

GAO

Report to the Chairman and the Ranking
Minority Member, Subcommittee on
Personnel, Committee on Armed
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MILITARY RECRUITING

New Initiatives Could Improve Criminal History Screening



National Security and
International Affairs Division

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Chairman
The Honorable Max Cleland
Ranking Minority Member
Subcommittee on Personnel
Committee on Armed Services
United States Senate

To enter the military services, applicants must meet several Department of Defense (DOD) entrance qualification standards, such as moral character, physical fitness, and dependency status, or be granted a waiver. Notwithstanding the moral character standards, a criminal history record¹ for any type of crime, including a felony, does not automatically eliminate someone from consideration because they may be granted a "moral character waiver" (referred to in this report as moral waiver)—an agreement to enlist an individual despite past behavior. Of the 1.5 million individuals the military services enlisted in fiscal years 1990 through 1997, about 192,000 were granted a waiver for moral character reasons.

Concerned about the moral character qualifications of enlisted personnel, you requested that we (1) determine the extent to which relevant criminal history information on potential enlistees is available to the military services and (2) identify any federal government initiatives that could improve the process of obtaining criminal history information. We are also providing data comparing enlistees entering military service with moral waivers to those without, and their reasons for separation. This information is presented in appendix I.

Results in Brief

The military services have extensive policies and procedures for encouraging applicants to self-report criminal history information. Among other things, the services repeatedly query each applicant, providing as many as 14 opportunities to disclose any criminal offenses to as many as seven different service and military entrance processing station officials. The services also conduct periodic inspections and investigations to ensure the integrity of the entire recruiting process, which includes the disclosure of disqualifying information. The services, however, are not

¹Criminal history records" are fingerprint cards or their electronic counterparts, linked with identifying information and available data on arrests, convictions, and sentences. Not included are state or local criminal justice agency records sealed under law. Records of offenses committed by juveniles are frequently sealed.

always able to obtain or substantiate all available criminal history information because of service policies and federal, state, and local laws and policies that sometimes preclude access. First, the services do not use fingerprints to substantiate the majority of enlistees' criminal histories. Without full fingerprint searches, the services cannot detect undisclosed aliases and ensure that they are aware of all available criminal history information. Second, federal law and state and local laws and policies, which generally limit or prohibit disclosure of criminal history information, impede the recruiting community's access to certain criminal history information. In addition, state and local governments sometimes charge fees or require fingerprints to release the information. Third, available criminal history databases (not controlled by DOD) are incomplete. Of further concern is the services' practice of sending enlistees to basic training before the results of criminal record checks are received. This practice results in training costs that could be avoided.

Several DOD and Department of Justice initiatives are underway that could improve the process of obtaining criminal history information. These initiatives have the potential of making available to DOD and the services more complete information upon which to make moral waiver decisions and expedite the process for obtaining record checks. However, DOD and the services have not yet formulated a coordinated approach for using these initiatives to better ensure that the military does not enlist and train individuals with undesirable backgrounds.

Background

Military enlistees must meet basic DOD and military service entrance qualification standards on age, citizenship, education, aptitude, physical fitness, dependency status, and moral character. Screening to determine whether applicants meet these standards or merit being granted a waiver begins with a recruiter's initial contact with a potential applicant and continues through their entrance into basic training. In deciding whether to grant a moral waiver, the services employ the "whole person" concept: They consider the circumstances surrounding the criminal violations, the age of the person committing them, and personal interviews.

As figure 1 shows, the services differ in both the way they categorize criminal offenses and the criteria they use for requiring moral waivers. In general, however, the services require moral waivers for convictions or adverse adjudications for criminal offenses as follows:

(1) "felonies"—such as murder and grand larceny;² (2) "non-minor (serious) misdemeanors"—assault and petty larceny; (3) "minor misdemeanors"—discharging a firearm within city limits and removing property from public grounds; (4) "minor non-traffic"—disorderly conduct and vandalism; (5) "serious traffic"—driving with revoked license and failure to comply with officer's directions; and (6) "minor traffic"—speeding and driving without a license. The services, except for the Army, also grant moral waivers for preservice drug and alcohol abuse. None of the services grant waivers for certain offenses, such as the trafficking, sale, or distribution of illegal drugs.

²10 U.S.C. 504 provides that no person convicted of a felony may be enlisted in any of the armed services; however, the secretaries of the respective services are authorized to make exceptions in meritorious cases.

Figure 1: Level of Offenses and Military Service Criteria for Requiring Moral Waivers

Level of offense	Army	Navy	Marine Corps	Air Force
Felony	One: no waiver allowed for more than one.	One or more.	One; no waiver allowed for more than one.	One or more.
Non-minor (serious) misdemeanor	Two through four; no waiver allowed for five or more.	One or two; no waiver allowed for three or more.	One through five; no waiver allowed for six or more.	One or more.
Minor misdemeanor	Category not used.	Three through five; no waiver allowed for six or more.	Category not used.	One or more.
Minor non-traffic	Three or more; three convictions of a combination of misdemeanors and minor non-traffic.	Three through five; no waiver allowed for six or more.	Two through nine; no waiver allowed for 10 or more.	Depending on the seriousness of the offense: One or more, or two in the last 3 years, or three or more in a lifetime.
Serious traffic	Category not used.	Category not used.	Two or more; no waiver allowed for six or more.	Category not used.
Minor traffic	Six or more where the fine was \$100 or more per offense.	Six or more in any 12-month period during 3 years preceding enlistment. Ten or more within 3 years preceding enlistment.	Five or more.	Depending on the seriousness of the offense: (1) two in last 3 years, or three or more in a lifetime or (2) six or more minor traffic or five minor traffic and one minor non-traffic in any 1-year period within the last 3 years.

Source: Service regulations.

Appendix I provides detailed information about how often and for what reasons the services granted moral waivers to enlistees during the fiscal years 1990 through 1997 period. Overall, DOD's Defense Manpower Data Center (DMDC) data for this 8-fiscal year period shows the following:

- moral waivers accounted for 62 percent of all waivers granted³ and represented 13 percent of all individuals enlisted;
- although annual DOD-wide enlistments fluctuated between about 162,000 and 223,000 during this period, the rate of granting moral waivers consistently declined from 17.5 percent to 7.8 percent of all enlistees—a total decrease of over 60 percent;
- of the moral waivers granted, non-minor (serious) misdemeanors and preservice drug and alcohol abuse categories accounted for over 75 percent, minor non-traffic and traffic offenses for about 20 percent, and felonies committed either as an adult or juvenile about 3 percent; and
- the number of moral waivers granted in all categories decreased, but felony and non-minor misdemeanor waivers increased as a percentage of total moral waivers granted.

Screening Policies and Procedures Are Extensive, but Record Checks Are Limited

The services' policies and procedures for screening for criminal histories and granting moral waivers are extensive and are intended to encourage applicants to reveal their criminal history information. However, because of limitations in records checks, the services are not always able to obtain or substantiate all available criminal history information. First, the majority of the national agency checks are conducted without using an applicant's fingerprints to verify or search for records. Also, service policies and federal, state, and local laws and policies sometimes limit or preclude access to criminal history information, and the criminal history databases relied on by the services for record checks are incomplete. Of further concern is the services' practice of sending enlistees to training before the results of criminal record checks are received, which incurs unnecessary costs.

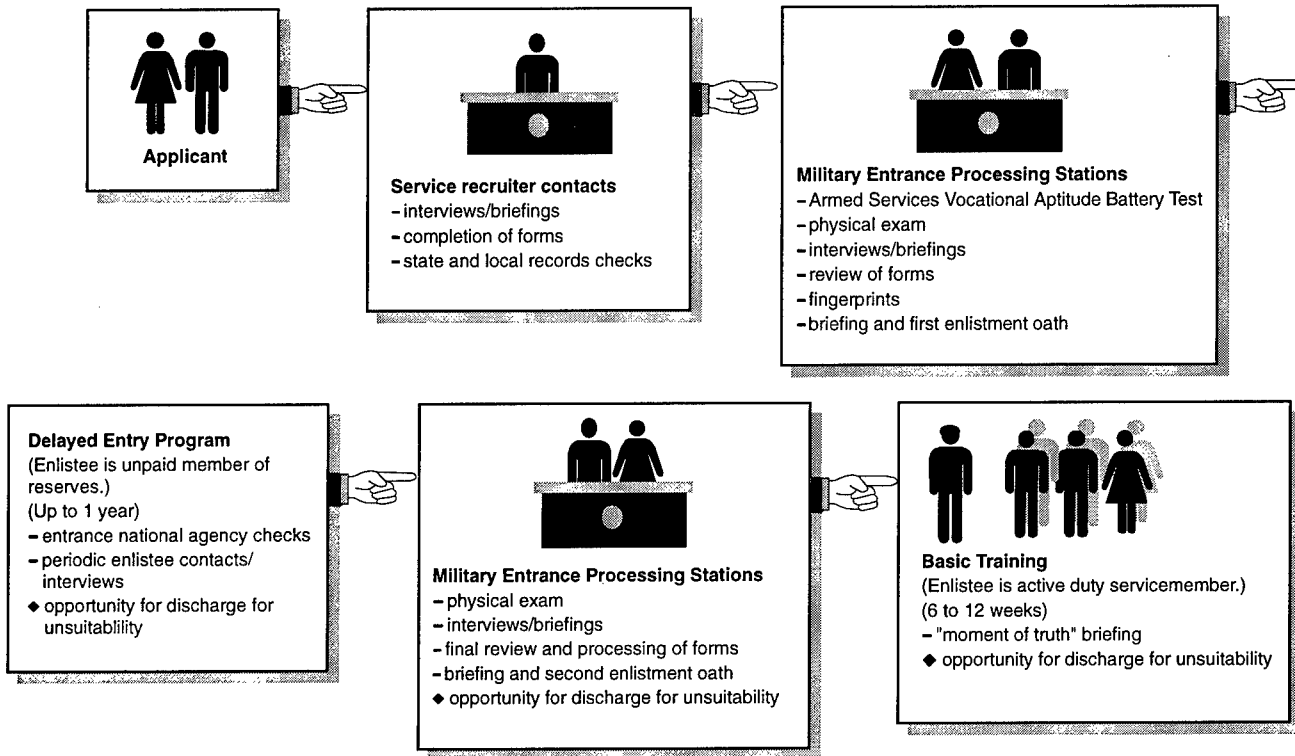
Extensive Policies and Procedures Exist for Gathering Criminal History Information

Each service screens for criminal background information in a similar manner. Figure 2 shows how the following screening tools fit in the recruiting process: (1) face-to-face interviews, briefings, and completion of forms; (2) law enforcement agency record checks at the state and local levels; and (3) national agency record checks conducted by the Defense Security Service.⁴

³Includes waivers granted for age, citizenship, education, aptitude, physical fitness, dependency status, and moral character.

