history of silence on the subject, many women feel uncomfortable, embarrassed, or ashamed when they talk about personal incidents of sexual harassment. Women tend to deal with harassment informally through various coping behaviors, such as approaching the harasser, avoiding the harasser, denying the incident occurred, or making a joke of the situation.

Consistent with this research, we found that only a small fraction of sexual harassment complaints were formally reported. For example, our survey showed that between 93 and 97 percent of academy women reported experiencing at least one form of sexual harassment during academic year 1991. However, only 26 incidents were formally reported, and most of these involved more grievous forms of sexual misconduct. For instance, the most common type of reported behavior involved a male student entering a female student's room after hours and making unwanted sexual advances (such as kissing, touching, fondling) toward the sleeping student.

The academies have many channels for surfacing grievances. Students perceived that confronting the harasser was the most effective strategy. They also generally felt that reporting an incident of sexual harassment through the chain of command would make things better, the incident would be thoroughly investigated, and the offender would be disciplined. However, most students also saw negative consequences of reporting an incident, such as receiving little support from peers, being viewed as a crybaby, being shunned, and receiving lower military performance grades.

#### SEXUAL HARASSMENT CAN PRODUCE STRESS

Our survey results indicate that sexual harassment can have detrimental effects on cadets and Midshipmen. We found a correlation between a student's reported exposure to sexual harassment and higher levels of stress. For example, we found that students who reported experiencing a high degree of harassment also reported experiencing frequent feelings of self-doubt. Also, levels of stress were correlated with decreased interest in staying at the academy and making the military a career. However, because many factors may contribute to stress, we could not draw a direct link between harassment and decreased interest in staying at the academy and making the military a career.

#### ACADEMY PROGRAMS GENERALLY MET DOD STANDARDS

Sexual harassment eradication programs at each of the academies generally met the minimum criteria established by DOD. For example, each academy

- issued a policy statement on sexual harassment, though the content varied as to the extent of information on ways to deal with sexual harassment and on the consequences of harassing someone;

- offered training as part of leadership courses or human relations/equal opportunity training courses; and

- took some steps to evaluate its equal opportunity climate, although there was not always a clear link between the evaluation results and changes in training or other programs.

One area where the academies had not met the DOD criteria was inspector general reviews that included sexual harassment as a focus of special interest. The Navy Inspector General intends to examine sexual harassment during an inspection scheduled for late 1994. The Air Force Inspection Agency has scheduled such a review at the Air Force Academy for 1995. While the Army Inspector General has no plans to conduct a review, the Military Academy Inspector General recently conducted an equal opportunity climate assessment that included Academy students.

#### ADDITIONAL STEPS TAKEN BY THE ACADEMIES

DOD has stated that it is aware of continuing problems and is comprehensively addressing these problems at each of the academies. It also stated that the service academies are leading institutions in establishing gender and racial tolerant climates.

The academies have taken a number of actions regarding their sexual harassment prevention and education programs that go beyond the minimum elements outlined in the 1991 DOD memorandum. The additional steps include tracking and monitoring sexual harassment incidents, establishing sexual harassment hotlines, providing counseling support networks, employing lessons learned from actual sexual harassment incidents in training situations, conducting student surveys and discussions on sexual harassment and sexual misconduct, providing training on fraternization, teaching students how to write a letter to a harasser to stop the offensive behavior, offering training on chill in the classroom<sup>2</sup> and prevention of date-rape, and making various other institutional changes in dealing with human relations concerns.

#### ACADEMIES HAVE NOT EVALUATED THEIR SEXUAL HARASSMENT ERADICATION PROGRAMS IN A ROUTINE, SYSTEMATIC MANNER

The academies have evaluated their sexual harassment eradication programs to varying degrees. The Naval Academy has conducted three assessments of its equal opportunity climate since 1990 by surveying and interviewing students and collecting other types of data. The assessments have focused on identifying equal opportunity/sexual harassment problems and recommending solutions. However, the Naval Academy had difficulty compiling the data needed for these assessments, and the data developed for each assessment cannot be readily compared to analyze trends. The Military and Air Force Academies have also evaluated elements of their equal opportunity programs, but these efforts were less focused and systematic than the evaluation approach taken by the Naval Academy.

#### OTHER OPTIONS FOR SEXUAL HARASSMENT PREVENTION PROGRAMS

As part of their sexual harassment eradication programs, other institutions (such as the Coast Guard Academy and the American Council on Education) have undertaken efforts that may have applicability at the DOD academies. Examples of these actions include preparing and distributing pamphlets or brochures on the issue; expanding the explanation of the range of behaviors that can be regarded as sexual harassment; offering a variety of personal strategies for dealing with sexual harassment; and varying the methods used in, and the content of, sexual harassment prevention training. For example, additional personal strategies could include seeking advice in confidence or using a third party for help in resolving the issue or in accompanying the victim when talking with the harasser.

#### CONCLUSIONS

In summary, we believe academy officials have recognized the seriousness of sexual harassment problems at their institutions and have taken significant steps aimed at meeting DOD's goal of eradicating sexual harassment. However, the data being collected by the academies is not adequate to judge their progress. Without trend data to determine whether sexual harassment is declining, the academies will not be able to assess the effectiveness of their programs or to decide whether to continue existing programs, restructure them, or institute new ones. In our report we make recommendations to the academy superintendents to help fill the gaps in the academies' sexual harassment programs.

Mr. Chairman, this concludes my prepared statement. I will be happy to respond to any questions from you or members of the subcommittee.

Senator SHELBY. Mr. Beusse, do you have a separate report, or do you go with this?

Mr. BEUSSE. No, sir.

Senator SHELBY. Your report addresses the issue of underreporting of sexual harassment and the role that fear of reprisal plays in discouraging the reporting of sexual harassment. Would you elaborate on this issue for the subcommittee?

Mr. GEBICKE. Sure. There was a significant under-reporting. At the time that we conducted our questionnaire—

Senator SHELBY. Is this at the Naval Academy?

<sup>2</sup>The Military Academy defines a "chilly" classroom as an atmosphere that alienates any student group from the learning process. The Association of American Colleges describes a chilly classroom climate as a learning climate that subtly or overtly communicates different expectations for women than for men.

Mr. GEBICKE. All academies.

Senator SHELBY. All academies?

Mr. GEBICKE. All academies.

Senator SHELBY. All academies.

Mr. GEBICKE. Yes.

At the time we conducted our survey, there were 1,415 women at the academies. They told us, through the questionnaire, that 93 to 97 percent had been sexually harassed at least once during that year, 1991. So you are talking about roughly 1,350 women who indicated they had been harassed. Yet during that same year, there were only 26 cases reported.

Now, there is a big difference, as I mentioned earlier, in the forms that harassment can take. When the women responded to the questionnaire, of course, a verbal comment is considered a form of harassment. On the other extreme, unwanted sexual advances are also a form of sexual harassment.

What we find in analyzing the cases for a 6-year period, and we started in 1988 and went up through last year, 1993, is there were only 107 formally reported cases, 26 of which I mentioned occurred in 1991, but the cases reported for the most part are the more significant and the more serious cases of sexual harassment.

They include, for instance, incidents such as a cadet or Midshipman jumping into bed with a female student while she is asleep, sexual advances that take place during training or subsequent to training, and unwanted sexual physical contact. So these are the types of cases we are dealing with that are reported.

We would not expect that all 1,350 cases would have been reported, and the women basically told us that they preferred to handle those types of sexual harassment, those forms of sexual harassment, on their own. They believe that was the most effective way for them to deal with the person who had harassed them—to confront the individual.

Senator SHELBY. Sir, your report also mentions instances in which male cadets or Midshipmen have entered the dormitory rooms of sleeping female cadets or Midshipmen and touching and fondling the sleeping females. Would you elaborate on that?

Mr. GEBICKE. Yes, that was troubling to us. There were, of 107 cases, I mentioned—

Senator SHELBY. How many?

Mr. GEBICKE. Well, there are 107 formally reported cases.

Senator SHELBY. One hundred and seven.

Mr. GEBICKE. Between 1988 and 1993. Sixteen of those involved the case that you just described.

Senator SHELBY. Sixteen.

Mr. GEBICKE. Sixteen.

Senator COATS. Over a 5-year time period?

Mr. GEBICKE. A 6-year time period.

Senator COATS. Six years.

Mr. GEBICKE. Most of those are at the Air Force Academy.

Senator SHELBY. And what happened to these people?

Mr. GEBICKE. There is a whole range of things. Without getting into individual cases, some were expelled, some were given probation and were disciplined. So there is a range of punishments available.

Senator SHELBY. Based on your investigation and your statements here, do you believe that this is rather prevalent conduct at some of the academies or all of the academies?

Mr. GEBICKE. Jumping-into-bed-type situations?

Senator SHELBY. [Nods affirmatively.]

Mr. GEBICKE. I would not say that it is prevalent. I would like to believe, and we have no way of knowing this, that most of those situations are formally reported, although I have to tell you, Mr. Chairman, that there were two instances that were not reported that were alleged to us during individual conversations we had with female students, and, also, one acknowledged in a letter by the mother of a female student. We have no way of knowing if those actually occurred, but these are two situations that are not included in the formally reported cases. Only two that we are aware of.

Senator SHELBY. Sir, your report includes three recommendations; three, to assist the academies in achieving the DOD goal of creating sexual harassment-free environments, which is what we all want. Could you elaborate on these recommendations for the subcommittee, especially the third recommendation which addresses alternative approaches to be used in the event that the current eradication program are not working? Mention all three first.

Mr. GEBICKE. Okay. The recommendation that is the most significant one, I believe, that we made is the one that you talked about earlier, and that is this: We have a program in place, and we are making some efforts to eliminate sexual harassment in the academies, but we do not know how well we are doing. We do not know how effective the programs that we currently have in place are because we do not have consistent data year in, year out.

The first thing we need to do is get consistent data so we can determine what the trend is; then, to determine how effective the various programs that we have in place are. The academies need to stay abreast of any breakthrough techniques that might be effective in other locations that might have application in the academies.

There, we are talking about different alternatives that women can use to confront an individual who she perceives has harassed her. If you think about that for a minute, Mr. Chairman, that is a difficult thing for an 18-year-old to do—an 18-year-old woman to do—particularly if the harasser might be an upperclassman, in the Academy environment.

Some of the suggestions that we made that were not recommendations, just some suggestions based on some things that have worked well in other environments, included having the individual confront the individual who harassed her with a peer or a colleague or a friend. It might make it a little bit easier.

There are some other things that we mention in the report as well that might be helpful. We are not saying that they are the end-all and the be-all. We are just suggesting that these are some other alternatives, as you asked.

Senator SHELBY. Your report also indicates that the Department of Defense generally—generally—agrees with the findings, conclusions, and recommendations of the GAO report. Would you share

with the subcommittee those areas in which the Department of Defense does not agree with the report, if there are any?

Mr. GEBICKE. I think there was pretty much full agreement, yes. What we do not have at this point in time, because you know the subcommittee is going to release the report today, they did formally comment on our report, and indicated they concurred. And by law, they are obligated within 60 days to respond on what actions they are going to take with regard to our recommendations. So at that point in time we will know a lot more, Mr. Chairman.

Senator SHELBY. Okay. Senator Coats?

Senator COATS. Mr. Gebicke, you said that nearly all of the academy women experienced at least one form of harassment, and I believe you indicated most of those, the most common form of harassment, were verbal comments. Did you elicit what those comments were? Did you survey the comments, as well as ask the question?

Mr. GEBICKE. No, we did not.

Senator COATS. Well, how could you tell if it was sexual harassment if you did not ask for a verbal comment?

Mr. GEBICKE. It is the perception of the individual who believes he or she was harassed.

Senator COATS. So you just asked the question, have you been harassed? Or I should ask you, what was the question that you asked?

Mr. GEBICKE. Let me tell you exactly how we did that. One of the things we did in our design, and as Mr. Shelby mentioned, the questionnaire that we used in late 1990 and 1991 included a lot of different topics in it. It was just not a sexual harassment questionnaire. It asked questions concerning hazing, disparate treatment, along with sexual harassment.

When we got to the information that we wanted to elicit on sexual harassment, we did not label it as sexual harassment. Basically, here is what we said: Have you experienced any of the following at the Academy since July of 1990? And, if any of these things happened, what do you believe was the primary basis for the way you were treated?

Then we listed about a dozen different situations. The first was "derogatory comments, jokes, nicknames, or stories about your gender, race, ethnic, or religious subgroup." Then, "derogatory letters."

Senator COATS. And that is the category that you say most?

Mr. GEBICKE. That is one of the categories. Most of them fall into that category.

Senator COATS. By most, roughly what are we talking about?

Mr. BEUSSE. Really, the preponderance of the comments.

Senator COATS. So really, 50 percent?

Mr. BEUSSE. Yes, the comments

Mr. GEBICKE. Absolutely.

Mr. BEUSSE. There are comments such as, "Standards have been lowered for women to allow the women to enter the Academy."

Senator COATS. Is that a typical comment?

Mr. BEUSSE. That would be one, yes.

Senator COATS. And that is considered a form of sexual harassment?

Mr. BEUSSE. Yes, sir.

Senator COATS. For a male to say to a female they have lowered the standards here for women to enter the Academy?

Mr. BEUSSE. Yes, sir.

Senator COATS. And that is classified as sexual harassment?

Mr. BEUSSE. There is really a range, and this is one of the difficulties of trying to define this kind of an issue; you get at one extreme incident such as Tailhook where the primary type of behavior was very physical in nature.

Senator COATS. Right, and I think the testimony there was that there were 26 reports over a 6-year period.

Mr. BEUSSE. Right.

Senator COATS. Which is about two a year, for all academies included.

Mr. GEBICKE. It was 107 over a 6-year period. It was 26 in 1991.

Senator COATS. Well, I am sorry. I misunderstood that. 26 in 1991 and 107 over a 6-year period.

Mr. GEBICKE. Yes.

Senator COATS. And those would involve some kind of physical advance?

Mr. BEUSSE. Most of them, yes, sir.

Mr. GEBICKE. Much more grievous types.

Senator COATS. I do not excuse this behavior in any way. I will not do that. But it is important to get a handle on this. If every female at the Academy has said they have been sexually harassed, do we have an accurate measurement? How do we distinguish between a statement by a cadet or a Midshipman which they believe to be true—whether they are right or not—that standards have been lowered and they made that comment as a truthful statement, but then have that statement be classified as sexual harassment? How do we make the jump to someone asserting what they believe to be a truthful statement being charged with sexual harassment?

Mr. GEBICKE. I guess one of the things that could be suggested would be if that comment would even be appropriate. I mean, why would that comment be necessary?

Senator COATS. One of the major requirements of the military is that people perform certain physical duties. It is the nature of training.

Mr. GEBICKE. I see.

Senator COATS. I have not attended the academies, but I have been through basic training and I know some of the things that are required of even basic training. My understanding is that during the plebe year, cadets and Midshipmen are required to go through some fairly vigorous training. Some of that training, I assume, has been adjusted for the inclusion of women in the academies.

There are certain physiological differences between men and women, and I would guess that some of those standards had been modified, or at least are different than they used to be. It would seem to me a logical conclusion would be that the standards have been changed because we now have women in the academies. It does not necessarily mean, though some people would mean it to be a sexual harassment, that a remark should be classified as sexual harassment, but it is necessarily clear that somebody making a statement, just a true statement, intends harassment? Senator Shelby and I can visit the Academy or go through the summer

training and make the statement that the standards are different than when I went through basic training in 1966.

Now, if that statement is reported as sexual harassment, that may skew the results. That is the point I am trying to get at. How do we know, when the survey is so open-ended? It seems like a survey would ask about the category and then identify the remark, in order for us to get a true assessment.

Mr. BEUSSE. There are a number of ways going about trying to measure this. The Naval Personnel Research and Development Center has basically approached it in two ways, one very similar to ours, where they would ask how often this particular act or behavior occurred to you. The other way of asking it is, "Have you been sexually harassed?" and when they ask it in that way—"Have you been the victim of sexual harassment?"—they find a much lower rate of incidence.

When you ask about specific activities—"Have these things happened to you?"—you find that more people say, "Yes, that has occurred to me." And as far as what is totally covered, it really becomes a question of people's values and judgment on what they want to include in that arena.

Many of these comments are, as we said, really more gender harassment than sexual harassment. They are kind of sexist comments which, on the scale of things, do not appear quite as damaging as the physical acts.

Senator COATS. If I am in physical training and I do not do the required number of pushups, and a female officer says, "You had better toughen up, soldier," am I sexually harassed? I would be categorized as such if I were answering the survey. I could say—what is that first category again?

Mr. BEUSSE. The category is, "The standards have been lowered for women to enter the Academy."

Senator COATS. No.

Mr. GEBICKE. First, "derogatory comments, jokes, nicknames, or stories about your gender, race, ethnic, or religious subgroup."

Senator COATS. Well, I could consider that a derogatory comment about my gender, could I not?

Mr. GEBICKE. Oh, you could perceive it any way. That is the thing with sexual harassment.

Senator COATS. My point is on the survey, I could check that, and it would be classified as a sexual harassment incident. But I might not have interpreted it as such. The survey would not clearly have identified what took place and whether or not it even reflected the respondent's own conclusion of sexual harassment. Yet, the result of the survey is that every female at the Academy has reported at least one incident of sexual harassment. That may not be a valid statement, because of the structure of the survey.

Mr. BEUSSE. Based on someone else's assessment—their assessment—they may have felt that it was.

Senator COATS. It is a subjective assessment.

Mr. GEBICKE. It is subjective.

Senator COATS. And there may well be some very blatant sexual harassing activities, verbal comments that clearly ought to be identified. But you did not identify them, so we have no way of assessing them.

Mr. GEBICKE. Well, I think if you look at the totality of the evidence that we presented, and if you look at the questionnaires that were completed by the Commandant's staff and by the faculty indicating recurring sexual harassment—

Senator COATS. I am not questioning whether there is sexual harassment. I do not condone sexual harassment. I am asking if we have measured it correctly. Based on what you have told me, I do not see how it has been measured.

I am sure the superintendents will all acknowledge there is sexual harassment. Unfortunately, there is sexual harassment in every aspect of life, whether it is the U.S. Congress or the Academies or the IBM office down the street. I do not question that or condone that at all. I am questioning how we measure it, what conclusions we are going to come to, and what recommendations should be made based on those conclusions. And because sexual harassment is serious I want to make sure we make the right recommendations, based on the best information.

I want to be sure we take the right steps. If my example of the female officer saying, "Soldier, you had better toughen up," can be classified as sexual harassment, then we are painting a confusing picture. That is my point.

I have one other question. Did I hear you correctly when you said that a significant percentage of males also reported harassment?

Mr. GEBICKE. Not a significant percentage. A much smaller percentage of males.

Senator COATS. What was the nature of that harassment, to be classified as sexual harassment? Was that female to male, male to male, or both?

Mr. BEUSSE. Female to male. For example, we did have one case of a female upperclassman sitting on the lap of a male underclassman as a physical form of sexual harassment.

Senator COATS. And was that a reported case?

Mr. BEUSSE. Yes, sir.

Senator COATS. And by significantly less percentage, do we have any numbers or rough idea?

Mr. BEUSSE. Not really, because as we noted there is a significant amount of underreporting. So we have really no idea.

Senator COATS. Underreporting?

Mr. BEUSSE. Of the cases we found, there were very few that were women as the harasser and men as the victim.

Senator COATS. Is it conceivable that males and females could have different definitions of what constitutes sexual harassment?

Mr. GEBICKE. They absolutely do. Yes, they do.

Senator COATS. So if that is true, then if the same standard were used and it was identified, would the percentage of males reporting sexual harassment be much higher?

Mr. BEUSSE. The speculation is quite possibly yes.

Senator COATS. I think my time has expired.

Senator SHELBY. Let me follow up on a question he just asked. What about male-to-male sexual harassment? Did you find any cases at any of the academies of that reported?

Mr. BEUSSE. Yes, sir. We did find some cases. We were not necessarily classifying them as sexual harassment. One of the problems with dealing with this—

Senator SHELBY. But they could be, could they not?

Mr. GEBICKE. Yes.

Mr. BEUSSE. The definitions—not all of the academies have a category of events labeled sexual harassment.

Senator SHELBY. What about female-to-female, any of that?

Mr. BEUSSE. [Nods affirmatively.]

Senator SHELBY. The answer is yes. Is this listed in your report?

Mr. BEUSSE. I do not think we went into detail on the individual cases.

Senator SHELBY. Well, did you speak of it? Is it mentioned?

Mr. BEUSSE. No, sir.

Senator SHELBY. It is not. Why not?

Mr. BEUSSE. The incidence rate was very low.

Senator SHELBY. Okay. Do you have any other questions for this panel, Senator?

Senator COATS. No, but there are some questions here that I want to pursue with the third panel.

Senator SHELBY. Okay. Gentlemen, thank you for your report and thank you for appearing here today.

Mr. GEBICKE. Thank you.

Mr. BEUSSE. Thank you.

Senator SHELBY. Our third panel will be Lt. Gen. Howard D. Graves, U.S. Army, Superintendent, U.S. Military Academy; Lt. Gen. Bradley C. Hosmer, U.S. Air Force, Superintendent, U.S. Air Force Academy; and Rear Adm. Thomas C. Lynch, U.S. Navy, Superintendent, U.S. Naval Academy.

Gentlemen, if you three would take your seats, I want to thank the three of you for joining us here today to discuss these important topics and issues. As you have seen, the Academy honor system and the need to eliminate sexual harassment at the academies are issues the subcommittee and indeed the full Armed Services Committee deem very, very important.

I would like to begin by hearing any opening statements you have regarding these issues, and if you have prepared statements, they will be made part of the record in their totality. I would like to begin here with General Graves and General Hosmer, then Admiral Lynch. General Graves.

**STATEMENT OF LT. GEN. HOWARD D. GRAVES, U.S. ARMY,  
SUPERINTENDENT, U.S. MILITARY ACADEMY AT WEST POINT**

General GRAVES. Sir, thank you very much for the opportunity to be here to discuss what really is the essence of the officer corps, and that is trust. We at West Point, as Ambassador Armitage said, believe our sole purpose for existence is to develop leaders of character for the common defense. And we members of the leadership of the Academy and the faculty and the cadet leadership see themselves as character developers. It is very important for us to look at that as the foundational reason for the academies, and I believe we must strive to continue to do well all along.

This hearing is addressing two values that are critical to character development, in our opinion. We, as well as the Army leadership who carefully monitor our progress in this area, and provide us tremendous support, I might add, address two bedrock values. The first one is honor; the second one is consideration of others. As

a matter of fact, we use the short-cut. Bedrock one to a cadet is honor. Bedrock two is consideration of others.

A leader of character is one that knows the difference between right or wrong and then has the courage to do it. So as we develop leaders of character, we are looking for leaders who are honest and who treat each other with dignity and respect.

Looking at the first bedrock value, honor, it is important that we at West Point consider our honor code in all we do. A cadet will not lie, cheat or steal, nor tolerate those who do.

Senator SHELBY. Repeat that again.

General GRAVES. A cadet will not lie, cheat or steal, nor tolerate those who do. That is the minimum acceptable standard for a cadet. Our goal is that we will rise above that minimum level.

We speak of the spirit of the code which is to go beyond the minimum standard. The spirit of the code is that we revere honesty, we revere fairness, we revere respect for each other's person and property. So we do not lie, not because lying is wrong, but because we are committed to honesty. We do not steal, because we are committed to respecting others' property. We do not cheat, because we revere fairness. So what we are trying to do is build in the cadet, and the future officer, a commitment to these higher values. Those values should be held in such high regard that they transcend personal relationships. A true friend would not call upon his or her friend to lie, cheat, or steal on their behalf. So the very keystone of the honor code is the non-toleration clause.

