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 7 Log Cabin Republicans

8 UNITED STATES DISTRICT COURT  
 9 CENTRAL DISTRICT OF CALIFORNIA

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LOG CABIN REPUBLICANS, a non-profit corporation,  
 Plaintiff,  
 v.  
 UNITED STATES OF AMERICA and  
 ROBERT M. GATES, SECRETARY  
 OF DEFENSE, in his official capacity,  
 Defendants.

Case No. CV 04-8425 VAP (Ex)  
 DECLARATION OF LAWRENCE  
 KORB IN SUPPORT OF LOG CABIN  
 REPUBLICANS' OPPOSITION TO  
 DEFENDANTS' MOTION FOR  
 SUMMARY JUDGMENT  
 Date: April 26, 2010  
 Time: 2:00 p.m.  
 Courtroom: 2

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DECLARATION OF LAWRENCE KORB

I, Lawrence Korb, declare that:


1. I am a Senior Fellow at American Progress and a senior advisor to the Center for Defense Information. I was Assistant Secretary of Defense from 1981 to 1985. I served on active duty for four years as Naval Flight Officer, and retired from the Naval Reserve with the rank of captain. My 20 books and more than 100 articles on national security issues include *The Joint Chiefs of Staff: The First Twenty-Five Years*; *The Fall and Rise of the Pentagon*; and *American National Security: Policy and Process*.

2. I have been retained by Plaintiff Log Cabin Republicans to testify as an expert witness in this case.

3. Attached as Exhibit A is a true and correct copy of the expert report that I prepared in this matter.

4. It is an accurate statement of my expert opinion in this matter and sets forth both my qualifications and the factual basis for my opinion.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this declaration was executed on April 5, 2010 in Washington, District of Columbia.

  
\_\_\_\_\_  
Lawrence Korb

# Exhibit A

## EXPERT REPORT OF LAWRENCE KORB

Log Cabin Republicans v. United States of America and Robert M. Gates, Secretary of Defense, in his official capacity, No. CV 04-8425 (VAP)

### **I. Statement of Qualifications:**

I am a Senior Fellow at American Progress and a senior advisor to the Center for Defense Information. Prior to joining American Progress, I was a senior fellow and director of National Security Studies at the Council on Foreign Relations. From July 1998 to October 2002, I was council vice president, director of studies, and holder of the Maurice Greenberg Chair.

Prior to joining the council, I served as director of the Center for Public Policy Education and senior fellow in the Foreign Policy Studies Program at the Brookings Institution; dean of the Graduate School of Public and International Affairs at the University of Pittsburgh; vice president of corporate operations at the Raytheon Company; and director of defense studies at the American Enterprise Institute.

I served as assistant secretary of defense (manpower, reserve affairs, installations, and logistics) from 1981 through 1985. In that position, I administered about 70 percent of the defense budget. For my service in that position, I was awarded the Department of Defense's medal for Distinguished Public Service. I served on active duty for four years as Naval Flight Officer, and retired from the Naval Reserve with the rank of captain.

My 20 books and more than 100 articles on national security issues include *The Joint Chiefs of Staff: The First Twenty-five Years*; *The Fall and Rise of the Pentagon*; *American National Security: Policy and Process*; *Future Visions for U.S. Defense Policy*; *Reshaping America's Military*; and *A New National Security Strategy in an Age of Terrorists, Tyrants, and Weapons of Mass Destruction*.

My articles have appeared in such journals as *Foreign Affairs*, *Public Administration Review*, *The New York Times Sunday Magazine*, *Naval Institute Proceedings*, and *International Security*. Over the past decade, I have made over 1,000 appearances as a commentator on such shows as "The Today Show," "The Early Show," "Good Morning America," "Face the Nation," "This Week," "The News Hour with Jim Lehrer," "Nightline," "60 Minutes," "Larry King Live," "The O'Reilly Factor," and "Hannity and Colmes." My more than 100 op-ed pieces have appeared in such major newspapers as *The Washington Post*, *The New York Times*, *The Wall Street Journal*, *The Washington Times*, *Los Angeles Times*, *The Boston Globe*, *The Baltimore Sun*, *The Philadelphia Inquirer*, and *The Christian Science Monitor*.