⁴This check, referred to as the Entrance National Agency Check, is a records search by appropriate federal agencies, including the Federal Bureau of Investigation (FBI) (for felony and serious misdemeanor offenses), the Central Intelligence Agency, and the Immigration and Naturalization Service.

Figure 2: Recruiting Process and Criminal History Screening Tools



Note: A moral waiver can be initiated when criminal history information is disclosed during any of these steps.

Source: Data compiled from the Military Entrance Processing Command and the military services' policies and procedures.

According to recruiting officials, screening to identify criminal histories begins when recruiters contact potential applicants informally—over the telephone, at shopping malls, or in schools. Through interviews and briefings listed in figure 3, the services provide applicants with as many as 14 different opportunities to disclose any prior criminal offenses and convictions to as many as 7 different recruiting, military entrance processing station, and training officials. The recruiting officials also

stated that security interviews are conducted for applicants enlisting in jobs requiring secret or top secret clearances.

Figure 3: Interviews and Briefings for Gathering Criminal History Information

Interview or briefing	Conducted by the service:	Conducted by the Military Entrance Processing Station:
Pre-interview	Recruiter	
Initial interview	Recruiter	
Pre-Military Entrance Processing Station briefing	Recruiter and/or recruiter chain of command	
Pre-enlistment medical interview		Medical personnel
Guidance counselor/ liaison interview	Guidance counselor or liaison	
Pre-enlistment interview		Processing personnel
First enlistment ceremony briefing		Enlisting officer
Delayed Entry Program follow up	Recruiter	
Active duty briefing	Recruiter and/or recruiter chain of command	
Pre-accession medical interview		Medical personnel
Guidance counselor/liaison interview	Guidance counselor or liaison	
Pre-accession briefing		Processing personnel
Second enlistment ceremony briefing		Enlisting officer
Basic training briefing	Basic training personnel	

(Figure notes on next page)

Notes: Slight variations occur by service. Recruiter chain of command personnel include Army recruiting station commanders, Marine Corps substation noncommissioned officers in charge, and Air Force flight chiefs. Service liaisons include Army guidance counselors, Navy liaison petty officers and classifiers, Marine Corps noncommissioned officers, and Air Force liaisons. Basic training personnel include personnel from the Army Training Battalion, Navy Recruit Quality Assurance Team, Marine Corps Basic Training Recruit Liaison Section, and Air Force Training Squadron.

Source: Service and Military Entrance Processing Command interviews, briefings, and regulations.

Applicants are required to complete the following forms used in obtaining criminal history information: (1) Record of Military Processing—Armed Forces of the United States (DD Form 1966), (2) Personnel Security Questionnaire (SF-86), (3) the Police Record Check (DD Form 369),⁵ and (4) the Armed Forces Fingerprint Card (DD Form 2280). These forms elicit information on police record histories, drug and alcohol use and abuse, financial records and delinquencies, and any juvenile arrest or criminal activity. At this point, recruiters may request state and local background checks.

After formal interviews with recruiters, applicants go to 1 of 65 military entrance processing stations to take the Armed Services Vocational Aptitude Battery test; undergo a physical exam; submit fingerprints; participate in more interviews and briefings; and take their first oath of enlistment, which formally enlists them as unpaid members of the Individual Ready Reserve forces and places them into the Delayed Entry Program.⁶

Entry into the Delayed Entry Program signals the beginning of the national agency check. Most of these record checks are conducted using descriptive data—an applicant's name, social security number, sex, date of birth, and race—without using fingerprints. When the checks involve fingerprints, the services request a fingerprint verification—a comparison of an enlistee's fingerprints against FBI criminal records to ensure that they

⁵In this form, applicants give state and local law enforcement agencies permission to disclose (1) police or juvenile records (including minor traffic violations) and (2) any ongoing court action.

⁶The Delayed Entry Program is intended to serve as a time for enlistees to make the necessary arrangements in their personal lives before embarking on their new career. For example, enlistees that are seniors in high school when they make the commitment need the extra time to get their diploma. The program also helps the military services meet their recruiting goals and training schedules. (For example, applicants may enlist for specific career fields that are not immediately available but offered at some future date.) The program also prepares the enlistees for basic training.

are from the same individual whose name was associated with a possible arrest record identified through the descriptive data search.

Also, during the Delayed Entry Program, recruiters are in contact with the enlistees and continue to inquire about their criminal background and any current contact with law enforcement agencies. If recruiters discover that enlistees have a criminal history or that they committed offenses while in the Delayed Entry Program, the enlistees may be discharged.⁷ After the Delayed Entry Program period, enlistees report again to a military entrance processing station where they undergo a second physical examination and more interviews and briefings and, if qualifications are met, take a second enlistment oath (which places them on active military duty). Subsequently, enlistees are asked again to disclose disqualifying information when they report to basic training, which lasts from 6 to 12 weeks depending on the service. By the 6-month point in their first terms, most enlistees have completed follow-on training in technical skills, though the length of such training can vary widely (from a few weeks to a year or more).

Moral waivers can be initiated at any stage of the recruiting process—during contacts with recruiters, visits to the military entrance processing stations, or the Delayed Entry Program. The level at which the moral waivers are approved depends on the seriousness of the offense. Waivers for the most serious offenses must be approved by the commanders of the recruiting commands in the Army, the Navy, and the Air Force and by the two regional recruiting commanders in the Marine Corps. Applicants or enlistees that intentionally conceal any disqualifying information may be refused enlistment at any point during the recruiting process or, after enlisting, discharged for fraudulent enlistment.

Quality control procedures have been incorporated into the recruiting process to ensure that recruiters do not conceal negative information about applicants. Each service (1) has established performance and moral character standards that recruiters must meet; (2) requires successful completion of a recruiter training course; (3) assigns some of its most senior recruiter personnel to military entrance processing stations; (4) conducts periodic inspections of recruiting activities; and

⁷Based on DMDC data, 987,368 enlistees entered the Delayed Entry Program during fiscal years 1993 through 1997; 219,500 (22.2 percent) of these were discharged from the program for a variety of reasons, including moral character. Complete information regarding the specific reasons for these discharges was not available in the DMDC database. However, according to data provided by three of the four services, 13,866 (8.3 percent of these three services' total discharges of 166,420) were discharged from the Delayed Entry Program for moral character reasons.

(5) investigates all allegations relating to recruiter improprieties, which include an irregularity, misconduct, or malpractice.⁸ Malpractice, in particular, is considered by DOD to include willfully concealing disqualifying factors, misleading or misinforming applicants, or violating recruiting policies and procedures resulting in processing an ineligible applicant. Examples of recruiter malpractice include telling the applicant to not claim all dependents or to conceal bankruptcies or previous criminal history. DOD data for the 7-fiscal year period ending September 30, 1997, show that the percentage of recruiter impropriety investigations opened was less than 1 percent of the total DOD enlistments; the percentage of investigations substantiated was less than 0.1 percent of these enlistments.

Limitations Exist for Record Checks

DOD's checks of criminal history records are limited because (1) the majority of national agency checks are conducted without using fingerprints, (2) the services have limited access to criminal history information, and (3) criminal history data sources are incomplete.

Majority of National Agency Checks Are Conducted Without Using Fingerprints

The services do not always require fingerprint verification because they do not believe the risk is great that enlistees will enter the service with undisclosed serious criminal histories, and they are concerned about the time and cost associated with fingerprint verification.⁹ However, it is the services' policy to conduct national agency checks with fingerprint verifications when (1) the descriptive data check reveals a possible arrest record; (2) applicants are aliens in the United States, prior service persons, or individuals who have criminal record activity; or (3) any information is revealed that may require more investigation for a security clearance. As a result, 73 percent of the enlistees in fiscal years 1992 through 1997 were checked for criminal history information at the national level using only descriptive data—name, social security number, race, sex, and date of birth. Fingerprint verification checks were made on the remaining 27 percent, accounting for 32 percent of the cases in the Army, 25 percent in the Navy, 22 percent in the Marine Corps, and 20 percent in the Air Force.

⁸DOD considers that an "irregularity" is an intentional action to mislead or misinform a prospective applicant about any aspect of processing to induce enlistments. "Misconduct," such as sexual harassment or misuse of a government vehicle, is considered willful behavior that is contrary to law, regulation, or policy, but does not apply to recruiting someone into the military fraudulently as malpractice impropriety does.

⁹During fiscal years 1992 through 1997, the average processing time for national checks using descriptive data was 10 to 14 days; fingerprint verifications took 25 to 38 days. The FBI charged DOD \$4.00 for national descriptive data checks and an additional \$8.00 for checks requiring fingerprint verification.

