MILITARY PERSONNEL

Treatment of Prominent Athletes on Active Duty
Dear Senator Humphrey:

This report is in response to your letter of February 2, 1987, in which you expressed concern that some graduates of the U.S. Naval Academy may have received preferential treatment in their post-graduation assignments to allow them to participate in professional athletics. You asked us to identify service policies and procedures that apply to military officers who participate in professional athletics and to investigate whether professional-caliber athletes have been shown favoritism.

In the last year, considerable controversy and congressional interest have surrounded the treatment of some prominent Naval Academy athletes. Two cases have received a great deal of media attention. The first case involves Ensign Napoleon McCallum, who—after graduating from the U.S. Naval Academy in December 1985—was allowed to play professional football while on active duty. The second case involves Ensign David Robinson, a 1987 graduate of the U.S. Naval Academy, who had his active-duty obligation reduced from 5 to 2 years. Another recent case involves former Marine Corps Captain Eddie Meyers, a 1982 graduate of the U.S. Naval Academy, who made several unsuccessful requests for assignments that would have allowed him to play professional football.

We found that the services have no written policies concerning the participation of active-duty personnel in professional sports although there are regulations concerning assignments and off-duty employment in general. These regulations give the services considerable flexibility. The extent of off-duty employment is not known, however, since permission for such employment is usually granted by local commanders, and the Department of Defense (DOD) has no system to compile such information.

Title 10 of the U.S. Code, Section 717, permits military personnel to participate in the Pan American and Olympic Games and any other international competition in amateur sports if the Secretary of State determines that their participation will serve the interests of the United States. Participation in events like the Pan American or Olympic Games would normally also involve time away from military duties for practice. This law
is implemented by DOD Directive 1330.4, "Participation in Armed Forces, National or International Sports Activities." Both the law and the DOD directive, however, are silent on the participation of military personnel in professional athletics.

While no written policies exist, each of the services discussed with us its position on the participation of service academy graduates in professional sports before they have completed their 5-year service obligation. The Army, Air Force, and Marine Corps maintain that the 5-year obligation must be completed before the individual can play professional sports. The Navy, however, has allowed McCallum to participate in professional sports during the 5-year obligation. In addition, the Navy allowed Phil McConkey and Roger Staubach to use their leave to work out with professional football teams while they were on active duty. Also, the Marine Corps allowed Meyers to use his leave to attend football training camp.

DOD views participation in professional sports as a form of off-duty employment, which is allowed under Title 10 U.S. Code, Section 973, as long as such employment does not interfere with the officer's military duties.

The Case of Napoleon McCallum

Napoleon McCallum graduated from the U.S. Naval Academy in December 1986. He was initially assigned to the Naval Academy as a recruiter in its academic recruiting program.

In June 1986, following an inquiry from McCallum, the Chief of Naval Personnel routed a memorandum through the Chief of Naval Operations to the Secretary of the Navy, proposing that the Navy assign McCallum in a manner that would permit him to work out and play with the Los Angeles Raiders. The Chief of Naval Personnel cited the unique opportunity to contribute to the Navy's image through potential exposure on national television and in other media as a key factor in proposing the arrangement.

The Chief proposed assigning McCallum to recruiting duty in Los Angeles through the summer of 1986, assigning him to a ship homeported in Long Beach in August 1986, sending him to supply corps school in January 1987, and assigning him back to his ship in Long Beach after he graduated. The memorandum made it clear that McCallum's service obligation would not change and that his participation in professional football was not to interfere with his Navy duties, which were to be
primary. Secretary of the Navy John Lehman's staff modified the proposal to include a stipulation that McCallum not compete in games, and Secretary Lehman approved it. Officials in the Naval Military Personnel Command called the commanding officers of the units involved to explain the assignment. In August 1986, McCallum requested that he be permitted to play in regular season games. Secretary Lehman approved his request on August 20, 1986.