A list of articles I published in the previous ten years may be found at:  
<http://www.americanprogress.org/experts/KorbLawrence.html>

## II. Prior Testimony and Compensation

I have not testified as an expert at trial or by deposition within the preceding four years. Aside from travel expenses, I am not being compensated for my work in connection with this matter.

## III. Opinions to be expressed and the basis and reasons therefore:

### 1. Introduction and Summary

DADT has resulted in the discharge of more than 13,000 patriotic and highly qualified men and women since its enactment more than 16 years ago. At least 1,000 of these 13,000 have held “critical occupations,” such as interpreters and engineers.<sup>1</sup> Moreover, approximately 4,000 service members leave the service voluntarily per year because of this policy.<sup>2</sup>

For example, by the end of fiscal year 2003, a few months after the fall of Baghdad, the military had forced out more than 320 service members with vital language skills such as Arabic and Farsi.<sup>3</sup> These are the very critical specialties in which the military continues to face personnel shortfalls. Meanwhile, the Army and Marine Corps have been forced to significantly lower their moral and aptitude standards in order to overcome recruitment shortfalls. Perhaps most troubling is the fact that the military has at the same time granted so-called “moral waivers” to thousands of new recruits, including people with felony convictions.

There is also no credible evidence supporting the underlying arguments for retaining the law—namely that it would undermine unit cohesion and military effectiveness. Even architects of “Don’t Ask, Don’t Tell” have acknowledged that the policy was “‘based on nothing’ but ‘our own prejudices and our own fears.’”<sup>4</sup> Indeed, the experiences of our allies, as documented as long ago as 1993 in a Government Accountability Office study, show that allowing gays in the military “is not an issue and has not created problems in the functioning of military units.”<sup>5</sup>

“Don’t Ask, Don’t Tell” is no longer supported by the majority of the American people, nor is it even supported by a majority of service men and women. Numerous public opinion polls within American civilian society over the past decade have noted a substantial increase in the

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<sup>1</sup> Government Accountability Office, “Financial Costs and Loss of Critical Skills Due to DoD’s Homosexual Conduct Policy Cannot be Completely Estimated,” February 2005. Note: GAO’s 2003 report reflected separations as of the end of FY 2003 when 757 service members had been forced to leave the military due to DoD’s homosexual conduct policy. The 1,000 figure about reflects an estimation of the current number of service members separated from the military given a constant pace of separations.

<sup>2</sup> Gary Gates, “Effect of ‘Don’t Ask, Don’t Tell’ on Retention among Lesbian, Gay, and Bisexual Military Personnel,” The Williams Institute, March 2007, available at <http://repositories.cdlib.org/cgi/viewcontent.cgi?article=1017&context=uclalaw/williams>.

<sup>3</sup> Government Accountability Office, “Financial Costs and Loss of Critical Skills Due to DoD’s Homosexual Conduct Policy Cannot be Completely Estimated,” p. 20.

<sup>4</sup> Palm Center Press Release, “Creators of Gay Ban Tell Author it was ‘Based on Nothing,’” Palm Center, available at <http://www.palmcenter.org/press/dadt/releases/Creators+of+Military+Gay+Ban+Tell+Author+It+Was+%22Based+on+Nothing%22+>.

<sup>5</sup> Government Accountability Office, “Homosexuals in the Military: Policies and Practices of Foreign Countries,” June 1993, p.3, available at <http://archive.gao.gov/t2pbat5/149440.pdf>.

