



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
(MANPOWER AND RESERVE AFFAIRS)
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

December 19, 2016

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF DEFENSE
(Military Community and Family Policy)

FROM: Department of Defense (DoD) Resale Activities Review Board

SUBJECT: Recommendations from the December 13, 2016, DoD Resale Activities
Review Board Meeting

Title 10 United States Code (U.S.C.) 2495b prohibits the sale or rental of sexually explicit material on property under DoD jurisdiction. In accordance with section 2495b, DoD established the Resale Activities Review Board (the Board), independent of the military exchange services, to review and make recommendations to the Assistant Secretary of Defense for Manpower and Reserve Affairs ASD(M&RA) as to whether such material is sexually explicit as defined by 10 U.S.C. 2495b. The terms “sexually explicit material” and “property under the jurisdiction of the DoD” are defined in 10 U.S.C. 2495b(e). The Board convenes at least once a year, and additionally as necessary to review and make recommendations to the ASD(M&RA).

The Board convened on December 13, 2016. The meeting was called into session by the Board Chair (the Chair) with 6 of 9 board members in attendance constituting a quorum. There were no alternate members in attendance. The Chair explained the composition, authority and procedures of the Board. The Chair announced that there was no material presented to the Board for review for calendar year 2016. The Chair announced that the revised DoD Instruction 4105.70, “Prohibition of the Sale or Rental of Sexually Explicit Material on DoD Property,” was released on November 30, 2016. The revised DoDI 4105.70 was e-mailed to each of the Board members and alternates after the meeting.

The DoD Office of General Counsel provided legal advice to the Board concerning the

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The next Board meeting is planned for December of 2017. For additional information, please contact (b)(6) or (b)(6).

(b)(6)

Chair, DoD Resale Activities Review Board



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
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1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

JAN 09 2018

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF DEFENSE
(Military Community and Family Policy)

FROM: Department of Defense (DoD) Resale Activities Review Board

SUBJECT: Recommendations from the December 14, 2017, DoD Resale Activities Review Board Annual Meeting

Section 2495b of Title 10, United States Code, prohibits the sale or rental of sexually explicit material on property under DoD jurisdiction. In accordance with section 2495b, DoD established the Resale Activities Review Board (the Board), independent of the military exchange services, to review and make recommendations to the Assistant Secretary of Defense for Manpower and Reserve Affairs ASD(M&RA) as to whether any material offered, or to be offered, for sale or rental on property under DoD jurisdiction is sexually explicit as defined by 10 U.S.C. 2795b. The term "sexually explicit material" and "property under the jurisdiction of the DoD" are defined in 10 U.S.C. 2495b(e). Pursuant to DoD Instruction 4105.70, "Prohibition of the Sale or Rental of Sexually Explicit Material on DoD Property," the Board convenes at least once a year, and additionally as necessary to review and make recommendations to the ASD(M&RA).

The Board convened on December 14, 2017. The meeting was called into session by the Board Chair (the Chair) with 7 of 9 board members in attendance constituting a quorum. There was one alternate member in attendance. The Board members and alternates in attendance is enclosed (highlighted in yellow). The DoD Office of General Counsel was present as an advisor. The Chair explained the composition, authority and procedures of the Board. The Chair announced that there was no material presented to the Board for review for calendar year 2017.

Before adjourning, members of the Board expressed concern about convening a meeting, when there was no material to review. It was noted that this has been the case for the last several years. Advances in technology are changing the way material is viewed, e.g., more online video streaming, which may decrease the need to review materials proposed for resale. The Board asked that other considerations be given to meetings in the future, such as an email or electronic vote or acknowledgement. The legal advisor to the Board reminded the members that current Department policy requires the Board convene at least once a year, and additionally as necessary, to review and make recommendations to the ASD(M&RA). While the Board does not have any recommendations regarding materials for resale, there is a request to reconsider the requirement for an annual meeting.