Navy officials stated that McCallum’s temporary assignment as a recruiter was made because he was believed to be a valuable role model in the Navy’s minority officer recruiting program. For example, an Academy official told us that when they recruited at inner-city schools, they typically attracted only one or two people. However, when McCallum went to the schools, they got larger turnouts, and one school closed down classes throughout the school so that students could attend McCallum’s presentation. McCallum was assigned to the Los Angeles area to take advantage of the publicity generated by his being drafted to play football for the Los Angeles Raiders. Navy officials told us that assigning Naval Academy graduates to recruiting duties while they are awaiting assignment to training is not unusual. (The Army and Air Force make similar temporary use of their academy graduates.)

In July 1986, McCallum was assigned to the U.S.S. Peleliu in Long Beach, California. According to the Navy’s officer transfer manual, three criteria are considered, in order of priority, in every assignment: (1) the needs of the Navy, (2) the professional development needs of the individual, and (3) the personal preferences of the individual. Navy officials responsible for career assignments stressed that personal preferences are routinely considered in making assignments, although no data exist on how often personnel are assigned to their preferred locations. According to former Secretary Lehman, officers entering the service almost always receive an assignment to the coast of their choice, and about 90 percent receive their choice of homeport—especially if they choose one where a large number of ships are located, such as Long Beach, which has 34 ships.

While stationed on board the U.S.S. Peleliu, McCallum was assigned as a food service officer with regular hours of 5:30 a.m. to 1:30 p.m. These hours made it possible for him to attend practice sessions with the Los Angeles Raiders during his off-duty hours.

According to the commander of the U.S.S. Peleliu, he assigned McCallum to the food service area because that position would provide him with
on-the-job training consistent with his developmental needs as a supply corps officer. Furthermore, he believed that McCallum’s assignment would increase morale, motivation, and leadership of the young enlisted crew assigned to the food service area.

With regard to McCallum’s daily work schedule, the commander said that the ship was competing for a food service award and that McCallum’s early hours gave the ship coverage of the food service operation by an officer for all meals. Since the ship was in the shipyard for a 12-month overhaul, all the crew had regularly scheduled duty hours.1

McCallum’s participation in professional football was allowed under the Navy regulation (NAPERS 15560) covering off-duty employment. The regulation states that personnel “should not be restrained from engaging in legitimate and ethical enterprise or employment during their off duty hours.” Among the exceptions to this general policy are prohibitions against engaging in any civilian employment or enterprise that interferes with the proper and efficient performance of military duties or reflects discredit on the service.

Navy officials said that many Navy personnel are engaged in off-duty employment—such as doctors who work part time in hospital emergency rooms, personnel who teach business courses at local universities, and personnel who run their own businesses. Since local commanders normally make decisions on such employment, no information exists on the prevalence of off-duty employment. Top Navy officials involved in the McCallum decision saw no reason for excluding professional athletics as an acceptable form of off-duty employment. The commanding officer of the U.S.S. Peleliu stressed that McCallum’s off-duty participation in professional football in no way conflicted with the performance of his duties as a food service officer. In fact, McCallum’s fitness report (performance rating) rated him as the number 1 ensign out of the 14 assigned to the U.S.S. Peleliu.

In November 1986, McCallum submitted a request to change his career designator from supply officer to public affairs officer. In January 1987, McCallum was notified that his request had been denied.

In mid-January 1987, McCallum received orders to attend supply corps school in Athens, Georgia, even though this class had already been in

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1The Navy has a long-standing practice of maintaining crews on ships undergoing overhaul to perform industrial work and normal administrative and support functions.
session for about a month. Navy officials said that it was not unusual for people to start class a week or so late for such reasons as a ship's returning to port later than expected. However, they could not explain why McCallum was notified so late or why he had to attend that particular class when another class was starting the next month.

In April 1987, James H. Webb, the newly appointed Secretary of the Navy, announced that no special accommodations would be made to allow active-duty personnel to play professional sports. Many viewed this announcement as a reversal of Secretary Lehman's policy that allowed McCallum to play football. Former Secretary Lehman told us that he believes that the new policy unfairly singles out athletes and denies them accommodations that are routinely made for other personnel.

The original proposal approved by Secretary Lehman called for McCallum to return to Long Beach after attending supply officer school. According to McCallum, his commanding officer and the Naval Information Director in Los Angeles told him that he would be returning to a ship in Long Beach. However, on May 7, 1987, a supply officer detailer met with McCallum and told him that he would be detailed as any other ensign and that he would receive no special consideration.