According to FBI officials, this fingerprint verification currently used by the services provides less certainty than a full fingerprint search, which compares an enlistee's fingerprints against all criminal records in the FBI files. For example, fingerprint verification does not assure the services that the search results are accurate if an applicant has used an alias not recorded in the criminal records. A full fingerprint search is required to positively identify the person and detect when they have used undisclosed aliases.

Services Have Limited Access to Criminal History Information

The services do not obtain or substantiate all available criminal history information because federal, state, and local laws and policies limit or prohibit access.

DOD policy states that the military services shall obtain and review criminal history record information from the criminal justice system and Defense Security Service to determine whether applicants are acceptable for enlistment and for assignment to special programs.¹⁰ However, under the Security Clearance Information Act (5 U.S.C. 9101), criminal justice agencies are required to provide this information to DOD only when an individual is being investigated for eligibility for access to classified information or sensitive national security duties. These agencies, which include federal, state, and local agencies, are not required to provide this information for determining basic eligibility or suitability for enlistment (i.e., employment). DOD gains access to this information through the national agency checks, which are used for granting security clearances to enlistees.¹¹ These national agency checks are initiated by military entrance processing station personnel for all enlistees soon after they enter the Delayed Entry Program and are employed as unpaid members of the reserves. Recruiters attempting to gain access to this information for screening applicants prior to sending them to the military entrance processing stations, however, cannot obtain it when state and local laws and policies restrict access. The sooner applicants' criminal records are

¹⁰According to the Office of the Secretary of Defense, the criminal justice system includes state, county, and local law enforcement agencies; courts and clerks of courts; and other government agencies authorized to collect, maintain, and disseminate criminal history record information.

¹¹According to an Office of the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) official, between 50 to 60 percent of all enlistees require a security clearance during their first term of enlistment. Air Force Recruiting Service officials told us that all Air Force enlistees require a security clearance.

known to military managers, the sooner they can make informed decisions about whether to grant moral waivers.¹²

Section 520a of title 10 of the U.S. Code authorizes DOD and the services to request from state and local government criminal history record information regarding enlistees.¹³ However, state and local policies sometimes prohibit the release of information, or require fees or fingerprints to obtain it. A telephone survey of the states by the Navy Recruiting Command in 1996, showed that 43 states released information on crimes committed by adults. The survey also showed that 33 states charged fees ranging from \$5 to \$59 and that 18 states and the District of Columbia required fingerprints before releasing information. The Army has a policy to request local and state record checks for all applicants, but will not pay these fees, and therefore, does not obtain information from states that charge fees. The other services request these record checks only if an applicant admits to a criminal history. Navy and Marine Corps policy allows recruiters to pay for the checks; Air Force policy requires applicants to obtain the checks and pay any fees associated with the checks. Further, because the services do not take fingerprints until after local and state record checks have been requested, the services do not obtain information from 18 states and the District of Columbia.

Finally, recruiters frequently cannot obtain information on applicants' juvenile criminal records. Generally, most state laws restrict access to juvenile records. The 1996 Navy survey showed that only three states release these records. In addition, under 18 U.S.C. 5038, federal juvenile delinquency proceedings' records are safeguarded from disclosure to unauthorized persons. Specifically, federal juvenile records may not be disclosed for any purposes other than judicial inquiries, law enforcement needs, juvenile treatment requirements, employment in a position raising national security concerns, and disposition questions from victims or victims' families. These juvenile crime records are likely to be a major source of criminal history information for the population targeted by military recruiters—men and women generally 17 to 21 years old. However, according to Department of Justice officials, when juveniles are charged with serious crimes such as murder and rape, most states try

¹²For fiscal years 1998 and 1999, DOD proposed legislative changes to give it the authority to readily obtain access to state and local criminal history information at reasonable costs for the purpose of accepting or retaining individuals into military service. According to one assistant secretary of defense official, DOD plans to continue pursuing these changes because their proposals have not been enacted.

¹³Under this law, criminal history record information pertaining to any juvenile or adult arrest, citation, or conviction describes the offense involved; age of the person involved; dates of arrest, citation, or conviction, if any; place of the alleged offense; place of arrest and assigned court; and disposition of the case.

them as adults in criminal court. Their records, if reported by states, are available in the FBI's national criminal records system. Criminal history checks, therefore, should identify many of the more serious juvenile criminal offenders who are tried as adults.

In 1992, the Department of Justice revised its regulations (28 C.F.R. 20.32) to allow the FBI to collect, maintain, and provide authorized access to juvenile records for juveniles tried or otherwise adjudicated in juvenile proceedings. Before 1992, the FBI was prohibited from collecting juvenile records with the exception of those cases when a juvenile had been processed as an adult. However, according to Department of Justice officials, each state determines whether its own laws permit submitting these juvenile records to, or authorizing access through the FBI. Also, states may elect not to record the offense, and local law enforcement may decide to label the offense a status violation (truancy, for example) rather than a criminal violation. As of February 1998, about 213,700 (less than 1 percent) of the 37,857,111 criminal subjects in the FBI's identification records system were under the age of 18.

Criminal History Data Sources Are Incomplete

Department of Justice studies have shown for decades that criminal history databases are incomplete and, as discussed in the next section, they have funded initiatives for improvements. The FBI considers a record to be complete when all significant events, such as the arrest and disposition, are available. A complete record also includes the individual's name, social security number, age, sex, fingerprints, and other physical descriptive type information. According to FBI officials, completeness of the FBI database is dependent upon states' submissions of arrest information and court disposition actions, and the states depend on local agencies to submit information to the state repository. Reporting of this information by all levels of law enforcement agencies to the next higher level is voluntary and does not always occur.

The Department of Justice periodically requests information from the states regarding the completeness of their criminal history databases. As of December 31, 1997, among the 50 states and the District of Columbia, the percentage of arrest records that have final dispositions recorded varied greatly, ranging from 5 to 98 percent. Also, for arrests within the last 5 years, three states reported that less than 30 percent of their records were complete. Conversely, nine states reported that 90 percent or more of their records were complete for the same period. At the federal level, as of June 1998, the FBI database had a total of 76,427,487 active arrests, but dispositions were on file for only 46 percent of the arrests.

According to a Department of Justice Assistant Attorney General, state criminal records systems tend to be more comprehensive than the federal system. This is particularly true in the case of non-felony arrests and convictions. Many nonserious offenses are either not reported to the FBI or, once reported, are not retained because they fail to satisfy retention criteria specified in regulation (28 C.F.R. 20.32). For example, the FBI is prohibited from maintaining nonserious offenses such as drunkenness, traffic violations, and vagrancy. The FBI database, however, includes reports of vehicular violations, which resulted in personal injury or property damage and driving while under the influence of alcohol or drugs.¹⁴

Services Risk Incurring Unnecessary Costs When Enlistees Are Sent to Training Before Results of Record Checks Are Known

The military services' policies allow enlistees to begin basic and follow-on training and, in some cases, enter their first-duty stations before investigative results of record checks are available. If the national record search does not reveal that an enlistee has a criminal history, results from the national agency check are usually received during the Delayed Entry Program. If the national record search reveals that an enlistee has a criminal history, the national agency check usually takes longer in order to positively identify the individual, obtain records, and in some cases, conduct an investigation. The results of this check may not be available until after the beginning of basic training. In some cases, an enlistee may be in a follow-on technical school or even at a first-duty station before the results of investigative reports are received.

The frequency with which enlistees enter basic and follow-on training with undisclosed serious criminal histories and are subsequently discharged because of unfavorable record checks is unknown. The Navy, however, had limited data regarding the actions taken as a result of this unfavorable information. During the first 11-1/2 months of 1997, the Navy reviewed 2,368 enlistee cases that contained unfavorable criminal history information; 389 (16.4 percent) were subsequently discharged because of unfavorable information.

When enlistees are discharged from service after beginning basic training, the services incur training costs that could have been avoided. On the basis of the Navy's 389 discharges, we estimate that the Navy incurred

¹⁴Although the more complete state criminal history records are currently unavailable for responding to noncriminal justice inquiries to the FBI system (such as those for military recruiting), these records are available for criminal justice purposes under the FBI's Interstate Identification Index that was operational in 39 states as of February 1999.

over \$2 million in unnecessary costs.¹⁵ The other services could not provide data that would allow us to make comparable estimates. The services risk having to absorb these costs because they are trying to avoid the cost of not filling allotted training slots.

Only the Army conducts an in-depth interview with enlistees whose record checks have not been received to determine the possibility of a concealed record and assigns them control numbers before sending them to basic training. Army officials told us that, with few exceptions, no one is sent to a first-duty station unless the records check has been received.

New Initiatives Could Improve Record Checks, but DOD Lacks an Implementation Strategy

There are several ongoing initiatives that would help DOD to improve the process for obtaining complete and timely criminal history information and avoid enlisting and training individuals with undesirable backgrounds. These initiatives include more thorough background checks using full fingerprint searches and credit checks, automation of security questionnaire information, a new FBI fingerprint imaging and classification system, and continuing efforts to improve the completeness of the criminal history database. Although these initiatives cover several aspects of the criminal history screening process, fall under the responsibility of various organizations, and would require some changes in current policies and procedures, DOD has not developed an approach for planning and coordinating their implementation. As a result, it is not yet in a position to take full advantage of the benefits of these initiatives.