A very important part of our approach is that the cadets are the stewards of the honor code. We do not speak of them as owning the code, because the honor code belongs to the Corps of Cadets, West Point, the Long Gray Line, the Army, and in fact, the Nation. But, the current cadets are stewards of the code and perceive themselves in that role. In fact, they do run the honor system at West Point. The chain of command of the Corps of Cadets and the Cadet Honor Committee are both very active in running the system which is overseen by the Academy leadership. We work to assist the cadets in adopting and appropriating the principles of integrity which are inherent in the code.

We also provide continuous education and training. We provide 45 hours of instruction to the cadets on honor. We begin with the plebes: What is a lie? Why is lying bad? Why do we base our profession on trust? We continue with upperclass cadets; we teach them about the Army ethic and explain that we expect them to continue to be honorable as Army officers.

The staff and faculty and the leadership of the Academy are involved in the training. Over 180 members of our staff and faculty are members of the Company Honor Education Teams that present this 45 hours of instruction to the cadets. Then, informally of course, these values are modeled by the staff and faculty, as well. So, the total purpose of the Academy and the first priority is in developing leaders of character. For example, in an English literature class, if an issue of honor or an issue of character comes up, the instructor is expected to address that issue, and I believe they do.

Sir, bedrock two is consideration of others. We have found that we accomplish more by discussing relationships between each other in that generic collective term than by trying to identify tensions

of sexual harassment, racial discrimination or ethnic discrimination. If we can deal with the fact that we should all treat each other with respect and dignity, then we believe we can make more progress. And, we have found that cadets are much more open to discuss the issue in a positive sense.

Obviously, bedrock two receives a lot of command emphasis. When I give a talk to a group of cadets or the staff and faculty, I talk about bedrock two, consideration of others, treating each other with dignity and respect, the golden rule, be kind, or similar words. Command emphasis is very important.

We also have the Human Relations Council chaired by the Commandant of Cadets, a general officer. The Council looks at issues dealing with human relations, whether they are racial or gender issues or what have you.

We teach 36 hours of education to the cadets in consideration of others issues. Topics include discrimination; gender sensitivity, for example, "chill in the classroom", unintentional sexist comments that might well chill a classroom environment; or more direct physical violations of consideration of others.

Then finally, we have the Cadet Consideration of Others Council, committed to advising the leadership on issues involving consideration of others. Let me stop right there, Mr. Chairman, and say that I would be happy to answer any questions about our code, about the system, and about the way that we are attempting very hard to deal with these issues.

Obviously, any situation or any incident of sexual harassment is something that we want to avoid. What we are trying to do is to figure out the best way possible to do that.

[The prepared statement of General Graves follows:]

PREPARED STATEMENT BY LT. GEN. HOWARD D. GRAVES, SUPERINTENDENT, UNITED STATES MILITARY ACADEMY, U.S. ARMY

Mr. Chairman and members of the subcommittee. Thank you for the opportunity to discuss with you the two most important aspects of cadet leader development at the United States Military Academy, honor and consideration of others.

West Point exists for one purpose: to provide the Nation with leaders of character who serve the common defense. This purpose guides our programs today just as it has since the Academy was established in 1802. Today's hearing addresses the two values that we regard as central to the complex process of developing the future leaders of our Nation. So fundamental do we regard these values that we refer to them as the bedrock values of cadet character development. At West Point, we refer to Honor as Bedrock I; Consideration of Others is Bedrock II.

A leader of character is one who knows the difference between right and wrong and has the moral courage to choose the harder right instead of the easier wrong. A leader of character is also one who treats others with respect and dignity, just as he or she would like to be treated.

The first bedrock value is Honor. As you know, the Cadet Honor Code says, "A cadet will not lie, cheat, or steal, nor tolerate those who do." That code and the Military Academy's system of honor education and enforcement are designed to foster a commitment to moral-ethical excellence. We regard this code as the minimum ethical standard to which cadets are expected to adhere.

It is important to note that the objective of our Honor Code and system is not to stop at adherence to the code. We want leaders of character who will go beyond the minimum to be men and women who are honest, fair, and who respect the person and property of others. This is the "Spirit of the Honor Code," to go beyond the minimum standard.

An important factor in the success of our Honor Code and System is that they are run by the Corps of Cadets. We do not say that the cadets "own" the Honor Code and System. The Honor Code and System really belong to the cadets, the

Academy, the Long Gray Line, the Army, and the Nation. However, the current Corps of Cadets has "stewardship" over the Code and System.

The Academy leadership and the cadet leadership work together to assist the cadets in adopting and appropriating the principles of integrity inherent in the Code. The cadets, through the Honor Committee, supervise and administer the System. The Academy leadership provides careful oversight and guidance to ensure fairness and to provide continuous honor education and training. Company Honor Education Teams, consisting of both cadet honor representatives and members of the staff and faculty, provide formal instruction, emphasizing the development of an honor ethic and the spirit of the code. The Company Honor Education Team is led by the cadet company commander. Cadet members of these Honor Education Teams focus on the Honor Code at the Military Academy while faculty members on the teams focus on professional and personal ethics in the Army. Over 180 members of the staff and faculty are involved in the Cadet Honor Education program, which currently provides 45 hours of honor instruction to the cadets.

Honor is emphasized formally in the classroom, but it is also modeled informally by the staff and faculty. Each faculty member knows that his or her principal duty is character development. Each cadet has an officer or a senior noncommissioned officer mentor who serves as a role model for that cadet. As the cadets observe these mentors in their homes or elsewhere at West Point, they see leaders who demonstrate honor and integrity as a way of life.

Mr. Chairman, 6 years ago, before I was appointed Superintendent, I served on the Special Commission to review the Honor Code and Honor System at the Military Academy. I felt then, and I believe now, that the Honor Code represents a standard of ethical behavior that functions effectively for the Corps of Cadets and which our citizens should appreciate as a national asset. Furthermore, I feel that this standard of conduct is one to which all American professionals should aspire. The Honor Code and Honor System work, and in spite of various pressures to compromise, we cannot and will not relax our standards and expectations of cadets at West Point. That would be unthinkable and unconscionable.

My second point deals with what we call Bedrock II, Consideration for Others. The importance of inculcating in each cadet positive attitudes in human relations is readily manifest in our Cadet Leader Development System. We insist that cadets treat all men and women with whom they come in contact with respect. Unless a particular situation requires it, we do not isolate racial, gender, ethnic, or religious issues. They are all part of how we treat each other, and that must be with dignity.

Consideration of Others is a national challenge, one which must receive our attention and a high priority. Within our Cadet Leader Development System, we attempt to develop in our cadets a commitment to 15 principles of leader-subordinate relations. Leaders are challenged, for example, to make clear to their subordinates their commitment to the highest values of the military profession; to take the initiative in open, two-way communications; and to promote self-esteem in subordinates. Leaders are also reminded that they must make corrections in a manner that respects the dignity of the individual. We teach cadets these principles in formal instruction, and we attempt to model them daily to impress upon them the importance of treating others with understanding. Our company tactical officers also provide each cadet formal feedback at least once each semester on the cadet's performance in these leader principles.

Just as there are ways to educate and train cadets about honor, the Academy employs various mechanisms to enhance consideration of others. First, of course, is a command emphasis. Ensuring proper treatment of all members of the organization is a command responsibility. Although I certainly am not the first Superintendent to emphasize this, when I assumed command of the Military Academy in July 1991, one of the first principles I enunciated was, "Be kind." That principle is Bedrock II. Last week I spoke with the entire West Point community in my semi-annual command interest briefing and reiterated the importance of mutual respect for one another. No matter how successful we are in this area, we can never be satisfied with our accomplishments. We must constantly evaluate our performance, reflect on our purpose, and take action when appropriate. If violations should occur, we must and we do take firm and decisive action against perpetrators.

Our Human Resources Council, chaired by a General Officer, the Commandant of Cadets, is charged with oversight of training and education on issues such as prejudice, sexual harassment, and equal opportunity. Two recent initiatives by the Council will illustrate the emphasis we place on positive regard for others. Last June, we invited a training team from the Defense Equal Opportunity Management Institute to come to West Point to train cadets from each company as Human Resource representatives. More recently, we established the Consideration of Others Advisory

Committee within the Corps of Cadets, a committee formed to advise the chain of command on Bedrock II concerns.

Our Human Resources Council also monitors all actions pertaining to Equal Opportunity training and education. Last year, we conducted a comprehensive review and revision of cadet human relations instruction. Now, each cadet receives 36 hours of sequential, integrated instruction on topics such as prejudice, sexual harassment, discrimination, date-rape, and substance abuse. This instruction not only strengthens the understanding and commitment of our cadets to Bedrock II, but it also prepares them to carry out their leadership responsibilities in a multi-cultural, mixed-gender Army.

I continue to believe that the most important mechanism for ensuring proper consideration for others is relentless chain of command interest and involvement. Issues relating to equal opportunity and sexual harassment are monitored on a regular basis. We have just completed post-wide Inspector General focus group discussions with members of the staff and faculty looking at how we are treating one another and where adjustments may need to be made. Now we are in the process of conducting similar discussions among cadet groups.

We also provide annual training for all our instructors regarding their actions in the classroom. They are shown how their words or conduct could inadvertently "chill" the learning environment in their classroom through insensitivity to issues of diversity. Everyone at the Military Academy is involved in this effort, and we must keep working at it.

We at the Military Academy will continue to invest ourselves and our time and effort to ensure that the future leaders that America has come to expect from West Point, men and women whom this nation needs, are leaders of character who respect others and treat them with dignity. We will continue to do everything possible to ensure that they are men and women of integrity who have internalized the values we have discussed here today. You expect this kind of leader from West Point, the people of our country deserve no less, and we commit ourselves to continue to provide such leaders of character for our Nation. Thank you.

Senator SHELBY. Senator Coats, do you want to make a statement?

Senator COATS. Mr. Chairman, I hate to interrupt you and General Graves. I apologize for interrupting your presentation. I made a commitment last evening to Senator Mitchell, the Senate Majority Leader, that I would be offering my amendment to the Goals 2000 bill at 1:00, and I need to honor that commitment. So I regret I cannot be here to hear the other testimony and to ask questions.

I would like, Mr. Chairman, if it is permissible, to ask the three panelists if they would either verbally, if there is time, or if it is more appropriate to submit written answers responding to the issue raised by Ambassador Armitage. That is that the finding that young persons entering the academies come with a high sense of honor but that it is chipped away in the process of education at the academies, that there are inconsistencies between underclassmen and upperclassmen, that they see inconsistencies in the conduct of administrators, faculty, et cetera. I would like your response to that, number one.

And number two, I would like your response to the question that I raised with the last panel relative to the surveys and the nature of the question of the definition of sexual harassment, what your experience is in your own surveys, in your own institutions, relative to that issue.

I apologize that I cannot be here to ask the question or to hear the answer, but I promise you that I will look forward to reading the answer, and I apologize for having to leave.

Thank you, Mr. Chairman.

Senator SHELBY. Lt. Gen. Bradley C. Hosmer, Superintendent of the Air Force Academy.

**STATEMENT OF LT. GEN. BRADLEY C. HOSMER, USAF,  
SUPERINTENDENT, U.S. AIR FORCE ACADEMY**

General HOSMER. Mr. Chairman, Senator Coats, I, too, would like to thank you for the opportunity to testify today. And I should open by saying that I agree with almost all of General Graves' statement: everything significant which describes the role of the honor system; the role of honor in the officer corps of the Army applies also to the Air Force; the role of character development which is absolutely to the development of officers, which is of course, our mission; and the role of the cadet wing in our case as stewards of that code for the Air Force as a whole.

Now, we are here to discuss the honor code and honor system principally, as I understand it. This is a part of the Academy, Mr. Chairman, which we believe is absolutely central to the mission of developing tomorrow's air and space leaders. We believe personal honor or integrity is so important that we reflect it as the first among three core values in our institution.

To underscore this point, Mr. Chairman, I offer a brief extract from an article written by Mr. Jody Powell in 1984. Mr. Powell ran afoul of the honor code at the Air Force Academy as a cadet. He was dismissed, and later rose to deserve prominence in other work, including as a White House Press Secretary. I offer his complete article for the record.

Senator SHELBY. Without objection, it will be made a part of the record.

[The information follows:]

HONORING THE HONOR CODE

(BY JODY POWELL)

Almost 20 years ago I left the U.S. Air Force Academy in, to put it bluntly, disgrace. Since the earliest days of childhood, an appointment to one of the service academies had been my only goal. I got the appointment, but 3½ years later, in the middle of my senior year, I cheated on a history examination, was caught and, as the Cadet Honor Code required, expelled.

I returned home—neither with my shield or on it—on Christmas Eve, 1964, to be greeted by deeply disappointed but loving and sympathetic family and friends. It was the worst, and peculiarly, the best thing that ever happened to me. In a lifetime with at least its share of transgressions, it remains the one mistake that I most regret—and the one incident which taught me most about myself and about life.

For the 20 years since, I had wanted to go back, to visit the scenes and places that marked the passage into a larger world of a young boy fresh from the farm. But the time and circumstances never seemed quite right. Then came an invitation to speak to a symposium on media and politics at the U.S. Air Force Academy. There was no hesitation; I'd go.

I arrived to find an institution that had changed a great deal, but with a feel as familiar as if I had left yesterday. And an institution in the midst of the best and worst of times. The antipathy toward everything military that characterized much of our society in the late 1960s and early 1970s had passed. The number and quality of applicants have risen steadily for the past 5 years. Women make up 10 percent of the cadets who march through the portal that says "Bring Me Men" across the top.

But the heart and soul of the institution, the principle I failed to live up to, is in trouble. The Cadet Honor Code—"We will not lie, cheat, steal, nor tolerate among us those who do"—is under critical scrutiny. A cheating scandal last spring convinced cadets and officers that the system was not working, and the superintendent, in a gutsy decision that he easily could have ducked, decided to acknowledge and try to deal with the problem. He took charge of the administration of the honor system and announced a full-scale review to determine what had gone wrong and what changes might be needed to set things right again.

My purpose is not to offer advice to those involved in that review, but to offer encouragement and support and to urge understanding from the public at large.

One of the more disturbing discoveries that I made 20 years ago was that many people were sympathetic to me because of their inherent unspoken distaste for the virtues of military life. To them it seemed so arbitrary, so harsh, so foreign to the life that they knew, that there was a degree of satisfaction in seeing it fail. The idea of an Honor Code that worked was beyond their comprehension, so there was a tendency to look kindly on the living proof that it did not—at least not always for everyone.

As news of the latest problems has appeared in the press, I hear similar responses from friends in politics and journalism. And they are wrong.

Whatever the results of the Superintendent's review, the Academy and its Honor Code will continue to be different, more rigorous, more arbitrary, more harsh. And that is as it should be. We ask those who make the military a career something vastly different from any other group in society. Quite simply, their part of the bargain is the willingness to forfeit life at our direction. "Go tell the Spartans," says the inscription at Thermopylae, "that here, obedient to their laws, we lie." thus has it ever been, and thus it will always be.

The teaching of a higher standard, a different approach to life itself, is essential to ensuring that this harsh, lopsided bargain will be kept. The problem now facing the Superintendent is not new. To what extent must any institution accommodate the mores of society as a whole?

Those of us "on the outside" have a stake in his success. There is not much that we can do to help, except to understand that, whatever he decides, there will still be problems and "scandals" down the road (a standard that all can meet is no standard at all) and to appreciate the importance of the difference that he is struggling to define and preserve. If it is lost, society will be an even bigger loser than the Academy.

For me, there is also a personal reason for wishing the Academy well. The years there meant more to me than any other period of my life, and the part that meant most was the Honor Code I violated. Though I fell short, thousands did not. Their example is a reminder that human beings are capable of much finer and better things than we generally suppose. As such, it is a challenge and an inspiration to do better—in a world too often short of both.

Senator SHELBY. Go ahead.

General HOSMER. But an extract follows: "The Honor Code will continue to be different, more rigorous, more arbitrary, more harsh, and that is as it should be. We ask of those who make the military a career something vastly different from any other group in society. Quite simply, their part of the bargain is a willingness to forfeit their life at our direction. A higher standard, a higher and different approach to life itself, is essential to assuring that this harsh, lopsided bargain will be kept. Though I fell short, thousands did not. Their example is a reminder that human beings are capable of much finer and better things than we generally suppose. As such, it is a challenge and an inspiration to do better in a world too often short of both." I find that statement very comforting to many parents involved and young people who have themselves run afoul of the Honor Code.

The central role of honor in the military profession is fixed, I would hold, but the world continues to change. Therefore, the system that we have for developing a high sense of personal honor and integrity in cadets has had to evolve as well. Like the Naval Academy and West Point, the Air Force Academy has also had episodes involving an unusual number of honor violations. Most recently, it happened to us in 1984. We have used these events as a call to review our system. Since the last episode we have watched certain indicators, trying to anticipate the need for change without the need for a wake-up call like we had in 1984.

For example, in 1991 we saw signs that the cadet wing did not have as strong a sense of ownership of the Honor Code as it could.

We concluded this may be related to the extra steps taken in 1984 to protect due process, steps which stretched out the time a case took to reach a final conclusion and which created many key steps that were out of the hands of cadets. A commission chaired by the General Counsel of the Air Force reviewed the due process requirements established in relevant case law, and recommended changes which streamlined the process and increased cadet sense of ownership. The recommendations were accepted by the Secretary of the Air Force and implemented in 1992.

Those changes were helpful, but more seemed needed. We, therefore, established an internal review early in 1993, and implemented their recommendations over the summer. These changes had to do principally with the basis for deciding when to invoke sanctions less than disenrollment. We are pleased with the way the cadet wing has reacted to those changes. For example, of the cadets who have been found guilty of honor violations since the latest changes, over three-quarters have admitted to the violation before the case was heard by a wing honor board.

The task of developing officers with a high sense of personal honor will continue to become more difficult if recent trends continue. Talented young people enter our Academy each year. Unfortunately, some, not a majority, but some, have an extremely fragile sense of, and little experience with, some important classic virtues, and personal integrity is among those. We believe we must stay tuned very closely to the prevailing attitude of cadets toward their Honor Code and its supporting honor system to make the refinements needed so that a high sense of honor continues to be part of the makeup of every cadet.

Our Honor Code, sir, also includes the end clause, "will not tolerate those who do." We believe it is also essential to the functioning of the code and translating it to the regard an officer has for the integrity of his unit and the importance of his mission. There is a collective responsibility there.

And I will end my comments there, sir, and await your questions. [The prepared statement of General Hosmer follows:]

PREPARED STATEMENT BY LT. GEN. BRADLEY C. HOSMER, SUPERINTENDENT, U.S. AIR FORCE ACADEMY, USAF

Mr Chairman, members of the committee, thank you for the opportunity to discuss with you the Air Force Academy Honor Code and honor system—a part of the Academy which we believe is central to our mission of developing tomorrow's air and space leaders. We believe personal honor, or integrity, is so important that we reflect it as the first among the three core values of our institution.

Mr Chairman, to underscore this point, I offer a brief extract from an article written by Mr. Jody Powell in 1984. Mr. Powell ran afoul of the Honor Code as a cadet, was dismissed, and later rose to deserved prominence in other work, including as White House Press Secretary. I offer his complete article for the record. In part, Mr. Powell wrote:

"This Honor Code will continue to be different—more rigorous, more arbitrary more harsh. And that is as it should be. We ask (of) those who make the military a career something vastly different from any other group in society. Quite simply, their part of the bargain is the willingness to forfeit their life at our direction. . . . A higher standard, a different approach to life itself, is essential to ensuring that that this harsh lopsided bargain will be kept. . . . Though I fell short, thousands did not. Their example is a reminder that human beings are capable of much finer and better things than we generally suppose. As such, it is a challenge and an inspiration to do better—in a world too often short of both."

The central role of honor in the military profession is fixed. But the world continues to change. And therefore, the system we have for developing a high sense of personal integrity in cadets has had to evolve as well. Like the Naval Academy and West Point, the Air Force Academy has also had episodes involving an unusual number of honor violations, most recently in 1984. We have viewed these events as a call to review our system. Since the last episode, we have watched certain indicators, trying to anticipate need for change without the need for a "wake up call" like we received in 1984.

For example, in 1991 we saw signs that the Cadet Wing did not have as strong a sense of ownership of the Honor Code as it could. We concluded this may be related to the extra steps taken in 1984 to protect due process—steps which stretched out the time a case took to reach a final conclusion, and which created many key steps that were out of the hands of cadets. A commission, chaired by the General Counsel of the Air Force, reviewed the due process requirements established in relevant case law and recommended change, which streamlined the process and increased cadet sense of ownership. The recommendations were accepted by the Secretary of the Air Force and implemented in 1992.

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Thank you.

Senator SHELBY. Thank you. Our next panelist is Rear Adm. Thomas C. Lynch, U.S. Navy, Superintendent of the U.S. Naval Academy.

**STATEMENT OF REAR ADM. THOMAS C. LYNCH, USN,  
SUPERINTENDENT, U.S. NAVAL ACADEMY**

Admiral LYNCH. Good morning, Mr. Chairman. I, too, appreciate this opportunity to appear before you today. I would like to read my statement.

Over the years, the Naval Academy has taken considerable pride in the rigor and caliber of the education and professional development of future naval officers. It is a leadership institution which enjoys a reputation for scholarship and high standards of professional performance and conduct.

Today's hearing addresses several areas fundamental to our mission of developing the future leaders of our Navy and our Nation. Mr. Chairman, I recognize that one of the reasons we are here today is to discuss the compromise of the electrical engineering examination at the U.S. Naval Academy. As Superintendent, I accept full responsibility for that occurring under my command. I also accept full responsibility for taking the action required to correct problems that may exist and to improve the effectiveness of our character development program.

Today, I would like to review with the committee the electrical engineering issue, present information on our ethics and honor program, and discuss the changes we are making to address the findings of the Inspector General, the Board of Visitors review chaired

by Ambassador Armitage, and our own internal review. I will also discuss actions we have taken relative to the GAO report on sexual harassment.

First, I would like to review our mission, the importance of character development, our honor concept, and provide the committee with information on our ethics and honor development program.

The mission of the Naval Academy is clear and has been fundamentally unchanged since its founding nearly 150 years ago: To develop Midshipmen morally, mentally, and physically, and to imbue them with the highest ideals of duty, honor, and loyalty in order to provide graduates who are dedicated to a career of naval service.

This mission is the cornerstone of our strategic plan which was developed in 1991. Honesty, integrity, and respect for the dignity of each individual are central to the core values of the Navy, and are the focus of the Naval Academy's strategic plan.

A leader of character knows the difference between right and wrong. A leader of character has the moral courage to do that which is right because it is right, despite any pressure to take an easier, more expedient path. A leader of character treats others with respect and dignity and ensures that every person is given the opportunity to fulfill his or her complete potential.

The honor concept at the Naval Academy has been at the core of our training and professional development since its inception in 1951. Midshipmen are persons of integrity. They do not lie, cheat, or steal. This simple statement sets forth three essential elements of personal integrity. These elements are not sufficient to define integrity for a young person who is about to enter a world full of challenges and constant change.

Integrity cannot be defined by a detailed set of rules and protocols of what to say and what to do, of what to avoid and what to overlook. It must become a part of each individual's personal ethic and behavior. To develop the future leaders of our Nation, we must develop persons of the highest moral integrity and character who have made a personal commitment to know what is right and to do what is right at all times.

