

and the exaction of their performance does not constitute this offense even though the duties are arduous or hazardous or both.”

(d) Paragraph 20.b. is amended to read as follows:

“b. *Elements.*

(1) *Abuse of training leadership position.*

(a) That the accused was a commissioned, warrant, noncommissioned, or petty officer;

(b) That the accused was in a training leadership position with respect to a specially protected member of the armed forces; and

(c) That the accused engaged in prohibited sexual activity with a person the accused knew was a specially protected junior member of the armed forces.

(2) *Abuse of position as a military recruiter.*

(a) That the accused was a commissioned, warrant, noncommissioned, or petty officer;

(b) That the accused was performing duties as a military recruiter; and

(c) That the accused engaged in prohibited sexual activity with a person the accused knew was an applicant for military service or a specially protected junior member of the armed forces who is enlisted under a delayed entry program.”

(e) Paragraph 20.c. is amended to read as follows:

“c. *Explanation.*

(1) *In general.* The prevention of inappropriate sexual activity by trainers, recruiters, and drill instructors with recruits, trainees, students attending service academies, and other potentially vulnerable persons in the initial training environment is crucial to the maintenance of

good order and military discipline. Military law, regulation, and custom invest officers, non-commissioned officers, drill instructors, recruiters, cadre, and others with the right and obligation to exercise control over those they supervise. In this context, inappropriate sexual activity between those potentially vulnerable persons and those with authority to exercise control over them is inherently destructive to good order and discipline.

(2) *Prohibited activity.* The responsibility for identifying relationships subject to this offense and those outside the scope of this offense is entrusted to the individual Services to determine and specify by appropriate regulations. This offense is intended to cover those situations that involve the improper use of authority by virtue of an individual's position in either a training or recruiting environment. Not all contact or associations are prohibited by this article. Service regulations must consider circumstances where pre-existing relationships (for example, marriage relationships) exist. Additionally, this offense criminalizes only activity occurring when there is a training or recruiting relationship between the accused and the alleged victim of this offense.

(3) *Knowledge.* The accused must have actual or constructive knowledge that a person was a "specially protected junior member of the armed forces" or an "applicant for military service" (as those terms are defined in this offense). Knowledge may be proved by circumstantial evidence.

(4) *Consent.* Consent is not a defense to this offense."

(f) Paragraph 20.e. is amended to read as follows:

"e. Sample specifications.

(1) *Prohibited act with specially protected junior member of the armed forces.*

In that ___ (personal jurisdiction data), a (commissioned) (warrant) (noncommissioned) (petty)