Initiatives Are Underway That Could Improve DOD's Process for Obtaining Criminal Background Information

First, on January 1, 1999, DOD implemented Executive Order 12968, signed August 4, 1995, which expands the requirements for background investigations for all individuals in jobs requiring a security clearance. The Defense Security Service will be responsible for conducting a (1) national agency check using fingerprints; (2) local agency check, which requests local jurisdictions to provide criminal record information; and (3) credit check that provides information on financial responsibility. (Prior to January 1, 1999, the minimum requirement for background investigations for enlistees requiring secret and confidential clearances included the

¹⁵The Navy discharged 332 enlistees from basic training, 22 from follow-on training, and 35 from first-duty stations during the first 11-1/2 months of 1997. To estimate costs incurred, we used the Navy's cost estimates for pay, food, and housing of \$146 per day, clothing costs of \$817, transportation costs of \$166 (to and from recruit training), and basic training medical examination costs of \$91. For the 332 enlistees separated from basic training, we used the Navy's estimate that a recruit remains at basic training an average of 25 days before being separated. We used the full 9-week (63 days) basic training period to estimate the costs for the 57 enlistees that were separated during follow-on training or first-duty stations.

national agency check using only descriptive data, not fingerprints.) This new requirement will increase the quality of criminal history record checks for those enlistees filling jobs requiring a security clearance.

Second, the Defense Security Service requested that, by January 1, 1999, all DOD activities exclusively use the Electronic Personnel Security Questionnaire, which replaces the paper version of the SF-86. The automated form allows personnel security data to be more efficiently recorded, checked for completeness, and transmitted in electronic form. Also, the Defense Security Service will be able to expedite its performance of background investigations and efficiently store information for future retrieval.

Third, in July 1999, the FBI plans to implement the Integrated Automated Fingerprint Identification System. The FBI developed this system to capture, submit, process, match, and store fingerprints in a paperless environment, which will permit electronic—rather than manual—fingerprint searches. With it, the FBI expects that (1) electronically scanned fingerprints will be more readable—thereby eliminating the delays caused by rejecting smudged fingerprints, which must be resubmitted; (2) fingerprint matches will be more accurate because more fingerprint detail will be taken into account; (3) the turnaround time for fingerprint searches for DOD national agency checks will be reduced—24 hours instead of the current average of 16 days; and (4) the workload of full fingerprint searches for DOD could be processed in a timely manner without a significant change to current fees.

Finally, during the last several years, the need to improve the quality of criminal history records has been one of the major challenges facing federal, state, and local criminal justice agencies. The FBI Criminal Justice Information Services Division's Strategic Plan has a goal of having at least 80 percent of its criminal history records complete (containing both arrest and disposition information) by fiscal year 2003. Also, the Department of Justice has supported three major programs since 1988 that provide funding incentives to the states to improve the accuracy and completeness of criminal record information. During fiscal years 1990 through 1998, these programs awarded over \$1.47 billion to the states.

DOD Needs to Develop a Strategy for Implementing the New Initiatives

DOD does not have a clear strategy for implementing these initiatives. First, regarding the implementation of Executive Order 12968, the services have not determined the number of enlistees that will require a security

clearance and, therefore, be subject to the required expanded background checks. Currently, about 50 to 60 percent of military jobs require a security clearance, and according to an Assistant Secretary of Defense official, the number may increase as technology becomes more sophisticated. Also, the services have not determined when these investigations will occur. If the Defense Security Service initiates record checks early in the recruiting process, the services could avoid the costs incurred when enlistees are sent to basic training before receiving disqualifying criminal history information.

Second, the Defense Security Service has made the new Electronic Personnel Security Questionnaire available and provided training; however, with the exception of the Air Force, use of the form has been extremely limited. According to Military Entrance Processing Command officials, the services have not used the new form because of technological limitations. The Office of the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) told the services that investigations may take longer and be more costly when this new form is not used.

Third, regarding electronic fingerprinting, although several military entrance processing stations have tested electronic fingerprint scanners, DOD has not determined how it will use this automated system to enhance the quality and timeliness of their record checks. Also, DOD and the FBI have not reached agreement regarding the options that will be available for new services and costs that will be incurred under the FBI's Integrated Automated Fingerprint Identification System.

Furthermore, DOD has not formulated a coordinated approach for integrating these initiatives into the recruiting process to address some of the deficiencies in their record checks. The DOD officials pointed out that the initiatives have not been implemented yet and that DOD was dependent on the Department of Justice to make available the new fingerprint technology and provide greater completeness of the national criminal records database. However, DOD is responsible for and will be implementing in 1999, the Executive Order 12968 requirements for more thorough security clearance background investigations and the Electronic Personnel Security Questionnaire. The services and their recruiting commands, the Military Entrance Processing Command, and the Defense Security Service have not yet determined how they will implement these initiatives within their current recruiting practices or whether new practices are needed to take full advantage of the possible benefits.

Conclusions and Recommendations

The services have extensive policies and procedures for gathering self-reported criminal history information and granting moral waivers. Their reliance, however, on applicant self-disclosure, completion of required forms, and criminal history record checks from state, local, and national criminal history databases without a full fingerprint search limits the screening process and increases the risk of enlisting individuals with undesirable backgrounds. Use of the Electronic Personnel Security Questionnaire could minimize the time and costs associated with investigations conducted as part of the Defense Security Service's national agency checks. Use of the FBI's Integrated Automated Fingerprint Identification System could facilitate the use of full fingerprint searches as part of the recruiting process and make the record checks more thorough.

Collectively, these initiatives give DOD the opportunity to more fully obtain and substantiate criminal history information in a timely manner, avoid enlisting individuals with undesirable backgrounds, and eliminate the need to send enlistees to training before all criminal history information is available. Implementing these initiatives would also enable DOD to benefit from having more complete criminal history information available as a result of the database improvements funded by the Department of Justice. However, DOD has not determined how it will integrate these initiatives into its current criminal history screening process and, therefore, has not put itself in a position to take full advantage of them. Because these initiatives cover several aspects of the screening process, fall under the responsibility of various organizations, and represent some changes in current policies and procedures, it is essential that DOD carefully plan and coordinate its efforts to implement them. Therefore, we recommend that the Secretary of Defense take the following actions:

- Develop and monitor a DOD-wide plan to use the initiatives cited in this report. Such a plan should, at a minimum, incorporate the benefits of using the Defense Security Service's Electronic Personnel Security Questionnaire and the FBI's Integrated Automated Fingerprint Identification System. Additionally, the plan should address the integration of these two initiatives with the expanded security clearance background investigation requirements contained in Executive Order 12968. The plan should also include specific time frames and budget requirements for implementation.
- Require all national agency checks for enlistment into the military services to be based on a full fingerprint search to (1) reduce the risks associated with enlisting individuals who have been convicted of the more serious

misdemeanors and felonies and (2) identify individuals who have used aliases.

- Direct the services, after the initiatives available in 1999 are in use, to end their practices of sending enlistees to training and to first-duty stations without having all available criminal history information.

Agency Comments and Our Evaluation

In commenting on a draft of this report, DOD and the Department of Justice generally concurred with the report findings and recommendations, and emphasized several areas of concern.

DOD described its plans to act on the report recommendations as follows:

- To develop and monitor a DOD-wide plan to use the initiatives cited in this report, DOD stated that the Defense Accession Data Systems Integration Working Group, chaired by the Deputy Director of Operations, Military Entrance Processing Command, has identified the need to establish a subgroup led by the Office of the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) to address these initiatives and develop a DOD-wide plan. The Working Group discussed plans for the subgroup at its quarterly meeting in January 1999.
- To reduce the risks associated with enlisting individuals who have been convicted of the more serious misdemeanors and felonies, and to identify individuals who have used aliases, DOD stated that it will require a full fingerprint search for all potential enlistees. It noted, however, that implementation will depend upon availability of automated fingerprint scanners at the military entrance processing stations.
- Regarding the services' practices of sending enlistees to training and first-duty stations without having all available criminal history information, DOD stated that before directing such a change, a system needs to be developed to ensure a prompt turnaround time and allow the flexibility to process applicants without completed criminal history checks as exceptions to policy when criminal history information is delayed. DOD emphasized that enlistment screening will be improved with a system that ensures prompt availability of all applicant criminal history information, including that from state and local law enforcement agencies, including juvenile records.

DOD noted that our report does not fully address its need for timely access to state and local criminal information at a reasonable cost. It noted that many records of youth crime do not reach national databases. DOD commented that the absence of complete data makes it difficult to

evaluate enlistment waiver rates because the services cannot waive offenses they cannot identify. The Department of Justice also stated that DOD needs to obtain juvenile records presently protected under existing state laws. We agree that juvenile criminal records may contain information that would provide DOD with a more complete assessment of the criminal histories of applicants and our report generally describes limitations on access beginning on page 12. However, evaluating the pros and cons of access to juvenile records was beyond the scope of our review, and we clarified the Scope and Methodology section accordingly.

The Department of Justice also emphasized that fingerprint verification currently used by the military services is not to be confused with, nor is it a substitute for, positive identification by a full fingerprint search. It believes that only through a full fingerprint search can the military be assured that enlistees have not fraudulently listed their identities. The Department of Justice provided additional information to support its views on the importance of full fingerprint searches, which our report recommends. We agree with the distinction between fingerprint verification and full fingerprint searches and modified the report to clarify this point.

DOD's and the Department of Justice's comments are presented in their entirety in appendixes II and III, respectively. DOD and the Department of Justice also provided technical comments, which we have incorporated as appropriate.

Scope and Methodology

This review focused on DOD's policies and procedures for screening criminal history information for enlistees, including national agency checks, and for granting moral character waivers. To determine the extent to which relevant criminal history information on potential enlistees is available to the DOD military services, we reviewed the Air Force, the Army, the Marine Corps, the Navy, and the U.S. Military Entrance Processing Command policy guidance and regulations and discussed them with recruiting command and U.S. Military Entrance Processing Command officials. Also, we discussed with these officials the internal control and quality assurance procedures used to monitor screening procedures. We reviewed applicants' enlistment files at three military entrance processing stations to determine whether screening procedures had been followed.

