DEPARTMENT OF THE ARMY
SPECIAL WARFARE EDUCATION GROUP (AIRBORNE)
UNITED STATES ARMY JOHN F. KENNEDY SPECIAL WARFARE CENTER AND SCHOOL
FORT BRAGG NC 28310-0610

AOJK-EDG

MEMORANDUM FOR Commander, United States Army John F. Kennedy Special Warfare Center and School, Fort Bragg, North Carolina 28310

SUBJECT: Findings and Recommendations Memorandum - 15-6/Equal Opportunity Complaint Investigation: Strong Bonds Event

1. Conclusion. Based on the below investigation, I make the following findings:

a. I find that CH (MAJ) Jerry Squires (hereafter CH Squires) and [redacted] did violate Army Equal Opportunity (EO) policy by denying [redacted] and her wife, [redacted] the opportunity to attend a Strong Bonds retreat run by and paid for by the United States Army.

b. I find the actions taken by CH Squires and [redacted] violate AR 600-20.

c. I find that [redacted] was derelict in her duty as an Equal Opportunity Leader (EOL) for HHC, SWTG (A) when she failed to notify the command of the situation pursuant to her duties.

d. I find that CH Squires violated the requirements of Army Regulation (AR) 165-1 when he failed to notify his command and his chaplain technical chain that he could not perform services for [redacted] due to his endorser restrictions.

e. I find that had CH Squires and [redacted] acted in compliance with the relevant regulatory guidance, specifically AR 165-1 and AR 600-20, this likely would not have become an issue at all.

2. Investigation Background and Procedure. The following chronology lays out a basic timeline of investigative efforts and the subject issue involving the EO complaint based on the non-inclusion of [redacted] and her wife at the Strong Bonds event.

a. I was initially appointed as an Investigating Officer on 7 February 2018, by [redacted] Commander, Special Warfare Education Group (Airborne) (SWEG (A)), to investigate a formal EO Complaint filed by [redacted] on 6 February 2018, alleging discrimination based on her protected class as being a part of a same-sex marriage when she was not afforded the opportunity to attend a chaplain-led Strong Bonds event for 1st Special Warfare Training Group (Airborne) (1SWTG (A)).

b. My initial investigation determined that the subject complaint timeline spans from 25

January 2018, when [redacted] sent an email to [redacted] regarding the availability of slots in the upcoming Strong Bonds Retreat, until she filed her complaint on 6 February 2018. When initially tasked to investigate this case I obtained statements from CH Squires, [redacted] and her spouse, [redacted] C, D, E, F, G, N). Only one point in all the statements from any of the eight service members interviewed contains divergent statements (Exhibit A, B, C).

(1) CH Squires states that he did not inform [redacted] that she could not attend the Strong Bonds event, but instead told her that the Strong Bonds event was "essentially full" and that he would ensure that she was informed of the next Strong Bonds event and ensure that the facilitator could perform services for [redacted] (Exhibit A).

(2) [redacted] stated that CH Squires told her that her sexual orientation was one of the factors that meant she was unable to attend the 9-11 February 2018 Strong Bonds Event (Exhibit B, C).

During their conversation, CH Squires did explain his Chaplain restriction and what the perform versus provide mandate required him to do, ending the conversation by clarifying that he is unable to perform any counseling or facilitate a marriage related event for any same-sex couple (Exhibit A, B, C) [redacted] felt that her attempt to attend the 2018 Strong Bonds event was being treated unequally relative to other couples due to her sexual orientation (Exhibit O) and asked for clarification from her supervisor [redacted] (Exhibit E, X). [redacted] EO Advisor, United States Army John F. Kennedy Special Warfare Center and School (SWCS)) was informed of the potential EO complaint by the command and he reached out to CH Squires and [redacted] for information and determined that there was a concern with whether this matter was handled IAW EO policy (Exhibit II). Contrary to EO policy, CH Squires told [redacted] when [redacted] was initially gathering information that if a Chaplain is in charge of a Strong Bonds event and he is restricted in his ability to perform services for a same-sex couple, then a same sex couple cannot attend that event (Exhibit II). Instead his priority is to try and provide the Soldier an opportunity to attend a future event run by an unrestricted Chaplain (Exhibit II). My initial findings were that CH Squires and [redacted] violated the EO policy.

c. Prior to [redacted] taking final action on the investigation, [redacted] Commanding General, SWCS, elected to elevate the investigation to his level for adjudication. On 28 April 2018, I was appointed by [redacted] to continue my investigation.

