

**Appendix of Evidence in
Support of Log Cabin Republican's
Opposition to Defendants'
Motion for Summary Judgment**

**LCR Appendix Pages 2501-3094
(Part 19 of 19)**



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Dedication

TO THE MEN AND WOMEN WHO ARE FAITHFULLY SERVING IN ENFORCED SILENCE TO SECURE FOR AMERICA THE FREEDOM THAT IS DENIED TO THEM.

Acknowledgements

SLDN would like to gratefully acknowledge the assistance of the entire SLDN staff in producing and distributing *Conduct Unbecoming: The Ninth Annual Report on "Don't Ask, Don't Tell, Don't Pursue, Don't Harass."* We especially thank the authors and editors of this report, Jeffery M. Cleghorn, Sharra E. Greer, C. Dixon Osburn, Steve E. Ralls, and Kathi S. Westcott. We would also like to acknowledge Christopher Neff, Paula Neira and David W. Young for their contributions to this report.



A Vision

Freedom to Serve

A Mission

Servicemembers Legal Defense Network (SLDN) is a national, non-profit legal services, watchdog and policy organization dedicated to ending discrimination against and harassment of military personnel affected by "Don't Ask, Don't Tell" and related forms of intolerance.

SLDN was founded in 1993 in the wake of the debate leading to "Don't Ask, Don't Tell." SLDN has worked tirelessly to provide free legal services to those harmed by "Don't Ask, Don't Tell," to protect service members from harassment and to press for changes that improve service members' daily lives. SLDN has responded to over 4,300 requests for assistance and obtained almost three dozen changes to military policy and practice, including an Executive Order on hate crimes in the military.

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Conduct Unbecoming:

THE NINTH ANNUAL REPORT ON

*“Don’t Ask, Don’t Tell,
Don’t Pursue, Don’t Harass”*

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Executive Summary

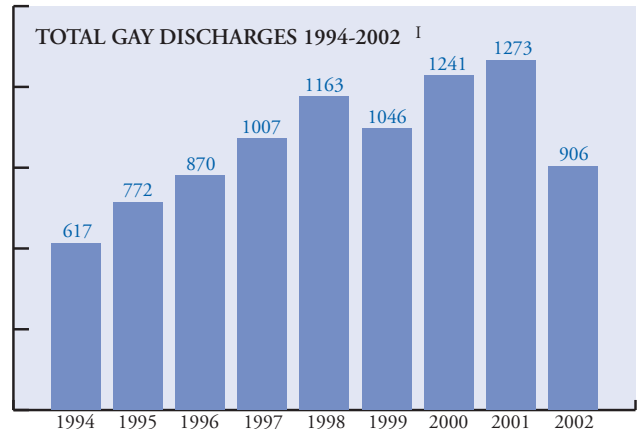


GAY DISCHARGES DROP DURING TIME OF WAR

BIGOTRY IS NOT A PART OF OUR SOUL. IT'S NOT GOING TO BE A PART OF OUR FUTURE . . . THAT'S NOT THE AMERICAN WAY.
President George W. Bush¹

HOMOSEXUALS CAN AND DO SERVE HONORABLY IN THE MARINE CORPS. HOMOSEXUALS CAN AND DO MAKE SOME OF THE BEST MARINES. HOMOSEXUALS ARE CAPABLE OF MILITARY SERVICE AND CAN AND DO PERFORM AS WELL AS ANYONE ELSE IN THE MILITARY.

Official Memorandum from Twenty-nine Palms Marine Base²



History repeats itself.

During any time of war or conflict for America, gay discharges have dropped. Gay discharges decreased during the Korean War, the Viet Nam conflict, the Persian Gulf War, and now again during Operation Enduring Freedom.³

This year, gay discharges dropped to 906 from 1273 last year – the lowest discharge figure since 1996. The Navy and Air Force both recorded the fewest number of gay discharges since Congress codified “Don’t Ask, Don’t Tell, Don’t Pursue, Don’t Harass” into law in 1993.⁴

Why? Perhaps because every service member, regardless of sexual orientation, is critical in our nation’s fight against terrorism. Perhaps because many commanders, like those who

follow the official guidance at Twenty-nine

Palms Marine Base, would rather focus on the mission than on their troops’ private lives. Perhaps because commands are recognizing, as LTJG Jenny Kopstein’s command did, that “sexual orientation [does] not disrupt good order and discipline....”

The answer, we suspect, is all of the above.

Discharges of highly qualified service members, however, continue. In the summer of 2002, the Army discharged seven linguists, all trained in Arabic, for being gay.⁵ They did so despite a critical shortage of Arabic specialists. Even now, many more linguists who speak Arabic, Farsi and Korean – the languages of the “Axis of Evil” - have been discharged or are currently facing discharge.



Thirteen coalition partners in Operation Enduring Freedom allow lesbian, gay and bisexual troops to serve openly: Australia, Belgium, Canada, Czech Republic, Denmark, France, Germany, Great Britain, Italy, Netherlands, Norway, Spain and Sweden.