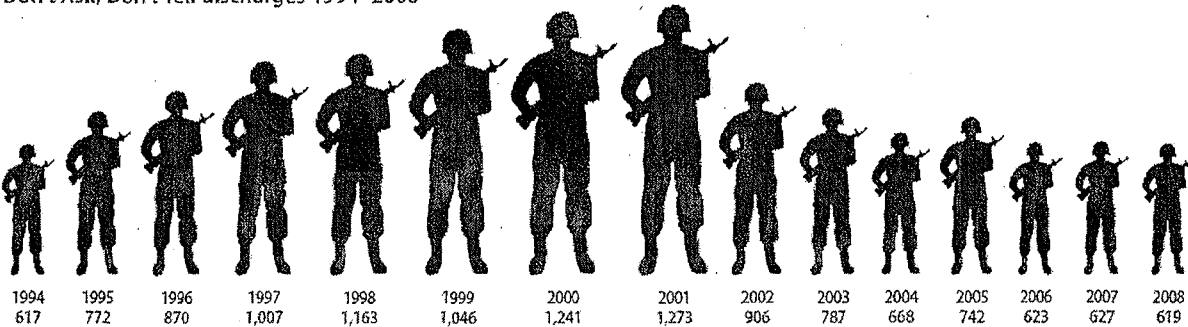
acceptance of openly gay men and women serving in the military. Polls of men and women in the armed forces have shown a similar increase. For example, a 2006 Zogby International poll of returning Iraq and Afghanistan veterans found that 73 percent were personally comfortable around gays and lesbians.<sup>6</sup>

It is evident that this policy does not make sense practically, it does not make sense financially, and by acting in a discriminatory fashion, it certainly does not make sense morally.

## 2. DADT by the Numbers

- More than 13,000 gay and lesbian service men and women have been discharged from military service since 1993.
- More than 32,500 gay and lesbian service men and women have been discharged from military service since 1980.
- A recent survey of 545 service members who served in Afghanistan and Iraq found that 73 percent are comfortable in the presence of gay men and lesbians. Of the approximately 20 percent who said that they were uncomfortable, only 5 percent are “very uncomfortable,” while 15 percent are “somewhat uncomfortable.”<sup>7</sup>

Don't Ask, Don't Tell discharges 1994–2008



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- This policy may have cost the U.S. government up to \$1.3 billion since 1980.
- “No reputable or peer-reviewed study has ever shown that allowing service by openly gay personnel will compromise military effectiveness.”<sup>9</sup>
- The U.S. Government Accountability Office (GAO) found in 2005 that discharging and replacing each service member cost the federal government approximately \$10,000.

<sup>6</sup> Zogby International, “Opinions of Military Personnel on Sexual Minorities in the Military,” 2006, available at <http://www.palmcenter.org/files/active/1/ZogbyReport.pdf>, p. 20.

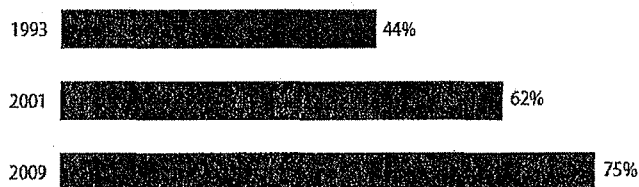
<sup>7</sup> Zogby International, “Opinions of Military Personnel on Sexual Minorities in the Military,” p. 20.

<sup>8</sup> Servicemembers Legal Defense Network, “About Don’t Ask, Don’t Tell,” available at <http://www.sldn.org/pages/about-dadt>.

<sup>9</sup> Aaron Belkin, and others, “How to End ‘Don’t Ask, Don’t Tell,’” Palm Center, University of California, Santa Barbara, May 2009, p. 7, available at <http://www.palmcenter.org/files/active/0/Executive%20Order%20on%20Gay%20Troops%20-%20final.pdf>.

- Researchers at the University of California, Santa Barbara found that the GAO’s methodology did not include several important factors and that the actual number was closer to \$37,000 per service member.
- Twenty-four countries allow gay men and lesbians to serve openly in the military. None of these have reported “any deterrent to cohesion, readiness, recruiting, morale, retention or any other measure of effectiveness or quality,” according to the Palm Center, and “in the more than three decades since an overseas force first allowed gay men and lesbians to serve openly, no study has ever documented any detriment to cohesion, readiness, recruiting, morale, retention or any other measure of effectiveness or quality in foreign armed services.”<sup>10</sup>
- Even the British, whose military structure and deployment patterns are most similar to ours—and who fiercely resisted allowing gays to serve in the military—were forced to do so by the European Court of Human Rights, and have now seamlessly integrated them.
- During the First Persian Gulf War, enforcement of the ban on gays in the U.S. military was “suspended without problems.” Moreover, “there were no reports of angry departures.”<sup>11</sup>
- The CIA, State Department, FBI, and Secret Service all allow gay men and women to serve openly without any hamper on effectiveness or quality.
- In fact, it was Defense Secretary Robert Gates who, as Director of the CIA, loosened restrictions on the service of gays and lesbians in the spy agency, ending “the practice of asking job applicants in lie-detector tests about their sexual orientation” and halting investigations into employees’ sexuality “as part of the process [of] renewing security clearances.”<sup>12</sup>

