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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

FEDERAL PERSONNEL AND
COMPENSATION DIVISION

JULY 3, 1980

B-197168



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The Honorable Harold Brown
The Secretary of Defense

Dear Mr. Secretary:

Subject: Faster Processing of Discharges For Adverse
Reasons Could Save Millions of Dollars
(FPCD-80-57)

We examined time frames and procedures used to discharge service members for adverse reasons in the Army, Navy, and Air Force. On the basis of our work, we believe that the Department of Defense needs to promptly (1) establish and enforce time frames for processing adverse separations and (2) review and modify where necessary the services' different and sometimes inconsistent discharge procedures.

In our report entitled "Military Discharge Policies and Practices Result in Wide Disparities: Congressional Review Is Needed" (FPCD-80-13, Jan. 15, 1980), we recommended that the services establish time guidelines for processing administrative discharges. In responding to the report, the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) agreed with the intent of our recommendation to establish time guidelines and said he would study it further. However, no formal actions have been initiated.

Faster processing of discharges is possible without reducing service members' rights, and it would (1) save pay and allowances which would otherwise be paid to service members awaiting discharge and to commanders processing them and (2) reduce the time that unproductive and potentially disruptive service members remain on active duty.

Over 75,000 people were discharged from the services for adverse reasons in fiscal year 1979. The potential savings from faster processing can be substantial. For example, we recently estimated that in 1977 it cost an additional \$27.3 million in pay and allowances for members

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awaiting discharges for misconduct compared to the cost for members awaiting discharges for marginal performance. We also estimated that the services spent \$14.2 million in pay and allowances to commanders and others involved in processing discharges for unsuitability and misconduct and discharges in lieu of court-martial.

Differences in the services' processing procedures were a major factor in the time it takes to discharge a service member. For example, average processing times for unsuitability cases ranged from 22 days at one Army installation to 54 days in our Navy sample. Additionally, we found that command monitoring and attention to discharge time frames significantly decreased processing time.

While we believe that service members' rights should be protected in adverse discharge cases, the lack of attention to faster processing has resulted in time delays and unnecessary costs. During these tight budgetary times, it is critical that all efforts be made to discharge unproductive personnel as quickly as possible. We believe that establishing reasonable time frames for processing discharges can save Government funds and still protect service members' rights. A detailed statement of our work and recommendations is enclosed.

We are sending copies of this report to the Director, Office of Management and Budget; the Chairmen, House and Senate Committees on Appropriations and Armed Services, the House Committee on Government Operations, and the Senate Committee on Governmental Affairs; and the Secretaries of the Army, the Navy, and the Air Force.

Sincerely yours,



H. L. Krieger
Director

Enclosure

FASTER PROCESSING OF DISCHARGES FOR ADVERSEREASONS COULD SAVE MILLIONS OF DOLLARS

Department of Defense (DOD) Directive 1332.14, "Enlisted Administrative Separations," states that the services have the right and the duty to discharge enlisted members who clearly demonstrate they are unqualified for retention. The most frequently used adverse reasons for administrative discharge are marginal performance, unsuitability, misconduct, and discharge in lieu of court-martial.

NUMBER DISCHARGED FOR ADVERSE REASONS

In fiscal year 1979, over 75,000 service members (about 14 percent of those discharged from the services in fiscal year 1979) were discharged for the following adverse reasons:

	<u>Army</u>	<u>Navy</u>	<u>Air Force</u>	<u>Marines</u>	<u>All services</u>
Marginal performance	19,728	a/6,131	5,976	2,196	34,031
Unsuitability	4,452	3,649	6,401	2,425	16,927
In lieu of court-martial	8,576	1,308	303	1,904	12,091
Misconduct	<u>2,716</u>	<u>6,096</u>	<u>1,578</u>	<u>2,272</u>	<u>12,662</u>
Total	<u>35,472</u>	<u>17,184</u>	<u>14,258</u>	<u>8,797</u>	<u>75,711</u>

a/Does not include trainee discharge data which was not available for the Navy.

Marginal performance is the principal reason for discharging people with 36 months of service or less. Discharge programs for marginal performers are the fastest means of processing separations, relieving commanders of much of the burden of discharging people who they believe will not become productive service members. DOD requires that members be discharged for marginal performance if they:

- Fail to contribute to unit readiness and mission accomplishment as specifically evidenced by below-average efficiency ratings or specific demonstrated incapacity to meet effectiveness standards.

--Fail to attain or maintain required job skill proficiency, either by associated inaptitude or nonapplication.

--Create an administrative burden to the command due to minor military or disciplinary infractions.

