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31 JAN 2020

MEMORANDUM

From: M. F. McAlistier, VADM
D (b) (6), (b) (7)(C) 3 FEB 20
To: VCG
Subj: "FOULED ANCHOR" INVESTIGATION -FINAL REPORT
Ref: (a) DCMS-D memo 5800 dated 8 Nov 2018 (Interim Report)

This document is pre-decisional in nature and qualifies as an inter-agency/intra-agency document containing deliberative process material. Under exemption 5 of section (b) of 5 U.S.C. § 552 (Freedom of Information Act), this material is EXEMPT FROM RELEASE TO THE PUBLIC.

1. Executive Summary. This report concludes this investigation, notes that all disposition actions are complete, and helps inform Service leaders as we consider future actions to improve our Sexual Assault Prevention, Response, and Recovery program.
 - a. This final report arises out of an investigation the Coast Guard Investigative Service (CGIS) opened in September 2014 after an officer disclosed she was raped while at the Coast Guard Academy (CGA) 17 years earlier. Her supervisor immediately reported this allegation and CGIS opened a criminal investigation. The subject in that investigation became the initial subject in an investigation that spanned more than four years.
 - b. During the initial interviews CGIS learned of three additional historical sexual assault allegations involving different subjects and victims. All of the victims stated they had reported the allegations to CGA near the time of the incident. A review of records stored at CGA uncovered additional sexual assault allegations. These early investigative efforts revealed that during the I 990s there appeared to be a disturbing pattern of conducting internal administrative investigations and/or initiating disenrollment for sexual misconduct instead of referring the matter for criminal investigation. This investigation expanded until it ultimately included allegations against 43 separate subjects.¹
 - c. The Commandant appointed a Consolidated Disposition Authority (CDA) to handle all disposition decisions and administrative actions arising from this investigation. The CDA had broad powers to address all relevant issues; powers that included the ability to pursue both criminal and administrative sanctions. The CDA retained this designation

¹ As used in this report the term "subject" refers to a person identified as having possibly committed a sexual assault who was subject to investigation. The term "case" is synonymous with "subject" and generally refers to a completed investigative matter referred to the COA for disposition.

throughout the investigation, despite a change in assignment, in order to maintain a consistent and unified approach.

- d. The following sections summarize the actions taken to investigate these historical allegations, review and act upon the findings, and engage in victim recovery.
2. CGIS Investigation. CGIS formed the Operation Fouled Anchor ("OFA") task force after early investigative efforts indicated multiple sexual assault allegations from CGA in the 1990s, with no criminal investigations and limited documentation. The records that did exist seemed to indicate a pattern of administrative process and sanctions, including removing criminal subjects from the Academy in some cases, without pursuing criminal investigation/prosecution options. CGIS initially prioritized cases with a rape allegation because at the time there was no statute of limitations for rape under the UCMJ. That changed in February 2018 when the Court-of Appeals for the Armed Forces held that rape, under the version of the UCMJ in effect at the time, was subject to a five-year statute of limitations.² As a result, CGIS re-prioritized investigative efforts towards allegations against individuals who remained on active duty, and thus could still be subject to other, non-criminal, actions. Ultimately, CGIS investigated all allegations.
 - a. From September 2014 through June 2019, CGIS investigated 102 events (separate allegations of sexual assault whether made by the victim of the assault or a third party). Over 70 agents expended almost 20,000 investigative hours, including a review of over 1200 documents and interviews with more than 300 witnesses. The investigation looked into all allegations of sexual assault, both contact offenses (the majority) and penetrative offenses (the minority).
 - b. Forty-three individuals were ultimately the subject of investigation for sexual assault allegations at CGA in the 1990-2006 period covered by the investigation. Sixty-three potential victims were identified.³ The CGA was aware of allegations against 30 of those individuals at or near the time of the alleged offense but only five were reported to CGIS and/or local law enforcement for investigation. Allegations against 13 of those individuals only became known during the Fouled Anchor investigation.
 - c. Outside review. During the course of the investigation CGIS consulted with a group of outside experts including a DoD sexual assault prosecutor, the head of a DoD Military Criminal Investigative Organization sexual assault program, and two cold case detectives from a large city police department. They reviewed investigative files and made a series of recommendations that CGIS investigators and Legal Service Command implemented.

² U.S. v. Mangahas, 77 M.J. 220 (C.A.A.F 2018). Although this is an Air Force case, the misconduct originated at the Coast Guard Academy in 1997 when LtCol Mangahas was a cadet there. The allegations against Mangahas were the origin of Operation Fouled Anchor. The practical result of the holding in this case was a loss of military criminal jurisdiction for sexual assault cases that occurred prior to 2007.