Percentage of Americans answering that gay people should be allowed to serve in the military



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<sup>10</sup> Belkin and others, “How to End ‘Don’t Ask, Don’t Tell.’”

<sup>11</sup> General John M. Shalikashvili, “Gays in the Military: Let the Evidence Speak,” *The Washington Post*, June 19, 2009, available at: <http://www.washingtonpost.com/wp-dyn/content/article/2009/06/18/AR2009061803497.html>

<sup>12</sup> Spencer Ackerman, “‘Don’t Ask, Don’t Tell Repeal Preview?’ Gates Opened CIA to Gays,” *Washington Independent*, June 8, 2009, available at <http://washingtonindependent.com/46071/dadt-repeal-preview-gates-opened-cia-to-gays>.

<sup>13</sup> Kyle Dropp and Jon Cohen, “Acceptance of Gay People in Military Grows Dramatically,” *The Washington Post*, July 19, 2008, available at <http://www.washingtonpost.com/wpdyn/content/article/2008/07/18/AR2008071802561.html>

### 3. “Don’t Ask, Don’t Tell” is Irrational

#### a. Sexual orientation is not germane to military service

According to Dr. Nathaniel Frank of the Palm Center, “There is actually a vast body of data on homosexuality in the military...existing data show clearly that open gays can and do serve in the military without undermining cohesion, and that the gay ban itself causes more problems in the military than the presence of open gays in a unit.”<sup>14</sup> Yet, according to Frank, “such evidence has played only a sporadic role...because the evidence has been consistently and tragically ignored every time the [U.S.] government has confronted the issue of homosexuality and the military.”<sup>15</sup> As a record of government and independent studies dating back to the 1950s demonstrates, the Pentagon has a history of suppressing studies that undercut the rationale for discriminating against gays:

##### ○ 1957

The Crittenden report, written for the secretary of the Navy, finds that gays are not a security risk and that “no factual data exists to support the contention that homosexuals are a greater risk than heterosexuals.” The Navy refuses to release the report.

##### ○ 1988–1989

A series of studies commissioned by the Department of Defense through its own Personnel Security Research and Education Center find no evidence showing that gays are unsuitable for military service and “suggested that the policy was unnecessary and even damaging.”

One of the first reports issued by PERSEREC contradicts the often-cited argument that unit cohesion would be adversely affected if the ban on gays was repealed. The report finds that the assertion is based on fear rather than facts. PERSEREC also finds that “having same-gender or opposite-gender orientation is unrelated to job performance.” The military tries to destroy the reports, and the military says the reports are merely “drafts” when they are finally leaked.<sup>16</sup>

##### ○ 1991

Another Pentagon document is made public under a federal court order in 1991. The memo concludes that “current research has not identified that homosexual personnel are any greater security risk than their heterosexual counterparts,” and that absent any evidence, the “Army has no basis on which to justify such continued discrimination.”<sup>17</sup>

##### ○ 1992

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<sup>14</sup> Nathaniel Frank, *Unfriendly Fire: How the Gay Ban Undermines the Military and Weakens America*, (New York: St. Martin’s Press, 2009), p. 113.

<sup>15</sup> *Ibid.*, p. 114.

<sup>16</sup> *Ibid.*, p. 118–120.

<sup>17</sup> Randy Shilts, “Pentagon Memo Urged Reversing Ban on Gays in the Military,” *San Francisco Chronicle*, June 25, 1991.



The GAO finds that the military “has not conducted specific research to develop empirical evidence supporting the overall validity of the premises and rationale underlying its current policy on homosexuality.” And that the judgment is “inherently subjective in nature, and scientific or sociological analyses are unlikely to ever be dispositive.”