Service members are discharged for unsuitability because of personality disorders, alcohol abuse, homosexual or other aberrant sexual tendencies, 1/ unsanitary habits, financial irresponsibility, inaptitude, apathy, defective attitudes, or the inability to spend time constructively.

To be discharged for misconduct, a service member must be determined, from his military record, unqualified for further service on the basis of patterns of conduct and certain acts or conditions which include convictions in civilian or military courts.

Discharge in lieu of court-martial must be requested by the service member and, if approved, the service member avoids trial by court-martial and a possible Federal conviction for the alleged offense.

SERVICE DISCHARGE PROCESSING
TIMES AND PROCEDURES DIFFER

We visited the Unfavorable Discharge Processing Section, Naval Military Personnel Command, Washington, D.C., and service installations at Fort Lewis, Washington, and Travis Air Force Base, California. At Fort Lewis and Travis Air Force Base, we reviewed available documentation on discharge cases processed in 1979. We also discussed with service officials the procedures for and time taken to discharge service members for adverse reasons. At the Navy's Unfavorable Discharge Processing Section, we reviewed a sample of unsuitability and misconduct cases which were submitted to them by Navy commands. We also reviewed the services' regulations on discharging members for adverse reasons.

1/In a recent court decision, Shalom v. Alexander (U.S. District Court, Civ. No. 78-0431, May 20, 1980), the judge ruled that the separation guidance for homosexual tendencies was too broad and, therefore, unconstitutional. The case is pending appeal.

The discharge process, as we measured it, begins when a service member's immediate commander issues the member a letter of notification regarding his proposed discharge 1/ and concludes when the service member is discharged. Depending on the proposed type of discharge, reason for separation, and other factors, the processing steps varied for each service, but often involved reviews by officers in the chain of command and the staff judge advocate as well as steps to insure that the rights of the service member are protected.

DOD Directive 1332.14 states that individuals with 8 or more years of service being discharged for unsuitability and all individuals being discharged for misconduct are entitled to present their case before an administrative discharge board composed of at least three officers. The directive is strictly followed in the Navy and the Marine Corps. The Air Force, however, provides hearings to all persons in pay grades E-4 or above. The most liberal is the Army, which provides hearings to all people discharged for unsuitability, regardless of time in service or pay grade.

The 1978 Joint-Service Study Group proposed that members in pay grades E-4 or above or members with 5 or more years of service be entitled to hearings when being processed for unsuitability. The group noted that the current directive provided for hearings only when members had more than 8 years of service, regardless of pay grade, and considerable disparity existed among the services as to how this provision was being applied. The group stated that "this disparity among the services in granting board hearings in unsuitability cases is an inequity which requires correction."

The services' administrative discharge processing times for the cases we reviewed varied significantly, as indicated:

1/Except for discharges in lieu of court-martial which are initiated at the request of the service member.

<u>Reason for discharge</u>	<u>Travis Air Force Base</u>		<u>Fort Lewis</u>		<u>Navy (note a)</u>	
	<u>Cases reviewed</u>	<u>Average days to process</u>	<u>Cases reviewed</u>	<u>Average days to process</u>	<u>Cases reviewed</u>	<u>Average days to process</u>
Marginal performance	99	29	184	12	- 0 -	N/A
Unsuitability	52	33	b/203	22	41	54
In lieu of court-martial	4	29	88	30	- 0 -	N/A
Misconduct (note c):						
No board hearing	19	44	13	69	80	77
Board hearing	2	89	6	131	7	162

a/The effective date of discharge was not available at the Navy's Unfavorable Discharge Processing Section. In accordance with information provided by Naval officials, we added 5 days to the discharge approval date for purposes of comparison.

b/Does not include seven cases involving board hearings. Including board cases, which took 80 days on the average to process, the Fort Lewis processing time increases to 24 days.

c/Does not include those individuals discharged for civil court convictions.

These time differences were primarily due to different processing procedures. Other factors which affected processing times were the responsible command's emphasis on expeditious processing and, in some misconduct cases, delays due to the defense counsel's need for additional time to prepare for board hearings.

Guidance for discharge time frames is limited

The Army and Air Force have established some time frames for processing separations whereas the Navy had none. The Air Force has established normal processing times for those administrative discharge cases which are (1) heard by an administrative

discharge board (43 workdays) or (2) reviewed by an individual evaluation officer (17 to 19 workdays). The Army time frames apply only to discharges for marginal performance, requiring that they be processed within 3 days after approval by the discharge authority.

Procedures affect processing time

The Navy took longer than either the Army or Air Force to process unsuitability and misconduct cases, primarily because all such cases are submitted by the originating Navy command to the Chief of Naval Personnel, ^{1/} Washington, D.C., for review and approval. Similar Army and Air Force cases were approved at the local command. Navy officials informed us that they had centralized review and approval of these cases to insure consistency in their discharge decisions.