[redacted] I expanded my list of interviews to include [redacted] to better understand the policies and procedures in effect from the perspective of the Chaplain Corps (Exhibits U, V, W). I also re-interviewed [redacted] (Exhibit Q). I requested additional information from [redacted] and CH Squires who both exercised their rights to decline to participate (Exhibits O, P). Additionally, I requested

information from each of the 12 individuals who had signed up for the February Strong Bonds Retreat their correspondence with either [redacted] or CH Squires (Exhibit R, S). I also discovered additional authorities applicable to the case and reviewed feedback provided by the Chaplain Corps (Exhibits AA, BB). These authorities include a 2014 training for all Chaplains entitled, "Chaplain Activities in a post-DOMA environment," and the 2014 and 2015 Strong Bonds Program Management Guide (Exhibits CC, DD, EE).

e. Additionally, an administrative search provided specific emails from [redacted] and CH Squires. The search used key words derived from the four emails I previously received from [redacted] and emails I received from the Strong Bonds attendee list. The list of emails I received from USASOC servers included no emails referencing the Strong Bonds event between 25 January 2018 and 2 February 2018. The absence of any emails referencing this event, to include emails I had copies of from other parties led me to inquire to SOCOM for access to emails from their servers using the same search criteria. This information yielded 12 emails from [redacted] the coordinator for the Strong Bonds event and her correspondence with [redacted] CH Squires (Exhibit GG).

3. Facts. While conducting this investigation I have determined the following facts:

a. During the entire course of events subject to this investigation, CH Squires was a member of SWEG(A). Both [redacted] were members of 1SWTG (A) (Exhibits A, B, D).

b. CH Squires is endorsed by the Southern Baptist Convention (Exhibits A, K).

c. As a Southern Baptist endorsed by the North American Mission Board (NAMB) of the Southern Baptist Convention, CH Squires is unable to provide any kind of relationship training or retreat that would give the appearance of accepting the homosexual lifestyle or sexual wrongdoing (NAMB Memo, dated August 29, 2013) (Exhibit A, K).

d. [redacted] is not endorsed by any religious organization and is not bound by the rules of any endorser for her duties in the Army as defined by AR 165-1.

e. On 17 July 2017, [redacted] completed the 60 hour EOL Course. Thereafter, on 10 October 2017, [redacted] was appointed as the EOL for HHC, 1SWTG(A) (Exhibit FF).

f. As an EOL and IAW AR 600-20, [redacted] is responsible for assisting HHC in addressing EO climate detractors, conducting unit climate assessments, preparing and assisting in the conduct of EO training, establishing and maintaining liaison with other EORs and with the EOA at higher headquarters, assisting in preparing and conducting ethnic observances and special commemorations, and in assisting complainants (Exhibit FF).

g. Prior to the events subject to this investigation, [redacted] were considered by [redacted] and others to be friends. Due to that relationship, in late September

2017 [redacted] asked [redacted] for a personal favor [redacted] then expressed to [redacted] that she believed her lifestyle was wrong and was unwilling to support her request. The two Soldiers continued a professional relationship (Exhibit B, C, Q, Y, Z).

h. At 1204 on 25 January 2018 [redacted] sent out an email to the 1SWTG(A) footprint about the Strong Bonds event scheduled for 9-11 February 2018 (Exhibit H).

i. At 1428 on 25 January 2018 [redacted] emailed [redacted] regarding the availability of slots for her and her wife to attend the Strong Bonds Retreat from 9-11 February 2018 (Exhibit H).

j. At 1212 on 25 January 2016, during the same time [redacted] received an email from [redacted] received an email from [redacted] asking the same question as [redacted] (Exhibit R). [redacted] responded at 1213 to [redacted] with instructions on how to sign up for the event and that slots were available. By 25 January 2018 only 2-3 couples had registered for the event (Exhibit I).

k. At 1606 on 26 January 2018 (Friday), over 24 hours after [redacted] email, [redacted] replied to [redacted] by asking [redacted] when the best time for CH Squires to come and see her would be. She did not acknowledge or answer [redacted] question (Exhibit H).