To prepare Midshipmen to meet this standard, a comprehensive indoctrination, training and education program must be integral to each Midshipman's experience. Honor training and education is conducted by the Commandant and his staff, the Professional Development Division, and the Academic Dean. And I will tell you that I will skip this part of my statement just to say that in each of those areas, the Commandant, his battalion officers, the 36 company officers, are working daily with each and every Midshipman to instill in them those values that we hold so dear and to hold them accountable and responsible.

With the Academic Dean, we have an ethics curriculum that provides required courses within the curriculum for each Midshipman. In our professional development we have a continuum of leadership where we talk about the principal center of leadership, the tenants of Dr. Covey, TQL, ethics, morality, and personal integrity.

When new Midshipmen arrive for plebe summer, they are placed in a realistic military environment, the focus of which is the practical application of leadership. During this summer they receive

lectures on the honor concept, participate in honor workshops, and evaluate ethical case studies. They are also introduced to the Navy and Marine Corps' core values of honor, courage, and commitment. They also receive instruction in the Navy's rights and responsibilities to reinforce the concepts of honor and trust. In addition, Midshipmen squad leaders and officers in the plebe's chain of command provide training and serve as visible positive leadership role models.

During the academic year, all Midshipmen of all classes are evaluated continuously in leadership performance. They receive, and are counseled on, at least one fitness report each semester and for each summer cruise. Among the counseling areas and in each performance evaluation the focus is on the character development.

While honor is emphasized formally in the classroom, we also rely upon the faculty and staff. Members of the faculty and staff are expected to be the role models for Midshipman character development. We must continue to bring quality officers to the Naval Academy who bring with them real life experiences to amplify the need for integrity in the daily lives of military officers.

Mr. Chairman, despite the programs and efforts I have just described, the fact is honor violations do occur, and a significant compromise occurred in the electrical engineering examination. The IG reported that Midshipmen may have either cheated or lied to cover up their involvement or the involvement of others taking the EE 311 exam. This is a very unsettling and disturbing report, despite the ultimate resolution of each case. It is evident to me that we have failed to recognize the changes in our society and that we have failed, with some Midshipmen, in our effort to inculcate our concept of honor.

It is clear from the report of the Board of Visitors' Honor Review Committee, the Inspector General's report, and our own internal honor review, that honor and development of personal integrity must be put in the forefront of Midshipman training, and I intend to do just that.

In his report of the exam compromise, the Inspector General provides his assessment of my own standard of personal integrity. Admiral Bennett spoke of my personal commitment to the Honor Concept as a way of life, and of the dilemma he believes I could face in accepting the fact that some Midshipmen may not hold that same standard.

First, I appreciate these comments about my integrity in my daily actions. And yes, it is true that I found it almost unbelievable that any Midshipman would knowingly and repeatedly lie to investigators. It is the antithesis of all that we teach and all that we believe. Personal integrity is the heart of leadership, the very core of our profession, and is what the service academies are all about.

Nevertheless, that is the finding of the Inspector General. Further, the IG, the Board of Visitors, and even many Midshipmen, lacked confidence that the EE 311 cheating cases were resolved fairly and impartially. Although the IG found no indication of any wrongdoing or actual conflict of interest in the review of the cases previously handled by the Honor Boards, we cannot ignore the communication shortcomings that contributed to that perception. That is why we have removed the Naval Academy honor system

from further consideration of the EE 311 cases. For my part, I regret any actions or statements I may have made that could have contributed to this perception within the Brigade.

The process now in place to resolve the cases identified by the IG was done to ensure all who have a direct interest in the outcome—alumni, parents, individual Midshipmen—will have the utmost confidence in the process. This is an essential element of rebuilding Brigade confidence in the honor concept as a way of life, not simply a pitfall to be avoided. This will also allow all of us at the Academy—Midshipmen, faculty, coaches, staff, and myself—to focus totally on the changes that need to be made to improve the climate of honor.

The December 1993 Board of Visitors Review chaired by Ambassador Armitage, the IG report, as well as our own internal review and experience, identify areas where change is needed. The Board of Visitors has submitted nine recommendations to improve the substance of the honor concept and 14 to improve its process. I strongly endorse the recommendations of the Board of Visitors committee and have directed that those recommendations within my authority be implemented.

I have established a character development program. This will be headed by a senior Navy captain or Marine colonel who will report directly to me. This officer will be responsible for coordinating and implementing a Naval Academy-wide character development plan to ensure all academic, professional, military, athletic, religious, and extracurricular activities are properly integrated. Training and education needs to be coupled with living, breathing, and reinforcing the concepts of honor and character day in and day out, in Bancroft Hall, in the classroom, on the playing fields, in every activity. Reinforcement must be by every Midshipman, every officer, every faculty member, and every employee. Success will be achieved only when we reach each Midshipman as a person, and they adopt as their standard the highest principles of honor and integrity.

I will ensure that the unfortunate incident regarding the EE exam provides a baseline assessment from which required change is made. I will establish and evaluate quantifiable measurement to determine the effectiveness of our efforts. I am fully committed to ensuring that the Academy provides a proper atmosphere and that every graduate has the personal honor and integrity required to lead the fine men and women of America's Armed Forces. We must ensure our high standards are met, and we must not waiver from our commitment when they are not.

We must instill in every Midshipman the fundamental precepts of human dignity and respect for each individual. Our Midshipmen bring to us a diversity that is a key to our strength and future success. But this diversity also brings with it a challenge to address the cultural and societal influences that are part of each Midshipman's background before he or she entered the Naval Academy.

Ensuring respect for every individual is a national agenda, and one that we are addressing as a top priority. We stress the need for an unyielding commitment to principles that support the full empowerment of each individual. It is at its core a leadership issue.

In December of 1989, an incident involving a woman Midshipman occurred at the Naval Academy that received national attention. This incident served as a catalyst for a series of assessments concerning the treatment of all Midshipmen, with a particular emphasis on women, by a number of groups both internal and external to the Academy. Following this incident, the first significant action taken to address the treatment of Midshipmen was the issuance of a general order which prohibited unwanted physical contact between Midshipmen.

The thrust of all the some 100 recommendations that we had, and we have implemented since then, was to emphasize that mutual respect and consideration of others are fundamental to our core values. All these recommendations were implemented and verified by a board of visitors and the Secretary of the Navy. Among the changes was a complete restructuring of the forth class development program, which now emphasizes positive leadership, team building, and respect for the worth and dignity of others. Particular attention is placed on breaking down barriers relating to the ethnic, gender, and racial diversity of the Brigade which may have accompanied an incoming class.

Since my arrival, the Naval Academy has developed a strategic plan and focused additional attention on the Command Management Equal Opportunity Program. These initiatives have proven effective in addressing issues that have arisen. We have identified areas of concern that undermine Midshipmen attaining their full potential. In response to these concerns, action has been taken to eliminate behavior and attitudes that detract from our goal of mutual respect and full empowerment.

The Naval Academy continues to concentrate our leadership, our time, and our effort to ensure that our graduates embody the high standards that our Nation has come to expect. We will ensure that our graduates are persons of integrity who can answer the challenge of our mission to produce leaders who have the potential for future development in mind and character to assume the highest responsibilities of command, citizenship, and government.

Thank you very much, Mr. Chairman.

[The prepared statement of Admiral Lynch follows:]

PREPARED STATEMENT BY REAR ADMIRAL THOMAS C. LYNCH, SUPERINTENDENT,  
UNITED STATES NAVAL ACADEMY

Mister Chairman and members of the committee: Over the years, the Naval Academy has taken considerable pride in the rigor and caliber of the education and professional development of future naval officers. It is a leadership institution which enjoys a reputation for scholarship and high standards of professional performance and conduct.

Today's hearing addresses several areas fundamental to our mission of developing the future leaders of our Navy and our Nation. Mr. Chairman, I recognize one of the reasons we are here today is to discuss the compromise of the Electrical Engineering exam at the United States Naval Academy. As Superintendent I accept full responsibility for that occurring under my command. I also accept full responsibility for taking the action required to correct problems that may exist and improving the effectiveness of our character development program.

Today I will review with the committee: the Electrical Engineering issue, present information on our ethics and honor program and discuss the changes we are making to address the findings of the Inspector General (IG), the Board of Visitors (BOV) review chaired by Ambassador Armitage and our own internal review. I will also discuss actions we have taken relative to the GAO Report on sexual harassment.

First, I would like to review our mission, the importance of character development, our honor concept and provide the committee information on our ethics and honor development program.

The mission of the Naval Academy is clear and has remained fundamentally unchanged since its founding nearly 150 years ago: "To develop Midshipmen morally, mentally and physically and to imbue them with the highest ideals of duty, honor and loyalty in order to provide graduates who are dedicated to a career of naval service and have potential for future development in mind and character to assume the highest responsibilities of command, citizenship and government."

This mission is the cornerstone of our Strategic Plan which was developed in 1991. Honesty, integrity and respect for the dignity of each individual are central to the core values of the Navy and are a focus of the Naval Academy's Strategic Plan.

A leader of character knows the difference between right and wrong. A leader of character has the moral courage to do that which is right because it is right, despite any pressure to take an easier, more expedient path.

A leader of character treats others with respect and dignity and ensures that every person is given the opportunity to fulfill his or her complete potential.

The Honor Concept at the Naval Academy has been at the core of our training and professional development since its inception in 1951. Simply stated, it affirms that Midshipmen are persons of integrity. They do not lie, cheat or steal.

While this simple statement sets forth three essential elements of personal integrity, these elements are not sufficient to define integrity for a young person who is about to enter a world full of challenges and constant change. Integrity cannot be defined by a detailed set of rules and protocols; of what to say and what to do; of what to avoid and what to overlook. It must become a part of each individual's personal ethic and behavior. To develop the future leaders of our Nation, we must develop persons of the highest moral integrity and character who have made a personal commitment to know what is right and to do what is right.

To prepare Midshipmen to meet this standard, a comprehensive indoctrination, training and education program must be an integral part of each Midshipman's experience. Honor training and education is conducted by the Commandant of Midshipmen and his staff, the Professional Development Division, and the Academic Dean.

The Commandant of Midshipmen, through his staff of 6 battalion officers and 36 company officers, provides primary oversight for the military and professional development programs of Midshipmen with an emphasis on leadership. The focus is to develop in Midshipmen the highest sense of personal honor, integrity, accountability, and unqualified personal responsibility.

Over a 4 year period the Commandant and his battalion and company officers accomplish this requirement through close contact with the Midshipmen they lead on a daily basis inside Bancroft Hall, which houses all Midshipmen, and throughout the Naval Academy complex.

When new Midshipmen arrive for Plebe Summer, they are placed in a realistic military environment, the focus of which is the practical application of leadership. During Plebe Summer, Plebes receive lectures on the Honor Concept and participate in Honor Workshops, which evaluate ethical case studies. They are also introduced to the Navy and Marine Corps' Core Values—Honor, Commitment, Courage. Instruction in the Navy's Rights and responsibilities reinforces the concepts of honor and trust. In addition, Midshipmen squad leaders and officers in the Plebe's chain of command provide training and serve as visible positive leadership role models.

During academic year (August–May) Midshipmen of all classes are evaluated continuously in leadership performance. They receive, and are counseled on, at least one fitness report each semester and for each summer cruise. Among the counseling areas and in each performance evaluation the focus is on the character development of each Midshipman.

Within the Division of Professional Development, Midshipmen attend courses in all 4 years addressing ethics, Principle-Centered leadership and character development. These courses have been expanded in the last 2 years. The first class to complete the 4 year continuum will be the class of 1996. The leadership theory taught in the Professional Development classroom is applied by Midshipmen in Bancroft Hall.

This practical and theoretical training is reinforced with required and elective course work offered by the Academic Dean. All Midshipmen are required to take a two-course sequence in the humanities which provides background in ethics by exploring the origin and development of Western values. In these courses Midshipmen study Western thinking on ethical behavior, as well as the philosophical

underpinnings of the Constitution. Many Midshipmen also select ethics-oriented courses for their humanities electives.

While honor is emphasized formally in the classroom, we also rely upon the staff and faculty. Members of the faculty and staff are expected to be the role models for Midshipman character development. We must continue to bring quality officers to the Naval Academy who bring with them real life experiences to amplify the need for integrity in the daily lives of military officers.

Despite the programs and efforts I have just described, the fact is honor violations do occur and a significant compromise occurred in the Electrical Engineering exam. The IG reported that Midshipmen may have either cheated or lied to cover up their involvement or the involvement of others in taking the EE 311 exam. This is a very unsettling and disturbing report, despite the final resolution of each case. It is evident to me that we have failed to recognize the changes in our society and that we have failed, with some Midshipmen, in our effort to inculcate our concept of honor.

It is clear from the report of the Board of Visitors' Honor Review Committee, the Inspector General's report on the EE 311 examination and our own Commandant's Working Group on Honor that honor and the development of personal integrity must be put in the forefront of Midshipmen training, and I intend to do just that.

In his report on the compromise of the EE 311 examination, the Naval Inspector General provides his assessment of my own standard of personal integrity. Admiral Bennett spoke of my personal commitment to the Honor Concept as a way of life, and of the dilemma he believes I could face in accepting the fact that some Midshipmen may not hold that same standard.

First, I appreciate these comments about my integrity in my daily actions. And yes, it's true that I found it almost unbelievable that any Midshipman would knowingly and repeatedly lie to investigators. It is the antithesis of all that we teach and all that we believe. Personal integrity is the very core of our profession and is what the Naval Academy is all about.

Nevertheless, that is the finding of the Inspector General. Further, the IG, the Board of Visitors and even many Midshipmen lacked confidence that the EE 311 cheating cases were resolved fairly and impartially. Although the IG found no indication of any actual conflict of interest in the review of the cases previously handled by the Honor Boards, we cannot ignore the communication shortcomings that contributed to this perception. That is why we have removed the Naval Academy Honor System from further consideration of these 133 cases. For my part, I regret any actions or statements I may have made that could have contributed to this perception within the Brigade.

The process now in place to resolve the cases identified by the IG was done to ensure all who have a direct interest in the outcome, Alumni, parents, individual Midshipmen, will have the utmost confidence in the process. This is an essential element of rebuilding Brigade confidence in the Honor Concept as a way of life, not simply a pitfall to be avoided.

This will also allow all of us at the Naval Academy—Midshipmen, faculty, staff and myself—to focus totally on the changes that need to be made to improve the climate of honor.

The December 1993 Board of Visitors Review chaired by Ambassador Armitage, the recent IG Report on the Electrical Engineering Exam as well as our own recent review and experience identify areas where change is needed. The Board of Visitors has submitted 9 recommendations to improve the substance of the Honor Concept and 14 to improve its process. I strongly endorse the recommendations of the Board of Visitors committee and have directed that those recommendations, within my authority, be implemented.

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Training and education needs to be coupled with living, breathing and reinforcing the concepts of honor and character . . . day in and day out . . . in Bancroft Hall, in the classroom, during athletic programs . . . in every activity. Reinforcement must be by every Midshipman, every officer, every faculty member and every employee. Success will be achieved only when we reach each Midshipman as a person, and they adopt as their standard the highest principles of honor and integrity.

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We must also instill in every Midshipman the fundamental precepts of human dignity and respect for every individual. Our Midshipmen bring to us a diversity that is key to our strength and future success. But this diversity also brings with it a challenge to address the cultural and societal influences that are part of each Midshipman's background before he or she entered the Naval Academy.

Ensuring respect for every individual is a national agenda, and one that we are addressing as a top priority. We stress the need for an unyielding commitment to principles that support the full empowerment of every individual. It is, at its core, a leadership issue.

In December 1989, an incident involving a woman Midshipman occurred at the Naval Academy that received national attention. This incident served as a catalyst for a series of assessments concerning the treatment of all Midshipmen, with a particular emphasis on women, by a number of groups both internal and external to the Naval Academy.

Following this incident, the first significant action taken to address the treatment of Midshipmen was the issuance of a general order which prohibited unwanted physical contact between Midshipmen outside the athletic arena. The purpose of this general order was to serve as a near-term preventive measure while long term initiatives were being identified by the ongoing assessments. At the conclusion of these initial assessments, a composite list of more than 100 recommendations was compiled, briefed to our Board of Visitors, and approved by the Secretary of the Navy.

The thrust of these recommendations emphasizes that mutual respect and consideration of others are fundamental to our core values. All of these recommendations were implemented and verified by our Board of Visitors and the Secretary of the Navy.

Among the changes was a complete restructuring of the Fourth Class Development Program which emphasizes positive leadership, team-building, and respect for the worth and dignity of others. Particular attention is placed on breaking down barriers relating to the ethnic, gender, and racial diversity of the Brigade which may have accompanied our incoming classes.

Since my arrival, the Naval Academy has developed a Strategic Plan and focused additional attention on the Command Managed Equal Opportunity Program. These initiatives have proven effective in addressing issues that have arisen. We have identified areas of concern that undermine Midshipmen attaining their full potential. In response to these concerns, action has been taken to eliminate behavior and attitudes that detract from our goal of mutual respect and full empowerment.

The Naval Academy continues to concentrate our leadership, our time, and our effort to ensure that our graduates embody the high standards that our Nation has come to expect. We strive to produce young men and women who are leaders of character and who treat all others with dignity and respect. We will ensure that our graduates are persons of integrity who can answer the challenge of the mission of the Naval Academy to produce leaders who have the "potential for future development in mind and character to assume the highest responsibilities of command, citizenship, and government."

Thank you.

Senator SHELBY. Admiral Lynch, would you describe for the subcommittee, if you can, what you believe to be the underlying causes of this problem, this scandal? What event or events happened or did not happen over time to create an environment in which such a large number of Midshipmen would think it acceptable to violate the honor concept?

Admiral LYNCH. That is a very good question, Mr. Chairman, and it is one that racked my brain since this thing first came to my attention. I look back, and it touches on what Senator Coats mentioned earlier. I look back and I believe that 30 years ago this could not have happened at the Naval Academy when I was a Midshipman. I tried to assess what has happened.

Ambassador Armitage says there has been a chipping away of the values of the Midshipmen while they are there as Midshipmen. I think it is a little more significant than that. I think that when you look at our society as a whole—and when I arrived at the Naval Academy in the summer of 1960 and was taught the honor concept: The Midshipmen will not lie, cheat, or steal—that was the same concept that I learned from my home from my parents, reinforced by my coaches and my teachers, reinforced by my music, my literature, my radio, my TV, my culture. So it was not that big a deal for me to subscribe and sign up to the honor concept at the Naval Academy and understand what personal integrity is all about.

Over 30 years, I look at our society today and I see there are many factors influencing young people today. They are still good, wonderful, young men and women that come to us, but I think that we must understand that our definitions may not be their definitions. We found that out in Tailhook because we had a stand-down and talked about our core values of honor, courage, and commitment. It took time to look into each individual person and talk about what we mean by honor, courage, and commitment. What is it all about? What is personal integrity? Why is it so important?

As I told the Brigade at that time, there is not a member of the Brigade that does not understand that to use a false ID card is an honor violation, and you risk separation from the Naval Academy. But I was not sure, and what we needed to do, and we need that personal time, is to discuss with each and every member that it is not something that you do just when you are in uniform or only while you are on duty at the Naval Academy. It is the heart and the essence of our personal integrity. It is what we are all about. And that is why it is an honor offense to use a false ID card. And it makes no difference that all of society may be doing it of your age group. Those things take time and they take a personal assessment.

Over the years, I look back and say that we have trained the same way as when I was a Midshipman. We have not done it any differently. Today, I say what needs to be done is not only training, but education, feedback, constant feedback, constant reinforcement, and total participation by everyone at the Naval Academy. And that is what we learned from this event, Mr. Chairman.

Senator SHELBY. What do you believe are the responsibilities of a superintendent regarding the honor concept? You have already mentioned some of them, so go ahead. What are your responsibilities?

Admiral LYNCH. Well, I think it has been said before that I think each of us, as superintendents of the Naval Academy, we consider our primary duty at a service academy to be character development of our young people. Obviously, they are going to come to the Naval Academy, and we will develop them morally, mentally, and physically. They are going to receive a good education. They are going to participate in all types of athletics and be physically fit when they graduate. They are going to be well trained to go out in the Navy and the Marine Corps, in my particular service academy.

But it goes much beyond that. What makes us different from any other school in the country is the character development, the per-

sonal development, the personal integrity that we develop in each and every one of our Midshipmen. That is what is my responsibility as Superintendent of the Naval Academy, and I take full responsibility for that. I said in my statement I accept that responsibility. I hold myself accountable for what has occurred, and I believe I know what we need to do to solve the problem in the future to see that this does not reoccur, sir.

Senator SHELBY. What about the Commandant? The same thing? Responsibility?

Admiral LYNCH. The Commandant works directly for me. He is in my chain of command. He is like the dean of students at a civilian school, so he and I are obviously hand in glove, and we work very closely together. He also understands that everybody in the chain of command must understand that that is our primary responsibility.

Senator SHELBY. There are several recognizable milestone decisions in the evolution of this scandal: (1), your decision to ask NCIS to pursue a criminal investigation; (2), your decision to use honor board systems to adjudicate cases developed by NCIS in their criminal investigation; (3), the decision or lack of a decision to use a second investigation to go beyond the criminal investigation to determine the extent of the cheating; (4), your decisions and those of the Commandant and Midshipmen regarding the original 11 cases forwarded to the Commandant; (5), your decision to appeal to the Brigade to come forward with information regarding the compromise; and (3), the tasking of the Inspector General to conduct an investigation.

[The information follows:]

(1). I selected NCIS because of their professional investigative expertise and because the scope of the compromise may have included criminal conduct by faculty, and civilian staff as well as Midshipmen. I considered an NCIS investigation the most effective way to investigate and to hold individuals accountable. NCIS was not called in just to investigate who compromised the exam and how it was done. Certainly I wanted to know that but I also made it clear to NCIS that I wanted to know the extent of the compromise.

On December 16, 1992 I requested that NCIS undertake a comprehensive investigation of the compromise of the Electrical Engineering Exam 311. I wanted to get my arms around the problem. In the military, cheating is a criminal offense, that is, conduct unbecoming an officer or Midshipman by cheating. NCIS investigated this and other criminal conduct such as buying, selling, and concealing government property (the exam) along with the conspiracies and attempts to commit such misconduct. This criminal conduct is well within NCIS competence to investigate. NCIS investigation identified 39 Midshipmen suspected of cheating. After 7 weeks I received the NCIS investigation report and believed then that the investigation was thorough and exhaustive.

(2). Honor Boards composed of Midshipmen were the obvious choice for dealing with cheating on an examination that involved only Midshipmen. There was a clear need to ensure that the Brigade solved its own problem; to foster its own credibility and to address the fact that it was Midshipmen who initially reported the compromise.

(3). When NCIS briefed me on the results of their investigation, they indicated that the investigation was complete and there were no additional leads to follow. There was no indication other than unconfirmed rumors that the full extent of the compromise had not been determined. Nevertheless, I asked NCIS not to close the investigation until the last case had been decided, should there be a need to provide for follow-up investigation of new information that might develop after honor boards were held and the final cases were reviewed by the Commandant and me. It would not have been appropriate to start a second investigation since it was felt that a NCIS investigation remained the best mechanism to follow up on any new information.

(4). Eleven cases were forwarded to the Commandant. Of those cases the Commandant supported the finding of violation in seven cases. He found there was a lack of a preponderance of evidence to support violations in four cases. Of the seven cases forwarded to me, six were found in violation and forwarded, to the Secretary of the Navy recommending separation. I did not find a preponderance of the evidence to support a violation in one case. The Commandant and I conducted completely new and independent reviews of the evidence in each case as we are required to do in accordance with USNA Instruction 1610.3E of December 19, 1990, "Honor Concept of the Brigade of Midshipman." Termination of a case based upon these independent reviews of the Honor Board results is not only well within the authority of the Commandant and me, it is our duty to terminate a case when we determine that a violation is not established by a preponderance of the evidence. The purpose for the Commandant and me to review each honor case is not to rubber stamp the finding of the honor board, but to ensure a mature, independent, impartial review occurs at each reviewing level.