³ This updates the interim number of victims and subjects reported in reference (a). The final numbers account for continued investigation and use of consistent terminology. Further, the number of victims and subjects differ because allegations against some subjects involve more than one incident or potential victim, while in other situations allegations against two subjects involve only a single victim, and some victims alleged assault on more than one occasion by different subjects.

- d. Command accountability. As the investigation evolved, CGIS was directed to interview senior Academy officials from the 1990-2006 period who had a role in decision making related to sexual assault allegations. This included those who served as Superintendent, Assistant Superintendent, Commandant of Cadets, or Staff Judge Advocate. None of these individuals remains on active duty. Several key officials were deceased. CGIS ultimately interviewed 20 individuals.
3. Consolidated Disposition Authority (CDA) Review. The Commandant appointed an experienced flag officer and General Court-Martial Convening Authority to handle all disposition decisions and administrative actions arising from this investigation. The Commandant designated the 0-6 Commanding Officer of the Coast Guard Legal Service Command (LSC) as the Staff Judge Advocate. As CGIS completed the investigative report in each case, a team of judge advocates at LSC conducted legal evaluation and prepared recommendations for the CDA. The CDA was able to review investigative reports prior to a formal brief. The CDA was briefed by the legal team on each subject, the results of the legal case review, and the range of possible and recommended action(s). These briefs included a full and robust discussion regarding both the substantive and procedural aspects of each case.
 - a. Potential criminal action. The facts of each case were examined under the version of the UCMJ and Manual for Courts-Martial in effect at the time of the alleged offenses.⁴ The then-existing state statutes were also examined.⁵ Other factors included: whether the member remained on active duty or was otherwise subject to Coast Guard jurisdiction; whether there was probable cause to prefer charges; whether the investigation contained sufficient evidence to obtain and sustain a conviction beyond a reasonable doubt (including the impact of the passage of substantial time on the availability and quality of the evidence); victim input; and the statute of limitations under the UCMJ and state law.
 - b. Potential administrative action. The facts of each case were also examined to determine whether the Coast Guard retained the ability to take any administrative action. The factors examined included: whether the member remained on active duty or was otherwise subject to administrative action; whether the investigation provided sufficient evidence to determine by a preponderance of the evidence that an offense occurred (including the impact of the passage of substantial time on the availability and quality of the evidence); the impact of prior decisions by the Board for the Correction of Military Records; victim input; and the statute of limitations that exists under Coast Guard policy for the entry of administrative actions into personnel records.
 - c. Command Accountability. The CDA reviewed the CGIS interviews of the 20 Academy officials and received legal advice to determine whether the cases were handled properly under then existing requirements. The ability to assign specific accountability was limited because none of these individuals are subject to administrative action, the

⁴ The current version of the UCMJ (2019) is comprehensive in its coverage of sexual assault and related offenses, containing some five theories of liability for rape and an additional seven theories of liability for sexual assault. This is the result of four substantive amendments since 2007. However, the version of the statute in effect prior to 2006 was far more rudimentary- virtually unchanged since the original enactment of the UCMJ in 1950.

⁵ Applicability of state statutes was also discussed with the Connecticut state attorneys.

evidence for the decisions made on these cases (most of which were over 20 years old) was incomplete, and many of the policies of the time period were imprecise.⁶

4. Consolidated Disposition Authority Action. All 43 cases were presented to the CDA for a decision on disposition. Following the CDA's independent review of the information contained in the CGIS investigations, the review and recommendations of legal counsel, and the discussion and dialog during the in-person brief(s) on each case, the CDA took the following actions:
 - a. Referred three cases to other military services (where Coast Guard members had subsequently joined other services and remained on active duty).
 - b. Took administrative action in two cases where sufficient evidence existed to support the allegation (by, at a minimum, a preponderance of the evidence) and the subjects remained on active duty (and where applicable statutes of limitation precluded consideration of criminal prosecution).⁷ Two officers, who had been selected for promotion, were removed from the promotion list and are no longer in the Service.
 - c. Took no action in five cases where administrative action was possible but the CDA determined that the allegations were not supported by a preponderance of the evidence.
 - d. Took no action in 33 cases where the subject was no longer subject to Coast Guard jurisdiction for administrative action, and where applicable statutes of limitations precluded consideration of either federal or state criminal charges. The CDA did not make a probable cause determination in these cases.
 - e. Took no action with regard to any Academy official who may have had a decision- making role in these cases. However, the CDA perceived that the Academy leadership during much of this period failed to take sufficient action to ensure a safe environment - particularly for female cadets - and failed to instill a culture intolerant of sexual misconduct. They did not promote and maintain a climate conducive to reporting sexual assault and they did not adequately investigate allegations as serious criminal matters and hold perpetrators appropriately accountable. Most importantly, the Academy too often failed to provide the support, trust, and care that is so vital for victims of sexual assault.
5. Coast Guard Academy. Coast Guard and Coast Guard Academy policies concerning sexual assault prevention, response, reporting and investigation were closely examined and have evolved considerably from the period in the Fouled Anchor investigation. Those policies are now more precise and directive, developed in the context of wider changes in law and policy regarding sexual assault that applied across the armed forces as well as experience with responding to and investigating sexual assault.⁸ In several respects, the Coast Guard Academy has been at the forefront of the evolution and development of sexual assault prevention and response initiatives in the Service. For example, in 2004, the Coast Guard Academy adopted the

⁶ While retired officers are potentially subject to court-martial jurisdiction, the available evidence and circumstances did not support that option.