At the same time, ironically, American troops are serving alongside thirteen coalition partners in Operation Enduring Freedom who have abandoned their bans on gays serving in the military.⁶ According to the Center for the Study of Sexual Minorities in the Military at the University of California, lifting these bans have been “non-events.”⁷

Lifting the ban in the United States military would be a non-event too. According to a recent survey, many service members report serving with a service member whom they know

to be lesbian, gay or bisexual.⁸ American troops also serve with civilians in the CIA, FBI, NSA and agencies inside the Department of Homeland Security who do not face a gay ban.⁹ Public opinion polls show that 72% of Americans support gays in the military.¹⁰ A report published in *International Security* argues that concerns about unit cohesion not are supported by empirical data.¹¹ Military studies from the leading force management researchers at RAND and PERSEREC seriously question the efficacy of the military’s gay ban.¹²

The chorus of dissent from “Don’t Ask, Don’t Tell” continues to grow. This year, the largest American-based human rights group, Human Rights Watch, issued a report calling the gay ban an affront to international human rights.¹³ Human Rights Watch called on President Bush and Congress to repeal “Don’t Ask, Don’t Tell.”¹⁴

We agree. Our national security is served when our national soul is free from the bigotry of “Don’t Ask, Don’t Tell.” The time has come to lift the ban.

INCOMPLETE: BUSH ADMINISTRATION FAILS TO IMPLEMENT ANTI-HARASSMENT ACTION PLAN

Sen. Levin: *Does [DoD] still support the 13-point Anti-Harassment Action Plan which was promulgated in July 2000?*

Mr. Abell: *Yes, sir. It has been implemented by all three services.*

Charles Abell, testifying before the Senate Armed Services Committee during hearings to confirm his nomination as Principal Deputy Under Secretary of Defense for Personnel & Readiness¹⁵

Claire Shipman: *Our next social report card – gays in the military.*

Charles Moskos: *On gays in the military, it’s an incomplete.*

Vice Adm. Patricia Tracey: *Incomplete on sexual preference.*

A *Good Morning America* Report on Social Progress in the Armed Forces, September 9, 2002¹⁶

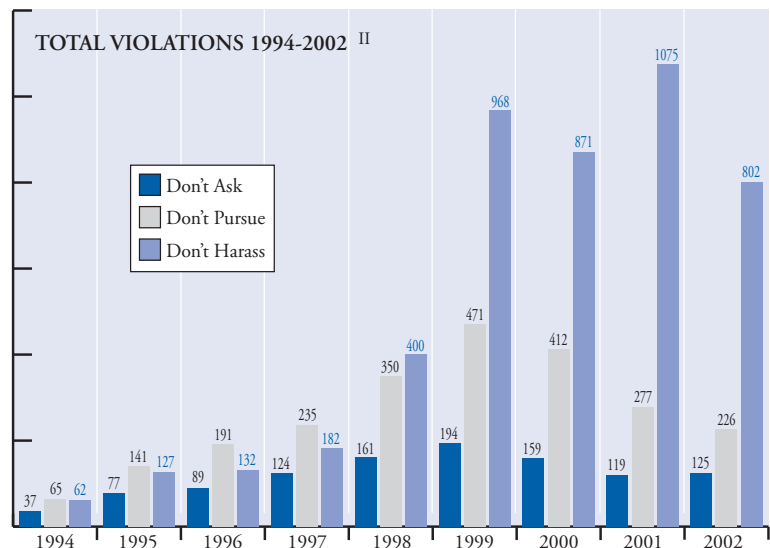
The decrease in military discharges is mirrored by a decrease in reports of harassment to SLDN during 2002.¹⁷ We hope military leaders are learning from past experience that retention requires respect and that those subjected to anti-gay hostility will leave military service. The

decline in harassment does not, however, reflect an elimination of serious anti-gay hostility in the armed forces. The military remains an unsafe place for lesbian, gay and bisexual Americans. Reports of anti-gay harassment remain at disturbingly high levels. Other policy violations, asking and pursuing, also continue at unacceptably high levels.

Almost four years after soldiers murdered PFC Barry Winchell for being perceived to be gay, and almost three years after then-Secretary of Defense William Cohen promulgated an Anti-Harassment Action Plan

(AHAP), the Bush Administration has failed to implement the plan.

The Department of Defense has failed to issue a single Department-wide directive on harassment as required by the AHAP. The directive was to “make clear that mistreatment, harassment, and inappropriate comments or gestures, including that based on sexual orientation, are not acceptable.”¹⁸ Further, according to the AHAP, “the directive should make clear that commanders and leaders will be held accountable for failure to enforce this directive.”¹⁹ That directive has not been issued.



★ 13 Point Anti-Harassment Action Plan ★

General Recommendations:

1. The Department of Defense should adopt an overarching principle regarding harassment, including that based on perceived sexual orientation:

“Treatment of all individuals with dignity and respect is essential to good order and discipline. Mistreatment, harassment, and inappropriate comments or gestures undermine this principle and have no place in our armed forces. Commanders and leaders must develop and maintain a climate that fosters unit cohesion, esprit de corps, and mutual respect for all members of the command or organization.”

2. The Department of Defense should issue a single Department-wide directive on harassment.
 - It should make clear that mistreatment, harassment, and inappropriate comments or gestures, including that based on sexual orientation, are not acceptable.
 - Further, the directive should make clear that commanders and leaders will be held accountable for failure to enforce this directive.

Recommendations Regarding Training:

3. The Services shall ensure feedback on reporting mechanisms are in place to measure homosexual conduct policy training and anti-harassment training effectiveness in the following three areas: knowledge, behavior, and climate.
4. The Services shall review all homosexual conduct policy training and anti-harassment training programs to ensure they address the elements and intent of the DoD overarching principle and implementing directive.
5. The Services shall review homosexual conduct policy training and anti-harassment training programs annually to ensure they contain all information required by law and policy, including the DoD overarching principle and implementing directive, and are tailored to the grade and responsibility level of their audiences.

Recommendations Regarding Reporting:

6. The Services shall review all avenues for reporting mistreatment, harassment, and inappropriate comments or gestures to ensure they facilitate effective leadership response.
 - Reporting at the lowest level possible within the chain of command shall be encouraged.
 - Personnel shall be informed of other confidential and non-confidential avenues to report mistreatment, harassment, and inappropriate comments or gestures.