(5). On numerous occasions before, during and after NCIS completed its investigation the Commandant and I encouraged Midshipmen with information regarding the EE compromise to come forward. Four and one-half months after the compromise one Midshipman, who did not incriminate himself, came forward with information about specific individuals.

(6). In response to the May 28 letter from Senator Shelby, the Chief of Naval Operations made the decision to request the Naval Inspector General to conduct an investigation into application of the honor system and the integrity of the examination process with respect to allegations of honor violations arising from the EE 311 fall semester, final examination. The Inspector General was to examine any disparities found in the resolution of individual cases, review and comment on consistencies or inconsistencies in the evidence available and upon which individual case dispositions were made and make appropriate recommendations. All NCIS information and leads were provided to the Inspector General as well as all pertinent Academy documents. At that time we decided to take a new approach to our investigation in order to obtain more information since it became apparent Midshipmen were not going to incriminate themselves. Immunity was granted to two Midshipmen and a statement with significant new information was obtained just prior to the NIG taking control of the investigation.

Senator SHELBY. Admiral Lynch, did you, the Commandant, or your staff Judge Advocate, confer with officials, military or civilian, in the Department of the Navy other than those assigned to the Naval Academy in making those decisions? If yes, with whom did you confer, and, what, if any, advice or approval did they offer regarding these decisions? Go ahead.

Admiral LYNCH. Well, that is an awful lot to cover.

Senator SHELBY. It is. It covers a lot of ground.

Admiral LYNCH. I will say that maybe, for your benefit, it is best if I just tell you from day one everything that transpired, all that has been reported in the press, what I believe the facts are in this situation, what occurred, and where I believe we have failed. I will be happy to go through that if you like, sir.

Senator SHELBY. Just go through it chronologically.

Admiral LYNCH. Chronologically, the exam was administered on the 14th of December, 1992. The academic dean and the department chair came to my office the afternoon of the 15th of December. They told me they believed we might have a compromise of the examination.

What makes you think there is a compromise? We had a Midshipman who was talking to his professor and another Midshipman had come forth—in fact, there were about three or four Midshipmen, if I remember correctly—that had come forth in one way or another and said we think the exam has been circulating. We think the authorities should take a look at this. How could this possibly be? Well, we have got to tell you also, Admiral, that in

sending the exam over to the copying center the exam was lost in the yard mail at the Naval Academy.

So I said okay, that could be. First of all, give me the names. We will get the information, we will go to the Commandant, have the Commandant check it out—and I think he had four or five Midshipmen to find out what was transpiring.

I will say that this was the week of final examinations. When Midshipmen complete their last final examination and last military duty they are permitted to commence their Christmas leave at that point in time. This was a Tuesday. The Commandant came back on a Wednesday, or maybe Tuesday night or Wednesday morning and said I have talked to all Midshipmen that have come forward. All Midshipmen went to a single Midshipman. That Midshipman cannot confirm or deny anything. That Midshipman is saying that I was on the battalion telephone on a Sunday night. I heard some guys, other Midshipmen walk by, that said the football team has got the exam, and that is all I heard. That Midshipman told two or three others. That is what we thought we had on the 16th.

On the 17th, we had another Midshipman that came forward and said another Midshipman walked in my room with a copy of the EE 311 exam that I took on Monday, and he walked in my room Sunday night with that exam and gave it to my roommate. Immediately at that point in time, there were also rumors—abundant, wild and furious—that the football team bought the exam, sold the exam, and was distributing the exam. And there were a lot of rumors going around that the exam had been floating around in the hall.

So I immediately said to myself and my SJA that we have got a severe problem here. We need to handle this. I need to bring in professional investigators. The Naval Criminal Investigative Service was what I decided to do, to bring them in to do a very thorough—what I believe to be a very thorough—exhaustive investigation of what the facts were. And we gave them everything that we had.

At the same time, I told the Academic Dean and Provost, that I wanted to know the class average. I wanted to know if there has been any spikes in the examination—in other words, unusual grades by Midshipmen—and I wanted to see a copy of the examination. So the NCIS, the NIS, commenced their investigation on the 17th of December.

I received information within about a week—less than a week later, I would say, within a few days I think—from the Dean with a list of those spikes that we saw on the grades from the professors, and there were, like, 13 or 14 Midshipmen that had spiked, which was, we presumed, would be—663 Midshipmen took the exam, unusual high grades for 13 or 14 of them, that is reasonable in my view and his view, as well. The class average was 64.8, which was consistent with the previous year's class average on that same final examination.

I looked at the examination. The first question was a multiple choice. The rest were schematics of electrical-type diagrams and where the Midshipman was given some information and then had to work out the problem itself. So I looked at that. At that point in time when I looked at the exam, I came to the conclusion my-

self—without saying anything to anybody else—but I came to the conclusion that we probably cannot analyze the results of that examination because if the first part is multiple choice, it is presumed that you and I might get the same answer or get them all right, but you can never say whether we were right or wrong or we might have the same ones wrong, but how are you going to prove that? And to do the rest of them, you have to work the problem right there on the paper so that the professors will be able to tell whether I was working above my ability, based on the facts that I had there, so we could be able to detect cheating that way. So, that would be the way we would analyze it if any analysis was going to be done.

The NIS completed a 7 week investigation, which I thought at the time was a very exhaustive, thorough investigation. They interviewed over 85 Midshipmen, about 15 or 20 faculty, and about 15 or 20 staff members. They came to me with the results of that investigation, and I was getting periodic updates as they proceeded, and they said we have run out of leads. There is nothing more that we know to do. We have—and I cannot remember the exact number—but about 35 Midshipmen were then suspected of an honor violation.

I took that information and proceeded as we do for an honor violation. First of all, they had about 5 or 6 that actually bought and sold examinations, and then everything ranged from that to anything in between, from persons saying somebody told me they had worked this type of problem, and I had no idea that that is what it was or anything like that. That went to the Brigade Honor Chairman. Within his purview, he conducts his own investigation, deciding which of those will go to the Brigade Honor Boards. Twenty-four went to Brigade Honor Boards—13 were found not in violation; 11 were found in violation.

In our system we now have an officer review. This is all Midshipmen majority vote to find a guilty finding. Then we have an officer review. My Commandant of Midshipmen, 25, 26 years operational experience, reviews the entire transcript—every word that is said, any piece of evidence, anything, in any way, that is associated with it—and makes an independent determination based on preponderance of the evidence. He has the moral responsibility to do that. He reviewed all 11 cases. He dismissed four for lack of evidence, submitted seven to me with a recommendation for separation from the Naval Academy.

On April 22, after reviewing all the cases and going through everything, I brought each Midshipman, and most of them had their parents with them, into my office. We went through everything we had. In the case of one Midshipman based on the evidence that was before me, I could not in my mind believe that there was a preponderance of the evidence that that Midshipman had actually cheated, and I terminated that case and I forwarded six Midshipmen to the Secretary of the Navy for dismissal.

Only one of those Midshipmen admitted that they had cheated. They all had said that—most that they were saying is—that we might have committed an error in judgment, but they told me that others had cheated, and that they had lied. And I asked them at

the time to give me the information that they had. If you have information that others have cheated, this investigation is still open.

We have since then provided that—and then, much was written in the press about unfair treatment, and then you, based on your recommendation that we bring in the IG, at the time I felt that it was not needed. I thought it was a limited case. I now thank you for the fact that you brought the IG in too, and we discovered what we have today. I will tell you that had I known at the time, I obviously—I thought we were based on rumors, I could not determine any fact, I did not believe that the IG was necessary. The NIS also told me the exam arrived in Bancroft Hall at 2100 on Sunday night, so it is inconceivable to me that it could be that widespread in such a short period of time before the next morning, and so that is pretty much where we were and where we are.

Senator SHELBY. That is fine.

Admiral LYNCH. During this period of time—you asked about keeping my superiors informed—I did keep the Vice Chief and CNO informed of the progress on things that were happening—also the Board of Visitors. I met with the Board of Visitors a couple of times in the process.

Senator SHELBY. In other words, you preferred to talk with the Board of Visitors during this time, is that what you are saying?

Admiral LYNCH. Yes, sir.

Senator SHELBY. And you conferred with who else?

Admiral LYNCH. The Vice Chief and the CNO at various times in different ways.

Senator SHELBY. About what was going on?

Admiral LYNCH. About what we have, about this is what I believe to be the situation.

Senator SHELBY. You were the only one who talked with outside people?

Admiral LYNCH. To my knowledge, yes, sir.

Senator SHELBY. I will get back to some other questions. We have been joined by Senator Byrd. Senator Byrd?

Senator BYRD. Thank you, Mr. Chairman.

Mr. Chairman, thank you for holding this important and timely hearing to discuss problems with the honor system at the military service academies. Over the years, congressional oversight of the academies has proved to be difficult and does not endear you to the very powerful constituencies of former academy services and graduates. But this issue is of the utmost importance to our military services and to our country.

In the 1980s, this Nation endured the Iran-Contra scandal. During that time, graduates of the Naval Academy, such as Adm. John Poindexter serving as National Security Advisor to the President, and Col. Oliver North as a staffer on the National Security Council, knowingly participated in actions and made statements they knew to be in violation of the law. Beyond that, these individuals made statements to the Congress that they knew at the time to be untrue. Such behavior, of course, flies in the face of the oath of office that these officers took, when commissioned as officers from the Naval Academy, to uphold the Constitution and the laws of the land, so help me God.

In addition to this disturbing situation, the issue of education at the Naval Academy and the attitude of the Midshipmen in attendance there became an issue in the 1980s, when a Midshipman survey highlighted a serious attitude problem. In response to the statement that, "the attitude you rate what you skate" or, "it is only wrong if you get caught", exists at the academy, 90 percent of the Midshipmen surveyed said, yes, that was the prevailing attitude there.

As a result of the obvious attitude problems toward honor and ethics at the Naval Academy, I initiated a proposal to put in to the curricula at the service academies instruction intended to address, "ethical situations that are, or could be faced by, military officers in the course of their professional careers are addressed in the curricula of the service academies." Was that instruction included in the curricula of your academy, Admiral?

Admiral LYNCH. Yes, it was, sir.

Senator BYRD. Was it included in yours, General Hosmer?

General HOSMER. So far as I know, it was, sir.

Senator BYRD. Well, now, so far as you know, what does that mean?

General HOSMER. Sir, that means I know that we have it. I do not know if it happened as a result of your legislation or was beforehand.

Senator BYRD. And how about you, General Graves?

General GRAVES. Yes, sir. We already had one semester in applied ethics, and our honor instruction has now grown to 45 hours of primarily dilemma-assessments case studies.

Senator BYRD. Now, we are told, in the report chaired by Ambassador Armitage, that honor and ethics are still being treated cynically, and that, to a large extent, "honor is on the back burner." Despite the clear guidance that this committee provided to the Academy to get its act straight on the issue of the importance of honor and integrity, the Academy has still not come to grips with this mission, which should be second to none.

Now, we hear that in the face of creating a course to address ethical situations which arose as a result of the behavior and testimony of Colonel North during the Iran-Contra hearings, that Colonel North, 2 months ago, was held up as some kind of a role model for Midshipmen to emulate. We hear that all Midshipmen, officers, and faculty at the Academy, were invited by electronic message to attend a book-signing ceremony for Mr. North, and in addition, that the wider community in Annapolis was also invited to such an event on November 20, 1993, a little over 2 months ago.

What about that, Admiral?

Admiral LYNCH. Yes, sir. I made that decision at the request of Mr. North to come to the Naval Academy to sign his book. His book did not deal with ethics. His book dealt with his experiences in Vietnam. We had Admiral Crowe there a month or so before that. We do have all of our graduates who write books that wish to come to the Naval Academy and sign their books—

Senator BYRD. I am not talking about Admiral Crowe.

Admiral LYNCH. Yes, sir. I am talking about—

Senator BYRD. I am not talking about the other graduates.

Admiral LYNCH. I am talking about Mr. North, sir.

Senator BYRD. Let us stay with Mr. North.

Admiral LYNCH. Yes, sir. I agree with you. He made that request for his new book, *One More Mission*, that explores his personal assessment of America's Vietnam era and to assure some spark debate among its readers.

At the Academy, I believe we have a duty to educate Midshipmen about moral and ethical questions that they will face in contemporary society. Mr. North's actions and subsequent trial have been considered and evaluated by the Midshipmen as they discuss complex and controversial issues. In fact, we have a course that talks just about his performance when he was a special advisor to the President.

Mr. North's visit to the Academy in no way negates the value of frank discussions, in my view, of a real world leadership challenge or to the concept of honor in which this institution is rooted. In fact, we find value in stimulating such frank discussions that may result from Mr. North's appearance, and that was the position that I took at the time, and I personally made the decision to permit him to come to the Academy, sir.

Senator BYRD. A little while ago, you asked the question, perhaps rhetorically, what has happened that has caused situations to arise such as we have been reading about: cheating. Did it ever occur to you that just what you approved can be one of the things that has happened to cause cheating? Did that ever occur to you?

Admiral LYNCH. It occurred to me, but in a different context, Mr. Chairman. I looked at it to have—if, in fact, a Midshipman looks at Mr. North with his book on Vietnam and his experience in Vietnam above and beyond or some type of a role model or hero, he gets that in class, the other side of the picture. So, it will stimulate conversation. I would much rather have Midshipmen discussion on that issue openly and frankly and candidly among one another about the actions that Mr. North took that were unethical and that caused embarrassment to this country. I would like to have them discussing that than not discussing it at all and never faced with that situation, and then to react as some have done in this electrical engineering scandal. So, I looked at it as a positive. I understand your viewpoint, sir, and I respect that.

Senator BYRD. It is not just my viewpoint, Admiral.

When you stray from the answer, you stray from the question. I mean, you think it is good for the Midshipmen to discuss it. There is nothing wrong with that. I am asking you why you approved of this book-signing.

Now, here is an electronic message that went out on 16 November 1993: "Oliver North at Naval Academy gift shop. *One More Mission*, authored by Oliver North, class of 1968, and David Roth, will be featured at a book-signing Saturday, November 20, from 10:00 a.m. to 11:00 a.m. Come and meet Mr. North. Come and meet Oliver North, and have him personalize your copy of *One More Mission*."

*One More Mission* is more than just another war story, it is also a testament to bravery and faith. For those who fought there, waited at home for loved ones, or opposed this horrible conflict, Oliver North offers an intensely personal perspective on how we can finally bring the long, sad, chapter of America's Vietnam experience

to an end. The book is to be released to the public on November 30."

Admiral LYNCH. I did not see that language before it went out, but yes, sir, I will take responsibility for that because that is standard for any member that we have that will come to sign their books. Yes, sir.

Senator BYRD. Suppose the Grand Kleagle of the Ku Klux Klan comes up there and wants to have a book-signing. Are you going to recommend that they come and get him to personally autograph their books for them?

Admiral LYNCH. It would be something I would have to discuss at the time. If he were a Naval Academy graduate and this book had nothing to do with the Ku Klux Klan or promoting his views in any way, I might do so. I might not.

Senator BYRD. Go ahead.

Admiral LYNCH. I was going to say, that is kind of my point, sir. Obviously, we do not condone the Ku Klux Klan. We do not do anything to promote the Ku Klux Klan. But if it is something totally irrelevant to the Klan itself, then that would be a discussion item. And that is sort of the reasoning I went through with the Oliver North situation.

Senator BYRD. You would say come on out boys, meet this grand guy? "For those who fought there, or waited at home for loved ones, or opposed this horrible conflict, Oliver North offers an intensely personal perspective on how we can finally bring the long, sad, chapter of America's Vietnam experience to an end. It is also a testament to bravery and faith." This is a recommendation of this book. I have not read it.

Admiral LYNCH. I have not read it either, sir, so I am not sure if they are talking, when they talk about testimony to bravery and faith, about Oliver North himself or the American people.

Senator BYRD. Well, I am talking about this kind of message that goes out honoring an individual, having him at a book-signing, sending out the electronic message, and sending it out to the newspapers. I see here in the press, in an Annapolis paper, "North to sign books at the Naval Academy. A controversial figure in the Iran-Contra scandal, retired Marine Corps Lt. Col. Oliver North, will sign copies of his new book, *One More Mission*, at the Naval Academy visitor's center from 10:00 to 11:00 a.m. tomorrow." This was apparently February 1, 1994.

Admiral LYNCH. No, sir, I believe it was back in November.

Senator BYRD. When?

Admiral LYNCH. Last November is when he came, sir.

Senator BYRD. 1993.

Admiral LYNCH. Yes, sir.

Senator BYRD. "Lieutenant Colonel North held the Nation enthralled in 1986 as he answered questions about his involvement with the illegal sale of arms to Iran. The former White House National Security Aide was accused of diverting the funds from the sale of arms to Iran to Swiss bank accounts, where money was being used to help support anticommunist forces in Nicaragua. He was cleared of criminal charges and is now running for a Senate seat in Virginia.

The 1968 Naval Academy graduate was last in the Midshipmen's store in late 1991 signing copies of his first book. Some faculty members said Lieutenant Colonel North, who admitted lying to Congress about his involvement in the scandal, should not be allowed to sign books at the Academy store." Do you agree with that?

Admiral LYNCH. Obviously, I do not because I allowed him to come and do that, sir. I agree with the statement that some people believe that. I discussed that with faculty about that issue at the time. It was not an easy decision, but I made that decision.

Senator BYRD. Well, you made the wrong decision, in a lot of the people's opinions.

Admiral LYNCH. Yes, sir.

Senator BYRD. And mine included.

Admiral LYNCH. Yes, sir.

Senator BYRD. " 'I think it is outrageous,' said the humanities professor who asked not to be named." And I think it is outrageous. And I do not ask that I not be named.

"Oliver North lied to and misled Congress." This is the humanities professor speaking. "Oliver North lied to and misled Congress. This sends the wrong message to Midshipmen." Now, what do you think about that?

Admiral LYNCH. I think I stated earlier, sir, that I considered that. But I believed that he was not there promoting his ethics. He was there promoting his personal experiences in Vietnam. He is a Naval Academy graduate. We have permitted other Naval Academy graduates to do the same. And that I saw as a benefit. He would be a controversial figure on campus. I was not promoting him or his book, but we made it available to anybody within the Academy family or outside in Annapolis to come and do this that we do for anybody, any Naval Academy graduate who would have a book. And to my way of thinking, to have Midshipmen discussing what they have learned in class about the issues involved in his lying to Congress, to me again reinforces what we are trying to promote at the Naval Academy.

Senator BYRD. Yes. We went over that once or twice, and I said I agreed. If we have Midshipmen discussing it in class, that is one thing, and that is good. But this electronic message that went out did more than that. It was recommending this book. "It is more than just another war story. It is also a testament to bravery and faith." The name of Loretta Walsh is on this electronic message. Who is she?

Admiral LYNCH. I have no idea, sir. My presumption is she is probably a civilian employee at our gift shop.

Senator BYRD. And you say you did not see this message?

Admiral LYNCH. No, sir, I did not.

Senator BYRD. Had you seen it, would you have approved it or disapproved it?

Admiral LYNCH. Well, I would have to, in the context of your concern, I may have disapproved that message as written, and would have probably, uh—but if I had not made the decision based on the other factors that I have mentioned to you on why I would have permitted Oliver North to visit the Naval Academy, I probably would not have said that and said he is there.

Senator BYRD. What kind of message does this send to the Midshipmen? Can you understand their being confused?

Admiral LYNCH. Yes, sir, I can.

Senator BYRD. Then why do you take the position that it is all right for him to come? Let him come, and let us send out an electronic message. That was okay. You probably would have approved it, or you may not have. Had I known how you feel about it, Senator Byrd, in the light of what you say, I probably would have disapproved it.

Admiral LYNCH. That message, the way it was written, would not be promoting him. If you feel in any way that is promoting him as an individual, I think it is more promoting the book itself.

Senator BYRD. You are splitting hairs, Admiral. We are talking about conduct at the Naval Academy, we are talking about setting the right example, we are talking about cheating, and we are talking about what may contribute to cheating. We are talking about what has happened that has caused this. That is the question you were asking yourself a moment ago: "What has happened that has caused this? Many of the Midshipmen, faculty, and staff thought it inappropriate."

Admiral LYNCH. I will tell you, Senator—

Senator BYRD. Let me finish.

Admiral LYNCH. Yes, sir.

Senator BYRD. You will not tell me anything.

Admiral LYNCH. Yes, sir.

Senator BYRD. "Many of the Midshipmen, faculty, and staff thought it inappropriate to use government computer services to promote North's book. North was invited by the Superintendent while Morton Halperin was rejected as being too controversial to be invited to speak to Midshipmen. The faculty was required to attend a seminar on ethics the very same week that the administration invited North." That insensitivity increases the cynicism about ethics, something to be talked about, spread around a little bit, and nothing more.

Mr. Chairman, I want to put into the record the language that was in the committee report, an excerpt from page 167, Senate report 101-384, to accompany S. 2884, the National Defense Authorization Act for Fiscal Year 1991.

Senator SHELBY. Without objection, it is so ordered.

[The information follows:]

[Excerpt from page 167, Senate Report 101-384, to accompany S. 2884, the National Defense Authorization Act for Fiscal Year 1991]

#### ETHICS INSTRUCTION AT THE MILITARY SERVICE ACADEMIES

In its report on the National Defense Authorization Act for Fiscal Years 1990 and 1991 (S. Rept. 101-81), the committee requested the Secretary of Defense to review and report on "the degree to which ethical situations that are or could be faced by military officers in the course of their professional careers are addressed in the curricula of the service academies."

The committee remains concerned that course work focuses inadequate attention on specific real life ethical situations that military officers will face. Topics associated with such situations include, but are not limited to, the constitutional limits on military authority, civilian/military relations in policy making, the proper response to illegal orders, and the temptation to misuse power to further personal goals.

The committee understands that the Naval Academy is instituting a required course on U.S. Government and Constitutional Development. Such a course would provide an excellent forum for the discussion of many of those issues. The committee believes that the Naval Academy should devote an appropriate amount of classroom hours in that course to address such ethical situations. The Military Academy and the Air Force Academy should also ensure that these topics are included in the appropriate courses.

The committee directs the Secretary of Defense to report to the committee by February 1, 1991 on the progress of the military service academies in implementing this guidance.

Senator BYRD. That is the language which requests the Secretary of Defense to review and report on the degree to which ethical situations that are or could be faced by military officers in the course of their professional careers are addressed in the curricula of the service academies, and it directed the Secretary of Defense to report to the committee by February 1, 1991 on the progress of the military service academies in implementing this guidance.

I also ask that there be inserted in the record an article from the Washington Post dated July 24, 1990, titled Panel Wants Military to Study Ethics. Senators seek to counter, "it is only wrong if you get caught", attitude. I ask unanimous consent that that be inserted in the record.

Senator SHELBY. Without objection, it is so ordered. It will be a part of the record.

[The information follows:]

[Excerpt from The Washington Post, July 24, 1990.]

By Lisa Leff, Washington Post Staff Writer

#### PANEL WANTS MILITARY TO STUDY ETHICS

##### *Senators Seek to Counter 'It's Only Wrong if You Get Caught' Attitude*

The Senate Armed Services Committee is pushing the Pentagon to make military ethics a required course at each of the Nation's service academies, an idea that grew out of the Iran-contra affair and recent allegations of hazing at the U.S. Naval Academy.