l. At 1528 on 29 January 2018, [redacted] emailed [redacted] to ask if she received her email in regards to the Strong Bonds Event (Exhibit H).

m. At 1005 on 30 January 2018 [redacted] emailed [redacted] an email, stating that CH Squires wanted to speak with her in regards to the Strong Bonds Event (Exhibit H).

n. From 29 January 2018 to 5 February 2018, both [redacted] and CH Squires received ten emails from [redacted] a Certified Government Meeting Professional (CGMP), at Federal Conference discussing the Strong Bonds event and continuing to update attendance records (Exhibit GG). [redacted] responded to these emails nine times; CH Squires also responded to these emails nine times (Exhibit GG).

o. At 1637 on 30 January 2018, CH Squires sent an email to multiple recipients from his unit at SWEG(A) that four slots remained for the Strong Bonds Event and requested the recipients to assist in filling the slots (Exhibit S).

p. CH Squires stated he attempted to meet with [redacted] on both 30 January and 31 January, the purpose of the meeting was to discuss [redacted] desire to attend the Strong Bonds event and explain CH Squires restrictions (Exhibit A). This investigation could not find any witnesses or email records between CH Squires to [redacted] to corroborate this statement.

q. On 1 February 2018, CH Squires met with [redacted] face-to-face. During this meeting, he stated: "I informed [redacted] that the event was smaller than our normal events due to budget constraints, resulting in fewer slots available, and that as far as I knew at the time the event was full. Based on continuing planning for the event, I believed that people had registered for 7 or 8 of the 10 slots, and that 2 to 3 other couples would be registering that day [. . .] I explained that because of this [the number of families registered or registering] and the reduced slots/funding of the current event, and my Chaplain endorser restrictions [. . .] that it is my responsibility to ensure that she would have the opportunity to participate in the next Strong Bonds event." (Exhibit A, B, Q)

r. There is no indication from either [redacted] or CH Squires that during the meeting on 1 February 2018, CH Squires provided [redacted] information regarding the next event or the name of a Chaplain who was able to provide services to [redacted] Further, there is no evidence that an option of filling out the registration to get on a wait list was presented. The wait list option was given to other couples (Exhibits A, B, L, Q, U, GG).

s. Due to the information CH Squires provided [redacted] believed, and therefore told her chain of command, that the sign up period had closed and was no longer available to her. Which was not the case as a wait list was being established and slots were in fact still available (Exhibits B, Q, S, GG, HH).

t. There was no future Strong Bonds event scheduled or funded on 1 February 2018. (Exhibit U).

(1) All Strong Bonds events are initiated by USASOC, who divides the number of events expected to be conducted per quarter to subordinate units. Once subordinate units confirm that it intends to conduct a Strong Bonds event, that event is validated and planning with regard to the specific time and place for the event begins. For this Strong Bonds event, originally scheduled 9-11 February, it was an event intended for ISWTG(A), not SWEG(A), and was validated in December and confirmed in January that it would take place; at that point the email notification was sent out to the intended unit (Exhibit V, DD, EE). The registration system does not indicate exactly when the two couples canceled, as the couples canceled via email to [redacted] and did not use the registration system (Exhibit GG). One soldier [redacted] cancelled when she heard how [redacted] had been treated (Exhibit R). The other cancellations were due Soldiers having scheduling conflicts once the event was rescheduled The SOP for Strong Bonds focuses on the conduct of the actual retreat and does not go into much detail regarding the planning for the event. Typically registration goes out as soon as an event is confirmed for a time and place and closes about two weeks before the event occurs (Exhibit U, V, W, DD, EE).