⁷ One case was documented with a CG-3307, the other case with a historical Officer Evaluation Report.

⁸ Some of the more visible changes include multiple amendments to the UCMJ that now require Sexual Assault Response Coordinators, Victim Advocates, Special Victims Counsel, expanded rights for sexual assault victims, and intensified training for investigators, judge advocates, and commanders.

concept of confidential reporting of sexual assault and in 2007, the Service applied this practice Coast Guard-wide with its policy on restricted reporting. Further, in 2013 the Service adopted the Academy's model for a Sexual Assault Prevention and Response Crisis Intervention Team as the process for integrating sexual assault response. Finally, the Academy now has a robust Cadets Against Sexual Assault program with over 450 cadets trained to receive reports, maintain confidentiality, and provide victim support. Further details were provided in reference (a).

6. Victim Recovery Efforts.

a. CGIS, the LSC, and the Sexual Assault Prevention, Response, and Recovery (**SAPRR**) Program assembled a victim services and recovery plan for all victims identified by the Fouled Anchor investigation. Actions taken included:

- Each victim was provided the opportunity for an in-person brief by an outreach team comprised of the lead CGIS agent for the Fouled Anchor investigation, the **SAPRR** Program Manager, and the senior prosecutor for Fouled Anchor matters.
- The briefs were conducted at a date and place of the victim's choosing. Twenty-one victims elected in person meetings and three additional meetings were conducted by phone. The meetings took place from 7 January 2019 to 8 February 2019 in 13 states.
- The team provided each victim with an apology on behalf of the Coast Guard and tailored to the circumstances of their respective case, information on their respective case disposition, information on the full range of support services available, and the opportunity to provide feedback and ask questions.⁹

b. Almost all of the victims indicated the entire process of participating in the Fouled Anchor investigation was hurtful, yet healing and cathartic. A number asked how they could help in terms of using what happened to them to aid in sexual assault prevention.¹⁰ Almost all expressed frustration at the gender bias and the ways in which women at the Academy were made to feel inadequate during this period. Moreover, nearly all expressed frustration at the lack of intervention of others when behaviors clearly indicative of gender bias were demonstrated in public situations.

7. Summary. Despite the peril in judging action (or inaction) from twenty-five years ago through the lens of society's current views regarding the crime of sexual assault and our Service's significant efforts to eliminate it, a few things are clear. Our Service adopted its core values in 1994, including the value of respect. The victims identified in this investigation did not receive that respect on several levels. This investigation revealed that organizational and CGA reputation during this period often weighed against initiation of a criminal investigation and took precedence over concern for the victim. Although we have made significant improvements in the laws and regulations, and in how we respond to sexual assault, we must continue to proactively look for ways improve our Service's SAPRR efforts.

⁹ None of the victims requested specific services. One victim indicated some difficulty in her attempt to work with the Department of Veteran Affairs regarding military sexual trauma. The outreach team provided assistance.

¹⁰ CGIS has already created powerful video based on the story (and personal appearance) of one victim. The video will be used to train investigators and others involved in sexual assault cases.

8. Next Steps. This report and the considerable investigative effort behind it will remind leaders of the need for consistent, uniform application of law and policy, the need to protect all of our service members all the time. I will ensure that we apply the lessons learned from this investigation in weighing future actions to improve our SAPRR program through our Workforce Wellness and Resiliency Council and the SAPRR Subcommittee. Further, I will direct CGA leadership to consider this report, and the history behind it, as it continues to lead with SAPRR initiatives. The outcome we must continuously strive for is a culture, at CGA and throughout our Service, where everyone is treated with dignity and respect, and an intolerance for those who do not show that respect.