The GAO goes on to cite the PERSEREC and the Crittenden reports and states that “Major psychiatric and psychological organizations in the United States disagree with DOD’S policy and believe it to be factually unsupported, unfair, and counterproductive. In addition, two DOD/service-commissioned study efforts have refuted DOD’s position on the potential security risk associated with homosexual orientation as well as disclosed information that raised questions about the basic policy.”<sup>18</sup>

○ **1993**

President Clinton initiates a study by the RAND Corporation. The 500-page study concludes that sexual orientation is not germane in determining who should serve and challenges the rationale for gay exclusion. Pentagon officials try to keep the study from becoming public and refuse to talk about it on the record.

○ **2008**

Laura Miller of the RAND Corporation and Bonnié Moradi of the University of Florida examines data from a 2006 Zogby poll sampling service members who had deployed to Iraq or Afghanistan, and find “no associations between knowing a lesbian or gay unit member and ratings of perceived unit cohesion or readiness.”

Consider the example of Lt. Daniel Choi, a graduate of the U.S. Military Academy at West Point and a veteran of the war in Iraq. Choi was a National Guard infantry officer whose training as an Arab linguist was vital to the Army’s capability to perform effectively in Iraq. Yet he is also being discharged because of DADT, despite the fact that he served effectively for more than a decade under DADT with no impact on his unit’s cohesion or effectiveness. Lt. Choi’s distinguished military service illustrate what every credible study that has ever analyzed the role of sexual orientation in the U.S. or any other military has concluded: sexual orientation is not germane to effective military service.

b. “Don’t Ask, Don’t Tell” has exacted tremendous cost

The direct financial cost of “Don’t Ask, Don’t Tell” on the American taxpayer is substantial. A 2005 Government Accountability Office report found that recruiting replacements for enlisted service members fired because of their sexual orientation from 1993 up until the end of fiscal year 2003 totaled at least \$95 million in 2004 dollars. Nearly 10,000 service members

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<sup>18</sup> General Accounting Office, “Defense Force Management: DoD’s Policy on Homosexuality,” June 1992, available at <http://archive.gao.gov/d33t10/146980.pdf>, p. 3.

were forced to separate from the military during this time, which amounts to nearly \$10,000 per discharged service member.<sup>19</sup>

**The financial cost of Don't Ask Don't Tell**

	2004 dollars		2009 dollars
	Total cost of nearly 10,000 service members discharged	Total cost of 13,000 service members discharged	Total cost of 13,000 service members discharged
Government Accountability Office estimates	\$95 million	\$124 million	\$140 million
Amount per discharged service member	Approximately \$10,000		Approximately \$11,000
University of California, Santa Barbara estimates	\$363.8 million	\$473 million	\$535 million
Amount per discharged service member	Approximately \$37,000		Approximately \$41,000

More than 13,000 service members have now been discharged since 1993, which means that the total cost of DADT in 2004 dollars, according to the GAO estimates, would be more than \$124 million. This would amount to more than \$140 million in current dollars.

Yet analysis of GAO's methodology shows that the \$95 million figure may be a substantial underestimate. A study by a group of defense experts, including former secretary of defense William Perry, released shortly after the 2005 GAO report found that GAO's analysis left out several important factors, such as the high cost of training officers—commissioned soldiers, sailors, Marines, airmen and women, and members of the Coast Guard with several years of service experience—who were discharged due to their sexual orientation. Factoring in these costs makes the cost to the American taxpayer in 2004 dollars jump to at least \$363.8 million, or approximately \$37,000 per discharged service member. This total is \$269 million, or over 380 percent more than originally reported by GAO. When this more realistic accounting formulation is applied to the current total of 13,000 discharged service members, the cost amounts to more than \$473 million in 2004 dollars on \$535 million in current dollars.<sup>20</sup>

The GAO moreover found in 1992 that “on the basis of its policy of excluding homosexuals from the military, DOD annually expelled an average of about 1,500 men and women between 1980 and 1990 under the separation category of ‘homosexuality.’”<sup>21</sup> At the rate of 1,500 per year, the number of discharges from 1980 through 1992 would be 19,500. These discharges would amount to an additional \$800 million in current dollars. Accordingly, “Don't Ask, Don't Tell” may have cost the U.S. taxpayer up to \$1.3 billion since 1980.

