

NATION

Army investigates release of data on gay crime

By Rowan Scarborough
THE WASHINGTON TIMES

The Army is investigating its top criminal lawyer for providing documents about sex crimes of homosexual soldiers to a group opposed to lifting the ban on homosexuals in the military.

The probe has prompted the group, the Defense Readiness Council, to accuse the Army of attempting to intimidate and silence the officer, who provided the information in response to a Freedom of Information Act request.

Pentagon sources said superiors in the Army Office of the Judge Advocate General informed Col. Rich-

ard Black, the office's criminal law chief, of the investigation Monday.

The Army assigned two investigators to the case, and they have begun questioning colleagues of Col. Black's.

The Washington Times on Friday published an article on the Defense Readiness Council's statistical study, which says the sex-crime rate for homosexual soldiers is higher than the Army's overall crime rate.

"I really think some of the cover-your-ass guys are over there trying to suppress stuff. As far as I know, the material was released legally," said the group's spokesman, retired Marine Lt. Gen. Charles Cooper.

"The colonel who released the

material to me is being harassed like hell right now. His bosses are furious at him," said retired Marine Brig. Gen. William Weise, who analyzed the Army statistics and wrote the study. "I know he was summoned and read the riot act."

Col. Black did not return a reporter's phone calls.

Some of his supporters said they suspect Defense Secretary Les Aspin's staff complained to the Army after the council released the crime figures last week.

Col. Doug Hart, a Pentagon spokesman, said he made inquiries about the charge and found no evidence that Mr. Aspin's staff had intervened.

Sgt. 1st Class Dawn Kilpatrick, an Army spokesman at the Pentagon, said yesterday the inquiry was not an attempt to intimidate Col. Black. She characterized it as a review into "the facts and circumstances surrounding the release of the Army information outside the Department of the Army."

The Black investigation is at least the third incident in which Pentagon superiors questioned a uniformed officer who had aided activists working to retain the ban on homosexuals in the military.

In March, superiors threatened Navy Lt. David Quint with disciplinary action if he did not stop speaking publicly against lifting the ban. Lt.

Quint, a public affairs officer, later was transferred to a personnel job.

A month later, a top assistant to Mr. Aspin summoned an Army lawyer to his office and rebuked her for her efforts backing the ban. At the time, Maj. Melissa Wells-Petry was beginning a publicity campaign for her book stating the case for the ban.

Gen. Weise said he filed a Freedom of Information Act request for the records of 102 Army public courts-martial of homosexuals conducted the past four years.

But Sgt. Kilpatrick said, "When the report was released to the group, it had not been through the normal clearing procedure, so that's what's really being looked into."

Information about completed criminal cases, such as the information compiled by Col. Black, is generally available to the press and public, Sgt. Kilpatrick said.

David Schlueter, a former Army lawyer who's a law professor at St. Mary's University in San Antonio, said: "As far as I know, they are public records. As a matter of course, every court-martial is open."

Mr. Schlueter said the public can obtain information about courts-martial through computer networks.

"It's pretty obvious to me that what they're doing is really giving him a hard time for what he did, and I think they're trying to suppress the facts," Gen. Weise said.

General speaks too freely

Air Force investigates remarks lambasting Clinton

By Rowan Scarborough
THE WASHINGTON TIMES

The Air Force said yesterday that it is investigating a two-star general for publicly derisive remarks he allegedly made about President Clinton, a case that illustrates forfeiture of free-speech rights by military personnel.

"The general rule is that the First Amendment does apply to service members," said David Schlueter, a law professor at St. Mary's University in San Antonio. "They do not give up all their First Amendment rights when they don the uniform. However, what they can say and do are limited to some extent by the needs and requirements of military discipline."

In the case of the Air Force officer, Maj. Gen. Harold Campbell, the issue boils down to whether he violated Article 88 of the Uniform Code of Military Justice (UCMJ).

Gen. Campbell, during a May 24 speech to maintenance workers at an air base in the Netherlands, allegedly referred to Mr. Clinton as a draft dodger, pot smoker and womanizer, according to an account in yesterday's editions of The Wash-

ington Post.

When the story appeared, an investigation already was under way by Gen. Campbell's superior at the Air Force Materiel Command at Wright-Patterson Air Base in Ohio, according to Maj. Bob Potter, a service spokesman.

Article 88 prohibits officers from using "contemptuous words" against the president, who is commander in chief of the armed forces; the vice president; and other civilian leaders.

If the Air Force determines Gen. Campbell uttered the remarks, his superior — Gen. Ronald Yates, the Materiel Command commander — could reprimand the two-star officer or recommend a court-martial.

If court-martialed, Gen. Campbell would face a maximum penalty of dismissal from the service and one year of confinement.

"Because of your stature and your position, in order to maintain good order, there are certain things by tradition and regulation you don't do, things a civilian could do and not be prosecuted," Maj. Potter said.

Enlisted personnel are under a similar restriction spelled out in Article 134 of the UCMJ, according to

Mr. Schlueter, a former Army judge advocate general and an expert on military law.

The UCMJ's Article 89 further prohibits officers from speaking disparagingly of their military superiors.

"The courts have recognized over the years the need for military discipline," Mr. Schlueter said. "They permit the government to regulate speech in a way that would never be tolerated in the civilian community."

"The military is not a democracy," he said. "A commander's decisions are not open for public debate by members of the unit. To some extent, it's based on common sense. The military system depends heavily on discipline. It is a key indispensable element in the military."

The law professor also said military personnel do not enjoy all the freedoms accorded citizens under the Fourth Amendment, which outlaws unreasonable search and seizure.

But Mr. Schlueter, citing his experience as an Army prosecutor, said commanders have shown restraint in subjecting soldiers to searches of personal property.