- 7.** The Services shall ensure homosexual conduct policy training and anti-harassment training programs address all avenues to report mistreatment, harassment, and inappropriate comments or gestures and ensure persons receiving reports of mistreatment, harassment, and inappropriate comments or gestures know how to handle these reports.
- 8.** The Services shall ensure that directives, guidance, and training clearly explain the application of the “don’t ask, don’t tell” policy in the context of receiving and reporting complaints of mistreatment, harassment, and inappropriate comments or gestures, including:
 - Complaints will be taken seriously, regardless of actual or perceived sexual orientation;
 - Those receiving complaints must not ask about sexual orientation – questions about sexual orientation are not needed to handle complaints; violators will be held accountable; and
 - Those reporting harassment ought not tell about or disclose sexual orientation – information regarding sexual orientation is not needed for complaints to be taken seriously.

Recommendations Regarding Enforcement:

- 9.** The Services shall ensure that commanders and leaders take appropriate action against anyone who engages in mistreatment, harassment, and inappropriate comments or gestures.
- 10.** The Services shall ensure that commanders and leaders take appropriate action against anyone who condones or ignores mistreatment, harassment, and inappropriate comments or gestures.
- 11.** The Services shall examine homosexual conduct policy training and anti-harassment training programs to ensure they provide tailored training on enforcement mechanisms.

Recommendations Regarding Measurement:

- 12.** The Services shall ensure inspection programs assess adherence to the DoD overarching principle and implementing directive through measurement of knowledge, behavior, and climate.
- 13.** The Services shall determine the extent to which homosexual conduct policy training and anti-harassment training programs, and the implementation of this action plan, are effective in addressing mistreatment, harassment, and inappropriate comments or gestures.

July 21, 2000

The AHAP requires each of the Services to implement training on “Don’t Ask, Don’t Tell” and anti-harassment measures. The training, according to the AHAP, is to be tailored to the grade and responsibility of the audience, and administered to every member of the military. SLDN has documented, however, that the training rarely meets the standards set forth by the AHAP. The Army has come closest to meeting those guidelines. The Marine Corps openly acknowledged its training is inadequate. The Navy and Air Force have blatantly failed to meet the requirements altogether.

The AHAP also has specific requirements regarding reporting. The Services are required to provide clear training on how to report harassment and to instruct those who receive such complaints not to ask about a service member’s sexual orientation. Here, too, the Army has come closest to meeting the guidelines. The Marine Corps has taken small steps. The other Services, however, have done nothing in this important area.

Enforcement, also required by the AHAP, is absent from all of the Services. Complaints of harassment continue to fall on deaf ears, and are dismissed without consideration. Credible, well-documented cases of harassment go uninvestigated and


offenders go unpunished. Accountability for those who harass or condone anti-gay harassment is little more than empty words from military leaders.

Anti-gay harassment enforcement stands in stark contrast to how other complaints of harassment are handled. For example, the military tracks reported cases of sexual harassment. Incidents of sexual harassment have decreased from 1,599 in 1993 to 319 in 2000.²⁰ Under Secretary of Defense for Personnel and Readiness, Dr. David Chu, stated “to put it as bluntly as possible, [sexual harassment is] a career killer and we make sure that we enforce those standards.”²¹ The Pentagon has not made the same commitment regarding anti-gay harassment.

The Services are required by the AHAP to ensure inspection programs to assess adherence to the AHAP and assess the effectiveness of efforts to address anti-gay harassment. While the Army, Air Force and Marine Corps have taken small steps in the right direction on measurement, the Navy has completely failed to make any assessment of its efforts. None of the Services have evaluated the level of anti-gay harassment. The only measurement of levels of anti-gay harassment was the DoD Inspector General report

published in March of 2000 which prompted creation of the AHAP. The prevalence of anti-gay harassment revealed by the DoD IG report makes the Services’ failure to measure the climate in the ranks a gross deficiency.

DOD IG Findings²²



80% have heard derogatory, anti-gay remarks during the past year;
37% said they witnessed or experienced targeted incidents of anti-gay harassment
—9% of whom reported anti-gay threats
—5% of whom reported witnessing or experiencing anti-gay physical assaults.

The majority of respondents reported that leaders took no steps to stop the harassment.

According to the AHAP, “treatment of all individuals with dignity and respect is essential to good order and discipline.”²³ During time of war, when good order and discipline is vital, it is irresponsible for the Pentagon to not take its commitment to end harassment seriously.

WHAT THE PENTAGON AND SERVICES MUST DO:

INTERIM STEPS ON THE JOURNEY TO FREEDOM

Congress should repeal “Don’t Ask, Don’t Tell.” Until then, the Bush Administration must, at the very least, take proactive steps to stop asking, pursuits and harassment.

SLDN recommends that the Department of Defense and Services:

- ★ **Ensure Full and Adequate Training on Anti-Harassment and Policy’s Investigative Limits.** The Services should ensure every service member – from recruit to flag officer – receives rank-appropriate training to prevent anti-gay harass-

Department policy concerning harassment is based on the fact that treatment of all individuals with dignity and respect is essential to good order and discipline. Mistreatment, harassment, and inappropriate comments or gestures undermine this principle and have no place in our armed forces.

Dr. David S.C. Chu, Under Secretary of Defense²⁴

ment. The Pentagon should make clear that anti-gay harassment includes, but is not limited to, inappropriate comments and gestures, mistreatment, threats and assaults. The Pentagon should make clear that "Don't Ask, Don't Tell" contains specific investigative limits.