Assignments for graduates of the supply corps school are made at the end of the program. A list of available assignments is sent to the class, and each member identifies seven assignment choices. The order of preference for assignments is determined by class ranking. McCallum, who missed the first month of the 6-month course because he was notified late, graduated 34th out of 44 and, therefore, received a relatively low priority with regard to choice of assignment.

McCallum's first three choices were for ships homeported in either Long Beach or San Diego, but these assignments went to graduates who ranked higher in the class. His fourth choice was to be placed in a pool used to provide supply officers for as-yet-unknown ships as vacancies occurred. McCallum was placed in this pool, along with six other officers, all of whom had higher class ranking.

The first ship to requisition a supply officer from the pool was the U.S.S. California. The pool officers were notified of that assignment on May 27, 1987. When the other officers declined the assignment, the acting school assignment counselor told McCallum that he would probably have to
accept it. This proposed assignment for McCallum was then communicated up the chain of command.

Early in the morning of the next day, an officer preceding McCallum in the pool ranking changed his mind and requested the U.S.S. California assignment. The school assignment counselor, who had just returned from travel and was not aware of the events of the preceding day, told the officer that he would contact the detailer and that the ship would probably be his. This meant that McCallum would go back into the pool to await another assignment.

When the detailer was informed of the other officer's change of mind, he informed the director of the supply corps detailer division, who in turn informed the commander of the Naval Military Personnel Command. The commander told the director that he saw no reason to reopen the decision and that the original assignment was final. This decision was later relayed to supply corps school officials and, later that day, both McCallum and the other officer were told that it was too late to change the assignment and that McCallum would be assigned to the U.S.S. California.

Officials in charge of supply corps assignments said that the normal practice is to give officers 1 or 2 days to consider a potential assignment and that if someone changes his mind and notifies them in a reasonable time, they try to accommodate him. These officials could not explain why in this case little time was provided for consideration of the assignment or why the officer's overnight change of mind was not accommodated. They acknowledged that this case was handled expeditiously and that because of the high level of interest in McCallum's assignment, senior service officials had already been informed of McCallum's placement.

Within 3 weeks, five other ships became available for selection by pool officers, including the U.S.S. Peleliu in Long Beach and others in San Diego. According to McCallum, assignment to one of these ships would have made it possible for him to continue to play for the Raiders in his off-duty time whereas his assignment to the U.S.S. California, homeported in Alameda, California (nearly 400 miles from Los Angeles), makes it impossible. When the list of the other ships was posted, the pool officers were able to take the list home and provide their decisions the next day.
Ensign McCallum graduated from supply officer school in June 1987, and on June 19, orders were issued assigning him to the U.S.S. California, which he joined while it was on deployment in the Indian Ocean in July 1987.

In summary, McCallum's case received an extraordinary amount of top-level attention, and accommodations were made. He was assigned to the geographic area he preferred and given a work schedule that allowed off-duty employment. Navy officials told us that similar accommodations are routinely made for other personnel, both in terms of location of assignment and permission to work during off-duty hours. According to Navy officials, however, no data exists on how often such accommodations of personal preferences are made.

Although the decision to allow McCallum to play football during his off-duty hours accommodated his request, the Chief of Naval Personnel's proposal and the Secretary of the Navy's approval were based on benefits they believed would accrue to the Navy.

The Case of David Robinson

While he was a midshipman at the U.S. Naval Academy, David Robinson was an outstanding collegiate basketball player. He graduated in May 1987 and was the first player chosen in the 1987 National Basketball Association draft. He became the focus of media interest because his obligation to serve 5 years of active duty was reduced to 2 years.

When Robinson was admitted to the Academy, he was about 6 feet 8 inches tall, 2 inches over the height limit for newly admitted midshipmen. According to Academy officials, the Superintendent of the Academy traditionally waives the height requirement each year for at least one person taller than the upper limit and one person shorter than the lower limit if they have other desirable attributes.

By the end of his second year at the Academy, Robinson had grown to 7 feet (although he was officially listed at 6 feet 11 inches). At that time, Robinson was considering leaving the Academy and could have done so without incurring any active-duty obligation. He decided to stay at the Academy, however, after discussing his situation with the Superintendent.