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5810
09 Jul 2019

MEMORANDUM

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SMITH, KEITH.M. (0)
Date: 2019.08.09 16:18:22 -04'00'

From: K. M. Smith, RADM
Consolidated Disposition Authority

To: M. F. McAllister, VADM
DCMS

Subj: FOULED ANCHOR COMMAND ACCOUNTABILITY DISPOSITION DECISION
AND COMPLETION OF CONSOLIDATED DISPOSITION AUTHORITY DUTIES

Ref: (a) CCG memo 5810 of 16 Aug 18
(b) VCG memo 5800 of 24 Oct 18
(c) CGIS Command Accountability Report

1. In accordance with reference (a), I am the Consolidated Disposition Authority for all disciplinary and administrative action related to the "Fouled Anchor" investigation into reports of sexual assault as the United States Coast Guard Academy between 1992 and 2006.
2. As of 28 May 2019, I have reviewed all Coast Guard Investigative Service (CGIS) Reports of Investigation ("ROI") regarding specific allegations of sexual assault at the academy from 1992 – 2006 and have made disposition determinations regarding the forty-six individuals identified as subjects in those cases.
3. Reference (b) requires that I also consider "whether any actions should be taken related to the advisors and decision makers at the Coast Guard Academy" and that I provide you with a summary of dispositions and outcomes. This memorandum and reference (c) ("the Report") focus on the Coast Guard Academy leadership during the Fouled Anchor period and their actions. Specifically, the Report addresses whether the alleged sexual assaults comprising the Fouled Anchor investigation were handled in accordance with then-existing requirements (including referrals to CGIS for investigation by trained criminal investigators).
4. After a review of the Report regarding actions by those in leadership positions during the Operation Fouled Anchor period, and in consideration of applicable military law and Coast Guard policy, and consistent with the advice of my staff judge advocate, I am taking no action with regard to any Coast Guard Academy command cadre member identified in the investigation.

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5. My decision to take no action was driven (and generally required by) by two primary factors. First is the fact that all of those in command or leadership positions at the Coast Guard Academy during the Fouled Anchor timeframe, who may have had responsibility to act, retired years ago and are no longer on active duty (and in several cases have passed away). Additionally, the statute of limitations for any potential offenses has run - in most cases decades ago - precluding consideration of criminal charges (even if members remained on active duty or are otherwise subject to personal jurisdiction). Similarly, by Coast Guard policy, the ability to take administrative action lapsed decades ago (even were members still on active duty).

6. Often contributing to these primary factors was the lack of sufficient evidence to adequately satisfy all elements of the offenses potentially implicated or to identify or affix specific culpability to any particular individual. This was frequently due to lack of historical documentation of actions taken (or not taken) or the inability of those who were interviewed to remember the details of the specific cases (most of which were over 20 years old), and in some instances individuals declined or were otherwise not interviewed. Ability to assign specific accountability was also limited by the fact that the relevant instructions were not punitive in nature,¹ were often not "general orders,"² and in places were inexact or seemed to provide discretion for action by Academy leadership. These and other factors also limited my ability to take action in some previous individual cases.

7. Regardless, I am nonetheless compelled to convey some of my observations about how Academy leadership handled allegations of sexual assault during various periods throughout the Fouled Anchor timeframe, and what I believe was the failure to adequately respond to those allegations.

8. The response by Academy officials to allegations of sexual assault must be judged, in large degree, on the governing policy of the time. The response to allegations of sexual assault during the Fouled Anchor time period was primarily controlled by three policy directives:

a. Commandant Instruction 5520.SD (Investigative Assistance). This version of the directive was first promulgated thirty years ago, in December of 1989, and remained in effect and unchanged until updated in 2004. All but one of the Fouled Anchor cases occurred while this version of the manual was in effect.

¹ Not all provisions in general orders or regulations are punitive in nature, particularly those which only provide guidelines for performing military functions. The regulation or instruction must normally contain language clearly establishing that it is punitive in nature in order for its violation to be punishable under the UCMJ. None of these instructions were punitive in nature.

² General Orders, which are enforceable regardless of whether a member had *actual knowledge* of the order, must be signed by a flag officer in command or a general court martial convening authority (or a superior commander). Only the Superintendent Instruction discussed below is a general order; the others would require proof of actual knowledge of their requirements in any prosecution for their violation.

(1) The stated purpose of this Instruction was simply to "reaffirm jurisdiction and responsibilities in the conducting of criminal ... investigations." Although this Instruction did not specifically direct commanding officers to report all incidents to CGIS, it did clearly provide that the Coast Guard Investigations Program (now CGIS) was "responsible for the investigation of actual, suspected, or alleged felony offenses committed against a person"³ and instructed that "requests for investigative assistance may be made through [Coast Guard Headquarters, a District Office], or local Resident Agent Office."

(2) The only specific reference to sexual offenses contained in the instruction was a requirement for commanding officers to "provide available information to CGI[S] to determine if a request for a full investigation is warranted" for "incidents of perverted sexual behavior...".