“Don't Ask, Don't Tell” continues to exact costly losses on the military despite wide recognition of these realities. The recent case of Air Force Lt. Col. Victor Fehrenbach demonstrates the financial and readiness costs of DADT. Fehrenbach was formally notified last September that he would be discharged from the Air Force not because he had announced his

<sup>19</sup> Government Accountability Office, “Financial Costs and Loss of Critical Skills Due to DoD's Homosexual Conduct Policy Cannot be Completely Estimated,” February 2005.

<sup>20</sup> Palm Center, “Financial Analysis of Don't Ask, Don't Tell,” February 2006, available at <http://www.palmcenter.org/files/active/0/2006-FebBlueRibbonFinal-Rpt.pdf>, p. 23.

<sup>21</sup> General Accounting Office, “Defense Force Management: DoD's Policy on Homosexuality,” June 1992, available at <http://archive.gao.gov/d33t10/146980.pdf>, p. 3.

sexual orientation, but because someone had notified his commanding officer that he had a male partner. Over the course of his Air Force career, Fehrenbach, a highly decorated F-15 fighter pilot and an 18-year veteran of the Air Force, had flown 88 combat missions, including operations in Iraq and Afghanistan. During his career he had logged more than 2,000 flying hours, nearly 1,500 fighter hours, and 400 combat hours. Fehrenbach was two years short of being able to retire with a full Air Force pension and “despite a record of documented heroism and an unblemished career; despite the fact that, [as] he estimates, the U.S. military spent roughly \$25 million training him, Lieutenant Colonel Fehrenbach is being discharged.”<sup>22</sup>

c. Growing acceptance within the military and American civilian society

Putting aside the financial costs of “Don’t Ask, Don’t Tell,” the policy is no longer supported within the military, nor is it supported by the majority of Americans. When President Clinton tried to repeal DADT in 1993, only 44 percent of the American people supported changing the policy, and 76 percent of servicemen and 55 percent of service women disapproved of lifting the gay ban.<sup>23</sup>

But service members’ opinions have come full circle in the last decade and a half. A December 2006 Zogby International Poll found that 73 percent of military personnel say they are comfortable interacting with gay people. More importantly, when asked the question, “Do you agree or disagree with allowing gays and lesbians to serve openly in the military,” roughly 58 percent of respondents either agreed or were neutral.<sup>24</sup>

The American public is also now in favor of repealing DADT. A recent *USA Today*/Gallup poll found that nearly 70 percent of Americans are in favor of openly gay men and women being able to serve in the military. A recent ABC/Washington Post opinion poll found an even more dramatic increase in civilian acceptance of gays serving in the military since the early Clinton and George W. Bush years; 75 percent of Americans in the poll said “gay people who are open about their sexual orientation should be allowed to serve in the U.S. military,” up from 62 percent in early 2001, and 44 percent in 1993.<sup>25</sup>

d. Allowing openly gay men and women to serve improves military readiness

While the military was discharging highly qualified and well trained service men and women, and thousands of others were leaving voluntarily, it was forced to lower its educational, aptitude, and moral standards to meet its recruiting goals. It was moreover forced to spend hundreds of millions of dollars retaining people in order to keep force levels high, rather than buying vital equipment for the wars we are currently fighting.

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<sup>22</sup> Rachel Maddow, “The Rachel Maddow Show for Tuesday, May 19,” May 21, 2009, available at <http://www.msnbc.msn.com/id/30869189/>.

<sup>23</sup> Frank, *Unfriendly Fire*, p. 126.

<sup>24</sup> Zogby International, “Opinions of Military Personnel on Sexual Minorities in the Military,” p. 14.