In its report accompanying the defense authorization bill sent to the Senate Friday, the committee said cadets at West Point and the Air Force Academy and Midshipmen at Navy are not receiving enough training in "specific real life ethical situations that military officers will face."

To address the problem, the committee recommends that the academies incorporate into their curricula topics such as constitutional limits on military authority, civilian/military relations, the proper response to illegal orders, and the misuse of power to further personal goals.

Senator Robert C. Byrd (D-W.Va.), a committee member, said lawmaker became concerned about the need for more ethics-based course work last year following the Iran-contra affair. Three of the principal players convicted in the arms-for-hostages scandal—former National Security Council aide Oliver L. North and former national security advisers John M. Poindexter and Robert C. McFarlane—were graduates of the Naval Academy.

"When these young people see their heroes, how they responded to orders that were probably illegal and used shredders to destroy evidence, something is clearly wrong. We should not be turning out these kind of officers," Byrd said.

At the committee's request, the Pentagon earlier this year prepared a report detailing what each of the academies is doing to teach professional ethics. The report concluded that the rigid honor and conduct codes to which students are held and a series of required leadership courses provide a strong moral framework for future officers and are the "greatest strength" of the academies.

But Byrd said the Pentagon's study did not sway the committee from its opinion that more needs to be done, particularly in light of the controversy over academic improprieties and the alleged mistreatment of individual Midshipmen that rocked the Naval Academy this spring.

That report "fell far short of what we expected by way of a thorough study, which indicated to me that there isn't a great deal of interest over there in pursuing this. . . . We don't get a feeling of real sensitivity to the need," Byrd said.

A recent survey by a Marine officer at the Naval Academy found that 90 percent of Midshipmen hold the attitude that "something is only wrong if you get caught," and a new study by the Navy's inspector general that concluded that more than half of the Midshipmen think that the honor system is applied inconsistently, has further convinced the committee that its demand is reasonable, Byrd said.

"In my book, it seems that something basic is missing, which goes to the core of this whole thing," Byrd said.

"These young people who graduate from the service academies should have a fundamental understanding of what is right and what is wrong . . . and if we are turning over into officers a lot of men and women who think it's only wrong if you get caught, we are not doing our jobs when a lot of lives hang in the balance," he said.

The committee has asked Defense Secretary Richard B. Cheney to report back by February 1 on how the schools are implementing its recommendation. A source said that date was selected to ensure the academies have something in place by the spring semester of the next academic year, although Cheney would not be required to follow the committee's suggestion since it is not part of the defense spending bill.

Naval Academy officials said yesterday they could not comment on the committee's recommendation because they had not seen it. Byrd said he expects it to meet with some resistance from the Pentagon based on the "halfhearted" response the committee received to its request last year for a preliminary report.

In a related matter, the committee has also asked the Secretary of the Navy to give the Naval Academy's civilian faculty a "consulting role" in selecting and reappointing the school's academic dean. Some of Navy's faculty members have been at odds with the current academic dean, Robert Shapiro, since last spring, when Shapiro removed the chairman of the electrical engineering department after the chairman refused to raise grades in two courses.

Senator BYRD. Now, let me quote a bit from that Post story. I will quote excerpts, but it is all going in the record.

"Senator Robert C. Byrd (D) West Virginia, a committee member, said lawmakers became concerned about the need for more ethics-based course work last year following the Iran-Contra affair. Three of the principal players convicted in the arms for hostages, former National Security Council aide Oliver L. North, former National Security Advisors John M. Poindexter, and Robert C. McFarlane, were graduates of the Naval Academy.

"When these young people see their heroes, how they responded to orders that were probably illegal, and used shredders to destroy evidence, something is clearly wrong. We should not be turning out these kinds of officers," Byrd said.

"At the committee's request, the Pentagon earlier this year"—meaning 1990—"prepared a report detailing what each of the academies is doing to teach professional ethics. The report concluded that the rigid honor and conduct codes to which students are held and a series of required leadership courses provide a strong moral framework for future officers and are the greatest strength of the academies.

"But Byrd said the Pentagon study did not sway the committee from its opinion that more needs to be done, particularly in light of the controversy over academic improprieties and the alleged mistreatment of individual Midshipmen that rocked the Naval Academy this spring"—meaning 1990. "That report, 'fell far short of what we expected by way of a thorough study, which indicated to me that there is not a great deal of interest over there in pursuing this. We do not get a feeling of real sensitivity to the need,' Byrd said."

I say that again today. I do not get a feeling of real sensitivity, from what you said and from what has happened, to the need.

"A recent survey by a Marine officer at the Naval Academy found that 90 percent of Midshipmen hold the attitude that something is just wrong if you get caught."

Now I will insert in the record, Mr. Chairman, a New York Times story of January 13, 1994 titled "An Inquiry Finds 125 Cheated on Naval Academy Exam."

Senator SHELBY. Without objection, so ordered.

[The information follows:]

[Excerpt from The New York Times, January 13, 1994.]

By Eric Schmitt, Special to The New York Times

#### AN INQUIRY FINDS 125 CHEATED ON A NAVAL ACADEMY EXAM

WASHINGTON, Jan. 12—An investigation into one of the largest cheating scandals ever at the United States Naval Academy will implicate about 125 Midshipmen, or about 15 percent of this year's graduating class, Navy officials said today.

The inquiry, by the Naval Inspector General, Vice Adm. David M. Bennett, compiled individual files on Midshipmen who have been identified as having advance knowledge about a final engineering exam given to third-year students in December 1992. Those students are in the class that will graduate from the Academy, in Annapolis, Md., this spring.

#### ACADEMY IS CRITICIZED

Some students simply received a computer message urging them to study a particular question on a previous year's test. They may be cleared or receive only reprimands. But in the most serious cases, involving the theft of a full copy of the test, Midshipmen could face expulsion and even criminal charges.

Admiral Bennett's report, which will go to Navy Secretary John H. Dalton as early as Friday, will also criticize the Academy's earlier investigation into the scandal. That inquiry implicated 28 Midshipmen. The report will also challenge the commitment to ethical teachings at an institution whose honor code prohibits Midshipmen from lying, cheating or stealing, Navy officials said.

To blunt the report's damaging findings, senior Navy officials here and in Annapolis today described how they would deal with offenders and outlined a series of changes to the Academy's tattered honor code. But they did not publicly give details about the report.

The Naval Academy's Superintendent, Rear Adm. Thomas C. Lynch, said at a news conference that a panel of three retired admirals would review the Inspector General's report and the Midshipmen's files and recommend to the student-run honor board appropriate action on each Midshipman. The honor board will have discretion over what action to take except in any suspected criminal wrongdoing, which will be referred directly to Admiral Lynch.

The retired officers are Adm. Leon Edney, Vice Adm. Bill Lawrence and Vice Adm. Charles Minter. All are former superintendents or commandants of the Academy.

The cheating scandal is the latest blow to the Academy, which suffered a sexual harassment scandal in 1990 after eight male Midshipmen chained a female classmate to a urinal.

#### TIME OF TROUBLES

Navy officials said the Inspector General's report would reveal the worst cheating scandal since the Academy adopted its honor code in 1951. In 1974, 61 Midshipmen were implicated in the use of crib sheets while taking an examination in a navigation course. Seven were expelled.

Overall, the Navy has suffered one black eye after another in recent years, from its bungled investigation into the explosion on the battleship Iowa in 1989 that killed 47 sailors to its inaction after scores of women were assaulted by naval aviators at a convention of the Tailhook Association, a civilian group, in 1991.

The Academy's current troubles started after officials learned that some Midshipmen had obtained in advance a master copy of the final exam in December 1992

for Electrical Engineering 311. The course is notoriously difficult and required for all third-year students who are not engineering majors.

The Academy began its own inquiry days after the test was given, using agents from the Naval Criminal Investigative Service. Admiral Lynch announced last April that of the 28 Midshipmen implicated in that inquiry, six who were convicted by student honor boards would be expelled.

But new information provided by the expelled students and other Midshipmen, as well as pressure from lawmakers, prompted Adm. Frank B. Kelso II, the Chief of Naval Operations, to order the Inspector General to review the Academy's findings.

In addition, the Board of Visitors, the Academy's 15-member civilian oversight board, last July appointed several members to begin a comprehensive review of the honor system for Midshipmen.

That panel, headed by Richard L. Armitage, a former senior Defense Department official who graduated from Annapolis in 1967, made several recommendations to strengthen the Academy's commitment to the honor code and to improve the policing of it.

The Navy made public the panel's findings today, and Mr. Dalton ordered that several recommendations be adopted immediately, including those that clarify the rights of accused Midshipmen. Mr. Dalton also accepted the panel's recommendations to prohibit Academy instructors from giving the same test more than once and to require the writing of a new exam if Academy officials suspect that an exam has been lost, misplaced or stolen.

Mr. Dalton, a 1964 Annapolis graduate, also accepted the recommendation to create a new Academy administrative position of Honor Officer, to be held by a Navy captain.

Mr. Armitage said in an interview today that the Nation's military academies distinguish themselves from civilian institutions by stressing character development and that the cheating scandal signaled that the Academy was drifting away from that fundamental goal.

"The committee found that character development and honor were relatively on the backburner in the Navy's mind and at the Academy for a long period," Mr. Armitage said.

The other service academies have also had scandals over cheating. In 1984, 19 cadets were suspended from the Air Force Academy for a year for cheating on a physics test, and Academy officials said they were certain that many others had also cheated on the exam. At the United States Military Academy at West Point, N.Y., 152 cadets resigned or were expelled in 1976 as a result of a cheating scandal involving an exam for a third-year electrical engineering course.

But now, with the Defense Department spending from \$155,000 to \$230,000 for each service academy graduate, according to the Congressional Budget Office, institutions like Annapolis face sharp budget cutbacks if they cannot justify their existence said the Board of Visitors' report.

Indeed, many of the recommendations the review panel made to strengthen the Academy's commitment to the honor system were made by high-level Navy review board in August 1990. But that panel's findings were only superficially addressed by the Academy's officials, Navy officials said today.

**Senator BYRD.** By Eric Schmitt, a similar story in the January 5, 1994 edition of the Washington Post titled "Probe Finds Extensive Coverup of Cheating at Naval Academy."

**Senator SHELBY.** Without objection, it is so ordered.

[The information follows:]

[Excerpt from The Washington Post, January 25, 1994.]

By Fern Shen, Washington Post Staff Writer

#### PROBE FINDS EXTENSIVE COVERUP OF CHEATING AT NAVAL ACADEMY

**ANNAPOLIS, Jan. 24**—A report released by the Navy today concluded that most of the 133 Midshipmen who cheated on a 1992 engineering exam later lied and schemed to cover up the scandal and that Naval Academy officials seriously mishandled their investigation of the incident.

The decision on whether to expel any of the accused students—about 14 percent of the academy's senior class—will be made in the next few months by an outside panel of naval officers appointed by Secretary of the Navy John Dalton. Dalton has ended the academy's involvement in the investigation.

The Navy inspector general's office concluded that 133 students, then juniors, obtained advance copies of the December 1992 electrical engineering exam administered to 663 Midshipmen. Some 81 students eventually admitted that they had cheated, but most "repeatedly lied" during the initial academy investigation, the report said.

The 30-page report, which capped a 7-month investigation, said the academy did not respond quickly enough last spring to Midshipmen's allegations of a coverup. The report also faulted the academy for not giving the investigating honor boards all the information they needed during the initial probe.

"Decisions made by academy officials to unduly restrict information available to Midshipmen investigators and honor boards constituted mismanagement and hindered the boards' ability to effectively consider the honor cases brought," the report said.

Some observers said they were troubled by what the findings say about the school where the Navy trains future leaders.

"This report says to me that the tradition of honor at the academy has been on the back burner," said Richard L. Armitage, a former U.S. ambassador and member of the academy's civilian Board of Visitors. Armitage chaired a board subcommittee that recently reviewed the academy's honor code, which says that Midshipmen "do not lie, cheat or steal."

Although the report criticized the academy's initial investigation, Navy officials defended Academy Superintendent Thomas C. Lynch.

"I have full confidence in Admiral Lynch. His leadership will be vital to addressing the problems" identified in the report, Dalton said in a statement released today.

The report answers some, but not all, of the questions about how students cheated on the notoriously difficult electrical engineering exam. Still unclear is how copies of the test were obtained. The report quoted one student as saying that a football player obtained a copy from his brother, an officer who was a professor in another department.

The report does spell out the scope of the alleged cheating: "All types of Midshipmen were involved . . . Midshipmen on the Superintendent's list, as well as Midshipmen who were flunking [and members], of the football, soccer, wrestling, lacrosse, waterpolo, heavyweight crew, baseball, tennis and basketball teams."

The Inspector General's inquiry was triggered when complaints about the academy's initial investigation reached the news media and Members of Congress. Critics complained to Members of Congress that Midshipmen who told the truth about their involvement in the cheating had been recommended for expulsion, while those who lied went unpunished.

At first, 28 Midshipmen were implicated in the cheating scandal after an investigation by the Naval Criminal Investigative Service. Of that group, 11 were recommended for expulsion by Midshipmen-run "honor boards" last spring. Academy officials reduced that number to six, saying they had insufficient evidence to expel the rest.

That so few students were convicted and all five football players implicated were cleared caused many Midshipmen and faculty members to question the fairness of the proceedings.

Some Midshipmen accused Lynch of giving preferential treatment to members of the football team and to a Midshipman who visited the admiral's house the night before the student's case was heard by John B. Padgett III, Commandant of Midshipmen, according to the report.

The report noted that the Midshipman in question "is the son of a friend" of Lynch's and that the men have known each other "since the two were teammates on the Academy football team in 1963."

The report found that Lynch had no conflict of interest, but it noted that Midshipmen nevertheless perceived a conflict of interest and believed that Lynch, a strong football team booster, gave "preferential treatment" to football players.

The report further suggested that many Midshipmen conspired to cover up the scandal by coordinating their testimony the night before they faced Midshipmen honor boards. The report singled out a group of 14 Midshipmen, 11 of whom are athletes, and said they "presented a united wall of silence by invoking the Fifth Amendment."

In determining which Midshipmen should be expelled, "favorable consideration" should be given to those who cooperated with investigators and told the truth, the report recommended.

A Board of Review, consisting of naval officers and chaired by Rear Adm. Richard C. Allen, will review the 133 cases to determine punishment, taking the final decisions out of the hands of both Lynch and the student-run honor boards.

Senator BYRD. Now comes the story of Sunday, January 30, in the Baltimore Sun titled "When Honor, Itself, Failed the Academy Test", subheadline, "Midshipmen Lied and Stonewalled; Brass Acted Slowly, Withheld Facts". I will read this into the record.

"It was John Paul Jones who said that a naval officer must have the 'nicest sense of personal honor.' During the past year, at the U.S. Naval Academy, where the Naval hero is entombed, his words have seemed hollow. An exhaustive 7 month investigation by the Navy's Inspector General concluded that the cherished principles had been contorted and subverted by Midshipmen and high officers alike." That is a sad commentary.

Continuing to read: "Midshipmen did more than cheat on an electrical engineering exam. They lied and schemed and stonewalled investigators and their own honor boards. When the NCIS agents told Admiral Lynch that they were interviewing football players, he angrily labeled the probe a witch hunt.

"Later, after the Inspector General took over in June, the Superintendent urged its investigators to take their time and do a thorough job because the Army-Navy football game was December 5, implying that he did not want the report issued before that date.

"While many Midshipmen dismissed the principles that Midshipmen do not lie, cheat, or steal as impractical in a modern world, a small corps reported the wrongdoing and pushed for all the guilty to be punished. They were disturbed by the actions of their superior officers.

"The Superintendent, Adm. Thomas C. Lynch, repeatedly urged students who had cheated to come forward. Yet when the Chairman of the Honor Committee brought new allegations of a cover-up, he was silenced."

I will not read the entire story. I will ask that it be included in the record.

Senator SHELBY. Without objection, it will be included in the record.

[The information follows:]

[Excerpt from The Baltimore Sun, January 30, 1994.]

By Tom Bowman and JoAnna Daemmrich, Staff Writers

#### WHEN HONOR ITSELF FAILED ACADEMY TEST

##### *Midshipmen Lied and Stonewalled; Brass Acted Slowly, Withheld Facts*

It was John Paul Jones who said that a naval officer must have the "nicest sense of personal honor." During the past year at the U.S. Naval Academy, where the naval hero is entombed, his words have seemed hollow.

An exhaustive, 7-month investigation by the Navy's Inspector General concluded that the cherished principles had been contorted and subverted by Midshipmen and high officers alike.

Midshipmen did more than cheat on an electrical engineering exam. They lied and schemed and stonewalled investigators and their own honor boards. And the officers charged with instilling the idea of absolute personal honor apparently were more eager to wrap up their investigation than to learn the truth.

A 30-page report released by the Navy last week found that 133 Midshipmen had cheated on the exam. Yet the majority never would have been caught because the commanders delayed taking action and seemed intent on protecting members of the football team.

Key findings of the investigation into the largest cheating scandal in the 149-year history of the academy include:

- Capt. John B. Padgett III, Commandant of Midshipmen, discounted the initial reports of cheating.
  - The Superintendent, Rear Adm. Thomas C. Lynch, repeatedly urged students who had cheated to come forward. Yet, when the chairman of the honor committee brought new allegations of a cover-up, he was "silenced."
  - High-ranking officers delayed acting on the new information for more than 2 weeks, mistakenly believing that their subordinates were handling it. Meanwhile, investigators in the initial probe by the Naval Criminal Investigative Service thought the case was closed.
  - In its initial investigation, the Naval Criminal Investigative Service (NCIS) focused solely on determining who stole the test and who sold it. Because cheating is not a felony, NCIS limited its probe to those two issues. Once the NCIS investigation was complete, the Superintendent did not mount a separate investigation aimed at identifying all the cheaters.
  - Academy officials withheld critical information from the Midshipmen honor boards.
  - When the NCIS agents told Admiral Lynch that they were interviewing football players, he angrily labeled the probe a "witch hunt."
  - Later, after the Inspector General took over in June, the Superintendent urged its investigators to "take their time and do a thorough job because the Army-Navy football game was December 5," implying that he did not want the report issued before that date.
  - While many Midshipmen dismissed the principles that Midshipmen "do not lie, cheat or steal" as impractical in a modern world, a small core reported the wrongdoing and pushed for all the guilty to be punished. They were disturbed by the actions of their superior officers.
  - Admiral Lynch is so deeply committed to the ideals of honor and self-imposed discipline that he found it difficult to believe that many Midshipmen had cheated.
- Academy leaders declined to be interviewed or answer written questions last week. The school issued a 1-page response stating that "the objective of the Naval Academy leadership from the outset has been to fully and fairly resolve questions about the compromise of the EE 311 final examination.

When the report was released Monday, Admiral Lynch denied that it called into question his leadership.

"I feel badly that this happened on my watch," he said.

The exam in question was for Electrical Engineering 311, a mandatory two-semester course legendary for its toughness and considered by many juniors to be the last real hurdle before graduation.

On the eve of the final exam in December 1992, copies of the test circulated in Bancroft Hall, the massive stone dormitory.

They were shared by roommates, friends and teammates. Some thought it was only a practice version. But others knew better. They stayed up all night trying to solve the problems.

At least some questions found their way to 29 of the 36 companies. Despite the honor code, no one stepped forward to tell officials that the test had been compromised.

#### THE FIRST WARNING

At 7:45 a.m. December 14, the test was given to 663 juniors. A few hours later, a professor received a computer message from a Midshipman warning of cheating. Similar messages came later from other Midshipmen, the Inspector General learned.

According to Midshipmen interviewed, a Baltimore-area Midshipman, whose roommate offered him a copy of the test, gave the roommate a choice: Turn yourself in or I will.

The roommate told others who were involved that he was about to admit his guilt and suggested they do the same.

Two days later, Captain Padgett told the Superintendent that the reports of cheating did not seem to be credible, investigators said. However, more students reported cheating the next day. The Superintendent, aware that the master copy of the test had vanished, indicating it was stolen, called in NCIS.

When Midshipmen returned from their winter break in the first week of January, Admiral Lynch urged those who had cheated to come forward. Few did.

One who did was Rodney Walker, 24, of Atlanta, Ga. He gave a complete statement, confessing that he had sold copies as a favor to a friend and naming 23 people.

Many were football players or friends from the Naval Academy Preparatory School in Newport, R.I.

The NCIS was focused on finding the source of the copies of the exam.

Its agents, following standard procedures, read Midshipmen their rights against self-incrimination. As a result, many of those questioned remained silent. Others lied and schemed to cover up.

Within days of his confession, Mr. Walker said, classmates realized that he had named names. They pressured him to keep quiet and even offered him a \$15,000 bribe to take the blame and resign, he said.

He is one of the 133 Midshipmen whose actions are now under review.

By mid-January, NCIS agents had interviewed 39 students suspected of having obtained the exam and 45 other Midshipmen and faculty.

The probe stalled because investigators couldn't prove their theory of how the exam had been obtained without cooperation from Mr. Walker's supplier, who wouldn't talk.

Capt. Nicholas P. DeCarlo, the legal adviser to the Superintendent, pointed out that one or two of the Midshipmen could be court-martial for peddling stolen government property. The Superintendent decided against that because the evidence was thin.

"Other than to make additional pleas for Midshipmen having knowledge of the compromise to come forward, the academy took no action to identify additional cheaters," the inspector general's report says.

Midshipmen, professors and others say the lack of action shows that the administration wanted the scandal to end there.

In February, the Brigade Honor Committee began examining the cases against the 28 implicated by the initial NCIS investigation.

Midshipmen sought counseling from professors and chaplains. Parents called their children and urged them to lie, Midshipmen said.

The academy disciplined Dr. Raymond Wasta, the course coordinator, and Dr. Richard L. Martin, chairman of the electrical engineering department, for "careless performance of duties." While Dr. Wasta hired a lawyer, professors took up collections to make up his lost pay. Dr. Wasta was exonerated after an appeal. Dr. Martin did not contest the finding.

#### 'THE PLACE REALLY BLEW UP'

Another professor remembers Midshipmen wanting to talk about the scandal in class. "The place really blew up."

Capt. J. William Hines, a chaplain, wrote a letter to the Commandant on behalf of one of the Midshipmen recommended for expulsion at the end of March.

He had learned, he wrote, that "there has been extensive lying by several members of the brigade."

The roommate of one of the Midshipmen who cheated received threatening phone calls from that Midshipman's parents.

And both sets of parents "advised their sons to lie," the chaplain wrote, arguing that the "honorable action throughout this entire mess has been done by those who admitted their guilt."

Yet those who confess turned out to be the only ones who could be found guilty by the honor boards.

Lt. Thomas D. Cann, the ethics adviser to the commander, deleted large portions of Mr. Walker's statement to the NCIS, the linchpin of the investigation, on orders from the Superintendent. Admiral Lynch said each case before the honor boards must be kept separate to be fair to the students.

Lieutenant Cann blacked out sections that detailed how the Midshipmen had shared exam questions and a flow chart detailing how the test had been distributed.

As a result, the honor boards could not piece together the chain of events and became confused.

Meanwhile, Mr. Walker, acting on advice he said he received from a Navy lawyer, clammed up before all the honor boards. Academy officials did nothing to try to get Mr. Walker to talk.

Honor board members were stymied by silence and changing stories and had little choice but to acquit the majority. They found 11 guilty.

Two of the four who had bought the exam from Mr. Walker were found guilty; two were cleared. Even the Midshipman implicated as the supplier of the exam was cleared.

