

**23 August 2000**

**Law**



**CIVILIAN SEXUAL HARASSMENT  
COMPLAINTS**

**COMPLIANCE WITH THIS PUBLICATION IS MANDATORY**

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OPR: 305 AMW/JAC (Major Charles Tripp)      Certified by: 305 AMW/JA (Lt Col Felix A. Losco)  
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This instruction describes the procedures by which McGuire Air Force Base will conduct Command Directed Investigations into claims of Civilian Sexual Harassment. It provides guidance for the implementation of a command directed inquiry into civilian allegations of sexual harassment under the authority of the FY 98 National Defense Authorization Act, codified at 10 USC §1561. The Equal Employment Office (EEO), and the Wing Installation Commander are responsible for executing this program.

**1. Program Authority:**

1.1. Section 591 of the National Defense Authorization Act for Fiscal Year 1998 is codified at Title 19, United States Code, Section 1561. It establishes new requirements for the processing of complaints alleging sexual harassment that are filed by or civilian employees of the military services who are under the supervision of a “commanding officer or officer in charge of a unit, vessel, facility, or area of the Army, Navy, Air Force, or Marine Corps.” Section 1561 directs specific actions by commanding officers, set time lines for the commencement and completion of investigations and establishes reporting requirements.

**2. EEO Responsibilities:**

2.1. In addition to other long standing avenues of redress for sexual harassment, to include EEO complaints, negotiated grievance procedures and mixed case MSPB appeals, civilian employees can request a commander directed inquiry. This policy applies only to those employees under the supervision of a commanding officer or officer in charge of a unit, facility, or area of the Air Force. Determining whether or not a prospective complaint is covered under the policy is the responsibility of the EEO counselor of the installation ([Attachment 1](#)).

2.2. Once the EEO counselor has determined that the complaint is covered, he/she will refer the complainant to the point of contact (POC) established by the installation commander for the receipt of these complaints.

**3. POC Responsibilities :**

3.1. The POC will provide the installation commander, in writing, a detailed description of the allegations.

3.2. The POC will submit his/her report within 48 hours of initial contact by complainant.

**4. 305 AMW/CC Responsibilities :**

4.1. Within 72 hours of receipt of the written description from the POC, the installation commander will:

4.1.1. Provide the next superior officer in the chain who is a General Court-Martial Convening Authority (GCMCA) with a copy of the POC's written notification.

4.1.2. Direct an inquiry into the truth of the allegation(s) ([Attachment 2](#)).

4.1.3. Advise the complainant of the commencement of the investigation ([Attachment 3](#)).

4.2. Fourteen days after commencement of investigation ensure the report is complete, but if not provide an interim report to the GCMCA on the 14th day and each subsequent 14 days thereafter until the investigation is complete.

4.3. After completion of the investigation, determine if the allegations are substantiated within 3 days of receipt of the investigative report. Within 6 days, notify the complainant in writing of the findings and decision on substantiation and, to the extent possible, on any corrective action taken.

4.4. Submit a final report to the GCMCA of the results of the investigation, including any action taken as a result of the investigation.

RICHARD A. MENTEMEYER, Brig Gen, USAF  
Commander

**Attachment 1**

**SAMPLE MEMO ADVISING POINT OF CONTACT OF EEO'S DETERMINATION**

MEMORANDUM FOR 305 AMW/ME

FROM: EQUAL EMPLOYMENT OPPORTUNITY COUNSELOR

SUBJECT: Counselor's Determination: \_\_\_\_\_

1. In accordance with Section 591 of the 1998 National Defense Authorization Act (10 USC 1561), I have reviewed the complainant's allegations and make the following findings and recommendations:

- a. The complainant is (is not) under the supervision of a commanding officer or officer in charge of a unit, facility, or area of the Air Force;
- b. Sexual harassment is (is not) an issue in this case;
- c. The complainant is (is not) a civilian employee.

2. Based on the foregoing, this complaint (does) (does not) meet the requirements of 10 USC 1561 and is (is not) referred to you for further action.