- ★ **Provide Adequate Avenues To Report Harassment.** The Pentagon must ensure that all service members understand avenues available for reporting harassment. All service members should know that complaints are to be taken seriously and those making complaints will not be asked about their sexual orientation. Inspectors General, law enforcement per-

sonnel, equal-opportunity representatives, chaplains, health-care providers, commanders and all personnel who deal with harassment must be given clear instructions not to out service members who seek their help. The Services should adopt a rule of privacy for conversations with health care providers. There must be adequate training on how to respond to complaints of harassment.

- ★ **Enforce Policy and Hold Accountable Those Who Ask, Pursue Or Harass.** The Pentagon must require enforcement of prohibitions against asking, pursuits, and harassment. Commands must hold accountable those who harass or condone harassment, as well as

those who ask or pursue. Commanders must understand there are specific consequences for violations, from letters of counseling to courts-martial, depending on the offense. The Pentagon must uphold and enforce its own rules and regulations.

- ★ **Measure Effectiveness of Training and Guidance.** The Pentagon must require the services to measure the results of their efforts in implementing the AHAP.

Verbal commitments to fully implement the AHAP, and address harassment, must become concrete actions in the best interest of service members.

REALIZING THE FREEDOM TO SERVE

[W]e must never lose sight of the values that make our country so strong, the values of respect and tolerance.

President George W. Bush²⁵

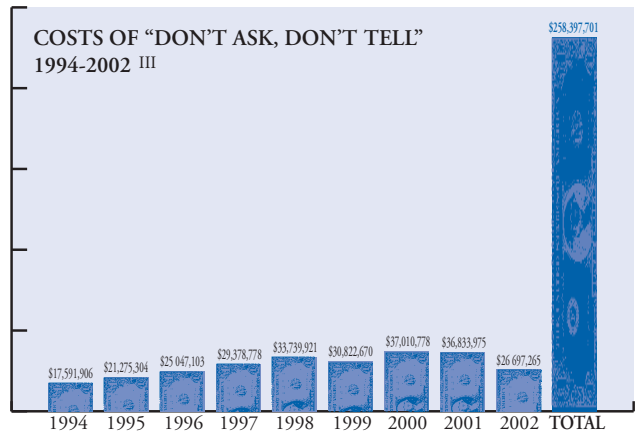
History will remember "Don't Ask, Don't Tell" as a stubborn scourge of bigotry within our national soul. Lesbian, gay and bisexual service members begin and end their days fighting for freedoms denied them at home. They face unforgivable harassment, discrimination and disregard. More than 9,000 Americans have been fired since 1993 because of "Don't Ask, Don't Tell," at a cost of more than a quarter billion dollars in tax payer money.

Equal opportunity is a uniquely

American ideal that continues to be withheld from uniquely qualified American patriots.

Congress, the Pentagon and the White

House must work together to lift the ban. Forcing lesbian, gay and bisexual service members to lie, hide, evade and deceive those around them breaks the bonds of trust among service members. We must never lose sight of the values of respect and tolerance that make our country strong. Our liberties, our



armed forces and our future are all made stronger by realizing the promise of the freedom to serve.

The time has come to lift the ban and welcome all qualified patriots to our struggle for freedom, regardless of their sexual orientation.

Spotlight



SERVICES CONTINUE TO DISCHARGE LINGUISTS CRITICAL TO NATIONAL SECURITY

“THE INTELLIGENCE AGENCIES HAVE SOUGHT TO RECRUIT PEOPLE WITH LANGUAGE SKILLS SO THAT DOCUMENTS AND INTERCEPTS COULD BE TRANSLATED PROMPTLY BUT IN THE MILITARY, AT LEAST, THE DESIRE TO DEFEAT AT QAEDA HAS BEEN PREEMPTED BY AN APPARENTLY MORE IMPORTANT PRIORITY: CONTINUING THE IRRATIONAL DISCRIMINATION AGAINST GAY MEN AND LESBIANS WHO WOULD SERVE THIS COUNTRY.”

Washington Post, November 20, 2002²⁶

“THIS IS A NEW HEIGHT OF STUPIDITY.”

Rep. Barney Frank commenting on the discharge of the linguists²⁷

Despite facing sharp criticism for discharging seven Arabic linguists for being gay, the Services have continued to expel gay linguists at a rapid rate.

These discharges have not been limited to Arabic linguists. As this report went to press, SLDN was

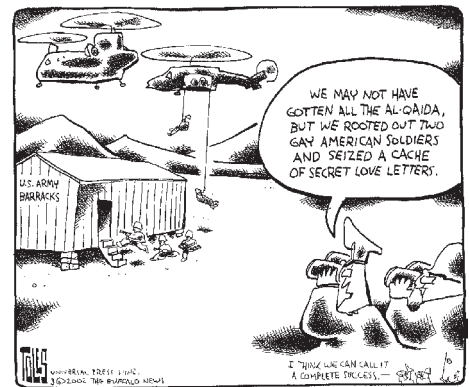


Specialist Glover

assisting ten linguists facing discharge from the Army and Air Force. These recent cases include Specialist Cathleen Glover, an Arabic linguist; Private First Class Ryan

Craig, a Korean linguist; and Private First Class Luis Rosas, a Farsi linguist. These men and women are one more reminder of the damage “Don’t Ask, Don’t Tell” inflicts on our national security.

