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Report to Congressional Requesters

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CONSCIENTIOUS OBJECTORS

Number of Applications Remained Small During the Persian Gulf War

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The Honorable John Conyers, Jr.
Chairman, Legislation and National
Security Subcommittee
Committee on Government Operations
House of Representatives

The Honorable Ronald V. Dellums
House of Representatives

In response to your request, we have reviewed selected aspects of the Department of Defense's (DOD) handling of conscientious objector applications from members of the armed forces. Our specific objectives were to obtain information on

- the number of conscientious objector applications received and rates of approval for fiscal years 1988-1991, with particular emphasis on the Persian Gulf War time frame;
- the impact of the number of applications on readiness;
- the characteristics of applicants (including rank, race, and occupational specialty); and
- descriptions of the military services' procedures for processing conscientious objectors' applications.

Background

There is no statutory entitlement to claim conscientious objector status. This provision derives from DOD's recognition of a need for policy in this area under DOD Directive 1300.6. The directive defines a conscientious objector as an individual who opposes war in any form. Although recruits are asked on entrance applications if they oppose war, many of these recruits are young, and their beliefs may not be completely formed when they enter the military. To obtain status as a conscientious objector, military service members must establish by clear and convincing evidence that (1) they are opposed to participation in any form of war; (2) their opposition is based on religious training, moral, or ethical beliefs; and (3) their beliefs are sincere and deeply held. DOD and service regulations do not recognize selective conscientious objection, that is, opposition to a specific war or conflict.

Two categories of conscientious objectors are recognized by DOD regulations. A class 1-0 applicant objects to all participation in any form of

war, and is discharged when the application is approved. A class 1-A-0 applicant is an individual who sincerely objects to participating as a combatant in any form of war, but whose convictions permit military service as a noncombatant. On approval, an applicant for class 1-A-0 status can be either assigned noncombatant duties or discharged. In this report we use the term conscientious objector to include both 1-0 and 1-A-0 status and the term noncombatant when discussing issues unique to 1-A-0 status.

Results in Brief

During fiscal years 1988-1990, DOD processed up to 200 applications annually for conscientious objector status, and about 80 to 85 percent were approved. The Persian Gulf War was fought in fiscal year 1991. The number of applications at the time increased to 447, and about 61 percent were approved in that year.

While the number of applications more than doubled in fiscal year 1991, the number was minuscule compared to (1) the number of people in uniform (about 2 million), and (2) the number deployed to the Persian Gulf War (over 500,000). Applicants were generally young, junior enlisted personnel. The insignificant number, coupled with the fact that the services deployed some applicants, indicates that conscientious objectors had no measurable impact on the readiness of the all-volunteer force.

Under DOD Directive 1300.6, the basic steps for processing conscientious objector applications include (1) the appointment of an investigating officer, (2) interviews with a chaplain and a psychiatrist, (3) a hearing, (4) preparation of a report by the investigating officer, and (5) submission of the report with recommendations through the chain of command. However, each service's implementing regulation outlines an approval process that varies in some ways. For example, the Army, Marine Corps, and Air Force use boards to review and approve/disapprove applications, whereas the Chief of Naval Personnel reviews and approves or disapproves applications. In addition, the Army regulation does not permit the discharge of an applicant who is willing to serve in a noncombatant status; the Navy permits enlisted personnel to serve out their remaining obligated service in a noncombatant status; and the other services routinely discharge such personnel. The time required to process applications ranged from a few months to longer than 4 years.

Number of Applicants

During fiscal years 1988-1990, DOD processed an average of 187 conscientious objector applications a year and approved over 80 percent. In fiscal year 1991, when the Persian Gulf War was waged, DOD processed 447 applications, but approved about 61 percent. Although the approval rate declined during this period, DOD approved about 273 applications, which is more than the total number of applications received in each of the prior years. In fiscal year 1992 the number of applications went down to about 224, and the approval rate increased to about 76 percent.

Table 1 shows the total number of applications processed during fiscal years 1988-1991 for all services, including reserve forces. The Navy and Air Force reported modest increases in applications during fiscal year 1991; Army applications more than tripled those of prior years; and Marine Corps applications more than doubled, principally from reservists.

