

PERSONNEL

SEPARATION OF HOMOSEXUALS

SECTION I. GENERAL.	Paragraph
Purpose-----	1
Separation mandatory-----	2
Classification-----	3
Character of Separation-----	4
Responsibility-----	5
II. DISPOSITION.	
Class I-----	6
Class II-----	7
Class III-----	8
Reports-----	9
Availability of witnesses-----	10
Evaluation-----	11

SECTION I GENERAL

1. Purpose. - These regulations prescribe procedures whereby homosexual personnel will be investigated and discharged from the Army.

2. Separation mandatory. - True, confirmed, or habitual homosexual personnel, irrespective of sex, will not be permitted to serve in the Army in any capacity and prompt separation of known homosexuals from the Army is mandatory.

3. Classification. - Homosexual personnel coming within the purview of Department of the Army policy fall into several categories which may or may not overlap and will be more or less complicated by the facts and circumstances peculiar to the individual cases. Cases, however, generally are classified as follows:

a. Class I is defined as those cases accompanied by assault or coercion, as characterized by any act in or to which the other person involved did not willingly cooperate or consent or where the consent was obtained through force, fraud, or actual intimidation, thereby constituting the invasion of the rights of another; or any homosexual action with a child under the age of consent, whether the child cooperates or not. A child under the age of consent is interpreted to apply to all persons under the age of 16.

b. Class II is defined as those cases wherein true or confirmed homosexual personnel have engaged in one or more homosexual acts or where evidence supports proposal or attempt to perform an act of homosexuality and which does not fall into the category of class I. It is emphasized that no distinction is made in the administrative handling of the cases of alleged participation in homosexual acts while a member of the Army based upon whether the role of a person in any particular action was active or passive.

PERSONNEL

e. Class III is defined as those rare cases wherein personnel only exhibit, profess, or admit homosexual tendencies and wherein there are no specific, provable acts or offenses, or court-martial jurisdiction does not exist. All persons who confess homosexual tendencies shall not necessarily be discharged merely on the basis of confession of homosexuality. It is essential to distinguish between those who have uncontrollable, perverse tendencies in fact and those who claim such for the purpose of avoiding military service. Evidence of existing psychological or other maladjustment resulting from such tendencies or other circumstances which render the individual inadaptable for military services will be evaluated carefully in making a decision.

4. Character of separation. - The character of separation normally to be effected for all classes of homosexuals arising among personnel of the Army shall be similar and without distinction as to sex (male or female) or status (officer or enlisted) in all components.

5. Responsibility. - It is the duty of every member of the military service to report to his commanding officer any facts which may come to his attention concerning overt acts of homosexuality. Commanding officers receiving information indicating that a person in the Army possesses homosexual tendencies or bias engaged in an act of homosexuality shall inquire thoroughly and comprehensively into the matter and ascertain all the facts in the case, bearing in mind the peculiar susceptibility of such cases to possible malicious charges.

SECTION II

DISPOSITION

6. Class I. - When the investigation clearly indicates that the accused falls within the provisions which classify an individual as class I, trial by general court-martial is mandatory. Charges will be preferred and forwarded to the commander having general court-martial jurisdiction.

7. Class II. - When the investigation clearly indicates that the accused falls within the provisions which classify an individual as class II, charges and specification(s) for trial by general court-martial will be prepared and the accused will be confronted with them. The accused then will be offered the following alternatives:

a. Officers.

- (1) *Resignation.* - The accused will be informed that a resignation may be submitted for the good of the service in lieu of trial by court-martial. Such resignation will be tendered in accordance with paragraph 4, AR 605-275, employing form B contained in paragraph 12, AR 605-275.
- (2) *General court-martial.* - If the accused officer refuses to submit a suitable resignation, he will be brought to trial by general court-martial. Charges will be preferred and submitted to the commander, having general court-martial jurisdiction.
- (3) *Referral to Headquarters, Department of the Army.* - When the accused submits a resignation in accordance with (1) above or when the evidence indicates that that by court-martial may not result in conviction of the accused, the tender of resignation with supporting documents or a complete report of the case, as outlined in paragraph 9, will be forwarded to The Adjutant General, Department of the Army, Washington 25, D. C., for referral to the Army Personnel Board. The Army Personnel Board may direct that one of the following actions be taken:

SEPARATION OF HOMOSEXUALS

- (a) Acceptance of the resignation in accordance with paragraph 4, AR 605-275.
- (b) Initiate action with a view to trial by general court-martial.
- (c) When the evidence in the case indicates that trial by court-martial is not warranted or that conviction by court-martial is unlikely, change the classification of the case to class III and direct disposition in accordance with paragraph 8.

b. *Enlisted personnel.*

- (1) *Submission of signed statement.* - enlisted persons will be informed that a signed statement in tenor as follows may be submitted:

I hereby accept an undesirable discharge for the good of the service and to escape trial by general court-martial. I understand that my separation from the Army effected by undesirable discharge will be under conditions other than honorable; that I may be deprived of many rights as a veteran under both Federal and State legislation; and that I may expect to encounter substantial prejudice in civilian life in situations wherein the type of service rendered in any branch of the Armed Forces or the character of discharge received therefrom may have a bearing.