<sup>25</sup> Kyle Dropp and Jon Cohen, “Acceptance of Gay People in the Military Grows Dramatically,” *The Washington Post*, July 19, 2008, available at [http://www.washingtonpost.com/wpdyn/content/article/2008/07/18/AR2008071802561\\_pf.html](http://www.washingtonpost.com/wpdyn/content/article/2008/07/18/AR2008071802561_pf.html).

The Army and Marine Corps in particular have significantly lowered their recruitment standards. The Department of Defense reported in 2007 that, over the prior four years, it had dramatically increased its distribution of “moral waivers,” which allow recruits charged or convicted of crimes (including serious felonies) to enter the military. The Army reported distributing 4,918 such waivers in 2003, 4,529 waivers in 2004, 5,506 waivers in 2005, and 8,129 waivers in 2006.<sup>26</sup> The Marine Corps reported distributing 19,195 waivers in 2003, 18,669 waivers in 2004, 20,426 waivers in 2005, and 20,750 waivers in 2006.<sup>26</sup>

These moral waivers include alarming numbers of applicants charged with felonies. The system for coding waivers was entirely overhauled for all four departments of the armed forces in 2008, and the Department of Defense has since disavowed the statistics collected and released in 2007.

But the Army, since reforming its coding system, has still more than doubled the number of felony waivers from 249 in 2006 to 511 in 2007, while the Marine Corps reported an almost 70 percent increase in felony waivers during that time period, from 208 to 350. It is also important to note that the Department of Defense does not release the number of waivers distributed to applicants; only the waivers distributed to applicants who later enlisted are counted in the final tally.<sup>27</sup>

The Army has likewise been lowering its standards for recruits’ educational backgrounds to increase recruitment numbers, a dangerous proposition at a time of war. “Tier 1” Army recruits—those who have received a high school diploma—have dropped to 71 percent of enlisted soldiers in 2007 from 94 percent in 2003, falling far short of its goal of maintaining 90 percent Tier 1 rates.<sup>28</sup> Fortunately, prior-education rates of Air Force, Navy, and Marine recruits have remained consistently flat.

#### **4. The most common arguments in favor of DADT do not make sense**

##### **a. “It would damage unit cohesion”**

Opponents of repealing the ban on allowing openly gay men and lesbians to serve in the military most frequently cite the specious claim that it would damage unit cohesion. The problem with this argument, according to Nathaniel Frank, is that there is not good evidence to support this claim, and considerable evidence against it.

In fact, a review of nearly 200 publications in the past 50 years conducted by Robert J. MacCoun, a contributor to the 1993 RAND study on gay service, found in 1996 that “it is task cohesion, not social cohesion or group pride, that drives group performance.”<sup>29</sup>

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<sup>26</sup> Rick Maze, “Rise in Moral Waivers Troubles Lawmaker,” *Army Times*, February 20, 2007, available at <http://www.armytimes.com/news/2007/02/apWaivedRecruits070213/>.

<sup>27</sup> Interview with Personnel and Readiness Office, Department of Defense. Telephone interview conducted on Jun 19, 2009.

<sup>28</sup> Fred Kaplan, “Dumb and Dumber,” *Slate*, January 24, 2008, available at <http://www.slate.com/id/2182752/>.

<sup>29</sup> Frank, *Unfriendly Fire*, p. 131.

“Task cohesion” refers to group solidarity that results from the collective efforts of individuals dedicated to achieving a common goal; “social cohesion” refers to bonds of friendship and affinity among group members. In emphasizing task over group cohesion, the studies to which MacCoun referred strongly suggested that as long as all of the personnel in combat are committed to their mission, they will perform it equally effectively regardless of whether they can relate to one another personally.

Even those units that pair openly homosexual soldiers with soldiers who are uncomfortable with serving alongside homosexuals should therefore find themselves no less capable of performing their given missions. “This conclusion,” MacCoun says, “is consistent with the results of hundreds of studies in the industrial-organizational psychological literature.”<sup>30</sup>

Skeptics claim that task cohesion would not suffice to produce satisfactory results, and it must be combined with group cohesion. But similar studies cited by MacCoun that analyze both military and nonmilitary group efforts prove that these assertions are unfounded as well.<sup>31</sup> Regarding cohesion in the military, two facts deserve particular attention.