Table 1: Conscientious Objector Applications Processed, Approved, and Disapproved

	Fiscal year				
	1988	**1989**	**1990**	**1991**	**Total**
Army applications					
Processed	61	53	65	229	**408**
Approved	52	50	56	140	**298**
Percentage approved	85%	94%	86%	61%	**73%**
Marine Corps applications					
Processed	19	24	43	92	**178**
Approved	14	15	33	43	**105**
Percentage approved	74%	63%	77%	47%	**59%**
Air Force applications					
Processed	39	44	27	48	**158**
Approved	34	37	22	31	**124**
Percentage approved	87%	84%	81%	65%	**78%**
Navy applications[a]					
Processed	58	62	66	78	**264**
Approved	50	50	50	59	**209**
Percentage approved	86%	81%	76%	76%	**79%**
Total					
Processed	177	183	201	447	**1,008**
Approved	150	152	161	273	**736**
Percentage approved	85%	83%	80%	61%	**73%**

[a]Navy figures do not include officer applications. The Navy approved eight officer applications over the 4 years.

The number of Army reserve applications for fiscal year 1991 was 29 compared to 30 in fiscal year 1990 and less than 20 in fiscal years 1988 and 1989. The Marine Corps reserve applications increased from less than 10 a year during fiscal years 1988 through 1990 to 52 in fiscal year 1991.

The Army received 66 applications for noncombatant status from fiscal years 1988-1991, or about 16 percent of 408 applications. Thirty-eight, more than half of the noncombatant applications, were processed during fiscal year 1991. Only 11 percent of the Marine Corps applications were for noncombatant status (20 of 178 applications). The Navy received eight applications for noncombatant status, which were all approved. The Air Force does not differentiate between either status, but rather discharges all approved applicants. Therefore, we could not determine the number of noncombatant applicants.

No Impact on Readiness

Readiness, defined here as overall deployable strength, could be affected if there were substantial numbers of conscientious objector applicants. Approval of an application will lead to either a release of the applicant from military service or reassignment to noncombatant duties. Even disapprovals could potentially affect readiness because the military regulation requires, to the extent practicable, that individuals whose applications are being processed be assigned duties that do not conflict with their stated beliefs. This could affect duties for combatants and even support functions such as ammunition handling.

The small number of conscientious objector applications probably had no measurable impact on military readiness during the Persian Gulf War. In fiscal year 1991, the armed forces had approximately 2 million people in uniform; more than 500,000 uniformed military were deployed during the Persian Gulf War. Out of these, 447 applied for conscientious objector status—a minuscule percentage of the total. Additionally, the military services could and did deploy some applicants to the Persian Gulf. According to the current directive, the military can deploy applicants while the decision on their application is pending.

Characteristics of Applicants

We asked the Defense Manpower Data Center (DMDC) to provide the characteristics of those who applied for conscientious objector status in fiscal years 1988-1991. We supplied DMDC with conscientious objector social security numbers, which it matched against its records to extract information on rank, race, sex, occupation code, and deployment to the

Persian Gulf War. Because DMDC could not find all applicants' social security numbers in its records, the numbers in tables 2 and 3 will not agree with other tables in this report.

DMDC provided data on 881 of the 1,008 applicants in our universe of approvals and disapprovals. Table 2 shows that most of the applications were from enlisted members and that they had a higher approval rate than officers. We have also shown the number of applications and approval rates for men and women and by race.

Table 2: DMDC Computer Matching Information on Applicants

Fiscal Years 1988-1991

Category of applicant	Number of applications	Percentage approved
Enlisted	822	74%
Officer	59	59
Female	85	78
Male	796	72
Race		
White	556	76
Black	257	65
Hispanic	31	77
American Indian	2	50
Asian	15	80
Other	18	72
Unknown	2	100

Table 3 shows that applicants were usually young people, most often in the 21- to 25-year old age group. About 88 percent of the applicants were age 30 or less.