(3) The manual also notes that if a commanding officer "declines to refer a suspected or alleged criminal matter to CGI[S] for investigation, the facts shall be referred to a higher authority for review and determination whether an investigation should be initiated by CGI[S]." It also recognized command authority to commission fact-finding bodies to determine the circumstances of specific incidents, to use command investigators for criminal offenses of a purely military character involving only Coast Guard personnel and confined to a ship or station, and stated that "nothing herein is to be construed as infringing upon, conflicting with, or restricting in any way the investigative functions of a command, e.g. courts of inquiry, or investigations conducted pursuant to the UCMJ, or [the Administrative Investigations Manual]."⁴

(b) Commandant Instruction 1754.10 (Reporting of Rape and Sexual Assault). This instruction was initially promulgated in 1990 (six months after the first of the twenty-seven Fouled Anchor cases which were contemporaneously reported to CGA officials). This version of the manual was in effect for the vast majority of the Fouled Anchor cases contemporaneously reported to Academy official (over 90%). It was updated in April of 1999.

(1) The stated purpose of this instruction was to ensure treatment of victims of rape and sexual assault, recognizing that rape and sexual assault are physically and psychologically traumatizing events. It specifically cautions that a victim will "feel powerless to exert control in his or her situation, can experience shock, anxiety, a fearful lack of trust in anyone, and sometimes will deny that the rape or sexual assault ever occurred."

(2) It required immediate telephone notification to Commandant (G-PS-4), as well as District (ole) when a Coast Guard member was the assailant. Telephone reports, vice written reports, were specifically required. A later version of this Instruction (1754.10A in 1999) did specifically require CGIS notification for all alleged incidents of rape or sexual assault to ensure the "involvement of trained investigators." As in the previous version, telephone was the prescribed method of reporting.

³ The two most relevant punitive articles under the version of the UCMJ in effect during the Fouled Anchor period Rape and Canal Knowledge (Article 120) and Indecent Assault (Article 134) -were both felonies.

⁴ Although this last provision may have been intended to apply to internal procedural investigation, it added to the ambiguity of the Instruction's requirements.

c. Superintendent Instruction 1754.1 (*Handling of Rape and Sexual Assault Incidents*). This instruction was initially promulgated by the Academy in May of 1991, was signed by RADM Matteson (the Superintendent at the time), and remained unchanged and in effect until updated by RADM Olsen in 2004. All but one of the Fouled Anchor cases occurred while this version of the Instruction was in effect.

(1) Its stated purpose was to bring together "all Academy resources for the physical protection, emotional support, medical evaluation, psychological treatment, media inquiries, and legal assistance for victims of rape or sexual assault occurring on the Coast Guard Academy..."

(2) It was intended to implement the Reporting of Rape and Sexual Assault Commandant Instruction outlined above. It restated the impact that rape or sexual assault may have on the victim, and alerted Academy staff to be "particularly sensitive to and aware of the risk of sexual assault of women cadets... by men with whom they are acquainted or with whom the socialize" and to "be mindful that social familiarity between the victim and the rapist does not lessen the physical and emotional injury suffered by the victim."

(3) This Instruction does mention, albeit briefly, CGIS notification. Watchstanders and duty officers at Academy were tasked with notifying the medical clinic, the chaplain, the legal officer, public affairs, the Personnel and Administration Divisions Chiefs and Commandant of Cadets, and Coast Guard Academy Security for "any reported rape or sexual assault which occurs on the Academy." It was CGA Security who, in turn, was directed to "notify resident agent and local authorities, if appropriate." There was no other explanation of "appropriate" and no other specific reference to CGIS notification in the Instruction.

9. While I believe the language of the Instructions conveys the intent that sexual assault should be investigated by CGIS, the language is often passive, at times contains ambiguous guidance, and lacks clear and unequivocal direction to commanding officers that CGIS was to be notified immediately and that investigation into sexual assault is reserved exclusively for trained professional investigators. These Instructions, promulgated decades ago, represent the beginning efforts in some of the significant changes that have occurred in the understanding we have today and our sharp organizational focus on both ensuring the freedom to report sexual assault and our response to those reports. It is important to note that the primary intent of these instructions, beyond outlining the role of the Coast Guard Investigative Service, was to care for and provide assistance to victims alleging sexual assault. It is in this respect, beyond the existence of any technical requirement to notify CGIS, that I found Academy leadership most lacking.

10. The following paragraphs outline five discrete time periods within the Fouled Anchor investigation. These periods correspond-to periods of Academy leadership and the individuals responsible for both the conduct and the care of the cadets. They provide an overview of their response to allegations of sexual assault (twenty-seven of the cases investigated during Fouled Anchor were reported contemporaneously, or nearly so, to the alleged assault; the remainder were initially unreported and were discovered during the course of the Fouled Anchor investigation), help illustrate a clearer picture of accountability for the handling of Fouled Anchor cases and, perhaps, show some evolution in the Academy's response to allegations of sexual assault. The vast majority of Fouled Anchor cases - both reported and unreported - eighty

percent-occurred during the earliest two periods. (See Enclosure (1) for a more detailed representation)