The Commandant and Superintendent later exonerated five more, saying there was insufficient evidence against them. The remaining six were to be expelled.

"Scapegoats. That's the prime word," one of the six said in an interview last week.

Officials conceded that they suspected more were involved, the Midshipman said, but chose not to pursue it because "there's no clear evidence on them."

The night before Captain Padgett exonerated two Midshipmen, they went to Admiral Lynch's home to visit his son. One was a lacrosse player, the other a football player and the son of a close friend of Admiral Lynch.

Although the admiral said he simply greeted the football player and asked if he had been to his hearing, the visit created "a definite perception of a conflict or lack of impartiality among the Midshipmen," the report said.

How widespread the perception was became evident when the Superintendent announced the final results of the honor board hearings—six found guilty—April 22 before all 4,100 Midshipmen in Alumni Hall.

Midshipmen asked if more had cheated. Mr. Walker challenged the admiral about the visit from the two Midshipmen.

The Superintendent tried to shrug off the question, but Mr. Walker persisted, students told investigators. At one point, the admiral also said he was "glad to report that no football players were involved," according to some Midshipmen.

His remarks apparently spurred a lapse in military bearing. Students openly snickered and chanted the nickname of the football player. Others booed Mr. Walker.

#### THE STRAIGHT ARROW

Admiral Lynch insisted that the investigation was still open. A week later, he told reporters that rumors of the scandal had "taken on a life of their own that's not fact." He insisted that the entire Class of 1994 would have been expelled had there been proof that all had cheated.

About that time, a Midshipman approached Cory Culver, then the honor committee chairman, according to the report. Mr. Culver, known as a particularly straight arrow, was taken aback when the Midshipman described watching a classmate copy the exam questions in a football player's room. Other football players, the Midshipman alleged, later coordinated alibis by computer.

Mr. Culver went to Captain Padgett and told him there was new information that the school's cherished honor system had been subverted.

But the Commandant told Mr. Culver he would not investigate without a written statement. Mr. Culver obtained a statement. Then the commandant asked him to get it signed.

Mr. Culver insisted that the allegations were serious, but academy officials told him that he was taking the cheating scandal too personally, the report said.

Mr. Culver and Captain Padgett told investigators that they recalled the commandant telling at least one of his subordinates to look into the matter. However, none could remember being given any direction.

A week later, Captain DeCarlo, the Superintendent's legal adviser, called Lieutenant Cann, the ethics adviser, and informed him that an allegation in the letter appeared to be incorrect. All other information in the statement was ignored.

On May 26, The Sun reported that a Midshipman had implicated students in a scheme to coordinate alibis before their honor boards.

Two days later, Senator Richard C. Shelby, an Alabama Democrat and chairman of an Armed Services subcommittee, requested the investigation by the inspector general.

Over the next 7 months, investigators interrogated all the Midshipmen who took the test. Eighty-one admitted they had cheated, according to the report.

Midshipmen call the months after they return to Annapolis from winter break the "Dark Ages," when the sun's arc is low in the sky and raw breezes blow off the Severn River. With the Navy report, that dreary term has taken on a new meaning.

"Everyone's pretty much nervous about what's going to happen," said one Midshipman. "We're all assuming the worst."

"Everybody's getting a lawyer," another senior remarked.

Captain DeCarlo declined to discuss his role or the report. "No, we know what we did," he said. "That's the way it goes. Do your job and somebody gets to comment on it."

Integrity, honor and self-imposed discipline are considered so sacred to Navy officers that the cheating has caused soul-searching among graduates as well. The values are at the core of training officers who will one day make life or death decisions.

Retired Vice, Adm. William P. Lawrence, a 1951 academy graduate who spent more than 6 years in a North Vietnamese prison camp, spoke of "lessons learned" from the report.

One of three admirals who will determine how the cases should be handled, Admiral Lawrence said the academy must remain "totally dedicated to maintaining the highest possible standards."

The Naval Academy and the other two military colleges need officers of "integrity, of the highest sense of honor," agreed, Lt. Gen. Charles C. Krulak, a top Marine commander and a 1964 academy graduate.

The country and America's parents demand it, he said. "We're taking their sons and daughters into harm's way."

Senator BYRD. Now, Mr. Chairman, I want to add that there are certain pages from the Iran-Contra investigation that I will ask be included in the record.

Senator SHELBY. Without objection, it is so ordered.  
[The information follows:]

# IRAN-CONTRA INVESTIGATION

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## JOINT HEARINGS BEFORE THE SENATE SELECT COMMITTEE ON SECRET MILITARY ASSISTANCE TO IRAN AND THE NICARAGUAN OPPOSITION

## AND THE HOUSE SELECT COMMITTEE TO INVESTIGATE COVERT ARMS TRANSACTIONS WITH IRAN

ONE HUNDREDTH CONGRESS

FIRST SESSION

100-7

Part I

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JULY 7, 8, 9, AND 10, 1987

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TESTIMONY OF OLIVER L. NORTH  
(Questioning by Counsels)

Printed for the use of the Select Committees on the Iran-Contra Investigation



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Mr. NIELDS. That was going to be my very next question, Colonel North. Isn't it true that you shredded them?

Mr. NORTH. I believe I did.

Mr. NIELDS. And that would include the copies with a check mark where the line says "approve"?

Mr. NORTH. That would have included all copies. I tried, as I was departing the NSC, a process which began as early as October, to destroy all references to these covert operations. I willingly admit that.

Counsel, would you repeat that question again, please.

Mr. NIELDS. My question was, I take it that includes the memorandum with the check mark opposite the line "approve."

Mr. NORTH. Again I do not testify here, nor do I believe I did so earlier, that I recall any specific check marks or initials.

Admiral Poindexter's habit was to initial the "approve/disapprove" box. Occasionally I suppose there would have been a check mark, but I do not recall a specific document coming back with a JP or a check mark or an RCM on this particular issue, nor—again I want to repeat—nor did I ever see any with the President's initials on it. And that is not entirely unusual, Mr. Nields. On a number of other activities I would simply be told over the telephone, proceed. Or in some cases I would send up messages, either in the PROF system or written, unless otherwise directed I will proceed as follows.

Mr. NIELDS. That is the whole reason for shredding documents, isn't it, Colonel North, so that you can later say you don't remember whether you had them, and you don't remember what is in them?

Mr. NORTH. No, Mr. Nields. The reason for shredding documents and the reason the Government of the United States gave me a shredder—I mean, I didn't buy it myself—was to destroy documents that were no longer relevant, that did not apply or that should not be divulged.

Again I want to go back to the whole intent of a covert operation. Part of a covert operation is to offer plausible deniability of the association of the Government of the United States with the activity. Part of it is to deceive our adversaries. Part of it is to insure that those people who are at great peril carrying out those activities are not further endangered. All those are good and sufficient reasons to destroy documents, and that is why the Government buys shredders by the tens and dozens and gives them to people running covert operations; not so that they can have convenient memories.

I came here to tell you the truth; to tell you and this committee and the American people the truth, and I am trying to do that, Mr. Nields, and I don't like the insinuation that I'm up here having a convenient memory lapse like perhaps some others have had.

Mr. NIELDS. Colonel North, you shredded these documents on the 21st of November 1986 isn't that true?

Mr. NORTH. Try me again on the date.

Mr. NIELDS. Friday the 21st of November, 1986.

Mr. NORTH. I started shredding documents as early as my return from Europe in October. I have absolutely no recollection when those documents were shredded, none whatsoever.

Mr. NIELDS. There has been testimony before the committee you engaged in shredding of documents on November 21, 1986. Do you deny that?

Mr. NORTH. I do not deny that I engaged in shredding on November 21. I will also tell this committee that I engaged in shredding almost every day that I had a shredder and that I put things in burn bags when I didn't.

So every single day I was on National Security Council staff, some documents were destroyed, and I don't want you to have the impression that those documents that I referred to seeking approval disappeared on the 21st. Because I can't say that. In fact, I am quite sure, by virtue of the conversations I remember about the 21st, that those documents were already gone.

They were gone by virtue of the fact that we saw these operations unraveling as early as the mid part of October, with the loss of the Hasenfus airplane, and the discussion that the Director of Central Intelligence had had with a private citizen about what he knew of a Contra diversion, as you put it. And at that point I began to, one, recognize I would be leaving the NSC, because that was a purpose for my departure, to offer the scapegoat, if you will, and, second of all, recognizing it was coming down, I didn't want some new person walking in there opening files that would possibly expose people at risk.

So I do not want you to leave with the idea that those documents were shredded just on the 21st. They might have been shredded on the 19th or the 11th of November when I came back from a series of trips to Europe.

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Mr. NIELDS. You were present, I take it, at a meeting on the 20th of November in Admiral Poindexter's office?

Mr. NORTH. Let me try to recall.

Mr. NIELDS. Thursday, early afternoon, the day before Director Casey was to testify before the House and Senate Intelligence Committees.

Mr. NORTH. Yes, I was.

Mr. NIELDS. And the purpose of that meeting—I take it present at the meeting were, among other people, Director Casey, Admiral Poindexter, you, Mr. Cooper from the Attorney General's Office, the Attorney General, Paul Thompson?

Mr. NORTH. I recall—quite honestly, I didn't recall Mr. Cooper being present, but I do recall that the others were present. I also believe that Director Casey had one of his staff present with him.

Mr. NIELDS. Was it Mr. Gates?

Mr. NORTH. I don't think Mr. Gates was there for that meeting. I think maybe it was Mr. Cave. I hope I have not just given away a name I shouldn't have said.

Mr. NIELDS. No. That name is public. It has been released in the Tower Report.

Mr. NORTH. His name ought to be public. He is a great American.

Mr. NIELDS. My question is, I take it the purpose of that meeting was to go over the testimony that Casey was to give the next day?

Mr. NORTH. Yes. Among other things, yes. I mean, one of the things we were talking about, I think in a more closed meeting before this broader meeting, it was before, was how we would proceed with next steps on the hostages, and the second channel. And I think that is why Mr. Cave was there.

Mr. NIELDS. And I take it that a subject of the November HAWK shipment and what he would testify about it was discussed?

Mr. NORTH. As I recall, that was a subject of discussion, and—I had worked . . . I recall, on various issues with CIA officers.

Director Casey had been away, and as I recall, had been brought back early from a trip, and I had been working with a number of his staff on various testimony preparations, and at the meeting on the 20th, I recall it a lot differently than perhaps some other people have.

My principal objective in that session was to create some closure between a CIA version, which showed this to be an "NSC operation," and make it more visible as a U.S. Government operation.

The CIA version of their chronology had said this is the NSC this, the NSC that, the NSC et cetera. My effort was to try and make closure between their version and one that would say this was the U.S. Government that did A, B, and C. Nonetheless, the portion that dealt with the November HAWK shipments was in part in error.

Now, I understand there is a lot of heroes walking around that have claimed credit for exposing the fraud, et cetera. Let me just make note as to what I recall and what I recorded at the time.

And you have my notes. After we left that meeting, I do not recall, incidentally, a great debate over whether the U.S. Government knew or whether the CIA knew what was aboard the airplane.

I very clearly knew what was on that airplane. So did Director Casey know that I knew what was on that airplane. The issue, as far as I was concerned, was what did the CIA know? I had told the CIA after my discussions—this is going back to 1985—after my discussions with the Israelis, which occurred the night Mr. McFarlane called. I believe I flew up to New York, and we can go through that whole 1985 chronology if you wish.

There were subsequent discussions of the Israelis. General Secord went over and we eventually got a CIA proprietary to fly HAWKS from Israel to Iran.

I knew it, and by then the CIA knew that they were flying something for me. I never told—I don't believe—the CIA what was really on those airplanes. I don't believe, I knew. And so, in working the chronology, it was important that the CIA be able to say that they did not know what was on the airplanes at the time, and I don't believe they did. They certainly found out shortly thereafter because of the same sensitive intelligence I referred to earlier.

There was no doubt that shortly thereafter, everybody who had access to that very sensitive intelligence knew what was going on. There was a discussion, as I recall, relatively brief, in Admiral Poindexter's office which included Admiral Poindexter, Director Casey, myself, Mr. Thompson, I believe Mr. Cave, and the Attorney General, and if he says he was there, Mr. Cooper.

I just don't remember him. May have been the first time I ever met the man. I then went back to Director Casey's office over in the Old Executive Office Building, the one that was just down the hall from my basement.

And in that room, Director Casey and I fixed that testimony and removed the offensive portions. And, we fixed it by omission. We left out—it wasn't made accurate, it wasn't made fulsome, it was fixed by omission.

I know there are a lot of other heroes who have exposed all of this, but I will tell you that it was done within minutes of finishing that meeting, and it was done in his Old Executive Office Building office, right down the hall from my basement.

Mr. NIELDS: When you say the testimony was fixed, I take it, and fixed by omission—

Mr. NORTH: Yes.

Mr. NIELDS. —you are saying that you and Director Casey agreed that he would say that they were told to pick up bulky cargo and that the crew on the airline was told it was oil-drilling equipment and HAWK missiles would never be mentioned?

Mr. NORTH. That is right. My recollection of that agreement, by the way, goes all the way back to a year earlier in which the discussions I had with the Israeli officials we agreed that the story line would be that they were shipping oil-drilling equipment, and so when I contacted the CIA in November of 1985 and asked them to provide the name of an air carrier that was discreet in Europe, I told them that it was oil-drilling equipment. I lied to the CIA because that was the convention that we had worked out with the Israelis, that no one else was to know.

Mr. NIELDS. You have heard. I take it you listened or are familiar with the testimony of Mr. Cooper.

Mr. NORTH. I don't recall watching—I am reminded that I have seen the tape of some of it, yes.

Mr. NIELDS. Well, I will tell you, if your recollection needs refreshing, that Mr. Cooper said that he was at the meeting in Admiral Poindexter's Office on the 20th with Director Casey and others, and that you were arguing in favor of changing Director Casey's testimony so that instead of saying the CIA didn't know there were HAWK missiles, that the testimony would read "No one in the U.S. Government would know, knew that HAWK missiles were involved."

Mr. SULLIVAN. Is that the statement, counsel, that Mr. Cooper said was written in by Colonel North on the document?

Mr. NIELDS. I am about to ask him the question concerning the writing.

Mr. SULLIVAN. Is this the same Mr. Cooper that said he would not believe Colonel North under oath?

Chairman INOUE. I believe the question should be asked by the witness. Please advise your witness.

Mr. SULLIVAN. Excuse me Mr. Chairman. If there is a document that counsel is referring to, we would like to have our attention directed to it please.

Mr. NIELDS. Exhibit 31. But before we get to the document, I am asking you the question: Did you at that meeting argue in favor of changing the testimony so it would read "No one in the U.S. Government knew"?

Mr. NORTH. My recollection, and I appreciate your showing me this one page of this document. I think what also is important, if you have it, the rest of that document is important too because it was a multipage document.

My recollection of the meeting is that this was indeed a multipage document. It was part of the Director's preparation for his appearance before the House and Senate Intelligence Committees, and I had worked with his staff for several days prior to that to develop that testimony, because many of them didn't know what was going on in these activities.

And my concern was that the documents reflect as much as oft as possible that this was a U.S. Government activity, much of this is a CIA-prepared piece of paper, by the way. Much of the CIA paper showed that this was a "NSC activity," and so I had urged in

this meeting, "Look, you got to stop calling this a NSC activity, the NSC is not a government unto itself, despite of what some of you may believe—the NSC was an organ of the U.S. Government—and would you therefore get closure, let's take out NSC and CIA and put U.S. Government everywhere we can in the document." That is my recollection of what I was trying to do during that session.

Now, there were many other people there. The important thing is that, first of all, on this document, that's not my writing. Second of all, sitting in the room are other people who have intimate knowledge of what had transpired in November of 1985. I am not the only one in the room that knows what is going on. Perhaps Mr. Cooper didn't, but surely, with the possible exception of Mr. Thompson, everybody else did. So I am not the only one sitting in the room having a construction problem here, and I do not recall emphasizing the U.S. Government aspect of it.

And when we went back to Director Casey's Office, my recollection is we simply deleted the whole line and went back to the version that said the CIA was told that it was oil-drilling equipment.

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Mr. NORTH. It was on instructions of the National Security Adviser. I was instructed to meet with Chairman Hamilton and I believe many of the members of the committee.

Mr. NIELDS. And they were interested in finding out the answers to the questions raised by the resolution of inquiry.

Mr. NORTH. Exactly.

Mr. NIELDS. Your fundraising activities?

Mr. NORTH. Precisely.

Mr. NIELDS. Military support for the Contras?

Mr. NORTH. That's right.

Mr. NIELDS. Questions about Mr. Owen, General Singlaub and John Hull?

[Witness confers with his attorney.]

Mr. NORTH. Yes.

Mr. NIELDS. The beginning of this memorandum that appears to be a description of what you said during that meeting. It says from Boland Amendment on, North explained strictures to Contras.

Is that true, did you explain the strictures to the Contras?

Mr. NORTH. I explained to them that there was no U.S. Government money until more was appropriated, yes.

Mr. NIELDS. And it says never violated stricture, gave advice on human rights, civic action program.

Mr. NORTH. I did do that.

Mr. NIELDS. But I take it you did considerably more which you did not tell the committee about?

Mr. NORTH. I have admitted that here before you today, knowing full well what I told the committee then. I think—and I think we can abbreviate this in hopes we can move on so that I can finish this week. I will tell you right now, counsel, and all the members here gathered, that I misled the Congress. I misled—

Mr. NIELDS. At that meeting?

Mr. NORTH. At that meeting.

Mr. NIELDS. Face to face?

Mr. NORTH. Face to face.

Mr. NIELDS. You made false statements to them about your activities in support of the Contras?

Mr. NORTH. I did.

Furthermore, I did so with a purpose, and I did so with a purpose of hopefully avoiding the very kind of thing that we have before us now, and avoiding a shut-off of help for the Nicaraguan Resistance, and avoiding an elimination of the Resistance facilities in three Central American countries wherein we had promised those heads of state on my specific orders, on specific orders to me—I had gone down there and assured them of our absolute and total discretion.

Mr. NIELDS. We do—  
 Mr. NORTH. And I am admitting to you that I participated in preparation of documents for the Congress that were erroneous, misleading, evasive, and wrong, and I did it again here when I appeared before that committee convened in the White House Situation Room, and I make no excuses for what I did.

I will tell you now that I am under oath and I was not then.

\* \* \* \* \*

Senator BYRD. The reason I do this is to reveal the laxness and the seeming indifference that have been displayed by the actions of you and any others who are responsible for this communication, this electronic message that went out concerning the book-signing and the invitation to Midshipmen to come to the book-signing and telling them that Colonel North's book—and I know nothing about the book; I have not read it; I do not intend to read it—is more than just another war story. I am quoting again: "It is also a testament to bravery and faith. For those who fought there, waited at home for loved ones, or who opposed this horrible conflict, Oliver North offers an intensely personal perspective on how we can finally bring the long, sad chapter of America's Vietnam experience to an end. The book is to be released to the public on November 30."

Well, on page 15—no, page 16—there is testimony by Oliver North admitting to shredding documents. I did not say he did it, it is his admission. Mr. North—I will read the excerpt and I will put the whole page in the record.

[See above insert.]

Senator BYRD. "Mr. Neals"—I believe that was the committee counsel's name, and that would include the copies with a checkmark where the line says approved—Mr. North. That would have included all copies.

"I tried, as I was departing the NSC, a process which began as early as October to destroy all references to these covert operations. I willingly admit that."

As to the reasons for shredding the documents, Mr. North said this to Mr. Neals: "The reasons for shredding the documents and the reason the U.S. Government gave me a shredder—I mean, I did not buy it myself—was to destroy documents that were no longer relevant, that did not apply, or that should not be divulged."

Mr. North is being quoted again on page 16: "I do not deny that I engaged in shredding on November 21. I will also tell this committee that I engaged in shredding almost every day, that I had a shredder and that I put things in burn bags when I did not."

On page 37, Mr. North testified as to the falsification of testimony prepared for Congress for Director Casey of Central Intelligence. Mr. North said, in part: "In that room, Director Casey and I fixed that testimony and removed the offensive portions, and we fixed it by omission. We left out—it was not made accurate. It was not made fulsome. It was fixed by omission."

Another quote: "When we went back to Director Casey's office, my recollection is we simply deleted the whole line and went back to the version that said the CIA was told it was oil drilling equipment."

On page 132, this has to do with creating false documents to cover up a home security system not paid for. Mr. North, in part: "As I told you yesterday, I was going to tell you the truth, the good, the bad, and the ugly, and this is the truth. I did, probably, the grossest misjudgment that I made in my life. I then tried to paper over that whole thing by sending two phoney documents back to Mr. Robinette. It was not an exercise in good judgment." Mr. Robinette was the contractor who installed the security equipment.

On page 180, Mr. North: "And I am admitting to you that I participated in preparation of documents for the Congress that were erroneous, misleading, evasive, and wrong. And I did it again here when I appeared before that committee convened in the White House situation room. And I make no excuses for what I did."

Well, there is a man who makes no excuses for what he did. He shredded documents, he participated in preparation of documents that were erroneous, misleading, evasive, and wrong. He makes no excuses for what he did.

That is the type of person that—the electronic message went out inviting Midshipmen to come to his book-signing. Can anybody blame a Midshipman for being confused? Is it not possible that a Midshipman might think that indeed it is really true that it is only wrong if you get caught, and develop a confused and cynical attitude about the reality of living one's personal life based on honor, based on taking one's honor code seriously and taking one's oath of office seriously?

Montesquieu said that Romans were the most religious people in the world when it came to taking an oath. There was a Roman consul named Regulus. He was captured by the Carthaginians in the first Punic War. The Carthaginians sent him and a delegation back to Rome to urge that their be a cessation of hostilities, on favorable terms, of course, terms favorable to the Carthaginians. The Carthaginians thought that by sending Regulus, this consul, that the Roman Senate surely would be persuaded.

They exacted from Regulus an oath that he would return to Carthage. Regulus and the delegation appeared before the Roman Senate, and the Roman Senate inquired of Regulus, "What is your opinion?" He said, "I am but a chattel. I am a prisoner of the Carthaginians. But at heart, I am a Roman. And I would advise you that I see nothing in this proposal that would be of any benefit to Rome." He said, "I realize that this news will be taken back to Carthage, and that they will know what I have said, and I realize that it will mean my life."

Some of the Roman Senators urged Regulus to stay and not go back. He said, "I have given my oath, and whether I give it to a friend or an enemy, I keep my oath." And when the delegation began to return—started to return—he heard the tearful pleadings of his wife and children begging him not to go. But he went, knowing that he would pay with his life.

The Carthaginians put him into an enclosure that was covered with spikes and into which the sunlight poured, so he could not

rest. They cut off his eyelids so that he could not keep the sun out of his eyes, and forced him to lie on those spikes. He died, rather keeping his oath than keeping his life. We need a few more Romans around, in the Senate as well as at the academies.

Plutarch tells us that one day Themistocles happened to see Aristides. These were Athenian statesmen and generals who lived in the 6th and 5th centuries B.C. Themistocles said that it was his view that the most excellent thing about a good general was that he could design and foresee the plans of the enemy. Aristides responded by saying, "I agree. That is a necessary requirement. But it is equally an excellent requirement that a general have clean hands."

That is what we ought to be telling these naval Midshipmen, and that is what the top officers ought to be living and showing the kind of example. You have clean hands or you do not pass this, and you do not have three times and you are out. One time and you are out.

So that goes to the question that is fundamental: the life and future of the academies. It should be the single most important issue that the leaders of the academies should be promoting and fostering, especially in the light of the developments that came to light in 1990 and again this year.