Table 3: Age Distribution of Applicants Based on DMDC Data

Fiscal Years 1988-1991

Age group	Number	Percentage approved
17 to 20	121	76%
21 to 25	450	70
26 to 30	205	79
31 to 35	76	67
36 to 40	20	80
Over 40	6	50
Unknown	3	100

Occupational Specialties

Of 822 enlisted applicants, DMDC records indicate that 147, or about 18 percent, had occupational specialties under "Infantry, Gun Crews, and Seamanship." This category includes infantrymen, riflemen, artillery, armor, and combat engineering. Many of the other categories include support personnel. The applicants in other occupation specialties included Electronic Equipment Repairers (87); Communications and Intelligence Specialists (93); Health Care (68); Functional Support and Administration (122): Other Technical (includes photography, mapping, and weather) (22); Electrical/Mechanical Equipment Repairers (126); Craftsmen (26); Service and Supply Handlers (includes food service) (71); and Non-Occupational (includes trainees) (60).

Of the 59 officer applicants, 8 were in occupational specialties directly associated with combat. Five were pilots, 2 were operations staff, and 1 was in the "Ground and Naval Arms" occupation code. There were 13 applicants from the health care area: 7 physicians, 1 dentist, 2 nurses, and 3 other health care providers. Twenty applicants had non-occupational (trainee) codes. The remaining applicants were in the following occupation codes: Intelligence Officers (4), Engineering and Maintenance (5), Scientists and Professionals (1), Administrators (including two police) (4), and Logistics and Supply (4).

Deployment Status

During the Persian Gulf War, 110 applicants were deployed. DOD regulations permit the deployment of individuals whose applications are in process. Further, in cases where applications are submitted after receiving assignment orders, the process does not begin until the applicant arrives at the new location. Applicants in both circumstances are to be assigned to positions that are, to the extent practicable, consistent with their beliefs.

According to DMDC, four applicants approved for noncombatant status in fiscal year 1988 were deployed to the Persian Gulf War. Two applicants who were denied conscientious objector status in fiscal year 1989 were also deployed. Six of the fiscal year 1990 applicants were deployed; 2 were approved for noncombatant status, 3 were disapproved, and 1 was approved for conscientious objector status. Ninety-eight conscientious objector applicants processed in fiscal year 1991 were deployed to the Persian Gulf.

Process for Conscientious Objectors' Applications

DOD Directive 1300.6 provides guidance to the services about how to process conscientious objector applications. Each service has implementing regulations and generally follows the same basic process. Each service requires the individual to start the process by submitting a written application providing the basis for the request and other personal information. The applicant is interviewed by a chaplain, who assesses the applicant's depth and sincerity of belief. The applicant is also interviewed by a psychiatrist, who evaluates only the presence or absence of any mental condition.

The individual's unit requests an investigating officer to conduct a hearing and prepare a report recommending action based on the evidence obtained. According to regulations, an investigating officer cannot be part of the applicant's chain of command. The burden of proof rests with the applicant to present clear and convincing evidence that meets all the criteria for conscientious objection. At the hearing, the applicant can present any information and testimony desired or rely on the written application requesting conscientious objector status.

An applicant has the right to be represented by legal counsel at the hearing at no cost to the government. Similarly, the hearing can be transcribed at the applicant's expense. From the records available for fiscal years 1988-1991, we found that most applicants did not indicate an intent to use legal counsel to represent them at their hearings. Out of over 738 applications, we found only 67 applicants who indicated that they might use legal counsel. Some of those may not have actually been represented by counsel, but we could not determine this definitively from available files.

Each of the services requires a legal review of the application at some phase of the process. For example, the Army requires a legal review at the General Court Martial Convening Authority (GCMCA) level. The Marine Corps legal counsel reviews each application prior to convening a board and is also present during the board as a nonvoting member. The Navy approving authority said that the Navy's legal counsel reviews only cases being denied. The Air Force requires legal reviews and also requires that the investigating officer be a judge advocate.

After the hearing, the investigating officer prepares a final report with a recommendation to either approve or disapprove the request. The report is provided to the applicant for rebuttal, and the complete package is

submitted through the chain of command to the approving authority. Each command level involved can recommend approval or disapproval.