11. Period 1: June 1989 to June 1993. This period, during which RADM Matteson was the Superintendent, is the earliest period of cases investigated by Operation Fouled Anchor, and includes a three-year period prior to the prescribed Operation Fouled Anchor start date. (My CDA detailing letter outlines the Fouled Anchor period as 1992 to 2006; however, eleven of the cases investigated by CGIS and which I examined as CDA occurred prior to that 1992 start date). Two different individuals served as the Academy's Commandant of Cadets during this earliest time period: CAPT Joseph Maka (1989-1992) and CAPT Rube Olsen (1992-1994)(CAPT Olsen would later serve as the Assistant Superintendent of the Academy, and then promote to Rear Admiral and become Superintendent in 2001).

a. Of the twenty-seven Fouled Anchor cases in which a cadet reported an incident of sexual assault to an Academy official close in time to the alleged assault, forty percent were reported during this period (eleven cases).

b. CGIS did not contemporaneously investigate any of these cases, and I saw no evidence of CGIS notification by CGA leadership.⁵

c. When interviewed by CGIS, RADM Matteson indicated that he was not aware of the CGIS office located at the Academy, and believed that any CGIS involvement would have been by or at the direction of the Headquarters Chief of Personnel. CAPT Maka, the Commandant of Cadets for a majority of this period, also did not believe CGIS was located aboard the Academy, and stated that the Academy's internal Executive Board, not the UCMJ, was the normal procedure for cadet discipline. RADM (then-CAPT) Olsen, his successor during this period, reinforced this belief, indicating that he believed the Academy had discretion in whether or not to notify CGIS, and that reports were generally handled in-house. RADM (then-CAPT) Piche, the Assistant Superintendent during this period, also confirmed belief in the idea that incidents at the Academy were handled internally, and does not recall outside law enforcement ever being brought in.

⁵ The ROI did not contain interviews of the CGA Resident Agents during this period detailing either their normal interaction with Academy officials or any informal notification or awareness. The ROI also did not contain interviews of any CGA Security personnel, or any Headquarters personnel from the period regarding whether telephone notifications were made in accordance with the Commandant and Superintendent Instructions discussed above. It did indicate that no formal records or Letters of Predication were found in CGIS files. Unlike current practice, during the Fouled Anchor period notification to CGIS typically required a Letter of Predication, in which the command formally requested CGIS investigatory assistance (The governing Instruction, *Investigative Assistance*, discussed above, stated that "investigations will be initiated ... only upon receipt of a written request from appropriate authority."). Comments from Academy officials interviewed indicated that such notification would not have been the normal or preferred practice.

d. The institutional belief that incidents at the Academy could best be investigated and adjudicated internally, without outside investigation, is a strong theme that runs throughout the Fouled Anchor investigation. On at least one occasion during this period the Staff Judge Advocate indicated that he recommend that an alleged assailant be court-martialed. He said the Academy leadership instead referred the member to treatment and handled the matter administratively.

12. Period 2: June 1993 to June 1997. RADM Paul Versaw was the Superintendent of the Academy during this period. Three different individuals served as the Commandant of Cadets during this period: RADM (then-CAPT) Rube Olsen (1992-1994) and, RADM (then-CAPT) Patrick Stillman (1994-1996) and CAPT Bruce Stubbs (1996-1997).

a. Of the 27 Fouled Anchor cases reported to an Academy official close in time to the alleged assault (and during the timeframe examined by Operation Fouled Anchor) forty percent (eleven cases) were reported to the Academy during this period (and almost half of all alleged Fouled Anchor sexual assault cases occurred during this period).

b. Of the eleven allegations of sexual assault made to Academy officials during this period, there was evidence of CGIS notification in only two cases. However, in at least four other cases, Academy investigating officers conducting the internal investigation requested or recommended CGIS assistance, but the cases were ultimately disposed of administratively.

c. In one particularly egregious example, a cadet was implicated in the rape of another cadet in Chase Hall. The Academy's Staff Judge Advocate provided a memorandum to the Superintendent recommending preferral of criminal charges, and that a hearing under Article 32 of the UCMJ be convened to determine whether to refer those charges to a general court-martial. He expressed concern that handling the matter administratively and discharging the cadet would send the student body a message "tantamount to the declaration of 'open season' on women." Contrary to this advice; the cadet was administratively discharged from the Academy without military justice action.⁶ The SJA recalled that he did have a good relationship with CGIS, but that he was often the last one to hear about incidents of sexual misconduct, and, as noted previously, there was a belief by Academy leadership that incidents could and should be properly investigated and handled within the confines of the Academy.

d. RADM (then-CAPT) Stillman, the Commandant of Cadets for much of this period, indicated that during his tenure, all of the sexual assault cases he could recall were handled administratively by the Academy Executive Board in compliance with the code of conduct for the corps of cadets. He did not recall CGIS being brought in to conduct any sexual assault investigation and stated that CGIS involvement was not the normal process.