Some confusion exists about the discussion between the Superintendent and Robinson. According to the Superintendent, he discussed what he
thought the Naval Academy versus a civilian college could do for Robinson. He said that he also told Robinson that his height would probably be a disadvantage for a career as a Navy officer and that the Navy had never commissioned anyone as tall as he was. He said that he told Robinson that if Robinson wanted, he would fight to get him a waiver to allow him to be commissioned. Robinson told us that his understanding was that he was too tall to be commissioned without a waiver but that he could request that a waiver not be sought. Between the end of their junior year and the beginning of their senior year, all midshipmen undergo a precommissioning physical exam. According to Robinson, he inquired about the process for requesting that a waiver to permit his commissioning not be sought, and he was told that the results of his physical would be sent to the Navy Medical Command to determine if his situation was waiverable. He said that he was not told that the Navy Medical Command approval would actually constitute the waiver.

According to the Manual of the Medical Department, U.S. Navy, the maximum height for commissioning as an officer is 6 feet 6 inches. Navy regulations state that a person who does not meet physical standards shall be rejected unless a waiver is obtained. The regulations also state that the decision on whether to waive a given condition rests upon many considerations, including the amount of government investment in the applicant, the Navy’s need for additional personnel at the time of consideration, the relative professional qualifications of the person, and the Navy’s equity responsibilities.

In reviewing the results of Robinson’s precommissioning physical, Academy medical officials classified him as “waiver recommended, unrestricted line.” In December 1986, the Navy Medical Command granted a waiver for Robinson. Five other midshipmen who exceeded height standards were also granted waivers—two of them in unrestricted line positions.

When we pursued the issue of an individual’s being able to request that a waiver not be granted, we found that neither Robinson nor Academy officials in the Superintendent’s office had an accurate understanding of the height and waiver policies. The senior medical officer at the Academy told us that exceeding the height standard is not an absolute bar to being commissioned, although it may limit the career fields that a person

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2 An official from the Academy Superintendent’s office who was present when we interviewed Robinson, indicated that his understanding of the policies with regard to the height requirement and waiver process was the same as Robinson’s.
can enter. Contrary to what Robinson understood, a midshipman cannot request that a waiver not be granted and, therefore, that he not be commissioned. A midshipman who does not meet physical standards can request only that he not be considered for a particular career field, such as aviation or submarines.

In 1985, Secretary Lehman began considering several options regarding Robinson that had been informally forwarded by the Chief of Naval Operations:

- not offering him a commission and therefore imposing no active-duty requirement;
- offering him a commission as a restricted line officer in the civil engineering corps with the full 5-year active-duty requirement;
- offering him a special arrangement whereby he would serve for a 10-year period, 6 months off during basketball season followed by 6 months of active duty;
- offering him a reserve commission in the Officers' Sea and Air Mariner (OSAM) program, whereby he would serve up to 2 years on active duty, 4 years in the Selected Reserve, and 2 years in the inactive reserve.\(^1\)

According to former Secretary Lehman, he rejected the first option because he believed that Robinson wanted to serve and that he should serve some active-duty time. He rejected the second option because Robinson's height would prevent him from gaining sea experience and, therefore, put him at a disadvantage in competing with his peers for promotions. He rejected the third option because it was too unusual.

In January 1987, Secretary Lehman decided to offer the OSAM program to Robinson, even though this program had never before been offered to a Naval Academy graduate. The purpose of the OSAM program is to obtain trained civil engineer officers for the Selected Reserve by bringing degree-holding engineers onto active duty for officer-candidate training and civil engineer corps training. In April 1987, Robinson signed an agreement accepting appointment in the OSAM program for 2 years of active duty.

\(^2\)A Navy official told us that, in at least one other recent case, an individual who developed a vision problem that medically disqualified him was allowed to graduate without being commissioned

\(^1\)Title 10 U.S.C. 6959 requires Naval Academy midshipmen who are not offered a regular commission to accept a reserve commission and to serve in a reserve component until the completion of their commissioned service obligation.
We could find no basis in the OSAM program authorization for the appointment of an Academy graduate. The program authorization cites only civilians and enlisted personnel as sources of candidates. In addition, since the program authorization and the standard OSAM contract state that selectees will attend officer candidate school, it is apparent that already-commissioned officers should not be considered potential OSAM candidates.