SIGNATURE BLOCK

1<sup>st</sup> Ind, 305 AMW/ME

MEMORANDUM FOR 305 AMW/CC

1. If the complainant does not meet the requirements of 10 USC 1561, you need not take further action. If not, you must take the following actions:

- a. Forward a copy of this memo to 21 AF/CC;
- b. Direct an investigation into the truth of the complainant's allegation(s);
- c. Advise the complainant that an investigation has begun

2. I have reviewed the complainant and can provide you with this summary. \_\_\_\_\_

3. If you have any questions or concerns, I can be reached at 4-2255.

SIGNATURE BLOCK

**Attachment 2****SAMPLE MEMO APPOINTING INVESTIGATING OFFICER**

MEMORANDUM FOR: INVESTIGATING OFFICER

FROM: 305 AMW/CC

SUBJECT: Appointment Order for Investigation of Sexual Harassment

1. You are hereby appointed as investigating officer and detailed to investigate the sexual harassment allegations of (complainant). Your investigation will include an examination into all salient aspects of this matter, and should conclude with your determination on whether the allegations are substantiated.
2. All persons subject to the jurisdiction of my command, and all civilian employees of the Air Force and its instrumentalities who are contacted by you, are hereby ordered to cooperate with you, to answer your questions, and to provide other information that you request, unless they properly claim the right against self-incrimination under Article 31, Uniform Code of Military Justice, or the Fifth Amendment to the Constitution of the United States.
3. You are authorized to interview people, to take oral or written statements, or both. You are also authorized to examine records. In this regard, the appropriate record custodian will make all records, files, and other relevant documentation available to you. This letter is authorization for the custodian to release any unclassified documents that you request.
4. Here are your procedural instructions:
  - a. You will read over the definition of sexual harassment provided by 10 U.S.C. § 1561. You will also read over the detailed description of the allegations prepared by my point of contact (rank, name).
  - b. Obtain additional guidance from the staff judge advocate. He, and he alone, will be your point of contact during the investigation.
  - c. With my advance approval, go to any place necessary for the proper execution of this duty.
  - d. This investigation is directed under the authority of 10 U.S.C §1561.
  - e. The investigation should be completed in 14 days from the date of this appointment order. If the investigation is not completed within 14 days after the investigation was begun, submit an interim report and an updated report every subsequent fourteen days until the investigation is complete.
  - f. As a rule, have your witnesses make written statements after you have interviewed them. Ensure they address themselves to the relevant matters of this inquiry. Avoid making summarized statements. Make a summarized statement (in addition to taking a witness' written statement) only when the written statement contains excessive matter that is irrelevant or immaterial to the investigation. My staff judge advocate will tell you which, if any, written statements need to be summarized.
  - g. Consult with my staff judge advocate as needed and let him review your report for completeness before you submit it. You should be present during this review. Follow his advice or, if you choose to ignore it, consult with me immediately.

5. Conducting this investigation and writing your report will be your primary duty until completed.

INSTALLATION COMMANDER, Brig Gen, USAF  
Commander

**Attachment 3****SAMPLE MEMO NOTIFYING COMPLAINAT THAT A CDI HAS BEEN INITITIATED**

MEMORANDUM FOR: COMPLAINANT

FROM: 305 AMW/CC

SUBJECT: Command Directed Inquiry

1. This is to inform you that under 10 U.S.C. § 1561, we have begun an investigation into your allegations of sexual harassment. (Rank, Name) has been appointed as the investigating officer. Command decisions under 10 U.S.C. § 1561 are final, with no right of appeal to the courts. Also no compensatory damages are available.
2. Understand that you may also file a complaint under 29 CFR §1614 and that this investigation does not exhaust any administrative remedies you may have under that law. When the investigation is complete you will be notified of the findings, the decision made on substantiation of the allegations, and to the extent allowed by law, the corrective actions taken.
3. Upon receiving the results you may elect either to continue with any complaint filed under 29 CFR §1614, or you may withdraw the complaint. Also if you receive a decision under 29 CFR §1614, before you receive the results of this complaint, you may continue with or withdraw this complaint.

INSTALLATION COMMANDER, Brig Gen, USAF  
Commander