(2) There is not an established procedure on how to notify a Chaplain with endorser restrictions if a same sex couple is registered to attend (Exhibit U, V, DD, EE). All the Chaplains I asked stated that the Chaplain Assistant would be expected to notice if two names that appeared to be the same sex while reviewing the registration list, determine if, in fact, a

same-sex couple was attending and then bring it to the attention of the Chaplain (Exhibit U, V, W).

u. At approximately 1303 on 1 February 2018, after the meeting with CH Squires, [redacted] had a discussion with her supervisor, [redacted] who encouraged her to speak to [redacted] her Company Commander (Exhibit E, F).

v. After meeting with [redacted] at the urging of [redacted] CH Squires had a discussion with [redacted] o discuss courses of action if [redacted] did register for the event (Exhibits A, N, U, II).

w. After meeting with [redacted] to better understand for EO policy, [redacted] nd CH Squires developed multiple COAs and decided to reschedule the Strong Bonds Event and have a Chaplain that could support the event [redacted] Exhibit V).

x. On 4 February 2018 [redacted] copying CH Squires, sent an email to [redacted] discussing the waitlist they were generating for the event (Exhibit GG).

y. On 2 February 2018, the command is made aware of an informal EO Complaint (See Equal Opportunity Complaint Form). Additionally, [redacted] at DACH is made aware of the potential of an EO Complaint by CH Croom (Exhibit V).

z. [redacted] did not inform the HHC Chain of Command that there was an EO matter that needed to be addressed, in accordance with her duties as an EOL (Exhibits D, II)

aa. On 6 February 2018, [redacted] s first contacted by CH Squires about running the SWTG(A) Strong Bonds event by phone. CH Squires tells [redacted] hat a same-sex couple was discovered on the registration and does not provide any details regarding the conversation he had with [redacted] or potential EO complaint (Exhibits A, X).

ab. On 6 February 2018, [redacted] files a formal EO Complaint (Exhibits B, II and EO Complaint Form).

ac. On 7 February 2018, [redacted] is formally contacted regarding running the 1SWTG(A) Strong Bonds event (Exhibit X).

ad. On 7 February 2018, [redacted] confirmed that [redacted] was unable to conduct the Strong Bonds Event from 9-11 February 2018, but was available 23-25 February 2018 (Exhibits N, U, V, W, X).

ae. [redacted] both stated that notifying command of the potential issue was an important aspect of ensuring that all resources were leveraged to provide an inclusive event for any Strong Bonds event (Exhibits U, V).

af. In the "Chaplain Activates in a Post-DOMA environment," training vignette five describes the following event: "You are scheduled to lead your unit's Strong Bonds couple training event, and during the registration phase (30-60 day window) you learn that a same-sex couple has registered for this event. Your Endorser has issued guidance that communicates their "trust" in their endorsed Chaplains, but also acknowledges that their doctrine does not allow their ordained religious professionals to affirm a same-sex marriage or relationship as morally or theologically in line with their teaching. What would you do next?" The approved answers provided are the following: contact you endorser to get clarification and guidance; notify the commander, your executive officer, your Command Sergeant Major and the garrison chaplain of the situation; the process of seeking an available Chaplain as the Strong Bonds event trainer for this event (a Chaplain who is capable of leading this training without restriction from his/her endorser); if you are restricted from leading the training, make the effort to explain this to the Soldier in your unit, while communicating your respect for them and their service in the Army (Exhibit CC).

ag. In the Strong Bonds Program Management Guide for 2014, chapter 5 is titled Instructor Mitigation. This chapter details how Chaplains should seek out unrestricted Chaplains to act as facilitators for their event. In this chapter it states, "Units must attempt to mitigate at the local level. If Garrisons cannot mitigate at the local level to include mitigation funding, elevate to the next level" (Exhibit DD).

ah. In the Strong Bonds Program Management Guide for 2015, chapter 5 is titled Instructor Mitigation Guidance. The update details a process in which it states, "the senior mission chaplain or garrison Chaplain will mitigate any Strong Bonds Instructor issues regarding accommodation of this public law" (Exhibit EE).

4. Findings. Based on the facts above, I make the following findings:

a. I find that both CH Squires and [redacted] knowingly took action to deny [redacted] and her spouse their right to attend the 9-11 February 2018 Strong Bonds Event. As such, I find that there is a preponderance of the evidence to find that CH Squires and [redacted] did engage in unlawful discrimination. I make this finding for the following reasons:

(1) [redacted] did not respond to [redacted] on 25 January 2018 and, when she did respond, she failed to answer the question asked by [redacted]. At the same time, [redacted] who responded to a similar question by [redacted] almost immediately and encouraged him to register for the event. (This information was omitted from [redacted] sworn statement, where, when asked about communication with other members of command interested in the event, stated that there were only two and that those individuals simply emailed that they had registered (Exhibit D). This reaction to [redacted] was different from the response she provided to [redacted] and the failure to respond to [redacted] as she did to [redacted] prevented [redacted] from completing the registration and securing a slot at the retreat. Based on the history between [redacted] it is apparent that [redacted] was aware of [redacted] sexual orientation. Further, it is reasonable to infer that at

the time of this difference in treatment occurred that [redacted] was intentionally withholding the answer to [redacted] question to prevent her from registering for the event before the time CH Squires could speak with her. This is based on the fact that [redacted] was aware that CH Squires was seeking other registrants but at no time did she hold a reservation for [redacted] remind CH Squires to hold a reservation for [redacted] and/or inform her chain of command as an EOL that there was a potential EO concern within the HHC, 1SWTG(A) footprint. [redacted] stated that "all correspondence with [redacted] was done via email" and so knew, or had reason to know, that [redacted] had not yet met with CH Squires when the 30 January 2018 email was sent indicating there were four more slots, in spite of [redacted] having the knowledge on 25 January that [redacted] wished to attend the event. [redacted] actions effectively prevented [redacted] from attending the event, and in doing so, [redacted] clearly treated [redacted] differently than other members of the command interested in attending the event and the evidence supports the conclusion that this was due to her sexual orientation.

(2) CH Squires was copied on all the email traffic between [redacted] and [redacted] While it is unclear whether or when he read those specific emails, the evidence supports the finding that he was or should have been aware of the issue based on those email communications. CH Squires' acknowledges in his statement that he had been copied on the emails between [redacted] and that on 29 January he was at work 'playing catch-up' and so presumably had access to those emails. He knew that [redacted] desired to attend the Strong Bonds Event. As such, CH Squires was either aware or should have been aware of [redacted] desire to attend the Strong Bonds event on 30 January 2018, and despite this:

(a) Sent an email to members of SWEG(A) soliciting attendees and stating there were still four slots available;

(b) Sent a number of emails to [redacted] the event coordinator, regarding the details of the Strong Bonds event without mention of a possible issue arising out of the request by [redacted]

(c) Claims that he made attempts to meet with [redacted] in person on 30 and 31 January 2018. His attempt on 30 January was at 1500 and [redacted] was not in the office and CH Squires made no attempt to further contact her through [redacted] supervisor. Beyond this, there is no evidence that he attempted to email [redacted] to schedule a time to meet, inform her of the need for a meeting, to encourage her to sign up while waiting for him to meet with her, or let her know that he was available in his office. There is no evidence that CH Squires sought out his Chaplain technical chain of command to discuss the appropriate way to provide for [redacted] request, nor is there evidence that CH Squires sought out another Chaplain to meet with an/or provide services to her or inquire as to other events for [redacted] to attend until after the potential EO complaint was raised to the Chain of Command;

(d) Did eventually meet with [redacted] but failed to inform her of the wait

list, or acknowledge that she had informed him throug[redacted] of her desire to attend prior to the other members;

(e) Failed to contact another chaplain who could perform services for [redacted] until 6 February 2018, 13 days after [redacted] informed him of her interest and 6 days after meeting with [redacted] This was also the same day command was notified of [redacted] formal EO complaint;

There is no evidence that CH Squires made any attempts to provide for the Soldier in any way prior to working to ensure that the Strong Bonds event had all of the available slots filled. [redacted] is the only Soldier in a same-sex marriage who indicated an interest in attending the event and who CH Squires was aware was in a same-sex marriage. CH Squires sites [redacted] status in a same-sex marriage as the reason for his different treatment of her relative to the soldiers interested in attending the event.

b. I find that the actions taken by CH Squires and [redacted] are in direct violation of the 2014 and 2015 Strong Bonds Retreat SOPs that outlines the aggressive lengths a Chaplain needs to attempt to include the Soldier in the Strong Bonds Retreat they have signed up for. This is problematic for several reasons:

(1) Had CH Squires or [redacted] practiced any of the techniques in that training this very likely would not be an issue;