Pending any additional guidance regarding annual meetings, the next Board meeting is planned for December of 2018. For additional information, please contact (b)(6) at (b)(6) or (b)(6) at (b)(6)

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Chair, DoD Resale Activities Review Board

MINUTES APPROVED: _____

Performing the Duties of the
Assistant Secretary of Defense for Manpower
and Reserve Affairs



MANPOWER AND
RESERVE AFFAIRS

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
1500 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1500

FOR: ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE
AFFAIRS

FROM: CHAIR, DEFENSE RESALE ACTIVITIES REVIEW BOARD

SUBJECT: Recommendations from the December 11, 2018, DoD Resale Activities Review
Board Meeting

The DoD Resale Activities Review Board (the Board) convened by teleconference on December 11, 2018 at 9:00 a.m. EST. The meeting was called into session by the Board Chair (the Chair) with six of nine members in attendance constituting a quorum. There were two alternate members in attendance. The DoD General Counsel was not present as the legal advisor. Enclosed is the complete list of those absent and present at the meeting.

The Board Chair, (b)(6) convened the meeting and reminded members that the Department of Defense Instruction 4105.70, "Prohibition of the Sale or Rental of Sexually Explicit Material on DoD Property" requires the Board to meet at least once a year. She noted that the military exchanges do not have any material for review.

(b)(6) shared that she received a letter addressed to the Board and herself concerning the sale of "Maxim" magazine at a military exchanges. After consulting with Military Community and Family Policy and the Office of General Counsel staff members, the decision was made to have the Deputy Assistant Secretary of Defense (Military Community and Family Policy) respond to the letter. The intent of this decision was to protect the integrity of the Board and the privacy of its members, as well as to keep the Board focused solely on the review of material.

(b)(6) then shared the Department is updating the memorandum that appointments members and alternates to the Board. Next, she introduced (b)(6), MWR and Resale Policy, who provided an overview of the tasker that would appoint members and alternates to the Board. (b)(6) noted that the Board had four vacancies (three members and one alternate). He concluded his update noting that the tasker was out for coordination and will be quickly staffed for signature.

(b)(6) then asked the Board if there were any questions for discussion. (b)(6) indicated that during her nine years of participation on the Board, it had never met to review sexually explicit material. She suggested maybe the need for the board no longer existed and recommended an ad hoc committee or board be formed should there be a need to review material in the future. Another option is to maintain an active roster.

(b)(6) reminded the group the requirement to meet annually is policy. He also noted the previous Assistant Secretary of the Defense for Manpower and Reserve Affairs, did not support eliminating the annual meeting. A comment was made that we've been asked to streamline meetings and requirements that no longer add value, so maybe it is time to resurface this again. Both (b)(6) and (b)(6) agreed. (b)(6) asked if there was a possibility this meeting be combined with another similar type of meeting to preclude a separate meeting. (b)(6) noted that given the close scrutiny from Congress, the OSD leadership would most likely not support a legislative repeal to eliminate the annual meeting requirement.

(b)(6) noted the standup of the Defense Health Agency (DHA), and indicated there may no longer be a need for a representative from each Service Surgeon General (SG). (b)(6) (b)(6) also suggested that whoever levies the requirement should consider either adding a DHA representative or replacing the SG representatives with a single DHA representative. The Board also discussed two other modifications to the process: (1) meet only when material is presented to the Board for review; and (2) meet as needed versus a mandatory annual meeting.

It was also noted that the Department should consider updating DoD 4105.70 to add Defense Health Agency versus SG since they will be the major player in the healthcare field.

(b)(6) adjourned the meeting at 9:15 A.M. ET. The next Board meeting is planned for December 2019.

(b)(6)

Chair, DoD Resale Activities Review Board

Enclosure:
As stated



MANPOWER AND
RESERVE AFFAIRS

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
1500 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1500

DEC 19 2019

FOR: VIRGINIA S. PENROD, PERFORMING THE DUTIES OF THE ASSISTANT
SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS

FROM: CHAIR, DEFENSE RESALE ACTIVITIES REVIEW BOARD

SUBJECT: Recommendations from the December 16, 2019, DoD Resale Activities Review
Board Meeting

The DoD Resale Activities Review Board (the Board) convened by teleconference on December 16, 2019, at 9:30 a.m. EST. The meeting was called into session by the Board Chair with six members constituting a quorum and two alternate members. An attorney from the DoD Office of General Counsel also participated as the legal advisor. Enclosed is the complete list of those absent and present at the meeting.