To identify federal government initiatives that could improve the process of obtaining criminal history information, we interviewed DOD and

Department of Justice officials and discussed the new requirements for security clearances, the Integrated Automated Fingerprint Identification System, automation of security questionnaire information, and continuing efforts to improve the completeness of the criminal history database.

Regarding the completeness of and access to state and local records, we obtained information from DOD and Department of Justice officials. We did not obtain information directly from state and local officials regarding their laws and policies pertaining to DOD's access to their criminal history records. Also, we did not assess the pros and cons of restricted access to juvenile criminal history records.

To supplement our objectives, we analyzed DMDC enlistment and waiver data for fiscal years 1990 through 1997 to determine the extent to which the services granted moral waivers and the type of moral waivers approved. To determine the reasons and rates of separations for enlistees granted moral waivers compared with those without moral waivers, we analyzed DMDC separation data for enlistees entering the military in fiscal years 1990 through 1993 who separated within their first 4 years of service. Fiscal years 1990 through 1993 were the most recent years for which complete separation data were available.

We performed our work at the following DOD, service, and Department of Justice locations:

- Directorate for Accession Policy, Office of the Assistant Secretary of Defense, Force Management Policy, Washington, D.C.;
- Security Directorate, Security and Information Operations, Office of the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence), Washington, D.C.; and Defense Security Service, Baltimore, Maryland;
- U.S. Army Recruiting Command, Ft. Knox, Kentucky; Navy Recruiting Command, Arlington, Virginia; Marine Corps Recruiting Command, Arlington, Virginia; and Air Force Recruiting Service, Randolph Air Force Base, San Antonio, Texas;
- U.S. Military Entrance Processing Command, North Chicago, Illinois; Military Entrance Processing Station, San Antonio, Texas; Military Entrance Processing Station, Chicago, Illinois; and Military Entrance Processing Station, Richmond, Virginia; and
- FBI, Washington, D.C.; FBI Criminal Justice Information Services Division, Clarksburg, West Virginia; Office of Justice Programs, Bureau of Justice

Statistics and Bureau of Justice Assistance, Washington, D.C.; and Office of Juvenile Justice and Delinquency Prevention, Washington, D.C.

We conducted our review from October 1997 to January 1999 in accordance with generally accepted government auditing standards

We are sending copies of this report to the Secretaries of Defense, the Army, the Navy, and the Air Force, and the Commandant of the Marine Corps. We are also sending copies to the U.S. Attorney General; the Director, FBI; the Administrator, Office of Juvenile Justice and Delinquency Prevention; and the Administrator, Office of Justice Programs. We will make copies available to others upon request. Please contact me at (202) 512-5140 if you or your staff have any questions concerning this report. Major contributors to this report are listed in appendix IV.



Mark E. Gebicke
Director, Military Operations
and Capabilities Issues

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Abbreviations

DMDC	Defense Manpower Data Center
DOD	Department of Defense
FBI	Federal Bureau of Investigation

Analysis of Moral Waiver Data

To supplement the overall objectives of this review, we analyzed Defense Manpower Data Center (DMDC) enlistment and separation data. Our objectives were to (1) determine how often and for what reasons the services granted moral waivers to enlistees and (2) compare the reasons for separation for those enlistees who entered the services with and without moral waivers. For sound analyses, we needed high-quality data that were accurate, reliable, and comparable. DMDC data, however, are of limited quality because enlistees may have entered military service without their past criminal history records being discovered and, therefore, entered without a moral waiver that should have been granted. Also, the services and the Military Entrance Processing Command apply moral waiver codes inconsistently, and the services differ in the way they use separation codes.¹ Nonetheless, until the Department of Defense (DOD) completes its database improvements to standardize definitions and coding structures for enlistment and separation data,² the DMDC data are the best available for describing DOD's experiences with granting moral waivers.

Given these data limitations, however, the following analyses generally indicate that the number and percentage of new active duty enlistees³ granted moral waivers has consistently decreased during the 8-year period ending fiscal year 1997. Furthermore, during the first 4 years of service, enlistees granted moral waivers in fiscal years 1990 through 1993 generally separated from military service for similar reasons and at comparable rates to those enlistees who were not granted moral waivers.

Trends in Granting Moral Waivers

Table I.1 shows the number and percentage of enlistees granted moral waivers for fiscal years 1990 through 1997 for each service and DOD-wide.

¹To assess data quality, we reviewed DMDC documentation and our previous reports that used DMDC data, performed tests of ranges and frequencies to identify missing data and unusable data elements, and discussed service data with service recruiting command officials for corroboration and to determine data anomalies. We could not determine, however, the extent to which data quality problems affected the results of our analyses.

²The National Defense Authorization Act for Fiscal Year 1998 (P.L. 105-85) directed DOD to improve the system of pre-enlistment waivers and separation codes, which was recommended by us. Our analyses for this report reaffirm the need for a consistent DOD-wide database that contains reasons for separation and enlistment waiver data. The services and DMDC recognize the need for these improvements and plan to implement waiver revisions in 1999 to make these data more complete and consistent.

³The data presented in this appendix do not include enlistees discharged from the Delayed Entry Program before taking the oath for active duty.

**Appendix I
Analysis of Moral Waiver Data**

Table I.1: Number and Percentage of Enlistees Granted Moral Waivers (fiscal years 1990-97)

Service	1990	1991	1992	1993	1994	1995	1996	1997
Army	5,989	5,648	5,186	4,301	3,304	3,203	2,260	2,394
(Percentage of Army enlistments)	(6.7)	(7.2)	(6.7)	(5.6)	(4.9)	(5.1)	(3.1)	(2.9)
Navy	11,890	9,016	7,244	8,028	5,759	6,248	7,323	6,554
(Percentage of Navy enlistments)	(18.6)	(18.2)	(16.7)	(16.2)	(16.2)	(17.3)	(18.8)	(14.7)
Marine Corps	20,451	17,610	15,791	10,162	6,997	5,205	4,076	3,992
(Percentage of Marine Corps enlistments)	(61.2)	(59.2)	(49.7)	(29.3)	(22.0)	(16.2)	(12.4)	(11.7)
Air Force	712	850	1,672	2,269	1,883	2,093	1,945	1,868
(Percentage of Air Force enlistments)	(2.0)	(2.9)	(4.8)	(7.2)	(6.2)	(6.7)	(6.3)	(6.2)
DOD waivers	39,042	33,124	29,893	24,760	17,943	16,749	15,604	14,808
DOD enlistments	222,567	187,156	187,146	193,029	164,921	161,707	175,466	190,464
(Percentage of DOD enlistments)	(17.5)	(17.7)	(16.0)	(12.8)	(10.9)	(10.4)	(8.9)	(7.8)

Note: The services differ in the criteria they use for granting moral waivers. For example, the Army is the only service that considers preservice drug or alcohol abuse a medical, not a moral character, issue.

Source: GAO's analysis of DMDC data.

Table I.2 shows the types, number, and percentages of moral waivers granted to enlistees DOD-wide for fiscal years 1990 through 1997. As shown, the services are granting fewer moral waivers in all categories. Although felony and non-minor misdemeanor waivers increased as a percentage of total waivers granted over the period (from 2 to 5 percent for felonies and 33 to 58 percent for non-minor misdemeanors), the actual number of these waivers granted decreased from 857 to 705 for felonies and from 12,858 to 8,542 for non-minor misdemeanors.

**Appendix I
Analysis of Moral Waiver Data**

Table I.2: Type, Number, and Percentage of Moral Waivers Granted to Enlistees DOD-wide (fiscal years 1990-97)

Type of moral waiver	1990	1991	1992	1993	1994	1995	1996	1997	Total (1990-1997)
Felony	857 2.2%	913 2.8%	776 2.6%	738 3.0%	593 3.3%	617 3.7%	725 4.6%	705 4.8%	5,924 3.1%
Non-minor misdemeanor	12,858 32.9%	11,077 33.4%	10,343 34.6%	12,027 48.6%	8,889 49.5%	8,845 52.8%	8,043 51.5%	8,542 57.7%	80,624 42.0%
Preservice drug and alcohol	16,401 42.0%	12,605 38.1%	10,396 34.8%	7,504 30.3%	5,754 32.1%	5,119 30.6%	4,964 31.8%	3,442 23.2%	66,185 34.5%
Minor traffic/non-traffic	8,446 21.6%	8,061 24.3%	7,995 26.7%	4,323 17.5%	2,559 14.3%	1,981 11.8%	1,560 10.0%	1,709 11.5%	36,634 19.1%
Other/unknown	480 1.2%	468 1.4%	383 1.3%	168 0.7%	148 0.8%	187 1.1%	312 2.0%	410 2.8%	2,556 1.3%

Source: GAO's analysis of DMDC data.

The services could not explain the reasons for these trends. However, we were told that the following service policy changes in waiver criteria account for some, but not all of the changes:

- In July 1994, the Marine Corps, which had the largest decrease, loosened its requirements for minor traffic offense criteria from "more than three" to "more than four." At the same time, preservice drug abuse criteria were tightened to include any marijuana experimentation or use.
- In fiscal year 1995, the Army revised its moral waiver criterion for non-minor misdemeanors from one offense to two.
- The Navy's granting of moral waivers remained fairly constant until fiscal year 1997. Prior to 1997, the Navy waivers included the moral waivers granted for both enlistment and special programs such as advanced electronics and nuclear fields, which required more stringent moral character standards. In fiscal year 1997, however, the Navy began to report enlistment and program moral waivers separately.
- The Air Force's granting of moral waivers increased during the 8-year period. Air Force officials could not specify the reasons for this increase, but suggested the following factors: (1) fluctuations in Air Force moral waiver criteria for minor traffic violations; (2) changing attitudes of law enforcement and judicial communities, such as getting tough on crime, greater use of adverse adjudications, and community service; and (3) decreasing trends in Air Force enlistments.⁴

⁴Air Force officials noted that their enlistments declined over the 8-year period from a high of 36,090 in fiscal year 1990 to 30,310 in fiscal year 1997; as their granting of moral waivers to deserving individuals continued over this period of declining enlistments, the percentage of moral waivers granted increased.

