

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

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
ASSISTANT SECRETARY OF DEFENSE FOR
COMMAND, CONTROL, COMMUNICATIONS AND
INTELLIGENCE

SUBJECT: Implementation of "Policy Guidelines on Homosexual Conduct in the Armed Forces" in Personnel Security Investigation and Adjudication

The Policy Guidelines on Homosexual Conduct in the Armed Forces, issued by the Secretary of Defense on July 19, 1993, contain a paragraph of guidance on Security Clearances:

Questions pertaining to an individual's sexual orientation are not asked on personnel security questionnaires. An individual's sexual conduct, whether homosexual or heterosexual, is a legitimate security concern only if it could make an individual susceptible to exploitation or coercion, or indicate a lack of trustworthiness, reliability or good judgment that is required of anyone with access to classified information.

To supplement these guidelines, the following additional guidance must be implemented by the Military Departments and all agencies that investigate or adjudicate personnel security matters.

1. Limitations on Investigations

An individual's sexual orientation is not, in itself, a security concern. However, sexual conduct may be a security concern under some circumstances. Conduct may be of concern when it raises an issue under the applicable security standards--normally the standards stated in 5200.2-R, Personnel Security Program. Such conduct may consist of sexual conduct or concealment of sexual orientation or conduct.

If information about sexual conduct or concealment arises during a personnel security investigation, the investigation will focus on that conduct only if it relates directly to applicable security standards. Even then, further inquiry should be limited to what is necessary to establish whether the conduct occurred and whether the requisite nexus with a security concern exists.

Thus, an allegation about sexual conduct will not be pursued unless the specific conduct alleged raises a security concern under the applicable standards. Under those circumstances, inquiry into the conduct may proceed, but should be confined to those aspects that implicate applicable standards.

An allegation about concealment of sexual orientation or conduct will be handled much the same: in order to investigate, the nature of the alleged concealment must be such as to raise a security concern under the applicable standards. Any further inquiry should focus on the efforts of the individual to conceal and the potential vulnerability as a result, rather than the sexual orientation of the individual or the sexual conduct itself. An individual's efforts to follow DoD policy on homosexual conduct in the Armed Forces by not openly acknowledging his or her homosexual orientation do not constitute concealment.

2. Questions about Sexual Orientation and Conduct

Questions directed to the subject of a security clearance investigation, whether in person or on a questionnaire, will be neutral as to the individual's sexual orientation, insofar as possible. Questions directed to references will also be neutral as to orientation, insofar as possible.

No questions relating to sexual orientation will be asked of any subject unless there is information about sexual conduct or concealment that raises an issue under the applicable security standards.

3. Evenhanded Application

Security investigations and adjudications will be conducted without regard to the sexual orientation of the individual involved, unless the individual's sexual conduct or concealment of sexual conduct or orientation raises issues of security concern. In all security investigations and adjudications, the applicable security standards will be applied consistently and evenhandedly.

4. Use of Personnel Security Information

Paragraph 10-100 of DoD 5200.297R provides, in part:

Personnel security investigative reports may be used only for the purposes of determining eligibility of DoD military and civilian personnel, contractor employees and other persons affiliated with the Department of Defense, for access to classified information, assignment or retention in sensitive duties or other specifically designated duties requiring such investigation, or for law enforcement and counterintelligence investigations. Other uses are subject to the specific written authorization of the Deputy Secretary of Defense for Policy.

Information about sexual orientation or conduct obtained during security clearance investigations will not be used other than as permitted by this provision. In particular, information about homosexual orientation or conduct by military personnel will not be used by the military departments in separation proceedings.