Mr. Chairman, this subcommittee needs to be developing ideas about how we can begin turning this attitude around. I have to question what we are really accomplishing at Annapolis.

Now, Admiral, I think you ought to have a chance to respond. I do not want to take advantage of you, but I would also ask you, what would you think of reporting to this committee every 4 months as to the actions that are being taken to eliminate these disgraceful happenings and eliminate cheating, and to install a real honor code that is kept by the Midshipmen and insisted upon by the officers as well? What would you think about supplying this committee every 4 months with a progress report on how your new plans, which you have stated before this committee, how they are working out, what actions you are taking, how it is working, and so on?

I think we ought to insist on that, Mr. Chairman? How about it?

Admiral LYNCH. Well, Mr. Chairman, first of all I would like to respond to the first part of your question.

Senator BYRD. Very well. Yes.

Admiral LYNCH. I very much apologize if I left with you any impression that I was insensitive in any way on this Ollie North book-signing. What I was trying to convey, what I mean to convey is that when somebody signs a book at the Naval Academy, it does not normally come to my level for attention. In this case, it did come to my level of attention, and I, coming from the same thing with the views that you expressed, I was looking at this as an opportunity to bring in a person—he is controversial, but he is controversial about ethical issues—and have the Midshipmen talking about ethical issues.

They understand and read the Iran-Contra affair in their classrooms as a result of your legislation. We give that in the classroom. If they have not had it, they will have it in the coming years. So just to have him on the campus, to me, and to have controversy

and have discussion going back and forth, I felt, and I weighed both sides of it. I was not trying to glorify Ollie North in anyway, and I regret that I came down on that side of it and that view. I regret that it offended you or anybody else that it may have. Like I say, you and I are in complete agreement in all that you have just said.

I will say that on the appalling situation that we have right now, no one has taken this more deeply than I. I was appalled. I did not believe that we would have over 100 Midshipmen involved with an EE cheating compromise that we had. There are all levels of involvement. We all understand that. But I also feel very badly for the 4,000-some Midshipmen—and many Midshipmen have taken to heart all the things that you just discussed, Chairman Byrd. No, I do not want any part of that, I will not do that and turn down information. But the 4,000 of the entire Naval Academy and all of us are deeply wounded by this, and we feel very badly.

I do believe that I will have a plan, and I do believe that I know what needs to be done with the education, the training, the character development, the total participation of everyone at the Naval Academy, and over the years we have allowed various groups to opt out for whatever reason, and I believe that we can turn that around, and I would be pleased to report to this committee, or anyone else at any point in time, because, as I mentioned to this committee, I would have quantifiable measurements that we will be using from this point forward. So I have no problem with that, Senator Byrd, and I would be pleased to do so.

Senator BYRD. Mr. Chairman, you have been very gracious to me, allowing me so much time. I just want to make one more comment.

Admiral, you say you are sorry you offended me. You can forget me. I think I represent the attitudes of millions of people in this country and a lot of your Midshipmen who were appalled. Do not be sorry about offending me because I am here. I can take up for myself. But it is the offense to the Academy, the offense to the young men who come there looking for role models, it is the offense to the taxpayers who find that they are being cheated.

And as to controversy, Admiral, you have missed the point if you think that I have objected to controversy, having someone around who is controversial. Almost any of us is controversial. If you had me up there, that could lead to controversy.

But I have said enough, and I think the record is clear enough as to what we are talking about. So all I can say is as far as I am concerned I am very disappointed, chagrined, and I think it is an outrage. And I hope the Midshipmen will read your testimony here today.

Let me ask you two questions. If you as an officer are given an illegal order, for example, to lie to Congress, shred evidence, or improperly spend money, what do you do?

Admiral LYNCH. There is no question, Mr. Chairman, you do not obey that order. That is an illegal order, and we do not obey that.

Senator BYRD. What do you do if you see somebody else violating the law?

Admiral LYNCH. You report that. You report that to the proper authorities, take immediate action yourself or report it to the proper authorities.

Senator BYRD. Thank you, Mr. Chairman.

Senator SHELBY. Thank you.

Admiral Lynch, I want to go back to the last question. Did you want to say something else, Admiral?

Admiral LYNCH. I would like to, if I have this opportunity before Senator Byrd leaves. You quoted a couple of things that were in the newspapers, and I understand those quotes in the newspapers, and I cannot say that I did not say those things. But I would like to say taken in context, the Naval Investigative Service was conducting its investigation about a year ago, and I was getting periodic updates. The agent in charge, Ron Benefield, and assistant agent, Ms. Debora Reese, and my staff Judge Advocate were meeting for an update. Those are the only ones I kept as this thing progressed.

In the course, and at that same time, there were rumors abundant throughout the Academy that the football team had bought, sold, and distributed the exam. At the same time, the director of athletics had reported to me that there is a feeling, the football team is getting this persecution complex because they say they did not do that, and yet everyone is accusing them of that, and it was in the press, widely reported in the media.

During this update I asked the agent in charge what progress had been made. He said we have no evidence that the football team bought, sold, and distributed this examination. I told him what do you base that on? He said we have interviewed every member of the football team. I said well, why did you do that? That singles out that particular group. You did not do that for any other group, and if you had done that for a company or any other particular group, but no wonder we have all of these rumors abundant and running about. If he or she took that to be irate or upset about that, and he explained to me right after that, because of all these rumors, he felt it was his obligation to do that, and I said okay, I understand that, and we went on to the next subject. That conversation was among the four of us, and to my knowledge, that was it.

The other conversation that was taken out of context and reported by the Navy Inspector General was when the Navy Inspector General and his staff came to the Naval Academy the first week in June. On August 3 was the first time I met with—and I cannot remember today, but I believe it was three—either two or three of the Navy Inspector General's staff, on August 3 in my office—they, and me. And I called them and asked them to meet with me because we had the Brigade coming back on August 15. I wanted first of all to make sure that they were getting all the information they needed, everything was progressing, if they had any problems. And I opened the meeting, maybe—I cannot remember that much at this point in time—but I hope that you complete this investigation by the 15th of August. I have got the Brigade coming back by August 15, we have a convocation schedule for the Superintendent and the Commandant with the entire Brigade, and I would like to be able to say this is what we found out in the NIS investigation, this is now what the IG has discovered, and these are the actions that were taken and what we need to do.

They said, "Admiral, we do not believe that we are going to be completed by August 15. In fact, this may even be into September or October." I said, "Oh, my goodness. This is a burden on the Midshipmen, it is a morale factor, but I understand and, I understand your charter, and we want to get to the bottom of this, whatever." And we had my message we had sent to two Midshipmen, had granted immunity on one, and that information was coming back, so they had some leads they were now developing that we did not have before.

I asked them. I said, "What do you know about the football team?" To me, that was a logical question because the rumors were abundant. The football team has the most visible athletes at the Academy. We were getting ready for that football season. They told me at that time that they do not have that much, either, on the football team, although one Midshipman, they think now was a football player, brought in the exam to another Midshipman's room, or something to that effect.

[The information follows:]

We want every Midshipman to strive for excellence and achieve their individual potential whether it is as a Trident Scholar doing a research project, a Midshipman competing in national debate competition, or a student-athlete. To allow this higher level effort in one area can require some accommodations; for example, class scheduling, tutors, or time away from the Academy.

This is not preferential treatment but reasonable accommodations so individual men and women Midshipmen can excel in one area and also meet all Academy academic and professional requirements. Student-athletes meet the same academic requirements of all other students.

Football players were never given any preferential treatment in the investigation or resolution of honor cases relating to the EE 311 exam compromise.

Admiral LYNCH. We talked about a couple of other things, and before the conversation was all over with, it was this—and really, when you look at all of the possibilities here, we may be here until December or January. To me, that was devastating because I thought, as I told you before, when we first met early on, I thought this was a limited thing. I had no idea that we were talking over 100 Midshipmen. I thought they could come in, review everything that was done, and I really thought they would be done by August 15. Now, we were talking the entire semester. So, like I say, it was a devastating thing.

But then I said well, if, in fact, my football team turns out to be involved, the Army-Navy game is on December 5, and we will get the football season out of the way. And that is the context that I said that. If you read the IG report, and I have never had an opportunity to discuss that with the IG, but if you read the IG report, it is as if I called them in and asked them to stretch this out beyond the football season, which I had no intent, desire, to do so. In fact, I was hoping to get them out as soon as possible.

Senator BYRD. You do not place football above honor then, do you?

Admiral LYNCH. Absolutely not, Senator.

Senator BYRD. Where does it rank?

Admiral LYNCH. It ranks with all other—

Senator BYRD. As between the two.

Admiral LYNCH. Sports at the Naval Academy—we have said earlier here, there is no greater responsibility than I, as Super-

intendent, or any member of the Superintendent's office, or the other Superintendents that were here at the Academy, than the character development. The personal integrity is the heart of leadership. It is the core of our profession. It is what our Naval Academy is all about.

I believe that sincerely, and I feel very badly that this has happened, that we have 100 and some Midshipmen that could not live up to that, do not believe that for whatever reason. That is my problem. I accept that responsibility. I am accountable for that.

I believe that I know how we can turn that around and fix that at the Naval Academy, and I will agree with you. Inviting Ollie North is not the way to fix it.

Senator BYRD. And you will see that the committee gets a report within 4 months as to how the plan is working?

Admiral LYNCH. Yes, sir. I will be happy to. I will be happy to personally brief you or any other members as well, sir.

Senator BYRD. Very well. Thank you.

Senator SHELBY. Mr. Chairman, we will ask for the report at your suggestion.

Admiral Lynch, again, I would like to go back to a question that I was asking you earlier. With whom did you confer, and what advice or approval did they offer? You mentioned the Chief of Naval Operations. Did you get advice or approval from him as to the ongoing problems at the Naval Academy? Do you recall?

Admiral LYNCH. Senator, Mr. Chairman, it was not a weekly update to the Chief of Naval Operations and the Vice Chief as things developed. In fact, the Chief of Naval Operations—the Secretary of the Navy was at one of our home football games. The Chief of Naval Operations was there for several of our home football games this year. I did call the Vice Chief. It was my normal—

Senator SHELBY. Did you give the Chief of Naval Operations an update as to what was going on with the cheating scandal at the Academy?

Admiral LYNCH. Absolutely, sir.

Senator SHELBY. Did you get any advice from him regarding what to do or not to do?

Admiral LYNCH. No, sir.

Senator SHELBY. Did you confer with the Secretary of the Navy about what was going on at the Naval Academy, as far as the ongoing investigation of the cheating scandal?

Admiral LYNCH. You must remember, sir, that the Secretary of the Navy Dalton—

Senator SHELBY. That is right.

Admiral LYNCH. I am not sure when he was confirmed, but it was after the IG came in and took over the investigation. The Navy Inspector General has a responsibility to report directly to the Secretary of the Navy and the CNO on a weekly basis and I was not involved in that.

Senator SHELBY. Admiral, did you talk to the Secretary of the Navy at Annapolis at a ballgame?

Admiral LYNCH. Yes, sir.

Senator SHELBY. Or anywhere else, about the ongoing investigation of the scandal?

Admiral LYNCH. I am sure I did, sir.

Senator SHELBY. But you do not have a transcript or anything?

Admiral LYNCH. I did not say I want to brief you on the honor concept investigation.

Senator SHELBY. Did you have any advice from the Secretary of the Navy?

Admiral LYNCH. No, sir.

Senator SHELBY. Did you have any advice from the Chief of Naval Operations regarding this?

Admiral LYNCH. Not that I can say was, "Take this particular action." I mean, I told him what I believed had happened, what was ongoing at the time. I did discuss with him, when your letter to Secretary Perry—

Senator SHELBY. After I had asked for an Inspector General investigation, is that right?

Admiral LYNCH. Yes, sir. We had a discussion about that.

Senator SHELBY. This was when, back last year?

Admiral LYNCH. Late May, early June, of 1993.

Senator SHELBY. What was your initial reaction to my request on behalf of the committee for an Inspector General's investigation of the incident?

Admiral LYNCH. My initial reaction was, to be quite candid and honest with you, was that I believed that—

Admiral LYNCH. We did not need it?

Admiral LYNCH. Yes, sir. I did not believe that I needed it.

Senator SHELBY. Do you still believe that we did not need it?

Admiral LYNCH. No, sir. I thank you for it. But like I say, at the time I thought it was rumors and innuendo. Because I had done what I thought was an exhaustive investigation. I had no reason to know, to even believe that it was beyond—in fact, I made the statement I will eat my hat if there are more than another dozen. I did not believe we had them all, because I never closed the investigation, but I made the statement I will eat my hat if there are more than another dozen Midshipmen involved.

Senator SHELBY. Admiral, let me run through several questions here.

Admiral LYNCH. Yes, sir.

Senator SHELBY. The IG report indicates that you decided early on to ask the Naval Criminal Investigative Service to conduct a criminal investigation because of the possibility of criminal conduct in the theft of the exam. You alluded to this earlier. The IG report indicates that you could have initiated a noncriminal investigation to discover the full extent of the cheating. However, the Academy took no action to identify additional cheaters after the NCIS investigation was completed.

How did you intend to address the noncriminal aspects of the incident? That is, how did you intend to determine the extent of the compromise? Can you provide any information to the committee today that might help us to understand why this aspect of the problem, the full extent of the cheating, was not pursued?

Admiral LYNCH. I think it was a failure on my part, Mr. Chairman, in that I had no belief—first of all, I did not believe that—I believed there was some cheating, but I did not believe that Midshipmen would lie and then conspire to cover up that cheating. I

did not believe that it extended beyond more than the 30 or 35 that the NIS had initially investigated.

Repeatedly, I went to the Midshipmen as a group to come forward with any names or information they had. And I think the reasons for all of this, as I have said before, is that we had no information that there was more than just the normal spiking. The class average was very low, the NIS came, that the exam came in the hall 2100 the night before. So I had a lot of reason to tell them it was not as widespread as we now know that it was.

And then I looked at what other alternatives I had at the time. I felt that having the Naval Investigative Service, which are professional investigators, come in, as I have said before, they interviewed over 85 Midshipmen and 15 or 20 staff and 15 or 20 professors, not all criminal. They did both criminal and noncriminal.

Senator SHELBY. Just general investigation?

Admiral LYNCH. Yes, sir. And based on all of that, I did not believe that it was as widespread as it was. And that was a failure on my part.

Senator SHELBY. The IG report also indicates that even though exam answers were eventually read and graded, it appears that no one at the Naval Academy ever compared the answers of different Midshipmen for evidence of collaboration. Did you, Admiral Lynch, ever consider the need to determine the full extent of the compromise and that a comparison of test answers might have been useful in that regard.

Admiral LYNCH. Yes, sir.

Senator SHELBY. You mentioned test answers earlier.

Admiral LYNCH. Yes, sir, and I would like to say there are a couple of factors here that have come to light since the IG report, because I was surprised when the IG did their out-call with me and did my interview the week before Christmas. They presented to me a memo that showed that there were more spikes than the 13 or 14 we had before. That was news to me, and that had come from the faculty.

Senator SHELBY. What was the time interval between the first news and the second news as to the spikes in the grades?

Admiral LYNCH. I have now got all the facts here, so I will tell you what happened. On about December 16 or 17, when I called in the IG—excuse me, NIS—December 16, 1992, I asked NIS to do an investigation to find out what we have. I also went to the Academic Dean of Provost and told him to find out, I want to see a copy of the examination, I want to see—I want to know what the class average was for the examination, and I want to know if there have been any unusual spikes.

Senator SHELBY. Movements in grades?

Admiral LYNCH. Yes. He came back to me with a copy of the examination which I looked at, and from my layman's eye I thought it would be difficult to try to analyze that examination. As I mentioned before, except for the multiple choice for the first one, you have got to write it out and show how you did the problems and the rest of it.

Senator SHELBY. Well, did you have any advice on that from anybody?

Admiral LYNCH. No, sir. No, sir.

Senator SHELBY. From any of the faculty members?

Admiral LYNCH. No, sir.

Senator SHELBY. No advice at all from the professor who was teaching the course that gave the exam?

Admiral LYNCH. No, sir, and I will tell you why. When I asked for the class average, it was 64.8, I think, which was with the class average before. It shows—in my mind, the exam was not that widespread because if they had had the exam and had been able to work it out the class average should have been higher than that. And then the spikes, I received the information on December 21—maybe earlier than that—but there were 13 or 14 spikes.

The IG now says that the faculty had more information. I went back to the faculty since the IG report to find out why that information never got to the Dean or to myself.

[The information follows:]

In presenting evidence to the Honor Boards for their consideration, the Academy followed the administrative process created by the Honor Concept to resolve honor violations. This process requires that each Honor Board decision be based on its own merits. To ensure this is accomplished, the Honor Concept provides that a board's decision be based only on relevant evidence. Bringing in other information would focus the board away from the individual case at hand creating trials within a trial. This could confuse board members and result in findings based on "guilt by association." The Honor Concept also requires that consideration be given to protecting the privacy rights of Midshipmen not before the board. Therefore, case presentations included all relevant statements of the principal witness(es) including cover sheet with rights advisement and witness signatures, live testimony of those witnesses, NCIS agents who testified as to the interview process, the full statement of the accused Midshipman and any other relevant information developed by Midshipmen investigating officers. Eleven of the 24 Midshipmen who were processed before Honor Boards were found in violation. This figure is consistent with roughly a 50 percent rate for findings of violation by Honor Boards in non-EE 311 cases.

Senator SHELBY. Was it withheld from you or was it just not followed up? If the IG says the faculty had more information than they initially gave you—is that correct?

Admiral LYNCH. Yes, sir. And what happened was right hand, left hand. The NIS came in on December 17, went to the faculty, and said we want a copy of every examination. We also want to see the 6 week, 12 week, and final exam grades for all Midshipmen.

The faculty said we cannot just give that to you because we need to use that as a teaching tool, so the officer faculty, I am told, spent the next week xeroxing all that information, giving that to NIS.

NIS had told them that they were going to send it to the Chief of Naval Education and Training in Pensacola for an analysis of the examination itself. So the faculty then said NIS is going to get it analyzed. I have not talked to NIS to find out why they either did not get it analyzed, or if they did get it analyzed, that information was never forthcoming to me. But—so that is—so it is kind of like a right hand, left hand, and I was just going on the assumption that you cannot analyze it, it is not enough information to analyze there.

Senator SHELBY. Admiral, do you have any reason now, or did you have before, any reason to believe that the leadership of the Naval Academy, or any other official, engaged in any attempt to limit improperly the scope of the various investigations?

Admiral LYNCH. Absolutely not, Mr. Chairman.

Senator SHELBY. Yours or the later?

Admiral LYNCH. It would have had to be—no one would have done anything at the Naval Academy without me knowing about it, as far as I am concerned, and from what I know about this investigation, I can tell you there was no attempt to limit this investigation in any way. In fact, quite the contrary. I did everything that I knew to do, although 20-20 hindsight I would have gone to the Chief of Naval Operations and said bring in a team of Naval Investigative—Inspector General—20 or 30 investigators. Like I say, I failed in that I did not believe that the magnitude of this thing could be as great as it is.

Senator SHELBY. Admiral, do you believe that there was, among the leadership of the Academy or anywhere else, other than among the Midshipmen that were accused, a conspiracy to cover up part of the problem?

Admiral LYNCH. Absolutely not, sir.

Senator SHELBY. But you do know that there was—do you believe that there was a conspiracy to cover up part of the problem by some of the accused, or indications of that?

Admiral LYNCH. The only indication I have, and I have talked to Admiral Edney who was on our Flag Officer Review Panel and reviewed all 133 cases, and he said there was a group in a particular company with 10 Midshipmen in company that basically said we are going to stick together in this, and then once one said this is all we said then we all had it and they all went down at the same time. And you would see one or two or three Midshipmen that would say, you know, this is their story. But no, there were no—I mean, I was led to believe, and I thought that there might be, large conspiratorial groups. To my knowledge that is not the case. I have not seen the individual cases.

Senator SHELBY. I want to get back to the other panelists, General Graves and General Hosmer. We have heard today reports of the Naval Academy drifting off course from the importance of honor. It occurred over time, obviously without attracting attention until it was too late, and a major cheating scandal rocked the Academy. What mechanisms do you have in place at your academies, the U.S. Military Academy at West Point and the U.S. Air Force Academy at Colorado Springs, to provide early warning if, despite everyone's best intentions, your academy should begin to drift off course from the importance of honor?

General GRAVES. Sir, we have several standing mechanisms, and then we have also taken some special steps. As you recall, in 1976, we had an honor scandal in which 151 cadets were dismissed. So we did a major reassessment as a result of that.

Then, in 1989, my predecessor and the Chief of Staff of the Army called a panel together, not as a result of duress or of crisis, but due to a feeling that it was time to look at the Honor Code again. I sat on that panel to look at the Honor Code and Honor System at West Point at a time of noncrises. So that was a major event.

From day to day I have several means from which I monitor the health of the Code and the health of the System. I have a standing Superintendent's Honor Review Committee which is made up of permanent and rotating faculty, tactical officers, and cadets. At the beginning of each year I give them a list of topics I would like them to assess through sensing groups, through surveys, or through

their own interchange, informal interchange, and get back to me on how we need to deal with any issues: Is it a problem? Is it not a problem? Do we need to get with the cadets and see if we need to alter something?

We also have the Honor Education Working Group which is made up of officers on the faculty, civilian faculty, tactical officers, and cadets. They look at the honor education program, those 45 hours that we teach on honor. Should the program be changed? And, it has been changed over time.

For example, the cadets wanted to make sure that the Cadet Company Commander was in charge of his or her honor education program within the company. And so we made the Cadet Company Commander the chairman of the Honor Education Committee, even though we had permanent and rotating faculty members on it, as well.

I regularly attend honor classes, and the chain of command does, as well, the Commandant and the regimental tactical officers. Company Tactical Officers attend every one. We talk to the chaplains. We get feedback from the staff and faculty about the atmosphere within the classrooms. And then the Cadet Honor Committee chairman at the end of each year sends me his assessment of the state of health of the Honor Code and the Honor System and any recommended changes.

Any changes that we attempt to make we take back to the cadets. This is, in fact, a system that is run by the cadets. So any changes are in fact assessed by the cadets. Even minor changes, for example, on how they would recommend to me the disposition of a case in which a cadet was found guilty, we will take back to the cadets and get their concurrence before we make any change. So there is a very dynamic interchange over the honor system, and there are periodic changes. Year after year we will make minor changes, but we have not found any major changes that need to be made.

Senator SHELBY. General Hosmer.

General HOSMER. Mr. Chairman, we try to stay abreast of these events a number of ways. After the last honor incident we had in 1984, we established a practice of an honor survey which takes place every three years. The trends in that survey are watched very carefully and noted, and that is baseline data that are used of a demographic and opinion type.

We also watch the data that come out of the honor process itself, the number of allegations, the number of boards, the ratios involved with convictions and acquittals. Those data are not straightforward. It takes some interpretation and is, in some cases, ambiguous, but can constitute a red flag.

A close engagement is the best simple answer, and in this respect, our practices parallel many of those at West Point. We have a number of standing committees that have responsibility for different parts of the process and the education involved. Cadets themselves are involved in those committees.

We can speculate, and speculations in this area, of course, often lead to actions early. One does not wait for proof. It was because of this kind of close engagement with the process that I asked for the review panel chaired by the General Counsel of the Air Force

that I mentioned in my formal remarks, and for the same kind of reasons established an internal review commission earlier this year. Both led to what appear on the face of it to be successful and effective changes in the system.

It is this close engagement, and watching the data, which I think help us stay very close to—close enough, I hope, to the evolving tenor of both the system and the cadets that we bring in with them.