13. Period 3: June 1997 to June 2001. RADM Doug Teeson was the Superintendent of the Academy during this period. Three different individuals served as the Commandant of Cadets

⁶ Coast Guard Headquarters reviewed the case prior to the member being discharged and issued an opinion stating that a discharge characterized as Other Than Honorable was appropriate under the facts of the case.

during this time: RADM (then-CAPT) Gene Brooks was the Commandant of Cadets for the majority of this period (1997-2000).

a. Of the twenty-seven Fouled Anchor cases that were reported to an Academy official close in time to the alleged assault (and within the timeframe examined of Operation Fouled Anchor) only four were reported during this period (eleven percent of those cases contemporaneously or nearly contemporaneously reported).

b. Of the four cases reported, only one case was not referred to CGIS.⁷

c. RADM Teeson stated that he was aware there was a CGIS office on board the Academy, but believed they primarily worked on outside cases. He recalled that staff officers typically conducted the more serious cadet investigations, but believes he would have called CGIS in the event of a rape or sexual assault.

d. It was during this period that Commandant Instruction 1754.10A was updated to explicitly require commanding officers, upon receipt of a report of sexual assault or rape, to immediately notify CGIS, a law specialist, and to refer victims to mental health and medical providers. The amplifying Academy instruction, Superintendent Instruction 1754.10A, would not be updated for another 5 years.

14. Period 4: June 2001 to June 2005. During this period, RADM Rube Olsen was the Superintendent of the Coast Guard Academy. None of the cases examined under Operation Fouled Anchor occurred or were reported during this period. It was also during this period that RADM Olsen (who had been the Assistant Superintendent under RADM Versaw, and the Commandant of Cadets under RADM Matteson), significantly updated the Superintendent Instruction outlined above, and required that "Academy personnel are strictly prohibited from investigating reported sexual assaults, to include interviews or inquiries into actual, suspected, or alleged assaults" and unequivocally required CGIS notification.

15. Period 5: June 2005 to the conclusion of Operation Fouled Anchor (2006). During this period, RADM James Van Sice was the Superintendent of the Academy. Only one of the Fouled Anchor cases occurred during this period, and it was reported to CGIS for investigation.

16. Regardless of the factors outlined above that drove my decision to take no formal action in this case, it is evident to me that Academy leadership often failed to undertake sufficient action to ensure a safe environment - particularly for female cadets - and instill a culture intolerant of any form of sexual misconduct; they did not promote and maintain a climate conducive to reporting incidents of sexual assault; and they did not adequately investigate alleged offenses as serious criminal matters and hold perpetrators appropriately accountable. Most importantly, the Academy too often failed to provide the support, trust, and care that is so vital for victims of sexual assault.

⁷ This case involved a member who self-reported after hearing a definition of sexual assault that he believed may have applied to his past conduct. Although the Academy investigating officer expressed concern that she was not qualified to investigate such an offense and requested CGIS involvement, the case was heard by the Academy Executive Board, which unanimously found that the member did not commit sexual assault.

17. I am fully aware of the very real peril of judging action (or inaction) from twenty-five years ago through the lens of society's current views and efforts regarding the crime of sexual assault, and our Service's significant and ongoing efforts to eliminate it completely. Throughout the Fouled Anchor investigation, I have taken care to ensure my disposition decisions were based on the UCMJ Articles, state statutes, and Coast Guard regulations in place at the time - as wholly inadequate as many of them seem by today's standards. We have made vast improvements in those laws and regulations, and in how we respond. We have a far greater understanding that sexual assault is a crime and cannot be minimized or treated differently because offenders are students, and that we best protect the status and reputation of our Service and our Academy by giving victims the care and the voice they deserve and by holding perpetrators fully and immediately accountable. We know that sexual assault is a criminal act requiring experienced criminal investigators. That victims deserve the assistance of special victims counsel and a host of other protections and safeguards we now recognize as indispensable to any response. Sadly, this was always not the case twenty-five years ago.

18. Notwithstanding that fact, I am left with the belief that Academy officials too often did not fulfill their responsibility to ensure the physical protection, emotional support, and medical and psychological care for those alleging rape or sexual assault. Many of these individuals continue to struggle with the impact of this today.

19. I recommend that a copy of this memorandum and Enclosure (1) be required reading for current and future Academy leadership teams. One way to drive success in our continued effort to eliminate sexual assault from our Service and to shape our future efforts is to be reminded of and have a clear and sophisticated understanding of past mistakes.

20. I also recommend consideration of this memorandum and reference (c) when evaluating whether to invite or retain any former member of Academy leadership from the Fouled Anchor period to participate in leadership, advisory, governance or oversight roles at the Academy or in the Service generally.