The Navy's processing was delayed because it took an average of 6 to 7 days to forward cases from Navy commands to the Unfavorable Discharge Processing Section in Washington. Also, many cases were held up in the section because of procedural errors which local commands had to correct. Forty-eight misconduct cases (not involving a board hearing) without procedural errors took about 50 days to process, while 32 cases with procedural errors took about 119 days to process. Similarly, 29 unsuitability cases without procedural errors were processed in 38 days, and 12 cases with errors were processed in 93 days.

Although they were not included in our sample, we noted that the Navy and Air Force granted conditional waivers in a number of cases, which reduced the members' time on active duty. In our Navy sample, we reviewed 14 misconduct and 2 unsuitability cases where sailors requested and got a conditional waiver. They were released from active duty in an average of about 15 days. In nine Air Force unsuitability cases, members were released in about 26 days. We did not find any conditional waivers in the Army cases reviewed.

^{1/}The Navy's Unfavorable Discharge Processing Section has been delegated the authority to review unsuitability and misconduct discharges. This section reports through a chain of command to the Commander, Naval Military Personnel Command, in the Office of the Chief of Naval Personnel.

The Air Force took considerably longer to discharge service members for marginal performance and unsuitability than did the Army, due in a large extent to different processing procedures. For instance:

- The Army arranged medical examinations for service members before processing cases, whereas the Air Force did not.
- The Air Force staff judge advocate reviewed all cases for legal sufficiency, whereas the Army had no such review.

In regard to marginal performance cases, (1) the Army required the service members' concurrence with the proposed discharge, whereas the Air Force did not, and (2) the Army did not notify members of their right to legal counsel when honorable discharges were proposed, whereas the Air Force did.

A significant procedural difference in unsuitability cases is that the Air Force appoints an evaluation officer to review cases involving airmen in grades E-3 or lower, with less than 8 years of service, instead of offering them the option of a board hearing as the Army does. Of the 210 unsuitability cases we reviewed at Fort Lewis, only 7 exercised their option to have a board hearing.

The exact impact of these procedural differences on processing times is difficult to determine. However, the Air Force's use of evaluation officers seemed to have the most significant impact. Such cases took about 44 days to process, compared to 26 for other Air Force unsuitability cases--the same as cases involving conditional waivers--and 22 for all Army unsuitability cases not involving board hearings.

As illustrated by the following examples, these procedural differences had other effects on case processing times:

- The appointment of and review by evaluation officers accounted for an average of about 19 of the 31 case processing workdays in 11 unsuitability cases involving individual evaluation officers.
- Case processing may have been delayed awaiting the results of medical examinations in 36 of 52 Air Force marginal performance cases and 28 of their 49 unsuitability cases. Records indicated these cases were

forwarded to the next level in the review process the same day the medical examination results were received, and the processing clerk stated that these cases probably had been held up awaiting results. Medical examinations did not affect time frames for Army processing. We did not obtain information regarding Navy medical examination procedures or their impact.

--The Air Force staff judge advocate's review for legal sufficiency required about 5 workdays on the average in 60 Air Force unsuitability cases and about 1 workday in 57 marginal performance cases. The Army and Navy had no legal review of these cases.

--The Air Force's area defense counsel was involved in 39 of 99 marginal performance cases (39 percent) and in 20 cases their involvement spanned an average of 11 workdays in the review process. We did not obtain information on the involvement of Army defense counsel in marginal performance cases. However, it was obviously very limited since it is Army policy that all soldiers voluntarily agree to separation. As a result, 4 days on the average were needed to approve discharges. We did not obtain information about the Navy legal counsel's involvement in such cases.

Misconduct cases--procedural difference and delays

Although the number of misconduct cases we reviewed was small, it appeared that significant delays in some Army cases were caused by difficulty in arranging for board hearings. Also, the Air Force uses evaluation officers for misconduct cases instead of offering service members the option of a board hearing when the member is being recommended for a general or honorable discharge. This again affected the processing time. Nine Air Force misconduct cases involving evaluation officers were processed in 55 days on the average, compared to 33 days for 10 cases where the individual waived the board hearing and did not have an evaluation officer. In the Navy, the Unfavorable Discharge Processing Section spent about 17 days (from receipt of complete package to approval) to process the misconduct cases in our sample. This time is in addition to time spent by the local commander--60 days without a board and 145 days with a board. The time to process Navy misconduct cases with boards is longer than the other services because of apparent difficulty in convening a board whenever sailors are deployed on a ship.

