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Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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April 21, 2008

The Honorable David Chu
Under Secretary of Defense for Personnel and Readiness
U.S. Department of Defense
4000 Defense Pentagon
Washington, DC 20301-4000

Dear Dr. Chu:

Thank you for responding to the Committee's request for information regarding military personnel waivers issued to U.S. service members. The data you provided the Committee shows that there was a rapid rise in 2007 in the number of waivers the Army and Marine Corps granted to recruits convicted of serious felonies, such as aggravated assault and burglary. Some recruits were even granted waivers for felony convictions involving sexual assault and terrorist threats. I am writing to seek more information about these trends and their implications for military readiness.

In response to our October 18, 2007, request, you provided the Committee with statistics regarding personnel waivers granted in 2006 and 2007 to enlistees who had been convicted of felonies. Your office informed Committee staff that due to poor recordkeeping and maintenance, you are unable to provide similar information for prior years or regarding serious misdemeanors.¹ According to the data provided to the Committee, the Army and Marine Corps significantly increased the number of waivers they granted for enlistees with felony convictions from 2006 to 2007. Army waivers increased from 249 waivers in 2006 to 511 waivers in 2007, while Marine Corps waivers increased from 208 waivers in 2006 to 350 waivers in 2007.² Both branches increased the number of waivers they granted for almost every type of felony offense.

¹ Meeting between Lieutenant Colonel Derek Contreras, Special Assistant for Personnel Policy, Office of the Assistant Secretary of Defense (Legislative Affairs), et al. and House Committee on Oversight and Government Reform Staff (Jan. 10, 2008).

² Army Felony Waivers (Convictions Only) by Type of Offense; Marine Corps Felony Waivers (Convictions Only) by Type of Offense. The Air Force grants no waivers for felony convictions, and the Navy granted slightly fewer waivers in 2007, lowering from 48 waivers in 2006 to 42 waivers in 2007. Air Force Felony Waivers (Convictions Only) by Type of Offense; Navy Felony Waivers (Convictions Only) by Type of Offense.

In addition, the new data provided to the Committee shows for the first time some of the offenses for which the Army and Marine Corps have granted waivers. In 2007, the Army and Marine Corps granted 87 waivers to enlistees who had been convicted of “[a]ggravated assault, assault with a dangerous weapon, [or] maiming,” 248 waivers to enlistees who had been convicted of “[b]urglary,” and 130 waivers to enlistees who had been convicted of “[n]arcotics or habit-forming drugs; wrongful possession or use (marijuana not included).”³ The Army and Marine Corps also granted small numbers of waivers for the crimes of “[r]ape, sexual abuse, sexual assault, criminal sexual abuse, incest, or other sex crimes,” “[i]ndecent acts or liberties with a child, molestation,” and “[t]errorist threats including bomb threats.”⁴

I understand that there can be valid reasons for personnel waivers and recognize the importance of providing opportunities to individuals who have served their sentences and rehabilitated themselves. At the same time, concerns have been raised that the significant increase in the recruitment of persons with criminal records is a result of the strain put on the military by the Iraq war and may be undermining military readiness.

To help the Committee understand these issues, I request that you provide the Committee with the following documents:

1. Any documents created by the Department of Defense, Army, Navy, or Marine Corps that explain, discuss, or relate to the increased number of personnel conduct waivers since 2001;
2. Any documents created by the Department of Defense, Army, Navy, or Marine Corps that explain, discuss, or relate to the lowering of standards for enlistees and whether this has any relation to meeting recruitment goals;
3. Updated 2007 and 2008 data on the Distribution of Conduct Waivers by Offense Type for the Department of Defense, Army, Navy, Marine Corps, and Air Force;
4. Any data, studies, or analysis done by the Department of Defense, Army, Navy, Marine Corps, or Air Force on the impact of increasing the number of personnel conduct waivers or on the performance of those enlistees for whom waivers were granted; and

³ Army Felony Waivers (Convictions Only) by Type of Offense; Marine Corps Felony Waivers (Convictions Only) by Type of Offense.

⁴ *Id.* While the Marine Corps data explains the specific circumstances of some of these felony convictions, it does not describe them all, and the Army did not provide explanations regarding any of these waivers.

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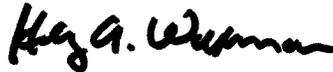
5. Documents describing any programs that the Department of Defense, Army, Navy, or Marine Corps have in place to provide additional training, counseling, or oversight to those enlistees for whom waivers were granted.

Please provide these documents and information to the Committee as soon as possible but in no case later than May 20, 2008. In addition to the above documents and information, we also request that you provide a briefing on these issues on or before May 22, 2008.

The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X. An attachment to this letter provides additional information about how to respond to the Committee's request.

If you have any questions regarding this request, please contact Susanne Sachsman of the Committee staff at (202) 225-5420.

Sincerely,



Henry A. Waxman
Chairman

Enclosure

cc: Tom Davis
Ranking Minority Member