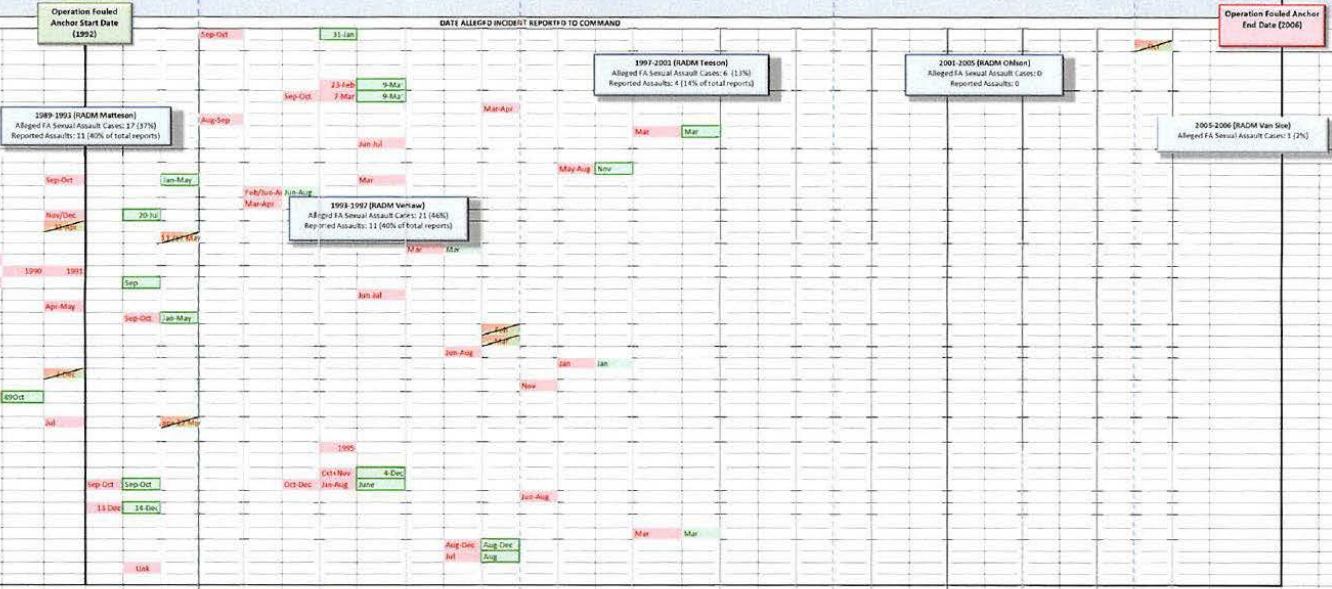
21. Pending further direction or guidance, this memorandum completes my duties and responsibilities as the Consolidated Disposition Authority.

#

Enclosures: (1) Timeline of Fouled Anchor Reports and Alleged Incidents of Sexual Assault
(1989-2006)

		FOULED ANCHOR INVESTIGATION PERIOD 1992-2006																																			
		1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006																		
1																																					
2																																					
3	ACADEMY STAFF																																				
4	Superintendent	Matteson				Matteson (6/89-6/93)				Versaw (6/93-6/97)**				Teeson (6/97-6/01)				Olson (6/01-6/05)				Van Sice (05-007)															
5	Assistant Superintendent	Versaw (88-90)TT				Fiche (90-93)				Larrabee (93-94)				Oblan (94-96)				Smith (96-98)**				PaarIS (00)				Duncan (00-01)**				Van Sice (01-02)				Thomas (03-06)			
6	Commandant of Cadets	Mika (88-92)				O'Neil (92-94)				Silliman (94-96)				Stubbins (96-97)**				Bledsoe (97-00)				Hend (00-03)**				Woods (03-06)				Kenne (06-08)**							
7	Assistant Commandant of Cadets	(b) (6), (b) (7)(C)																																			
8	Legal Officer/Staff Judge Advocate	(b) (6), (b) (7)(C)																																			
9		Member Deceased																																			
10		Declined to be interviewed by CGIS																																			
11		CGIS was unable to locate or interview																																			
12																																					
13																																					
14	REPORTED SEXUAL ASSAULTS / SUBJECTS OF FA CASES																																				
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CGIS Investigated 66 individuals against whom a claim of sexual assault was made.



Allegations were reported during FA investigation process (not contemporaneous with alleged assault)
 Actual date of an alleged assault (some are approximate - based on best available evidence)
 Report made contemporaneous (or nearly so) to an academy official (some are approximate - based on best available evidence)
 Alleged victim denied being assaulted

		FOULED ANCHOR INVESTIGATION PERIOD 1992-2006																							
		1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006						
72	APPLICABLE INSTRUCTIONS																								
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