The Board Chair, (b)(6) convened the meeting and reminded members that DoD Instruction 4105.70, "Prohibition of the Sale or Rental of Sexually Explicit Material on DoD Property" requires the Board to meet at least once a year. He announced that the Military Exchange Services had not submitted any material for review and expressed the relevance of the annual meeting. The legal advisor provided an overview of the (b)(5)

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As part of this process, the Board applies the definition of section 2495b(e) to the totality of each item's content, and considers whether the dominant theme of the material in question depicts or describes sexually explicit content.

Before adjourning, a member of the Board asked whether adult material is currently being sold in the Exchanges. After brief discussion, the Board members agreed to inquire on this in order to gain a general sense of current practices; ODASD(MC&FP) staff have this task for action. Lastly, it was also noted that the Board has not reviewed material since 2013.

(b)(6) adjourned the meeting at 9:40 a.m. EST. The next Board meeting is planned for December 2020.

(b)(6)

Chair, DoD Resale Activities Review Board

Enclosure:
As stated



MANPOWER AND
RESERVE AFFAIRS

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
1500 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1500

FOR: LERNES J. HEBERT, PERFORMING THE DUTIES OF THE ASSISTANT
SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS

FROM: Chair, Defense Resale Activities Review Board

SUBJ: Minutes from the December 8, 2020, DoD Resale Activities Review Board Meeting

The DoD Resale Activities Review Board (the Board) convened for a virtual meeting on December 8, 2020, at 12:45 p.m. Eastern Standard Time. The meeting was called into session by the Board Chair with six members and three alternates in attendance. An attorney from the DoD Office of General Counsel also participated as the legal advisor. Enclosed is the complete list of those absent and present at the meeting.

The Board Chair (b)(6), convened the meeting and welcomed two new members. The legal advisor provided an overview of the requirements of the Board pursuant to 10 U.S.C. 2495b and DoD Instruction 4105.70; counsel further emphasized, based on past experience and in anticipation of questions from the Board members, that attempts to introduce policy or legislation that appears to weaken the restriction on the sale or distribution of sexually explicit material within the Department of Defense resale activities would likely not be supported by leadership within the Department or Congress. The Board reviewed the approved summary of the 2019 DoD Resale Activities Review Board meeting. No materials were submitted to the Board for review to determine if those materials were “sexually explicit” as defined in section 2495b.

The Board discussed an outstanding item from the 2018 meeting concerning whether a single member from the Defense Health Agency could replace the three members representing the office of the Military Department Surgeons General. After some discussion the Board members ultimately did not support changing the composition of the board in this manner. Additionally, the legal advisor reminded the Board that section 2495b requires a nine-member board, and any reduction in the number of members from these offices would have to be replaced in some other fashion. Changing the composition of the Board in this manner would require an amendment to the policy in Section 3 of DoD Instruction 4105.70.

One member expressed appreciation for the Office of General Counsel rationale as to the need for the Board, but requested to go on the record questioning the requirement to conduct an annual meeting if there is no material to review and there has not been for seven years. The legal advisor explained that (b)(5)

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Open discussion revolved around finding ways to meet the intent of the annual meeting requirement, a mechanism to ensure the Board was properly constituted and familiar with its

duties should it be required to exercise them, without having to convene a physical meeting of the members. It was suggested that an email format be considered when no materials are submitted for review. If materials are submitted for review, the Board would convene an in-person meeting to review them.

The board recommends approval of an alternate method of complying with the annual meeting requirement through email when no materials are submitted for review. The Chair will: (1) provide the updated membership appointment memo for the year; (2) provide training materials outlining the duties of the board and its members; and (3) confirm that no materials were submitted for review. Acknowledgement of receipt of the email and review of the training materials will constitute participation in the annual meeting.

(b)(6) adjourned the meeting at 1:32 p.m. Eastern Standard Time. The next Board meeting is planned for December of 2021.

(b)(6)

Chair, DoD Resale Activities Review Board

Enclosure:
As stated