First, military training and battlefield experience in themselves reinforce task cohesion. As Judith Stiehm pointed out in a 1992 article, “trust and confidence develop not from homogeneity, but shared experience... the military assumes the job of training [recruits] to behave as a team.” Brian Mullen and Carolyn Copper of Syracuse University conducted “the most complete meta-analysis to date” on the relationship between cohesion and performance, and similarly found that, after controlling for task cohesion, “social cohesion had no connection to performance.”<sup>32</sup>

b. “Militaries similar to the United States’ do not allow openly gay men and lesbians to serve”

When President Clinton tried to repeal the ban on openly gay service members in 1993, his detractors claimed that no military equivalent to that of the United States—namely the British armed forces—had implemented such a change. Given the fact that the British military is perhaps the closest in design and operation to the U.S. military, this argument carried considerable weight with those wishing to maintain the ban in the 1990s. The British, like the United States, deploy their forces frequently, and their troops serve in close quarters on submarines and ships—situations where Clinton’s opponents believed open homosexuality would be particularly disruptive to order and unit cohesion.

Yet the British position has changed since 1993. Britain began studying the policy intensely in the mid-1990s and, although the Ministry of Defense’s Homosexual Policy Assessment Team determined that Britain should continue to ban gay service members, the British reversed their policy after the European Court of Human Rights ruled that the ban violated the right to privacy promised in the European Convention on Human Rights.<sup>33</sup> The

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<sup>30</sup> Frank, *Unfriendly Fire*, p. 131.

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> Sarah Lyall, “European Court Tells British to Let Gay Soldiers Serve,” *The New York Times*, September 28, 1999, available at: <http://www.nytimes.com/1999/09/28/world/european-court-tells-british-to-let-gay-soldiers-serve.html>.

Court's decision, which was legally binding, forced the British government in January 2000 to allow gay troops to serve openly.<sup>34</sup> Not surprisingly, the British have not experienced any cohesion problems over the past decade.

c. "Existing service members will have moral objections"

Some U.S. service members have indicated that they would leave or might leave if openly gay men and women were permitted to serve. Recent public opinion polls reflecting the favorable opinion of service men and women to serving with openly gay men and lesbians aside, this is a serious argument that must be confronted head-on.

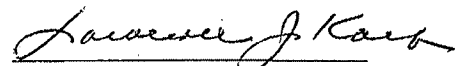
The British experience subsequent to the ban's repeal suggests that the United States has little reason to be concerned. Pre-repeal surveys in Britain indicated that there would be a backlash from current troops—the Palm Center reports that “in both Canada and Britain, two thirds of male troops said that they would not work with gay men if gay bans were lifted”—yet only about a handful of service members resigned.<sup>35</sup> Moreover, the Ministry of Defense's internal study six months after the policy change concluded that, contrary to expectations, “there has been a marked lack of reaction” to allowing gay troops to serve.<sup>36</sup>

Lifting the ban on gays serving in the British military ultimately proved more difficult in theory than in practice. According to Nathaniel Frank, once the change had been made, the British found that “sexuality was now regarded as a private matter” among service members.<sup>37</sup>

d. "Now is not the time"

Still others argue that now is not the time to end this form of discrimination in the military with more than 200,000 troops deployed to Iraq and Afghanistan and the Pentagon undertaking serious budget and operational overhauls.

Yet this line of reasoning also falls flat. Perhaps now more than ever—with the United States engaged in two wars and attempting to change the direction of the defense budget—it is critical that the U.S. military stop discharging service members with valuable overseas experience, or those who the military has spent hundreds of thousands, if not millions of dollars, to train. The fact that DADT has resulted in the discharge of more than 1,000 service members with skills deemed “critical occupations” demonstrates further the irrationality of waiting to overturn DADT.



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January 18, 2010

<sup>34</sup> Frank, *Unfriendly Fire*, p. 144-145.

<sup>35</sup> Belkin and others, “How to End ‘Don’t Ask, Don’t Tell,’” Palm Center,” p.9.

<sup>36</sup> Frank, *Unfriendly Fire*, p. 146.

<sup>37</sup> *Ibid*, p. 149.

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