Our nation faces a serious shortfall in the number of trained professionals who can speak and decipher the languages President Bush has indicated are critical to national security – languages from nations the President has termed the “Axis of Evil.” According to a Government Accounting Office (GAO) study released in January



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2002, the Army faces a critical shortfall in linguists needed to translate intercepts and interrogate suspected terrorists. The report concluded that staff shortfalls “have adversely affected agency operations and compromised U.S. military, law enforcement, intelligence, counterterrorism and diplomatic efforts.”²⁸

GAO REPORT: JANUARY 2002

SHORTFALL OF ARMY TRANSLATORS AND INTERPRETERS IN 2001

Language	Authorized Positions	Filled Positions	Unfilled Positions	Percent Shortfall
Arabic	84	42	42	50%
Korean	62	39	23	37%
Mandarin Chinese	52	32	20	38%
Farsi	40	13	27	68%
Russian	91	57	34	37%
Total	329	183	146	44%

The majority of language specialists are being discharged from the Defense Language Institute (DLI), the military's premier language training facility in Monterey, California. The discharge of linguists from DLI, however, is not a new phenomenon.

SLDN has warned of problems at DLI for years. For example, as reported in *Conduct Unbecoming, the 6th Annual Report on Don't Ask, Don't Tell*, in 1999 there were significant policy violations at DLI, including a witch-hunt, which

resulted in the discharge of 14 service members.

This ongoing loss of essential personnel is disturbing news in any language.



Coming Out in a World of Hatred

by Cathleen M. Glover
Guest Commentary

For those of us in the armed services who are gay, lesbian, or bisexual, life behind closed doors can be hell. The policy of "Don't Ask, Don't Tell, Don't Pursue, Don't Harass" forces us to shove our identities in the closet, making many of us suffer in silence or leave the military.

"Don't Ask, Don't Tell" is that absurd policy from the Clinton era that attempts the impossible by allowing homosexuals to serve as long as they are in the closet. The "Don't Pursue, Don't Harass" part was added later in an attempt to prevent witch hunts, but in the anti-gay climate of the military, comments can be heard daily and harassment still goes on.

Many people wonder why homosexuals join the military. Why do heterosexuals join the military? Why are the automobiles of our nation covered in stars and stripes? Most of us assume that we will be able to maintain a level of privacy under which we can lead double lives.

The truth is, none of us realizes how difficult it is to live a double life in which a relationship must be conducted behind closed doors and one must shield himself with lies. I don't have to explain the strain this puts on a relationship.

Recently, a pair of sailors came out to the Navy, fearing their safety in a hostile environment. The Navy refused to initiate separation proceedings or outline any steps guaranteeing the safety of these openly gay service members. It was only three years ago that a soldier was beaten to death at Fort Campbell by soldiers who perceived him to be gay. The commander at the time tolerated and even encouraged the homophobic environment, and at this time gay rights activists are fighting to prevent his promotion. I hope they succeed.

The fear that we all feel in these hostile environments is a constant presence. It drives some of us into severe depressions and others of us to seek discharge in order to protect ourselves. This is the only way we can ensure our safety, since the upper ranks of the military refuse to do so.

The two sailors felt that their safety was threatened, so they came out, and it took intervention by Senator Hillary Rodham Clinton to enforce the existing policy on homosexual conduct and to get the Navy to discharge them.

We realize that we are living in a state of perpetual war and that qualified soldiers and sailors should be retained, but the military cannot have it both ways. If the armed services continue to maintain a hostile, anti-gay climate, then we will be forced to continue to seek discharge until this ridiculous policy is dropped.

The United States is the only NATO country that has a ban on homosexuals. It's time we move into the 21st century with the rest of the industrialized world.

Cathleen M. Glover is a lesbian member of the Army. She worked at the Defense Language Institute at the Presidio of Monterey for two years and recently was transferred to Goodfellow Air Force Base in San Angelo, Texas.



What is “Don’t Ask, Don’t Tell, Don’t Pursue, Don’t Harass?”

“Don’t Ask, Don’t Tell” is a ban on lesbians, gays and bisexuals serving in the military – similar to the policies banning service that have been in place for the past fifty years.²⁹

“Don’t Ask, Don’t Tell” is the only law in the land that authorizes the firing of an American for being gay. There is no other federal, state, or local law like it. Indeed, “Don’t Ask, Don’t Tell” is the only law that punishes lesbians, gays and bisexuals for coming out. Many Americans view “Don’t Ask, Don’t Tell” as a benign gentlemen’s agreement with discretion as the key to job security. That is simply not the case. An honest statement of one’s sexual orientation to anyone, anywhere, anytime may lead to being fired.

THE HISTORY OF THE POLICY

“Don’t Ask, Don’t Tell” is the result of a failed effort by President Clinton to end the ban on gays in the military. Spurred in part by the brutal 1992 murder of Seaman Allen Schindler, then candidate Clinton proposed ending the ban by issuing

an Executive Order overriding the Department of Defense regulations that barred gays from serving. Congress, however, intervened and the ban was made law, preventing action by future Commanders in Chief.

This law was, however, significantly different from prior prohibitions on service in three respects. First, Congressional and military leaders acknowledged, for the first time in 1993, that lesbians, gays and bisexuals serve our nation and do so honorably.³⁰ Second, the policy also states sexual orientation is no longer a bar to military service.³¹ Third, President Clinton, Congress and military leaders agreed to end intrusive questions about service members’ sexual orientation and to stop the military’s infamous investigations to ferret out suspected lesbian, gay and bisexual service members.³² They agreed to take steps to prevent anti-gay harassment.³³ They agreed to treat lesbian, gay and bisexual service members even-handedly in the criminal justice system, instead of criminally prosecuting them in circumstances where they would not prosecute heterosexual service members.³⁴ They agreed to implement the law with due regard for the privacy and associations of service

members.³⁵ The law became known in 1993 as “Don’t Ask, Don’t Tell, Don’t Pursue” to signify the new limits to investigations and the intent to respect service members’ privacy.

