



OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

JUL 7 2009

PERSONNEL AND
READINESS

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF

SUBJECT: Enlistment or Commissioning of Individuals with Felony Convictions for Sexual Assault

To ensure compliance with Department of Defense's policy regarding the enlistment or commissioning of individuals with Felony Convictions for Sexual Assault, the following clarifications and guidance are provided. It is the Department's policy that the enlistment or commissioning of these individuals is prohibited under any circumstances and that no waivers are authorized. Current policy regarding this issue can be found in DoDD 6495.01, *Sexual Assault Prevention and Response Program*, sections 4.7 and E2.1.9.

The following terms are to be used to determine whether an individual has been convicted of felonious sexual assault:

- Conviction – When the finding of a court is a “guilty” verdict for a crime, offense, or other violation. Other forms of adverse adjudication do not apply.
- Felony - Any offense for which the maximum term of imprisonment authorized (even if not imposed or served) is more than 1 year.
- Sexual Assault - Any intentional sexual contact, characterized by use of force, threats, intimidation, abuse of authority, or when the victim does not or cannot consent, including when due to incapacitation by drugs or alcohol. In addition, any offenses classified as “rape (including statutory rape),” “forcible sodomy,” and “other unwanted sexual contact that is aggravated, abusive, or wrongful” or “attempts to commit one of these offenses.”

Questions regarding this issue should be referred to Mr. Dennis Drogo at (703)697-9268 or via email at dennis.drogo@osd.mil.

A handwritten signature in black ink that reads "Gail H. McGinn".

Gail H. McGinn
Deputy Under Secretary of Defense (Plans)
Performing the Duties of the
Under Secretary of Defense
(Personnel and Readiness)