Differences Among Services' Processes

While the process generally follows the above progression, each service's regulation is different in some aspects. The Army, Marine Corps, and Air Force have boards to review and recommend approval or disapproval. The boards vote on each application, and the majority rules. The Navy, however, does not use a board to decide on applications. The Navy does use a record review (that is, the Chief of Chaplains reviews enlisted cases and legal counsel reviews cases being denied). An official in the Navy's Office of the Chief of Naval Personnel is designated the approving authority. The Air Force also permits approval of enlisted applications without a board; however, recommendations for disapprovals are forwarded to the Air Force Personnel Counsel, which does convene a board.

The Department of the Army Conscientious Review Board is in Alexandria, Virginia. It is comprised of a colonel, who is president of the board; a chaplain; and an attorney. While the board reviews all applications, the GCMCA can approve noncombatant status and send the application to the board for concurrence. However, the board decides on noncombatant applications on which the GCMCA recommends disapproval. Board decisions contrary to the GCMCA recommendation and disapprovals are sent to the Director, Military Personnel Management, Office of Deputy Chief of Staff for Personnel, for final decision.

The Marine Corps has a board similar to the Army's, but it is the approving authority on all applications. It consists of five voting members and three nonvoting members. The nonvoting members are the president of the board, a judge advocate representative, and a chaplain representative. The nonvoting members are present to advise the board. The five voting members are on the board as part of their duties in the personnel field and include one individual from the Office of the Inspector General.

The Chief of Naval Personnel reviews and approves or disapproves applications. An officer's case is reviewed by the Chief of Chaplains office and legal counsel prior to the decision. An enlisted application is reviewed by the Chief of Chaplains office and is only reviewed by the legal counsel if the application is being denied.

The Air Force has assigned responsibility for the review and approval of enlisted applications to the Enlisted Separations Division, Air Force Military Personnel Center. This organization cannot disapprove an application, but forwards recommended disapprovals to the Personnel Counsel in the Washington, D.C., area, which holds a board to decide on those applications and also review all officer cases.

The process to initiate and complete a conscientious objector application can take as little as a month or more than 4 years. The average is about 6 months from the date of the conscientious objector application to the date of decision by the approving authority.

Command Recommendations Occasionally Overruled by Approving Authorities

The approving authorities are not bound by the recommendations from the lower commands. The Army Board overruled command recommendations on 47 of over 400 cases for 1988-1991, disapproving 38 applications when the command recommended approval and approving 9 cases when the command recommended disapproval.

The Marine Corps board overruled command recommendations in 15 of 178 cases, approving 3 over the command's recommendation to disapprove and disapproving 12 over the command's recommendation to approve.

The Navy and the Air Force could not provide comparable data because there is no requirement for them to retain such information. However, the Air Force did provide information on 56 enlisted applications processed in fiscal year 1991 and 1992. In one case the command recommended disapproval and the board overruled the command. In the other 55 cases the board concurred with the command's recommendation.

Approving Authorities Do Not Always Agree With Chaplain Opinions

In the application process a chaplain is required by regulation to interview the applicant and provide an opinion on the basis of the individual's belief and the sincerity and depth of conviction. The chaplain's opinion may not be the crucial evidence in deciding a case. For example, an application based on a belief that was held before entering the service will be disapproved even though the chaplain may have commented positively on the applicant's sincerity. On the other hand, we found that a negative chaplain opinion is not a guarantee of disapproval.

From calendar year 1988 through 1991, the Army Board ruled in opposition to chaplains' opinions in 87 of more than 400 applications processed. The board disapproved 74 cases over chaplain opinion. Conversely, the board approved 13 of 68 cases in which the chaplain's opinion was negative.

The Marine Corps board decided 36 cases in opposition to chaplain opinions. Five of these cases were approved over the chaplain opinion and the remaining 31 cases were disapproved over positive chaplain opinions.

The Air Force provided information on 56 enlisted cases, most of which were from fiscal year 1991. Chaplains provided negative opinions in five of these cases, and the board disapproved all five. The board also disapproved seven cases for which the chaplains had positive opinion. The Navy does not use a board.