It was difficult to determine why the Army's misconduct cases with boards took 131 days. But we were told that delays were sometimes caused by difficulty in scheduling board hearings, combined with the time it took the defense counsel to become prepared. According to a Fort Lewis adjutant general representative and the chief defense counsel, three of the six misconduct cases involving board hearings were delayed because the defense counsel had higher priority work, such as court-martial and article 15 cases, and was not able to prepare his case. The responsible Army division's chief of staff told us that, to protect the rights of the soldiers involved, he was hesitant to intercede in any cases involving delays due to defense counsel.

EFFECT OF COMMAND EMPHASIS ON PROCESSING ADMINISTRATIVE DISCHARGES

Our review of the Air Force system for processing marginal performance cases at Travis Air Force Base gave us some insight into the impact that case-processing goals and command monitoring can have on processing times. The Air Force does not have time frames for processing marginal performance cases, but the responsible Military Airlift Command had monitored the processing time for Travis Air Force Base cases until November 1978. At that time, the command discontinued its monitoring and noted in a message to Travis Air Force Base, "we urge you to maintain your outstanding record of separating our marginal performers within a 10-day period." In 1979, after monitoring was discontinued, discharges for marginal performance were processed in an average of 29 calendar days (about 18 workdays). Discontinuing command monitoring had a significant impact on increasing processing time.

MORE USE OF EXISTING PROCEDURES MAY SPEED UP CERTAIN ADMINISTRATIVE DISCHARGES

In our report entitled "People Get Different Discharges in Apparently Similar Circumstances" (FPCD-76-46, April 1, 1976), we reviewed the services' practices of permitting conditional waivers when people are administratively discharged for an adverse reason. A conditional waiver is a statement made by a service member, waiving those rights associated with an administrative discharge board hearing. The waiver is contingent on receipt of a type of discharge higher than the least favorable type authorized for the specific reason. For example, in a misconduct case, the least favorable type of discharge is under other than honorable conditions. Therefore, a waiver might be contingent on the approval

of either an honorable or a general discharge as requested by the service member. In an unsuitability case, the waiver would depend on the receipt of an honorable discharge.

The services said that they adopted the use of conditional waivers to save time and expense when they felt the evidence did not justify board proceedings. We recommended that DOD issue clear policy guidance on the use of conditional waivers and monitor its implementation. Although DOD has issued guidelines on conditional waivers, each service has prepared its own implementing instructions.

In the cases we reviewed, the Air Force and Navy approved conditional waivers in 9 and 16 cases, respectively. The Navy processed these discharges in 15 days, compared to 54 days for other unsuitability cases and 77 days for other misconduct cases without a board hearing. The Air Force discharged members with conditional waivers in about 26 days, compared to 32 for other unsuitability cases and 44 for other misconduct cases without a board hearing. None of the cases we reviewed at Fort Lewis involved conditional waivers.

CONCLUSIONS

Each of the services processes a large number of discharges for adverse reasons. However, the Army, Navy, and Air Force have different procedures and, at the locations we visited, these contributed to significantly different processing times. The Navy's requirement that the Chief of Naval Personnel review and approve discharges for unsuitability and misconduct increases the processing time, particularly in cases held up while local commands correct procedural errors. Another procedure--the Air Force's use of evaluation officers to review cases in which a board hearing is not offered--resulted in an overall increase in processing time at the location we visited.

Faster processing is important, not only because it could result in significant savings in pay and allowances which would otherwise be paid to service members awaiting discharges, but because unnecessary delays allow these unproductive and potentially disruptive individuals to commit repeated offenses and encourage disregard for military authority. One way to avoid delays and realize the benefits of faster processing is to encourage the use of conditional waivers where appropriate.

In our report entitled "Military Discharge Policies and Practices Result in Wide Disparities: Congressional Review Is Needed" (FPCD-80-13, Jan. 15, 1980), we recommended that

the services (1) establish time guidelines for processing administrative discharges and (2) give the option of an administrative board hearing to members being involuntarily separated for adverse reasons and who may receive general or under other than honorable conditions discharges. DOD stated it agreed with the intent of establishing processing time guidelines and would study it further. But, because of possible increased costs, it did not agree with our recommendation to give more service members the option of administrative board hearings.

Our survey results reinforce our belief that time frames for processing discharges, combined with command monitoring, would save millions of dollars in pay and allowances to members awaiting discharge and to commanders who must spend time processing them. Therefore, DOD should give top priority to our recommendation for establishing discharge time frames. DOD should also reconsider its position on giving more service members the option of an administrative discharge board hearing. As demonstrated by our Army sample, such an option for unsuitability cases would not necessarily be more costly than the Air Force and the Navy procedures. Whatever the criteria for board eligibility, DOD should insure that it is implemented consistently among services.