Small steps were made to keep some of these promises. Questions regarding sexual orientation at induction have, for the most part, stopped. Criminal prosecutions have decreased and witch-hunts have declined. President Clinton issued an Executive Order ending discrimination in the issuance of security clearances. The Department of Defense issued guidelines on anti-gay harassment and limits on investigations. Then, in 1999, PFC Barry Winchell was murdered by fellow soldiers at Fort Campbell, Kentucky. In the wake of this murder, the Department of Defense (DoD) issued new guidance on prohibiting anti-gay harassment. President Clinton issued an Executive Order providing for sentence enhancement under the Uniform Code of Military Justice (UCMJ) for hate crimes, as well as a limited psychotherapist-patient privilege. In February 2000, Pentagon officials added “Don’t Harass” to the title of the policy. The Pentagon then conducted a survey on anti-gay

<i>Seaman Allen Shindler murdered</i>	<i>Candidate Clinton proposes ending DoD regulations banning gays from the Military</i>	<i>Congress enacts DADTDP into law</i>	<i>August 1995: President signs Executive Order ending sexual orientation discrimination in issuance of security clearances</i>	<i>March 1997: DoD issues Dorn Memo on anti gay harassment</i>
1992	1993	1995	1996	1997

harassment, finding it was widespread. Thereafter, the Pentagon formed a Working Group which issued a 13-point action plan to address anti-gay harassment, which the Services were then directed to implement.

These limited steps, spurred in large part by the murder of PFC Barry Winchell, have done little to fulfill the promises made when the policy was created. Intrusive questioning continues. Harassment continues in alarming proportions. Little regard for service member privacy has been shown during the life of this law. Simply put, asking, pursuing and harassing have continued for all of the almost ten years since the law was passed.

THE POLICY ITSELF

SLDN documents violations of the policy reported to us by service members. In order to understand the critiques of the policy and the violations documented in this report, it is important to understand the policy. One way to understand the law, and implementing regulations, known as “Don’t Ask, Don’t Tell”, is by breaking it down into its

component parts.

Don’t Ask. Commanders or appointed inquiry officials shall not ask, and members shall not be required to reveal, their sexual orientation.³⁶

Don’t Tell. “A basis for discharge exists if . . . [t]he member has said that he or she is a homosexual or bisexual, or made some other statement that indicates a propensity or intent to engage in homosexual acts”³⁷

Don’t Pursue. More than a dozen specific investigative limits as laid out in DoD instructions and directives comprise “Don’t Pursue.” It is the most complicated and least understood component of the policy. These investigative limits establish a minimum threshold to start an inquiry and restrict the scope of an inquiry when one is properly initiated.

A service member may be investigated and administratively discharged if they:

- 1) make a statement that they are lesbian, gay or bisexual;
- 2) engage in physical contact with someone of the same sex for the purposes of sexual gratification; or

- 3) marry, or attempt to marry, someone of the same sex.³⁸

Only a service member’s commanding officer may initiate an inquiry into homosexual conduct.³⁹ In order to begin an inquiry, the commanding officer must receive credible information from a reliable source that a service member has violated the policy.⁴⁰ Actions that are associational behavior, such as having gay friends, going to a gay bar, attending gay pride events, and reading gay magazines or books, are never to be considered credible.⁴¹ In addition, a service member’s report to his/her command regarding harassment or assault based on perceived sexuality is never to be considered credible evidence.⁴²

If a determination is made that credible information exists that a service member has violated the policy, a service member’s commanding officer may initiate a “limited inquiry” into the allegation or statement. That inquiry is limited in two primary ways. First, the command may only investigate the factual circumstances directly relevant to the specific allegation(s).⁴³ Second, in statements cases, the command may only question the service member, his/her chain of command, and any-

	<i>July 5, 1999: PFC Barry Winchell murdered</i>	<i>August 12, 1999: DoD issues DeLeon Memo prohibiting anti-gay harassment</i>	<i>October 1999: President Clinton issues Executive Order providing for limited psychotherapist-patient privilege and sentence enhancement under UCMJ for hate crimes</i>	<i>February 2000: "Don't Harass" added to Homosexual Conduct Policy</i>	<i>March 16, 2000: DoD Publishes IG Report documenting rampant anti-gay harassment</i>	<i>July 21, 2000: DoD Working Group issues 13 point Anti-Harassment Action Plan - Services directed to implement</i>
1998		1999		2000		

one that the service member suggests.⁴⁴ In most cases of homosexual statements, no investigation is necessary.⁴⁵ Cases involving sexual acts between consenting adults should be dealt with administratively, and criminal investigators should not be involved.⁴⁶

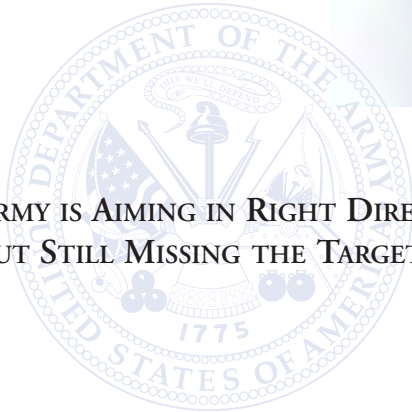
The command may not attempt to gather additional information not relevant to the specific act or allegation, and the command may not question anyone outside of those listed above, without approval from the Secretary of that Service.⁴⁷ Such an investigation is considered a “substantial investigation.”⁴⁸ In order to request authority to conduct a “substantial investigation,” the service member’s command must be able to clearly articulate an appropriate basis for an investigation.⁴⁹

As with a “limited inquiry,” only a service member’s commanding officer has the authority to request permission to conduct a “substantial investigation.”⁵⁰ By definition, a “substantial investigation” is anything that extends beyond questioning the service member, the service member’s immediate chain of command, and anyone the service member suggests.⁵¹

Don’t Harass. “The Armed Forces do not tolerate harassment or violence against any service member, for any reason.”⁵² There are many regulations and laws that prohibit harassment and can be applied to anti-gay harassment cases. Harassment can take different forms, ranging from a hostile climate rife with anti-gay comments, to direct verbal and physical abuse, to death threats.