(2) It highlights the fact that had CH Squires reached out to technical chain leadership they could have provided this information as simply as this investigation did. Both the USASOC Chaplain's Office and the USAJFKSWCS Chaplain's Office provided me with the 2014 Strong Bonds Program guide and clear courses of action and guidance on the preferred way to handle a situation where a chaplain who is not permitted to perform services to a same-sex Soldier could properly ensure that the Soldier's needs were addressed while staying in compliance with their endorser restrictions. If faced with the same period of events, as he has been a number of times previously, [redacted] would have sought to communicate both to his chain of command and with the individual as quickly as possible (Exhibit V). According to the 2014 Strong Bonds Manual, if a same-sex couple registers for a Strong Bonds retreat the outline given has a Chaplain coordinate with several levels of command until they find a chaplain that can perform the event (Exhibit DD). When asked about how they would handle a request from a Soldier to perform a service that they restricted from performing both [redacted] outlined the importance of communicating with their chain of command and handling the issue quickly (Exhibit U, V). Additionally, all training material that was developed and provided by the Chaplains' Corps describes the steps that should be taken to provide a service for the Soldier, preferably without the Soldier being aware that additional steps are being taken on their behalf (Exhibit CC, DD, EE,); and

(3) Perhaps most troubling, when describing the events that took place from 25

January to 2 February CH Squires appears to misrepresent the facts to others during this time period, both to other chaplains and to [redacted] For example, when asking for [redacted] assistance on a 6 February phone call CH Squires stated that he has "discovered" a same-sex couple on the registration list and requests for her assistance at that time. However, the formal process to switch the facilitator for the Strong Bonds retreat does not take place until 7 February, after the EO complaint has already been filed. CH Squires also misrepresented facts when discussing the matter with the IO; including claiming that he was the chaplain assigned to the Soldiers being served by the Strong Bonds event and so he should facilitate the event, when in fact, the event was for 1SWTG (A) and not SWEG (A), his assigned unit and he claimed to lack knowledge of how many couples were signed up but had this knowledge when sending the email on 30 January 2018 soliciting additional attendees.

c. I find, as stated in part above, that after the publication of the same sex benefits memorandum (Exhibit M), there have been a number of applicable authorities, to include training guides, Strong Bonds SOPs, memorandums, and other guides published through and in conjunction with the US. Army Chaplain's Corps to address questions and uncertainties that may have arisen with regard to how Chaplains whose endorsement restrictions would not permit them to perform services to same sex couples could remain in compliance with their endorser restrictions and the Army EO policy (Exhibits AA, BB, CC, DD, EE). At no time during my investigation did CH Squires reference these documents or acknowledge their existence. Further, I find that the U.S. Army Chaplains Corps does not have clear records or systems to explain how it disseminates information and training that has been developed to the chaplains in the field which means there is no means to check on CH Squires training in this field (Exhibit U, V, W, AA).

(1) In the 2014 Strong Bonds Retreat Program Retreat Guide, there is a flow chart describing the steps to take if a same-sex couple signs up for a Strong Bonds retreat. The steps outline that the preferred option is to find an unrestricted Chaplain that can fill-in for the event, and every effort, to include going outside the organization can be taken to facilitate finding an unrestricted Chaplain. The chaplains I questioned could not recall what specific post-DOMA training they may have had however, based on the passage of time this is not conclusive as to whether they, in fact, received such training, as there are multiple training guides created for that purpose and varying instruction (Exhibits A, U, V, W, X). Unfortunately, the Chaplain Corps did not maintain records (or records were not discovered in this investigation) to determine how the post-DOMA training that was created in 2013 was disseminated (Exhibit CC). [redacted] stated that there were already a number of other authorities published that addressed this issue and therefore the response to his inquiries about a specific policy was that a specific policy was not needed because the constitution and the law supersede policy and so the DACH doesn't need a policy. The Chief of Chaplains and DACH believe that the guiding principle of perform versus provide in AR 165-1 gives enough guidance to the Chaplains in the field (Exhibit AA).