Senator SHELBY. General Graves, General Hosmer, I will ask you about West Point first. How does your Honor Code differ from the U.S. Naval Academy's?

General GRAVES. Sir, as I mentioned earlier on, we do have the non-toleration clause that cadets do not lie, cheat, or steal, nor tolerate those who do. Our feeling at West Point is that that is the keystone of a successful code, that the Honor Code itself is a galvanizing code of behavior for the Corps of Cadets and for the Army, that the code transcends personal loyalty for higher values of honesty, fairness, and respect for others, and that that keystone, then, requires one to rise above personal loyalties.

My own feeling is that cadets adhere to the non-toleration clause for three reasons. One, those who are mature and have, in fact, internalized the values of the code adhere to it simply for that reason. They have internalized the non-toleration clause. Others who are not quite so mature, I believe comply with it, because they believe the code belongs to the Corps of Cadets, and they do not want to be the ones that cause it to be sullied.

There are some, quite honestly, who behave consistently with the non-toleration clause because they know if they violate it, they will be guilty of violating the Honor Code and might well be caught. I believe that is a small number, and we hope that as these cadets mature, they will be part of one of those other two groups, hopefully those who have internalized the values.

Mr. Elmer Statts who was a member of the 1989 Honor Commission, said any code that does not have an exclusionary clause is not a code. We really believe that the cadets must appropriate the values of the code, and they will only appropriate those if there is an exclusionary provision. The cadets do invest in it and, sir, I do not believe that it should be withdrawn.

Senator SHELBY. Well, they have to invest in it, do they not?

General GRAVES. Yes, sir.

Senator SHELBY. General Hosmer?

General HOSMER. Sir, while agreeing with General Graves, I would like to approach the question from a slightly different perspective and comment on a different aspect. We also have a non-toleration clause. It is integral to a profoundly fundamental part of the code.

Senator SHELBY. And this is where you differ from the Naval Academy.

General HOSMER. This is where we differ. Our Code applies to a cadet as long as he is a cadet anywhere at any time, full time. As a young person is brought into the military and goes through a boot camp experience, if you will, new values are taken on in full measure. This is common across militaries probably for the last 3

millennia. And they are very open to new values as they go through this rigorous experience.

Probably the more fundamental of those is loyalty to one's team, cross-dependence among the members of a team, and the critical nature of your reliance on each other—trust, at a very high level, if you will. As the summer experience is over and the cadet enters the broader aspects of the Academy, we try to ask him to raise his values and concepts to a level which is a little more sophisticated, a little more difficult to understand. And this, now, is the concept General Graves referred to in which those loyalties to each other are subordinate to yet higher purposes. They are subordinate to the purpose or the mission of the unit; they are subordinate to issues of personal integrity and honor.

The non-toleration clause, we believe, is the cement that represents that loyalty not just to each other but to the institution itself, and protecting the values of the institution. That is a transition that is harder for young people to make. It does not happen so reliably. It does cross and rub against the purely personal loyalties, and this is why it is a difficult concept. It is why it takes a lot of education, takes patience, but nonetheless is the core of what we do.

Senator SHELBY. Thank you.

General Graves, the GAO report on sexual harassment provides an indication that a greater percentage of West Point women reported incidents of sexual harassment than did women at the other academies. This can be viewed, of course, several ways. There are more incidents, and, therefore, more women responded to GAO as having experienced sexual harassment, or that there are an equal or lesser number of incidents at West Point but the climate there is more conducive to the women making such a response to GAO. How do you view this aspect of the GAO report?

General GRAVES. Sir, when we saw the first draft of that report 2 years ago that stood right out to us. We began to address it with the GAO with the request that we be allowed to see the data bases of the three surveys of the three academies to try to find out why our incident rates appeared higher. We have not been allowed to see those data bases; so I do not know why our percentage is higher. I can only surmise. I surmise that the reason why a large percentage of women at West Point indicated that they had been sexually harassed in one way or another was because we had raised their sensitivity by a very vigorous sexual harassment education program. The GAO complimented us on this program which is continuing to be improved.

We are not sitting still with this, Mr. Chairman. We are working very hard to deal with it. And a lot of what we are working on is what Senator Coats mentioned: how do we really, in fact, define sexual harassment? There is a whole spectrum. Obviously, if someone seeks sexual gratification by exploiting someone else, that is heinous and would probably result in separation.

Saying something with the intent to hurt someone is also reprehensible, but on the other hand, unintentional insensitivity may well be perceived as harassment, but is something different than intentionally saying something to hurt someone. That is the reason we have tried to deal with this as consideration of others,

because even those who see themselves as harassed may need to understand the culture from which sexist comments come. I would not want them to be tolerant of harmful behavior, whether it be verbal or physical. But we do need to understand each other and deal with that. We may well find that, as was mentioned, a firm comment back from the one who is being harassed may terminate the phenomenon.

Senator SHELBY. A lot of it comes from respect for others, does it not?

General GRAVES. Exactly, and that is what we are trying to do, is to deal with each other with respect and understanding, yes, sir.

Senator SHELBY. I want to ask all three of you, General Graves, General Hosmer, and Admiral Lynch, a climate that, while actively attempting to eradicate sexual harassment, does not proactively encourage the victims of sexual harassment to report this harassment, cannot achieve an harassment-free environment that is so important to developing the full potential of each individual. What are you doing at your academy to ensure a climate in which victims will not be afraid to report harassment and in which victims will believe that their reporting harassment will actually have a positive effect on the system? General Hosmer?

General HOSMER. Mr. Chairman, this is indeed a difficult question. We have taken a number of steps, one administrative, in the sense that we have established anonymous or identification-free channels for dealing with sexual harassment for victims who believe they need first to air their difficulties. We stipulate that protecting the victim is a first consideration in all these matters. We have trained, and retrained in some cases, a number of individuals and placed them throughout the cadet wing in a role which is to deal constructively with sexual and other kinds of harassment.

We have refocused our education, which we found about a year and a half ago we were not as current as we could be in dealing with it. We have refocused our education on the positive aspects of leadership responsibility for dealing with this issue, and cast it as a leadership issue to deal with and take care of. We charge the leadership in the cadet wing directly with that responsibility as a matter of taking care of the people with dignity and respect.

We have, in addition, emphasized the results when young ladies have come forward, as I asked them to, to deal with these matters on the table so we can respond officially and formally. The instance may be egregious, or even if it is not, we have been very vigorous in prosecuting those cases and making public the results.

Senator SHELBY. Admiral Lynch?

Admiral LYNCH. Yes, sir. We have done pretty much the same at the Naval Academy. We have developed and implemented a strategic plan which has character development and associated issue of mutual respect as its cornerstone. We conduct a routine quality of life and equal opportunity climate surveys to measure the pulse of the Brigade, and restructure the formal leadership training to increase time spent on character development issues. We established an OMBUDSMAN Program within the Brigade, as well as a hotline service to provide alternative channels to the chain of command for reporting inappropriate behavior of Midshipmen. We have established a Standing Committee on Women Midshipmen

study group and a Minority Midshipman Study Group, and we increased the visibility and activity of the Command Management Equal Opportunity Program.

I have also just recently hired a consultant of leadership, female leadership in the work place, and this woman is spending time with our Midshipmen on a one-on-one basis, and we are getting a lot of information and feedback there. I will say I think the Senate itself and the Congress, in approving the—or doing away with—the combat exclusion clause in the last law will do more for us than probably anything else.

On January 29 we had our first genderless service selection day at the Naval Academy, and for the first time women went into aviation billets, Marine billets, surface warfare billets, nuclear power—not that that is the first time they have ever been in there, but the first time that they now see that they have the same career opportunities as a man. So I think that will be a great step forward also, in this area.

Senator SHELBY. General Graves?

General GRAVES. Sir, the Army emphasizes very heavily the responsibility of the chain of command to produce the proper climate and to accomplish the mission. So we have been very strongly emphasizing the responsibility of the chain of command to provide the proper climate within the unit, and we are seeing some positive results of that.

We also have some alternative channels, as the other two Superintendents have mentioned. We have had the DOD Equal Opportunity School send instructors to West Point, and we have cadets detailed as human resource officers in each company. These cadets are available, but they in fact are on the staff of the Cadet Company Commander. The Cadet Company Commander is responsible for his or her company and its environment.

We do see some changes in behavior. We are seeing a reduced number of cases. We saw in the past where women would report to an upper class woman if something happened. Now, in more cases, we find women ready to go to the company commander or the company chain of command regardless of gender, if something happens. There are few cases, but in fact, they are being reported in that way.

We are continuing surveys. We have just had a postwide series of sensing sessions conducted by the Inspector General to look at human relations in general. And interestingly, the IG reported to me in a one-on-one session that we are not really discriminatory in our behavior. We need to be nicer to each other all the way across the board. Treating each other with dignity and respect is the biggest challenge, and she did not see any major schisms among any groups. It is just that as a society, and as an Academy, we need to be more considerate of each other.

Senator SHELBY. I just want, before concluding the hearing, to remind you, and you probably do not need reminding, that Senator Coats would like for his questions to be answered for the record, and we will leave the record open for any other Senators.

This concludes the hearing. Thank you.

[Questions for the record with answers supplied follow:]

## QUESTIONS SUBMITTED BY SENATOR DAN COATS

## PERCEPTION OF ERODING CADET/MIDSHIPMEN VALUES

Senator COATS. For each Superintendent: Ambassador Armitage just testified that his review committee found that young men and women enter the Naval Academy with a good value system. During their tenure at the Naval Academy these values are "chipped away" until they leave the academy with their value system eroded and a cynical outlook on honor. Do you agree with Ambassador Armitage? Are Ambassador Armitage's observations consistent with your experience?

Admiral LYNCH. To begin with, I have the utmost personal respect for Ambassador Armitage. Ambassador Armitage's testimony reflects that some Midshipmen's commitment to the standards of honor and integrity has eroded by the time they graduate. While I would not dispute that this occurs in some Midshipmen, I am not convinced that this is as common as implied by Ambassador Armitage. Midshipmen entering the Naval Academy bring with them social values reflective of the society from which they come. These values encompass a wide spectrum of beliefs and represent no common set of standards. The young men and women who apply to a service academy, in general, are seeking a place where standards are higher than society as a whole and expect the service academy environment to provide such a place. Many of these young people are not, however, prepared to maintain these same standards when confronted by temptation and negative peer pressure while still attempting to function proactively in a stressful and demanding 4-year course of instruction. In addition to the effects on Midshipmen of the changing values of society, Midshipmen like other college-age young people are going through a significant maturing process and part of the maturing process is the realization that the world around them is far more complex and impure than their view as adolescents. This realization leads many young people to become cynical including Midshipmen. As I stated in my opening remarks, the Naval Academy's failure in the character development of all our Midshipmen was to not totally recognize the changing values of society and its impact on the Brigade of Midshipmen. Now that this failure has been recognized, appropriate action is being taken to continually assess the changing values of society and adjust the Naval Academy program to compensate for these changes. I would be remiss at this time if I did not point out that despite the recent events, the vast majority of Midshipmen are people of character and possess the highest values of honor and integrity we demand of all our graduates. They have not only maintained these standards while at the Academy, but have nurtured them through a myriad of community and religious programs and projects. Success, however, will only be achieved when we reach every Midshipman as a person and they adopt as their standard the principles of character and personal honor.

General HOSMER. Not quite. We believe Ambassador Armitage's statement omits some important qualifiers. People in close contact with today's teenage culture describe most entering cadets as having good values. Most are certainly well above average in this respect. However, people whose knowledge of the teenage culture dates from one or two generations ago tend to find today's teenagers thin in their understanding and practice of classic values, as applied to themselves: dedication to service, integrity, work ethic, etc. Most of our cadets have these values well enough established that we can build on those values and develop good character. A few—and we believe the number is growing—are so little acquainted with such values when they enter that we believe explicit instruction and value building is necessary to achieve sufficient character for commissioning.

No. Again, we believe Ambassador Armitage's description overlooks an important part of what occurs. In common with most of their peers, our entering cadets are highly idealistic in their expectations of others. On the other hand, they tend to be highly flexible and forgiving in regards to their own personal conduct. The process of building character in the Academy involves learning on the part of cadets that the idealistic values they expect to see in others must also be applied to themselves. This can be a difficult and occasionally traumatic experience for today's cadet. Their idealistic values are not eroded; they are tempered by reality as they learn to apply them in their own everyday lives. Even honor, which through the honor code is preserved in a very ideal form, still has gray areas. This development of character broadens ideals to self-applied reality and commonly takes a cadet through a period of cynicism. Nearly 10 years of surveys conducted at the Air Force Academy demonstrate that cynicism begins at the end of the fourth class (freshman) year and continues during much of third class (sophomore) year. It then dissipates in the second and first class (junior and senior) years as cadets mature and take on responsibility in the Cadet Wing.

We see some of the same signs but believe the descriptions above are more complete.

General GRAVES. No, we do not agree with the observation that cadet values are eroded during their time at West Point; nor do we believe that cadets develop a cynical outlook on honor. We do agree that cadets enter USMA with a very good value system. There is much evidence to support this view.

Cadets generally come to West Point for good reasons. The most frequently cited motivators are the desire to be an Army officer, the quality of the academic program, the opportunity for personal development, the reputation and the general quality of the institution, and the challenge provided by leadership training.

Our arriving candidates are an impressive group of young Americans. They have excelled academically: most graduated in the upper fifth of their high school class, and their work ethic was affirmed by their teachers, guidance counselors, and coaches. They also earned high scores on college entrance exams. In addition, they contributed to many worthy extracurricular activities: scouting (40 percent), religious clubs (50 percent), student government (20 percent), and musical or theater groups (20 percent). Almost all earned a varsity letter, evidence of self-discipline and willingness to submit oneself to a team effort. They also demonstrated commitment to West Point as they persevered throughout the admissions process. A review of their records reveals no evidence of serious illegal or immoral behavior during their youth. Additional positive information is gained from admissions interviews, letters of recommendation, candidate essays, and cadet surveys. All indicators suggest that our cadets are among the best of American youth. They come from diverse geographic and demographic sectors and they bring great leader potential to the U.S. Military Academy.

Shortly after they arrive at USMA, cadets begin formal training and education related to honor and the professional ethic of the Officer Corps. Cadets learn the tenets of the Honor Code: "A cadet will not lie, cheat or steal, nor tolerate those who do." Cadets are introduced to the ethos of the profession of arms as expressed in our motto: "Duty, Honor, Country." Cadets are expected to live according to the highest standards of moral-ethical and social behavior and to demonstrate consideration for others in all endeavors—personal and professional. Honor and consideration for others are the bedrock institutional values which serve as the foundation for development of leaders of character.

We conduct various assessments of our success in developing cadets who embrace honesty, integrity, fairness, justice, and consideration for others. These include longitudinal studies, surveys, performance and retention analyses, and evaluation of incidents of indiscipline. None of these studies reveal a cadet tendency toward cynicism; quite the opposite. At graduation, the vast majority of cadets express pride in their accomplishment, confidence in their ability to successfully lead American soldiers, a willingness to recommend the West Point experience to other promising high school students, and the view that their moral-ethical development has been of importance and that their commitment to the Honor Code has increased or remained high. In a recent honor study, cadets perceived that living by the Honor Code was valuable preparation for service as commissioned officers in our Army.

After graduation, we follow the progress of USMA graduates in their service to the Nation. The findings seem to confirm the quality of the developmental experience and show evidence that good values were nurtured and adopted during 4 years at West Point. These findings are not consistent with the view that graduates have become jaded or cynical in matters of integrity or honor. We believe that cadets have matured and developed their abilities as critical thinkers. They are able to see the complexity of various moral-ethical issues. They understand that "right" is not always clearly defined. This healthy recognition of the difference between theory and reality does not imply cynicism. Neither does it imply that cadets have abandoned principles. Rather, it is education and experience tempering youthful idealism.

In summary, we believe cadets leave USMA with strengthened values and a firm commitment to contribute selfless, loyal service under the Constitution. As a group, First Class Cadets may be less idealistic but they are not cynical. They believe that "Duty, Honor, Country" are three words which express the professional ethic applicable to all cadets and officers. They aspire to this ideal.

#### GAO'S STUDY ON SEXUAL HARASSMENT

Senator COATS. For each Superintendent: The General Accounting Office report on Sexual Harassment at the service academies finds that about 96 percent of the females at the academies responded to the GAO survey that they have been a victim of sexual harassment. Mr. Gebicke, the GAO witness, read one of the survey ques-

tions upon which the results are based. The question broadly defines sexual harassment. Do you agree with the GAO findings: In your opinion, were the GAO survey questions sufficiently defined to elicit appropriate responses? How do your reviews of the sexual harassment at your respective academies compare to the GAO results?

Admiral LYNCH. The significant portion of the data on which the GAO assessment is based is 3 years old and does not reflect the current environment at the Naval Academy. Little data has been collected by the GAO since early 1991 and that which has been collected has been provided by the Naval Academy. While the GAO contends that this additional data is not sufficient to demonstrate an overall reduction in sexual harassment at the Naval Academy, this view is not shared by the Naval Academy or its Board of Visitors who have monitored the progress. In addition, the frequency of sexual harassment at the Naval Academy is difficult to assess due to differences between the GAO and the Naval Academy interpretation of what constitutes sexual harassment. The Naval Academy separates sexual misconduct and sexual assault from sexual harassment, while the GAO appears to group them all together under the title of sexual harassment.

General HOSMER. In the very broad definition of sexual harassment used by the General Accounting Office, the findings of the General Accounting Office Report on Sexual Harassment appear to be consistent with our data.

We are satisfied that the General Accounting Office survey questions were adequate for the purpose of *collecting data* on this issue. We also feel, as Senator Coats pointed out during the hearing, that the questions, as posed by the General Accounting Office, define a very low threshold of problem behavior. At the Air Force Academy, we also define and measure sexual harassment as problem behavior using a low threshold. We do not object to the General Accounting Office's definition or findings. However, the sense with which the General Accounting Office or the service academies approach the problem of sexual harassment is not the same sense used by the media. Therefore, General Accounting Office's use of some terms invites inflammatory public discussion which is highly misleading.

We do have continuing problems in gender relations at the Air Force Academy, but they occur in the context of an institution which has higher standards expected of its people than comparable public institutions. We concur with the findings as defined. We do not agree with the findings of the press, invited by language used by the General Accounting Office in their report. We are also satisfied the report provided solid recommendations, and have already begun implementation of several initiatives consistent with the recommendations.

General GRAVES. The stated purpose of the GAO report was to determine the extent to which sexual harassment occurs at the Academy, the forms it takes, its effects on victims, and the effectiveness of efforts to eradicate it. In our opinion, the GAO report significantly overstates the magnitude of the sexual harassment problem at the U.S. Military Academy. It also completely fails to recognize the success of efforts to produce a climate which affords men and women the opportunity to realize their full potential to develop as leaders of character.

Our own assessment reveals that explicit sexual harassment is rare. However, we know that inappropriate behavior by men toward women in the form of derogatory comments, sexist jokes, mocking gestures, or similar inconsiderate actions do occur more frequently. In all of these instances, the institutional position in the area of human relations is clear—everyone must be treated with respect and dignity. Contrary behavior is not tolerated.

The GAO recommends continued data collection and analysis in order to better understand the nature and extent of sexual harassment, systematic evaluation of efforts to eliminate sexual harassment, and adoption of innovative methods to educate cadets concerning the nature of sexual harassment and options available to redress it.

We support these recommendations. In fact, we believe we have been operating consistently with these recommendations all along. We will continue to do so.

The principal findings reported by the GAO were: sexual harassment continues at the Academy, programs designed to eliminate sexual harassment have generally met DOD standards, and the Academy has not evaluated the effectiveness of sexual harassment eradication measures in a systematic manner.

We agree that incidents of sexual harassment can and do occur at USMA. Such incidents may occur in any mixed gender organization. Realistically, the Academy cannot completely eliminate inappropriate behavior. However, this does not mean that essentially every woman has been subjected to sexual harassment. The figure (96 percent) mentioned in the basic question above is based on survey data gathered in 1991 which indicated that women perceived at least one example of gender-based inappropriate behavior during the academic year. The incidents which were cited most often included: derogatory personal comments; references to lowered standards

for women; comments that women did not belong at the Academy; exposure to offensive posters, signs, graffiti, or T-shirts; and mocking gestures, catcalls, accents, or slang. Few women surveyed indicated exposure to unwanted pressure for dates or unwanted sexual advances.

All forms of immature and inappropriate behaviors, by cadets of staff and faculty, which offend members of the community, are contrary to the bedrock principle which we call "Consideration of Others." For this reason, sexual harassment is wrong and it is not tolerated. However, our insights and the GAO survey data agree that deliberate abusive acts of sexual harassment are rare. When these incidents occur they are usually discovered, and when discovered they are investigated and acted upon—with speed and justice.

We believe our efforts to educate cadets and the staff and faculty, in combination with command emphasis on the importance of treating all people with dignity, foster an environment that minimizes sexual harassment and gender-based inappropriate behavior. We believe our policies and activities designed to eliminate such acts are well beyond "the minimum" established by DOD. In fact, the quality of our policies and programs designed to promote "Consideration of Others" is competitive with that of any organization in the country. Our proactive and positive approach will continue, and we will remain vigilant concerning the potential for incidents of sexual harassment at West Point.

Finally, we make a concerted effort to assess the effectiveness of our policies and programs pertaining to sexual harassment. We continue to refine these efforts as time goes on. We do not agree that our assessment process has been less than systematic. In fact, the assessment process has depth and breadth, it is sophisticated, and it includes a variety of objective and subjective indicators.

We have no major objections to the questions in the GAO survey. The questions pertain to incidents or behaviors which are unacceptable. Therefore, it is useful for the institution to know the frequency and the nature of such gender-based mistreatment of cadets by anyone in the West Point community.

Our objection is to GAO's interpretation of the findings. As the GAO recognizes, sexual harassment is difficult to define. The GAO report cites a Supreme Court ruling that identifies sexual harassment as hostile or abusive behavior that must be examined in context (e.g., the environment, the frequency, the severity, the effect on the victim are factors which determine whether an act may be classified as sexual harassment). This definition of sexual harassment describes acts that are far more serious than many of the behaviors cited in the GAO survey, and the cadet respondents may not have interpreted the behaviors cited in the questionnaire as being examples of sexual harassment. Yet, the GAO classifies selected survey results as: "Percentage of Academy Women Reporting Having Experienced Sexual Harassment in Academic Year 1990-1991."

In this light, we believe the findings of the GAO report do not support the claim that almost all women at the Academy are victims of sexual harassment. Rather, the data suggest that we must continue efforts to educate cadets and staff and faculty concerning proper social behavior and consideration for others.

Our reviews do not support the statement that many academy women experience sexual harassment on a recurring basis. In fact, we believe that actual incidents of sexual harassment are rare. We believe that women do encounter some resentment from men; much of this is based on attitudes which they bring to West Point. We agree with the GAO that most forms of inappropriate gender-based behavior are in the form of derogatory comments; much of this derives from insensitivity, not from intentional malice. Our studies show that acceptance of women is growing. The data are clear. Women are earning their appointments to USMA. Women are performing to standards in all developmental programs (Academic, Military, and Physical). They are earning their diplomas and their commissions. USMA graduates, men and women, are performing with distinction as commissioned officers. On the basis of these observations, the integration of women at West Point has been successful. Most importantly, we believe the climate for women in the Corps of Cadets is improving. This belief is reinforced by better retention rates for women and positive trends on questions from surveys administered to the graduating class.

[Whereupon, at 2:57 p.m., the hearing was adjourned.]

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