- (2) *Resignation in lieu of signed statement.* - Enlisted personnel serving in an enlistment for an unspecified period who have served at least 3 years therein may tender a resignation for the good of the service under paragraph 8a, AR 615-367, in lieu of the statement outlined in (1) above.
- (3) *Action when (1) or (2) above are not complied with.* - The accused enlisted person will be brought to trial by general court-martial when the evidence so indicates and he refuses to sign a statement as worded in (1) above, or is not eligible or does not desire to submit a resignation as authorized in (2) above. Otherwise, the action specified in (4) below will be taken.
- (4) *Referral to Department of the Army.* - When the action specified in (1) or (2) above is taken or when the evidence indicates that trial by general court-martial specified in (3) above may not result in conviction of the accused, the signed statement or resignation, as appropriate, with supporting documents, or a complete report of the case as outlined in paragraph 9 will be forwarded to The Adjutant General. ATTN: AGPO-XD, for referral to the Army Personnel Board. The Army Personnel Board may direct one of the following actions be taken:
 - (a) *Acceptance* of the signed statement under conditions recommended.
 - (b) *Acceptance* of resignation.
 - (c) Initiate action, with a view to trial by general court-martial.
 - (d) When the evidence in the case indicates that trial by court-martial is not warranted or that conviction by general court-martial is unlikely, change the classification of the case to class III and direct disposition in accordance with paragraph 8.

8. Class III. - a. Documentation and forwarding of case. - When the investigation clearly indicates that the accused falls within the provisions Which classify a person as class III, the following actions will be taken:

- (1) A detailed signed statement will be obtained from each individual concerned relating to his tendencies and any past homosexual actions. *See Uniform Code of Military Justice, Article 31.*
- (2) A written report will be obtained from a psychiatrist or other medical officer based upon his study and evaluation of the individual.

PERSONNEL

- (3) Enlisted persons serving in specified term enlistments and enlisted persons serving in unspecified term enlistments who have not served at least 3 years therein will be afforded an opportunity to submit a signed statement accepting discharge, either general or honorable as determined to be appropriate by the Army Personnel Board. Enlisted persons serving in unspecified term enlistments who have served at least 3 years therein may tender a resignation under paragraph 8b, AR 615-307, in lieu of the foregoing statement.
 - (4) Officer personnel will be afforded the opportunity of submitting an unqualified resignation.
 - (5) All papers in the case will be forwarded to The Adjutant General, ATTN: AGPO, with detailed comment and recommendations of the commanding officer for referral to the Army Personnel Board.
- b. Action by Army Personnel Board.*
- (1) *When separation is warranted.* - When the Army Personnel Board directs separation, The Adjutant General will -
 - (a) Accept the resignation in accordance with the appropriate regulations governing the submission of resignations, if such resignation is tendered; or
 - (b) Direct that elimination action be initiated under section III or IV, AR 605-200, as applicable.
 - (c) Direct an enlisted person to be administratively discharged from the service and furnished either an honorable or a general discharge certificate, based upon instructions of the Army Personnel Board. The specific reason for discharge shown on these discharge certificates will be "Convenience of the Government. AR 615-365 and AR 600-443."
 - (2) *When separation is not warranted.* - When the Army Personnel Board determines that separation is not warranted, The Adjutant General will so notify the appropriate field commander and will transmit such special instructions as may be required in such case.

9. Reports. - All class II and III cases processed under these regulations will be forwarded to the commander exercising general court-martial jurisdiction, who will indorse his recommendation by the most expeditious means available to The Adjutant General, ATTN: AGPO, with an information copy of the case sent through normal channels to the major command concerned. It is essential that all facts indicating homosexual tendencies or acts be recorded properly and that signed statement of all witnesses be obtained, except when individuals are brought to trial by general court-martial. In all cases, the reports will include the date of the individual's birth; the amount of active service of the individual concerned; the statement required in paragraph 8a(1) from the officer or enlisted person concerned, or his statement to the effect that he does not desire to make a statement; statements of witnesses; copy of the general court-martial charge and specifications, where indicated; resignation of the officer or agreement by the enlisted person to accept discharge, as worded in paragraph 7 or 8 where appropriate; and the commanding officer's detailed comments and recommendations. The report also will include a medical evaluation and, when feasible, a psychiatric study of the person concerned. An adequate psychiatric study will include as a minimum a -

a. Personal history, including detailed account of development of homosexuality, if any.

SEPARATION OF HOMOSEXUALS

- b. Report of mental status examination.
- c. Psychiatric diagnosis, if any.
- d. Statement regarding the existence or not of homosexuality, its degree and type.
- e. Statement regarding the mental responsibility of the individual.
- f. Medical recommendation regarding the disposition of the case, including comment as to reclaimability of the individual and advisability of restoration to duty or separation from the service.
- g. Statement as to whether there are any medical contributions to administrative disposition.

10. Availability of witnesses. - All information concerning any other homosexuals involved will be forwarded to The Adjutant General for information and further evaluation in order to guarantee the availability of essential military witnesses in subsequent proceedings, the appropriate commander will ascertain promptly the termination or transfer status of each witness. No witness shall be transferred or separated from the service before the proceedings commence, except those whose terms of enlistment expire. In which case, instructions will be requested from The Adjutant General, with allowance made for sufficient time for an answer to be received. No person held solely as a witness will be confined.

11. Evaluation. - The Army Personnel Board will give full consideration to all the facts in the case and will direct The Adjutant General as to the disposition to be made. When the accused is a female officer or enlisted women, the membership of the Board will include a female officer as an advisor without vote. Psychiatric or other medical advice will be utilized by the Board, when indicated, in arriving at a final decision. The Board will be guided by the policy outlined in paragraphs 3 and 4. In every case not resulting in trial by court-martial, the disposition and type of discharge to be furnished will be determined on the basis of the facts in the case and will be discretionary with the Department of the Army.

[AG 220.8 (2 Apr 53) AGPO]

BY ORDER OF THE SECRETARY OF THE ARMY:

OFFICIAL
WM. E. BERGIN
Major General, USA
The Adjutant General

J. LAWTON COLLINS
Chief of Staff, United States Army

DISTRIBUTION:

B