(2) The U.S. Army Chaplains Corps does not have clear records or systems to explain how it disseminates information and training. The use of perform versus provide remains the guiding principle to assist chaplains in navigating same-sex married couples. The Chaplain

Corp has a professional development memorandum that they conduct training on periodically during the year. USASOC usually holds these trainings on the 3rd Wednesday of the month. Although no records are kept with regards to attendance of the training, both [redacted] the senior Chaplain in CH Squires technical chain of command and the most senior chaplain on the installation that is endorsed by the Sothern Baptists (the same as CH Squires), and [redacted] were eager to communicate with me and to me that they were available to provide guidance in all issues, to include this one. Further, both chaplains had a clear understanding of COAs that would address the concerns of all parties. In the absence of formalized training, CH Squires should have taken an unknown issue like this to his senior leaders. Neither Chaplain had any record of CH Squires coming to them for feedback prior to CH Squires speaking with [redacted] (Exhibit A, N, U, V). None of the known trainings this Fiscal Year have specifically covered treatment of same-sex couples.

d. I find that there is a preponderance of evidence to substantiate that in late September 2017, [redacted] old [redacted] hat she disagreed with her lifestyle. Information regarding this event were confirmed by [redacted] in addition to [redacted] The circumstances that led to [redacted] saying this occurred when [redacted] asked [redacted] if she and her spouse could stay at [redacted] house while they closed on the house they purchased in Fayetteville. Before making this request [redacted] were friends and would work out together frequently. After [redacted] initially said yes, she came back later that same day and expressed to [redacted] hat [redacted] would not allow her to stay at her house because she disagreed with her lifestyle and did not want to expose her daughter to it. After this event occurred, [redacted] no longer were friendly and kept their interactions purely professional (Exhibit Q). [redacted] provided the background information regarding the friendship between [redacted] and their subsequent falling out (Exhibit Y). [redacted] and [redacted] had a conversation about this event where [redacted] told [redacted] that she did in fact explain to [redacted] hat she did not agree with her lifestyle. [redacted] cannot remember if this took place in October or more recently (Exhibit Z). The information provided by [redacted] and [redacted] mirrors the information [redacted] provided about this event (Exhibit Q). [redacted] elected not to provide information on this matter (Exhibit P).

e. I find that until the afternoon of 1 February 2018, there was no attempt by CH Squires to communicate the matter of [redacted] desire to attend the Strong Bonds event to either his first line supervisor [redacted] or the senior NAMB certified Chaplain on post. [redacted] This is a violation of AR 165-1. Both Chaplains were informed of the potential incident with [redacted] after CH Squires had his conversation with her, which was over a week after he first learned of [redacted] request (Exhibits N, U, V, W). [redacted] has since speculated that it is likely because CH Squires believed he was handling the situation adequately and did not need any assistance (Exhibit U). This highlights that CH Squires took no action to try and reach out to an unrestricted Chaplain or his technical chain of command to provide services to [redacted] until after he spoke to her and [redacted] had raised a potential EO complaint. CH Squires operated with a complete lack of urgency, and explained that on the 29th he had work to catch up on the 30th he tried one time to find her and didn't finally get around to

meeting her until the 1st (Exhibit A), in spite of having the time to send multiple emails to 3rd parties about the Strong Bonds Event (Exhibit S, GG). Both CH Squires and [redacted] invoked their rights to silence when asked to provide clarifying information on this matter (Exhibits O, P).

f. I find that there was a discrepancy in email searches could warrant further investigative action. Where that matter is outside the scope of this investigation, it may need to be referred to USASOC, SOCOM and/or CID.

g. I find that 1SWTG(A) command, once they were notified of the situation took immediate steps to address the treatment of [redacted] to include members of the command notifying the command's legal office and EO advisor to ascertain the appropriate manner in which to handle the situation and to ensure that the member of their formation was taken care of.

h. I find that there is not a systemic failure in the Chaplain Corps Chain of Command. [redacted] and [redacted] ensured that CH Squires coordinated with [redacted] upon notification, to reschedule the event and the USASOC Chaplain Corps was able to quickly reallocate resources to support the event. It is likely that had they been initially informed of the matter [redacted] would have been provided for IAW EO Policy and AR 165-1. It is important to note that although discussed from 1 February – 6 February, no concrete steps were taken to reschedule the event to include [redacted] were taken until after the formal EO Complaint was filed (Exhibit U, V, W, X).