Comparison of Separation Reasons for Enlistees With and Without Moral Waivers

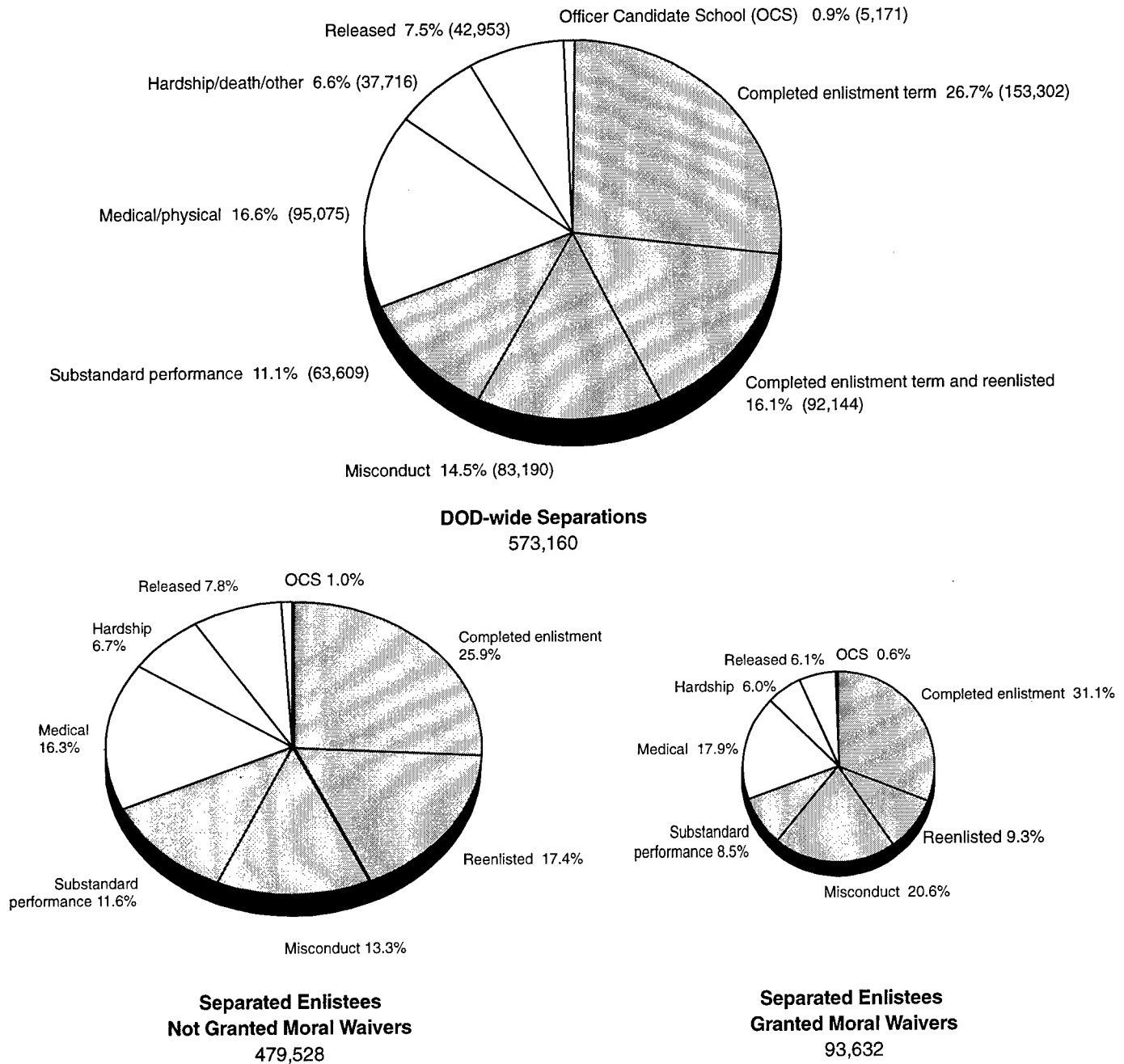
Of the enlistees beginning service during fiscal years 1990 through 1993 (the most recent years for which most separation data are available), 573,160 separated within their first 4 years of service for the reasons shown in figure I.1.⁵ Of these separations, the 93,632 enlistees granted moral waivers separated from the enlisted force within 4 years of service for generally the same reasons and at similar rates as the 479,528 who enlisted without moral waivers.⁶


⁵In collaboration with officials in the office of the Assistant Secretary of Defense, Military Personnel Policy, we grouped the DMDC's 72 interservice separation codes into several broad categories to facilitate our analyses.

⁶At the time of our review, fiscal year 1993 was the most recent year for which complete separation data was available because 4 years is the typical enlistment commitment term; those enlisted during fiscal years 1994 through 1997 could not have completed their first 4-year term of service. To provide a complete and consistent analysis across the 4 fiscal years, we further focused our analysis on separations that occurred during the first 4 years of service—the time period during which most enlistees will have separated.

Appendix I
Analysis of Moral Waiver Data

Figure I.1: Reasons and Rates for DOD-wide Separations for Individuals Enlisting During Fiscal Years 1990-93 and Separating Within Their First 4 Years of Service



 Categories used in our analysis

(Figure notes on next page)

Appendix I
Analysis of Moral Waiver Data

Notes: These charts depict the population of enlistees who entered military service in fiscal years 1990 through 1993 and separated or reenlisted within their first 4 years of service.

OCS—Officer Candidate School

Source: GAO's analysis of DMDC data.

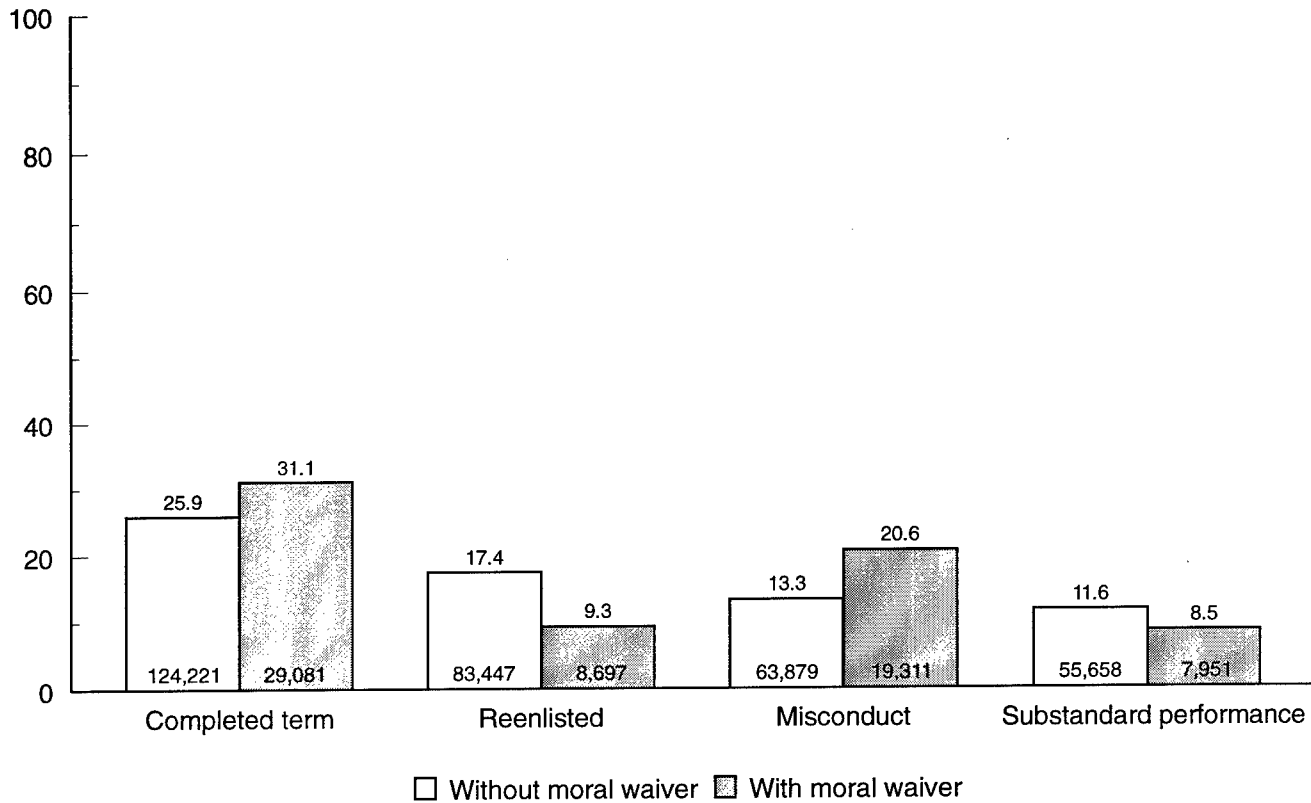
Regarding the principal positive reasons for separating, 31 percent of those granted a moral waiver completed their term and left the service compared with 26 percent of those without a moral waiver. However, as shown in figure I.2, an additional 17 percent of those without a moral waiver not only completed their initial term but also immediately reenlisted compared with 9 percent of those with a moral waiver.⁷

⁷The services decide which members are eligible or ineligible to reenlist and which may reenlist with a waiver. Generally, enlistees granted moral waivers have a similar rate of reenlistment eligibility as those without moral waivers. For example, in the Army, 42 percent of those without a moral waiver were eligible for reenlistment compared with 38 percent of those with a moral waiver. On the other hand, in the Air Force, 57 percent of those without a moral waiver were eligible for reenlistment compared with 60 percent of those with a moral waiver.