Furthermore, the provision requiring Robinson to serve a full 2 years of active duty under the OSAM program is inconsistent with the obligations of other OSAM participants. The OSAM program authorization document states that officers will be released from active duty after completing either 2 years of active duty or the civil engineering corps officer school (approximately 8 weeks in duration) and, if required, mobilization billet training qualification, whichever occurs first. While Robinson has signed an agreement to serve 2 years of active duty, the contract he signed was different in several material ways from the normal OSAM program contract. The standard OSAM contract has a paragraph stating that the participant consents "to serve on active duty for training for a period of up to two (2) years" (emphasis added). The contract the Navy had Robinson sign omits "up to." We were told that these words were omitted to ensure that Robinson would serve for 2 years. However, according to Robinson, he was told that he would likely be released from active duty after the Olympics. This would mean that he would be released in late summer 1988, after about 15 months of active duty.

The standard OSAM contract also has a paragraph in which the participant acknowledges that he "will be released from Active Duty for Training upon qualification in the designator" he has been assigned. This paragraph is consistent with the OSAM program authorization, which provides for keeping participants on active duty for 2 years only if their training takes that long to complete. This paragraph was not in Robinson's contract.

Ensign David Robinson graduated from the Naval Academy in May 1987. Robinson originally received orders to report to Washington, D.C., while awaiting assignment to civil engineering training. His orders were later changed to send him to Andrews Air Force Base and changed again to send him to King's Bay Submarine Base in Georgia, where he is currently assigned. According to Robinson, he was told that his change of orders to report to King's Bay was made on the instructions of Secretary Webb.
In August 1987, Robinson participated in the Pan American Games. He is scheduled to attend civil engineer corps training in January 1988.

In summary, it appears that the Navy made the special agreement with Robinson as a compromise between imposing the full 5-year obligation and imposing no obligation at all. According to former Secretary Lehman and the former Superintendent, the decision to reduce Robinson's obligation was based on several factors: the belief that Robinson's height would prevent him from gaining sea experience and being competitive with his peers, the recognition that Robinson owed a debt to the Navy and that the Navy owed a debt to Robinson, and the apparent confusion surrounding Robinson's decision to remain at the Academy. In his press release ratifying the arrangement approved by his predecessor, Secretary Webb stated that it was clear to him that Robinson's decision to remain at the Academy was influenced by his understanding that some accommodation would be made concerning his service obligation that would permit him to play professional basketball during at least a portion of his obligated service. Secretary Webb also stated that it would now be unfair to require him to serve on active duty for 5 years.

The Case of Eddie Meyers

Eddie Meyers graduated from the U.S. Naval Academy in 1982 and received a commission in the Marine Corps. He was drafted by the Atlanta Falcons and submitted several unsuccessful requests to the Marine Corps for arrangements that would allow him to play football.

Before he graduated, Meyers requested a leave of absence from the Marine Corps for a period of time each year to take part in the Atlanta Falcons training camp and season games. In his request, he proposed returning to active duty during the off-season and repaying the Marine Corps 2 days for every 1 day on leave of absence. However, according to Meyers, he withdrew this request when the Commandant of the Marine Corps asked him to do so.

After graduation, Meyers spent about 6 months as an assistant football coach at the Naval Academy. In January 1983, he went to Marine Corps Officer Basic School. He then received orders to go to supply corps school but was granted permission to delay his assignment in order to attend the Atlanta Falcons training camp. He received orders assigning him to Camp Pendleton, California, in August 1983, where he has remained, except for a short period of time when he attended supply corps school at Camp Lejeune, North Carolina. Because of the distance
from Atlanta. Meyers' participation in professional football was limited to his attendance at training camp each year, using his annual leave for that purpose.

In January 1985, he asked to be granted a leave of absence during football season and to be allowed to return to active duty in the off-season. This request was not approved, the reason cited being his full-time responsibility as an officer.