“Don’t Ask, Don’t Tell” is a complex law comprised of statute, regulations and policy memoranda. The above description, however, covers the basic components of the law— and those are fairly simple. Don’t ask about sexual orientation. Don’t investigate sexual orientation, except in specific circumstances and in limited ways. Don’t harass. Don’t tolerate harassment based on perceived sexual orientation.

Unfortunately, even after almost nine years, the Services continue to violate these basic rules.



**ARMY IS AIMING IN RIGHT DIRECTION,
BUT STILL MISSING THE TARGET**

“AS AMERICAN SOCIETY MOVES TOWARD AN EVER MORE POSITIVE APPRECIATION OF DIFFERENCES AMONG PEOPLE, IT BEHOOVES THE MILITARY TO DETERMINE HOW SUCCESSFULLY WE ARE INCULCATING THE MORES OF THOSE WE REPRESENT AND DEFEND.”

MG Robert Ivany, Commandant, U.S. Army War College⁵³

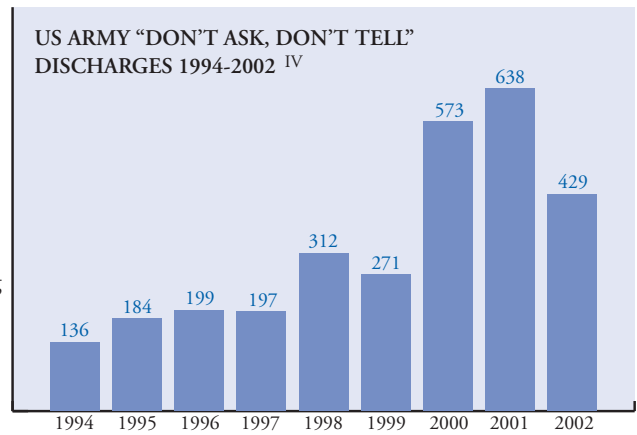
The news from the Army during 2002 was a mixed bag.

On the one hand, the Army is doing more than its sister Services to train on “Don’t Ask, Don’t Tell.” Gay discharges this year dropped to the lowest point since 1999. During 2002, more Army leaders also publicly spoke about their commitment to prohibiting harassment than did leaders in the other Services. The Army Inspector General began systemic checks on “Don’t Ask, Don’t Tell” adherence, and the Army invited SLDN to meet with senior Pentagon leaders to discuss policy implementation. SLDN also visited Fort Campbell, and spoke at the Army War College.

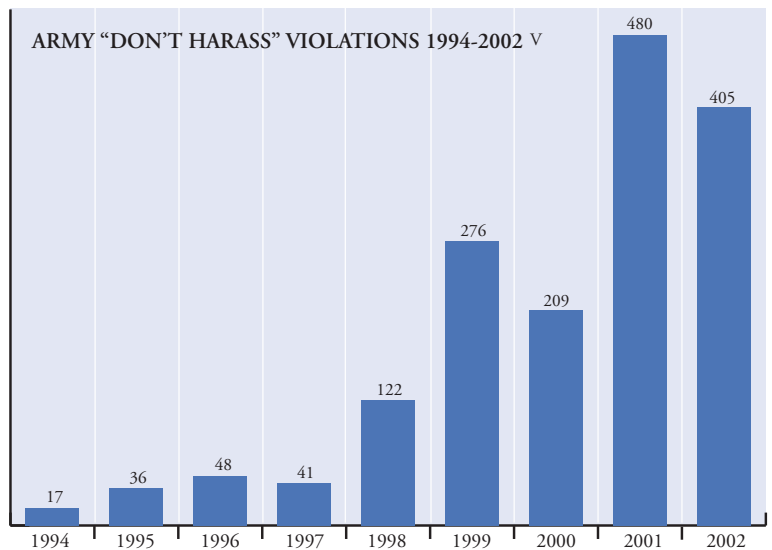
On the other hand, documented reports of anti-gay harassment during 2002 were the second highest ever recorded. The Army’s “Don’t

Ask, Don’t Tell” training still gives scant mention to the “Don’t Harass” prong of the policy, thereby falling well short of fully implementing the AHAP. Army leaders are not consistently

US ARMY “DON’T ASK, DON’T TELL” DISCHARGES 1994-2002 ^{IV}



ARMY “DON’T HARASS” VIOLATIONS 1994-2002 ^V



enforcing the “Don’t Harass” provisions, nor are they measuring the effectiveness of anti-harassment initiatives, as required by the AHAP. Reports of asking and pursuits, in direct violation of the policy, slightly increased.

SLDN appreciates the Army’s active engagement compared to the other Services. We especially appreciate the leadership of LTG John LeMoyné DCSPER-G1, the Army’s point person on the policy. Being open and honest about the Army’s policy programs, and the challenges the Army faces, allows for dialogue. We will remain strong in our criticism of the Army’s shortcomings when deserved, but also recognize the progress made within the Army.

“[Gay soldiers] will continue to be treated with dignity and respect. The Army owes nothing less to [soldiers who have given many] honorable years in the service of their country.”