**Appendix I
Analysis of Moral Waiver Data**

Figure I.2: Reasons and Rates for DOD-wide Separations for Enlistees With and Without a Moral Waiver (fiscal years 1990-93) (excludes medical, hardship, and other)

Percent



Note: This chart depicts the population of enlistees who entered military service in fiscal years 1990 through 1993 and separated or reenlisted within their first 4 years of service.

Source: GAO's analysis of DMDC data.

For those leaving the service before completing their initial terms, enlistees not granted a moral waiver left more often for substandard performance reasons (such as failure to meet minimum qualifications and unsatisfactory performance), and enlistees granted moral waivers left

Appendix I
Analysis of Moral Waiver Data

more often for misconduct reasons.⁸ Of the 16 misconduct reasons, drugs and fraudulent enlistment accounted for about two-thirds of the 7.3 percentage point difference between separating enlistees with and without moral waivers;⁹ the two groups differed very little in the other 14 misconduct reasons. Further, as shown in table I.3, enlistees with moral waivers for minor traffic and minor non-traffic offenses and preservice drug and alcohol abuse separated more often for drugs, fraudulent entry, alcoholism, and court martial than those enlisted with no moral waiver. Enlistees that entered the services with non-minor (serious) misdemeanor waivers generally separated at similar rates and for the same misconduct reasons (except for drugs and alcoholism) as those without waivers. Enlistees with felony waivers separated at a higher rate for fraudulent entry, court martial, and alcoholism.

⁸The misconduct category (83,190) included 16 different reasons. The five reasons that accounted for 68.7 percent of this category were commission of a serious offense (18.1%), drugs (16.0), discreditable incidents (13.7%), fraudulent entry (10.7%), and good of the service in lieu of court martial (10.2%). The substandard performance category (63,609) included 11 different reasons. The three reasons that accounted for 92.1 percent of this category were trainee discharge/entry level performance and conduct (54.0%), expeditious discharge/unsatisfactory performance (21.6%), and failure to meet minimum qualifications for retention (16.5%).

⁹Fraudulent enlistment is intentional concealment of any disqualifying information. The database does not specify the type of information concealed, such as criminal backgrounds or medical and psychological conditions.

**Appendix I
Analysis of Moral Waiver Data**

Table I.3: DOD-wide Separation Rates for Misconduct by Type of Moral Waiver (fiscal years 1990-93)

Reason for separation	Type of moral waiver				
	Without moral waiver	Minor traffic and minor non-traffic	Preservice drug/alcohol abuse	Non-minor misdemeanor	Felony
Drugs	9,094 14.2%	591 17.9%	1,780 25.3%	1,700 20.8%	85 17.4%
Fraudulent enlistment	5,753 9.0%	594 17.9%	1,670 23.7%	773 9.5%	101 20.7%
Commission of a serious offense	12,225 19.1%	331 10.0%	636 9.0%	1,737 21.2%	40 8.2%
Discreditable incidents	8,959 14.0%	416 12.6%	775 11.0%	1,132 13.8%	69 14.1%
Good of the service in lieu of court martial	6,857 10.7%	299 9.0%	512 7.3%	724 8.9%	41 8.4%
Alcoholism	3,271 5.1%	242 7.3%	487 6.9%	706 8.6%	35 7.2%
Court martial	1,707 2.7%	243 7.3%	464 6.6%	166 2.0%	58 11.9%
Pattern of minor disciplinary infractions	5,636 8.8%	293 8.9%	353 5.0%	246 3.0%	30 6.1%
Dropped for imprisonment	984 1.5%	15 0.5%	2 0.0%	103 1.3%	2 0.4%
Civil court conviction	505 0.8%	27 0.8%	29 0.4%	72 0.9%	0 0%
All other misconduct reasons	8,888 13.9%	259 7.8%	332 4.7%	819 10.0%	27 5.5%

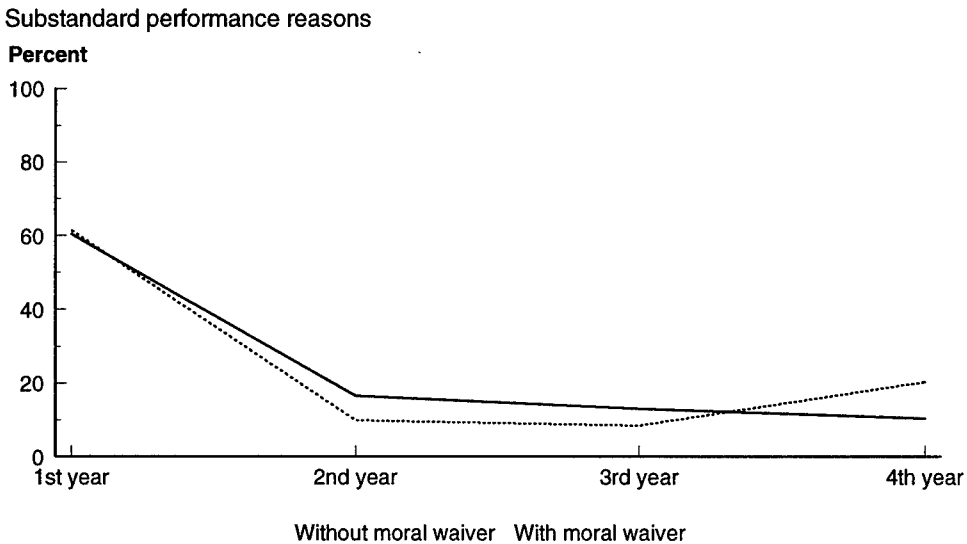
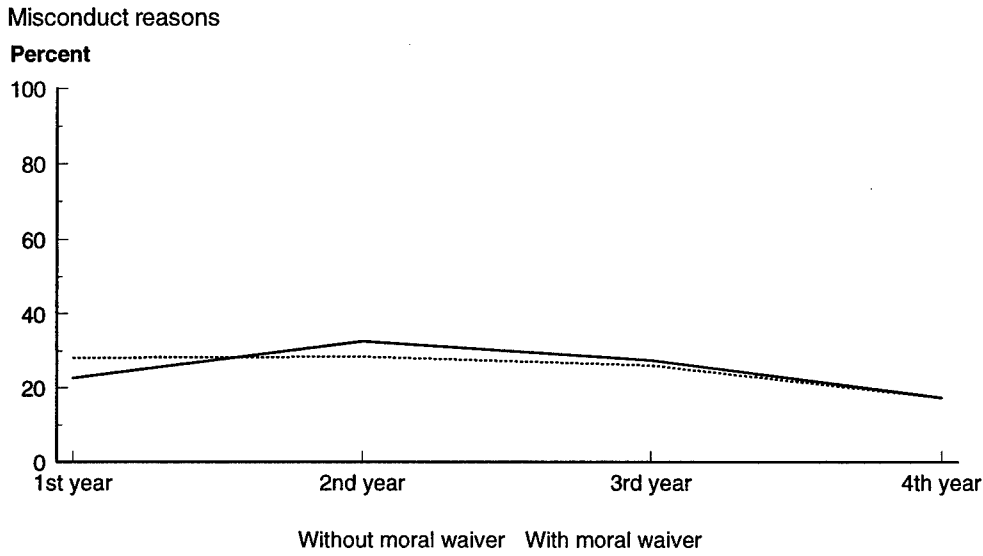
Note: Bold numbers indicate that those enlistees with moral waivers in that category had a separation rate that was at least 25 percent greater than those without moral waivers. Shaded numbers indicate that those enlistees with moral waivers in that category had a separation rate that was at least 25 percent less than those without moral waivers.

Source: GAO's analysis of DMDC data.

In addition, figure I.3 shows that enlistees granted moral waivers leave at generally the same point (first year, for example) during their first enlistment for misconduct and substandard performance as those without moral waivers.

**Appendix I
Analysis of Moral Waiver Data**

Figure I.3: Time of DOD-wide Separations for Misconduct and Substandard Performance Reasons for Enlistees With and Without a Moral Waiver (fiscal years 1990-93)



Note: This chart depicts the population of enlistees who entered military service in fiscal years 1990 through 1993 and separated or reenlisted within their first 4 years of service.

Source: GAO's analysis of DMDC data.

Comments From the Department of Defense



FORCE MANAGEMENT
POLICY

ASSISTANT SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000



JAN 28 1999

Mr. Mark E. Gebicke
Director, Military Operations and Capabilities Issues
National Security and International Affairs Division
U.S. General Accounting Office
Washington, DC 20548

Dear Mr. Gebicke:

This is the Department of Defense (DoD) response to the General Accounting Office (GAO) draft report, "MILITARY RECRUITING: New Initiatives Could Improve Criminal History Screening," dated December 16, 1998 (GAO Code 703226/OSD Case 1724). The DoD concurs with the report findings and recommendations.

While we generally agree with the report's conclusions, the report does not fully address DoD's need for timely local and state criminal history information at a reasonable cost. We have sponsored research that suggests that many records of youth crime, aside from serious, violent offenses, do not reach national (FBI) databases. For example, we reviewed California juvenile and adult arrest records and determined that over 14 percent of new recruits from that state had an arrest record not previously identified through self-disclosure or FBI checks. This raises concern because attrition rates for unsatisfactory behavior during initial enlistments were about 65 percent higher for recruits with an arrest record than for other recruits. Without access to local and state records, the Department loses critical information. In fact, the absence of complete criminal history data also makes it difficult to evaluate enlistment waiver rates because the Services cannot waive offenses they cannot identify. These points are not discussed in the draft report.