Decisions on Applicants Who Appear to Meet Status Other Than Requested

In nine Army cases, the board disapproved the application for conscientious objector status but noted that the application seemed to be appropriate for noncombatant status. In such cases, the applicant can reapply; however, he or she must begin the process anew, including chaplain and psychiatrist interviews and a hearing. Since the process takes 6 months on average, an Army applicant who requests the wrong status could be faced with reapplying and adding another 6 months to the process.

We were told that the Army is operating in accordance with its regulations, which forbid the granting of a noncombatant status as a compromise position, that is, as the result of a negotiation process. In addition, the regulation specifically places the burden on the applicant to specify the exact nature of his or her request, whether it be for conscientious objection (1-0) or for reassignment as a noncombatant. Consequently, the Army acts only upon the status specifically requested.

The Marine Corps regulation specifically allows the granting of noncombatant status when an applicant requests conscientious objector status. However, it also notes that noncombatant status will not be granted as a compromise. Each application is considered for either status on its own merit. In three cases of the 178 Marine Corps cases, the board approved noncombatant status, even though the person had applied for conscientious objector 1-0 status. In another case, the person asked for a discharge or noncombatant status and was granted 1-0 status.

If applicants asked for either status, it could significantly weaken their case since noncombatants are willing to serve, whereas 1-0 status is based on the notion that the applicants cannot serve in any capacity. Service regulations preclude a request for alternative consideration. For example, Army Regulation 600-43 instructs investigating officers not to recommend discharge of an application for noncombatant status, since the applicant has indicated a willingness to serve.

Air Force officials said that conflicting requests for status would not be an issue, as they routinely discharge approved applicants under either status.

Scope and Methodology

We contacted approving authorities at each of the services' headquarters: Department of the Army Conscientious Objector Review Board; Chief of Naval Personnel, Separations Branch; Headquarter U.S. Marine Corps, Manpower and Reserve Affairs Department; Headquarters Air Force Manpower and Personnel Center, Airman Separation Branch; and the Air Force Personnel Counsel.

To determine the process each service uses, we reviewed all pertinent regulations on conscientious objectors from DOD and each service. We also interviewed officials knowledgeable of their respective service's procedures and regulations.

We relied on each of the above organizations to provide information on the number of cases. We also asked each service to provide information on characteristics of applicants, processing time frames, and overruling command recommendations/chaplain opinions. The capability of each service to maintain and provide complete information varied. We reviewed all of the available Army case files, and we selectively reviewed Marine Corps cases, as they provided all the data requested. The Navy and the Air Force provided data on cases, but the data had some limitations. The Navy does not retain central custody of the applications; rather it files them in the individual's personnel file. The Air Force maintains records for about 2 years.

The DMDC provided information on applicants' race, sex, occupation code, and deployment to the Persian Gulf. These data also have limitations. DMDC matched 881 names (excluding returns and withdrawals) from fiscal years 1988-1991 but could not match 97 names. Of the 97, we determined that 23 were Army cadets, which are not in the DMDC data. Additionally, the Air

Force could provide social security numbers on approved enlisted applications but nothing on disapprovals.

The number of cases processed is probably not the entire universe of applications submitted. Some applications may have been submitted to a lower level but not processed. For example, if the applicant had a court martial pending, the command has the option to hold the application until the action is complete. In such cases, we would not be aware of the application. Additionally, there may be service members who would qualify as conscientious objectors, but never filed an application.

We conducted our review from July 1992 to July 1993 in accordance with generally accepted government auditing standards. As requested, we did not obtain written agency comments on this report. However, we discussed our findings with the agency officials and have included their comments where appropriate.

As agreed with the Subcommittee, we plan no further distribution of this report until 30 days after its issue date, unless you publicly announce its contents earlier. At that time, we will send copies to the Secretaries of Defense, Army, Navy, and Air Force; and other congressional committees. We will also make copies available to others on request.

The major contributors to this report were Mr. Foy Wicker and Mr. Jack Perrigo. If you have any questions about this report, please contact me on (202) 512-5140.

Mark E. Gebicke
Director, Military Operations
and Capabilities Issues

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