In September 1986, Secretary Lehman announced that the August 20, 1986, decision allowing McCallum to play football on a not-to-interfere basis would also apply to Meyers. Meyers then requested a permanent change of station (PCS) or permissive temporary active-duty orders to the 6th Marine Corps District in Atlanta so that he could play football with the Falcons. This request was denied because he had insufficient time left in the Marine Corps (9 months) to meet the criterion for a PCS move (36 months), and the Atlanta location lacked a valid supply officer position (although Meyers has not worked as a supply officer in the last 3 years).

Eddie Meyers was released from active duty on June 30, 1987. He attended the Atlanta Falcons training camp this summer and was placed on the injured reserve list before the start of the regular season.

In summary, our review showed that Meyers' requests for recurring leave of absence were for unusual arrangements, for which no clear precedent existed. Meyers withdrew the first request after discussing it with the Marine Corps Commandant, and the needs of the Marine Corps were cited as the primary reason for denying the second request. The Marine Corps followed established criteria in not approving Meyers' 1986 request for a PCS move.

Conclusions

In each of the three cases we examined, we found that the decisions were elevated to senior service officials—a practice we were told is unusual for cases involving junior officers. However, it is important to distinguish between high-level involvement and preferential treatment. High-level attention can have either favorable or unfavorable consequences for the individual. Preferential treatment means treating one person or a class of persons more favorably than others.

Information is not readily available to determine what kinds of accommodations the Navy makes to other persons or classes of persons. In
addition, the three cases we examined are unique. For these reasons, the existence or nonexistence of a pattern of preferential treatment cannot be determined. While decisions on these cases were raised to higher levels, this was apparently done primarily because the lower levels anticipated the publicity likely to result from whatever decision was made.

It could be argued that McCallum received favorable treatment in the fall of 1986 when accommodations were made that allowed him to play professional football during his off-duty hours. However, Navy officials told us that similar accommodations are routinely made for other personnel, both in terms of choice of location of assignment and permission to work during off-duty hours. It could also be argued that McCallum is now receiving unfavorable treatment in that participation in professional sports is the only type of off-duty employment that the Secretary of the Navy cited in his April 1987 announcement as being incompatible with fulfilling military duties.

If only the 1987 decision to reduce Robinson's active-duty obligation is considered, it would appear that he received favorable treatment. However, the decision to reduce Robinson's service obligation seems to have been a compromise based on Robinson's decision to remain at the Academy when he could have left without incurring an obligation to serve in the Navy. His decision was based on conversations he had with Navy officials, which led him to believe that he could remain at the Academy yet not have a service obligation because of his height. The Navy later acknowledged that Robinson's decision to remain at the Academy was influenced by his understanding that some accommodation would be made concerning his service obligation that would permit him to play professional basketball during at least a portion of his obligated service.

Finally, it is apparent that Meyers did not receive favorable treatment because all his requests to play professional football were denied.

Agency Comments

DOD and Navy officials reviewed a draft of this report. They concurred with the draft without comment. McCallum's, Robinson's, and Meyers' comments have also been incorporated where appropriate.
Objectives, Scope, and Methodology

To investigate the possibility of preferential treatment being granted to service academy athletes in allowing them to participate in professional athletics, we reviewed statutes, policy directives, regulations, and service records. We interviewed officials in the Office of the Secretary of Defense, the Office of the Secretary of the Navy, the headquarters of each of the services, the U.S. Naval Academy, and the U.S. Military Academy. We also interviewed the former Secretary of the Navy, the former Superintendent of the Naval Academy, David Robinson, Eddie Meyers, Napoleon McCallum, and McCallum's commanding officer on the U.S.S. Peleliu.

We conducted this review from March through September 1987, in accordance with generally accepted government auditing standards.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 5 days from the date of its issuance. At that time, we will send copies to the Chairmen, House and Senate Committees on Armed Services, House and Senate Committees on Appropriations, and other interested committees; the Office of Management and Budget; the Secretaries of Defense and the Military Departments; and Messrs. McCallum, Robinson, and Meyers. We will also make copies available to other interested parties upon request.

Sincerely yours,

Frank C. Conahan
Assistant Comptroller General
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