6. Discussion.

a. In my prior findings and recommendations memorandum, I stated that when CH Squires informed [redacted] of his restriction that this was a violation of EO policy. This was a misstatement of fact and law. It is not a violation of EO policy to state a fact and CH Squires is protected in doing so. At no time was it my conclusion, nor is it now my conclusion, that CH Squires is in violation of EO policy for not hosting a Strong Bond retreat, or any event, that would cause him to violate his endorser restrictions. CH Squires is protected by the 'shield' of the 1st Amendment from being compelled to act in violation of his religious rules and beliefs.

b. However, the 'shield' that is afforded CH Squires does not permit CH Squires, or any Soldier, to use the 'shield' as a 'sword' to cut off the rights of another. In this case, the Strong Bonds event, which is an Army sponsored event, run by a unit that CH Squires was not a part of, and which [redacted] was, was an event that [redacted] was equally entitled to attend as any other member of the command. Her sexual orientation is a protected status that is prohibited from being used to preclude her from benefits, such as Army programs, to which she is otherwise entitled. [redacted] and CH Squires have no legal, policy, or procedural grounds to support the actions they took from 25 January 2018 to 2 February 2018 regarding their treatment of [redacted] CH Squires religious freedom protection only extends to his right to not perform any religious support for a same-sex couple. This right is clear and nowhere in this report is this in question. However, CH Squires has no protected right to perform as the facilitator in any Strong

Bonds event, regardless of unit affiliation. As soon as [redacted] expressed interest in the Strong Bonds event, her right, as provided by the inclusion of all married couples as outlined by EO policy, "no service will be denied to any member of the Armed Service regardless of race, color, national origin, gender, religious affiliation, or sexual orientation (AR 600-20, 2015)" and the 2013 Secretary Hagel memo including same-sex couples, became the protected right of [redacted] relevance regarding the Strong Bonds event. CH Squires took no action to ensure [redacted] right was respected until after speaking to [redacted] who advised him to do so. As soon as [redacted] were providing advice and inserting their level of command into the situation the solution, and protection of [redacted] rights was swift and effective. Instead of two rights conflicting this is a case where CH Squires intentionally violated the Army EO policy, making no efforts until after an EO complaint was threatened to accommodate a Soldier whom he was required to provide services for. By using the justification of his right to not violate his religious beliefs and the restrictions placed on him by his endorser, CH Squires is attempting to distract from the violation that occurred. There is no disputing that the Army and the Chaplains Corps needs to clarify policy to prepare for an incident where a conflict between these two seemingly contradictory laws, but this case does not involve this conflict. The violation of EO policy perpetrated by CH Squires and [redacted] was intentional and deliberate resulting in [redacted] being denied a service due to her sexual orientation.

7. Recommendations: Based on the facts and findings above, I make the following recommendations:

a. I recommend that you find [redacted] to be in violation of the EO policy. I recommend that you issue administrative or non-judicial punishment consistent with the violation.

b. Even if you find that [redacted] did not violate EO policy, I recommend that you find [redacted] to have been derelict in her duty as an EOL (EOR) when she failed to abide by her duties in accordance with the EOL Appointment Memorandum issued to her by the HHC Commander. I recommend that you issue [redacted] administrative or non-judicial punishment consistent with this violation.

c. I recommend that you find CH Squires in violation of the EO policy. I recommend that you issues an administrative or non-judicial punishment consistent with the violation.

d. Even if you find that CH Squires did not violate EO policy, I recommend that you find CH Squires derelict in his duties as a commissioned officer and a chaplain in that he was in violation of AR 165-1 when: 1) he failed to notify the command who was responsible for this event of the potential conflict, and 2) when he failed to notify his technical chain of command regarding a Soldier in need of services that he was unable to perform. Further, CH Squires failed to uphold his duty to 'provide' services. The fact that CH Squires chose to place his preference to host an event for a unit that was not his own over the right for a junior Soldier of that unit to attend the event is also a fact that should be taken into consideration.

e. I recommend that you forward the findings and recommendations to the respective SWCS and USASOC Chaplains Office for the purposes of training for all chaplains and chaplains assistants within the USASOC footprint on their obligations under EO Policy and AR 165-1. The USASOC Chaplain's Office should review SOPs on communications within their technical chains, to include when to seek guidance IAW 165-1, and the difference between perform v. provide.

f. I recommend that you forward the relevant portions of the findings and recommendations to the Chaplain Corps, DA, to ensure that the 'shield' ensuring rights are not infringed upon does not become a 'sword' to violated the protected rights of another.

8. Point of contact for this action is the undersigned at [redacted]

[redacted]

Investigating Officer