Additional technical comments have been provided directly to the GAO staff for incorporation into the report. Our specific responses to the recommendations are enclosed. The Department appreciates the opportunity to comment on the draft report.

Sincerely,

A handwritten signature in black ink, appearing to read "Francis M. Rush, Jr.".

Francis M. Rush, Jr.
Acting Assistant Secretary

Enclosure:
As stated



GAO DRAFT REPORT – GAO CODE 703226/OSD CASE 1724

“MILITARY RECRUITING: New Initiatives Could
Improve Criminal History Screening”

DEPARTMENT OF DEFENSE COMMENTS

RECOMMENDATION 1: The GAO recommended that the Secretary of Defense develop and monitor a DOD-wide plan to use the initiatives cited in this report. Such a plan should, at the minimum, incorporate the benefits of using the Defense Security Service's Electronic Personnel Security Questionnaire technologies and the FBI's Integrated Automated Fingerprint Identification System. Additionally, the plan should address the integration of these two initiatives with the expanded security clearance background investigation requirements contained in Executive Order 12968. The plan should also include specific timeframes and budget requirements for implementation. (p. 31/GAO Draft Report)

DOD RESPONSE: DoD concurs with this recommendation. The Defense Accession Data Systems Integration Working Group (DADSIWG), chaired by the Deputy Director of Operations, U.S. Military Entrance Processing Command, has already identified the need to address these initiatives, and to establish a sub-group led by the Office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence). This arrangement will provide effective leadership for development of a DoD-wide plan, as described in the recommendation, to use initiatives cited in the draft GAO report since DADSIWG membership includes Service personnel and recruiting community representatives as well as personnel from the Defense Manpower Data Center and Defense Security Service. Plans for the sub-group were discussed at the quarterly meeting of the DADSIWG, which met on January 20-21, 1999. A draft plan now will be developed; progress reports will be submitted following each sub-group meeting.

RECOMMENDATION 2: The GAO recommended that the Secretary of Defense require all national agency checks for enlistment into the military services to be based on a full fingerprint search to (1) reduce the risks associated with enlisting individuals who have been convicted of the more serious misdemeanors and felonies and (2) identify individuals who have used aliases. (p. 31/GAO Draft Report)

DOD RESPONSE: DoD concurs with this recommendation. DoD will require a full fingerprint search for all potential enlistees to reduce the risks associated with enlisting individuals who have been convicted of the more serious misdemeanors and felonies, and to identify individuals who have used aliases. Given delays that can be experienced with manual fingerprint checks, implementation of this recommendation will depend upon availability of automated fingerprint scanners at Military Entrance Processing Stations.

Now on p. 18.

Now on pp. 18-19.

Now on p. 19.

RECOMMENDATION 3: The GAO recommended that the Secretary of Defense direct the Services, after the initiatives available in 1999 are in use, to end their practices of sending enlistees to training and to first-duty stations without having all available criminal history information. (p. 32/GAO Draft Report)

DOD RESPONSE: DoD concurs with this recommendation. A system that would ensure we have all available applicant criminal history information prior to shipping will improve our enlistment screening. However, before directing this change, DoD must ensure that the system is developed to the point that we can be assured of a prompt turn-around time. We must also maintain some flexibility to process applicants without a completed criminal history check as exceptions to policy when the information is delayed, e.g., due to hardware/software or communications problems. All available criminal history information should include not just information available on automated systems but also information from state and local law enforcement agencies – to include juvenile records. The Department has data that support our need to obtain such information, at a reasonable cost. The initiatives discussed in this report do not address the kinds of offense history information (e.g., multiple juvenile arrests) that could establish a pattern of undesirable behavior that we have found results in a higher likelihood of in-service criminal behavior or of unsuitability discharges from the military.

Comments From the U.S. Department of Justice



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535
January 26, 1999

Norman J. Rabkin
Director
Administration of Justice Issues
General Government Division
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Rabkin:

On December 16, 1998, you provided copies of the General Accounting Office (GAO) draft report entitled "Military Recruiting: New Initiatives Could Improve Criminal History Screening," to the Attorney General with a request for comments within 30 days. The Federal Bureau of Investigation (FBI) has been asked to provide GAO our comments on her behalf. The GAO report is a commendable effort and we generally agree with the findings and recommendations. There are, however, two major issues mentioned in the report which we believe need to be underscored.

First, the "fingerprint verification" partly used by the military presently should not be confused with, nor substituted for, positive identification by a "full" fingerprint search. The military's current use of fingerprint verification is merely a name check in which, if there is a hit(s), the applicant's fingerprints are compared against the criminal fingerprint record(s) to ensure that they are from the same individual. Should the applicant use an alias not recorded in the criminal record, such perfidy will still result in a "Non-Ident" determination even when the applicant has a criminal record in FBI files under a different name. Hence, the military is not getting the level of certitude it needs or likely expects from fingerprint verification. It is the FBI's position that only by subjecting all of the applicants to a "full" criminal history investigation by a fingerprint search against all criminal records in the FBI files can the military be assured that the

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enlistees have not fraudulently listed their identities.¹ Our position is supported by several studies performed by the FBI and the Small Business Administration.

Specifically, to fulfill the FBI's obligations under the Government Performance and Results Act of 1993 (31 U.S.C. §1116), the Criminal Justice Information Services Division of the FBI recently analyzed a statistically valid sample of the 6.9 million fingerprint cards submitted for employment and licensing purposes during 1997. When compared with the criminal prints on file at the FBI, some 8.7 percent, or approximately 600,000 of the fingerprints resulted in "hits." Of greatest importance, we determined that some 11.7 percent of the hits, or 70,200 civil fingerprint cards, reflected entirely different names than those listed in the applicants' criminal history records and were only identified because of the fingerprint submissions. Hence the criminal history records of these persons--deemed as having intentionally provided false names in an attempt to evade detection of their records--would have been missed entirely during the background examinations had the record check been name-based. To place this in context, regarding those applicants for child care positions, some 4,000 (or 14 percent) of the "hits" in that category used names entirely different from that listed in their criminal histories. These intentionally misleading applicants had prior convictions ranging from assault to drug sales and sexual offenses against minors and were only detected because of positive fingerprint-based searches.

Additionally, we were recently made aware of the results of two independent investigations conducted by the SBA of individuals participating in its loan program. These analyses were performed because of the high rate of SBA loan default and the SBA's suspicion that a significant percentage was attributable to active and intentional borrower fraud. In reviewing some 3,300 nonperforming loans it was determined that 11.6 percent of those borrowers had concealed the existence of their criminal past and had fraudulently certified that they did not have criminal records. Spurred on by these figures, the SBA

¹Although we can appreciate that positive identification by a full-fingerprint search is more costly than "fingerprint verification," nonetheless (as the accompanying article makes clear) it is still cost effective. For example, had the military subjected all of the 1.5 million enlistees for the period FY90 through 97 to a full fingerprint search, it would have incurred merely \$27 million in fees (at the current rate of \$18 per search), resulting in a significant cost saving to the military.

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conducted a second investigation of 500 defaulting loans and found that some 8 percent of nonperforming loans were to borrowers with intentionally undisclosed criminal records. In both surveys, false identification was featured in numerous applications.

Second, it is important to emphasize the need for DOD to obtain juvenile records, which are presently protected under existing state laws. As appears from the attached article,² because of the average age of enlistees, often the only record they have is a juvenile criminal record. Despite inquiries by the military, these records typically remain unavailable to the armed services because of paternalistic state laws which shield those records from disclosure.³

To correct such problems with the current system of juvenile records, Senator Toricelli previously sponsored legislation to amend 10 U.S.C. §520a to require disclosure of juvenile records to the military during the enlistment process, rather than making such disclosure optional. The FBI believes that adoption of such legislation would correct this weakness in the system of conducting background checks of these applicants.

We appreciate the opportunity to comment on this draft report. We understand that the Department's Audit Liaison Office is providing technical comments under separate cover. If you have any questions concerning our comments, please contact me.

Sincerely,



A. Robert Walsh
Legislative Counsel
Office of Public and
Congressional Affairs

Enclosures

²"Military recruits with criminal records still able to get into U.S. armed forces through loopholes in law," aired on CBS This Morning on 10/8/91.

³As indicated from such article, the Navy, as an example, spent \$95 million in 1997 court-martialing seamen who had prior arrest records. In light of such expense, submission to full fingerprint analysis is cost effective.

Major Contributors to This Report

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Related GAO Products

Military Attrition: Better Data, Coupled With Policy Changes, Could Help the Services Reduce Early Separations (GAO/NSIAD-98-213, Sept. 15, 1998).

Military Attrition: DOD Needs to Better Analyze Reasons for Separation and Improve Recruiting Systems (GAO/T-NSIAD-98-117, Mar. 12, 1998).

Military Attrition: DOD Needs to Better Understand Reasons for Separation and Improve Recruiting Systems (GAO/T-NSIAD-98-109, Mar. 4, 1998).

Military Recruiting: DOD Could Improve Its Recruiter Selection and Incentive Systems (GAO/NSIAD-98-58, Jan. 30, 1998).

Military Attrition: Better Screening of Enlisted Personnel Could Save Millions of Dollars (GAO/T-NSIAD-97-120, Mar. 13, 1997).

Military Attrition: Better Screening of Enlisted Personnel Could Save Millions of Dollars (GAO/T-NSIAD-97-102, Mar. 5, 1997).

Military Attrition: DOD Could Save Millions by Better Screening Enlisted Personnel (GAO/NSIAD-97-39, Jan. 6, 1997).

Military Recruiting: More Innovative Approaches Needed (GAO/NSIAD-95-22, Dec. 22, 1994).