COL Gerald Ferguson, Jr., Chief of Staff, 1st Cavalry Division.⁵⁴

“I am committed to ensuring that every soldier in the Warrior Division is treated with dignity and respect.”

MG John Wood, Division Commander, 2d Infantry Division.⁵⁵

“The 10th Mountain Division (light infantry) strongly agrees with you that there is no room for harassment or threats in the military. Treating soldiers with dignity and respect is a bedrock Army value which we take very seriously.”

MG FL Hagenbeck, Division Commander, 10th Mountain Division.⁵⁶

“I certainly agree with you that treatment of all individuals with dignity and respect is essential to good order and discipline.”

COL Jackson Flake, III, Chief of Staff, 1st Armored Division.⁵⁷

“Reports of violations of the [Don’t Ask, Don’t Tell] policy within I Corps and Fort Lewis will be dealt with immediately and appropriately.”

LTG Edward Soriano, Commanding General, I Corps and Fort Lewis.⁵⁸

GAYS & GRENADES: SOLDIERS STILL FACE HARASSMENT AT UNACCEPTABLY HIGH LEVELS

“Not a day goes by here that I am not inundated with derogatory comments regarding gay people or being gay Hatred for and misunderstanding of gays is rampant in the Army.”

Soldier at Fort Bragg, North Carolina⁵⁹

SLDN documented fewer reports of anti-gay harassment in the Army in 2002, 405 compared to 513 in 2001. Although this decrease is welcome, reports of harassment were still unacceptably high. SLDN suspects that the decrease is tied to the decrease in discharges as well as the Army’s modest steps to implement the AHAP. The Army, however, still has a significant ongoing harassment problem largely attributable to its failure to fully implement the AHAP. Contributing to the problem is a noticeable absence of leadership amongst the ranks of the Non-Commissioned Officer (NCO) corps. In fact, SLDN continues to

document instances where NCOs directly participate in the anti-gay harassment.

North Carolina Army National Guardsman SPC Brad Powell’s experience illustrates this ongoing problem. SPC Powell

reports an NCO instructing his unit’s hand grenade training encouraged the soldiers to visualize “blowing up a gay bar” while throwing their grenades. SPC Powell further reports hearing NCOs tell soldiers that “the only way to decrease our nuclear arsenal is to put all fags on an island and nuke it,” as well as NCOs saying “the only thing a good fag needs is a good fag bashing.”⁶⁰

The hostile climate led SPC Powell to reveal his sexual orientation to his command, seeking to escape what



Powell understandably viewed as a dangerous situation. Soon there-

after, SPC Powell reports receiving a written death threat in the form of a note left on his truck during a weekend drill. The note stated “fags die!” SPC Powell’s receipt of the death threat reaffirmed his belief that his only recourse to protect himself from the danger was to reveal that he is gay.

SPC Powell’s experiences, and others like it, indicate that much work remains before the

Army’s pledge to treat all soldiers – including those perceived as gay – with “dignity and respect” is fulfilled.⁶¹

The Army has recently indicated to SLDN a greater understanding of the need for it to remedy its harassment problem by a determined implementation of the AHAP. The AHAP’s four components – training, reporting, enforcement and measurement – provide a framework to evaluate the Army’s anti-harassment efforts to date.

**THE ARMY & YOUNG AMERICANS:
A BLUEPRINT FOR CHANGE**

Not all lesbian, gay and bisexual soldiers face harassment; many find respect and acceptance. For example, Sergeant Casey Murphy, an Army communications repair person assigned to Fort Hood, Texas, is typical of many lesbian, gay and bisexual soldiers. SGT Murphy enlisted in the Army out of love of country and a strong sense of patriotism. SGT Murphy “came out” during her teenage years. Her family and friends all know she is a lesbian. At Fort Hood, most of the soldiers in



SGT Murphy

her unit also know. As she befriended other soldiers, developing the bonds of trust that are critical to unit cohesion and combat readiness, SGT Murphy found it easy to be open and honest about her sexual orientation. She is widely respected by other troops and their awareness of SGT Murphy’s lesbian orientation does not adversely affect their opinions of her professional competence or personal character. SLDN heard similar positive stories from several soldiers throughout 2002, indicating SGT Murphy is part of a growing rule, not an exception.

Increasingly, young lesbian, gay and bisexual Americans – like SGT Murphy – are comfortable with their sexual orientations and are less inclined to present themselves to

the world as heterosexual. In terms of our perceptions and treatment of gays, American society has come a long way since the introduction of “Don’t Ask, Don’t Tell” in 1993. Young lesbians, gays and bisexuals continue to enlist in our nation’s Army, and some, like SGT Murphy, find ways to live their lives with integrity – even in the face of “Don’t Ask, Don’t Tell,” which pressures them to do the opposite in hopes of making them invisible.

The Army is, sadly, losing the valuable skills and experience of SGT Murphy because of its anti-gay ban. SGT Murphy’s chain of command is discharging her, after discovering that she has been serving as an open lesbian. Although her fellow soldiers are comfortable with SGT Murphy being a lesbian, her command is not. Such is the reality under “Don’t Ask, Don’t Tell.”

**ARMY TRAINING: MISSING
THE HARASSMENT TARGET**

“I am going to snap your fucking neck, so know you have it coming.”

Death threat received by Gay soldier while serving in Kuwait⁶²

The AHAP requires that “[t]he Services shall ensure feedback on reporting mechanisms are in place to measure homosexual conduct policy training and anti-harassment training effectiveness....”⁶³

Spurred into action by PFC Winchell’s 1999 murder, the Army began implementing training on “Don’t Ask, Don’t Tell.” Specifically, the Army:

- ★ Conducted Unit Refresher training during the year 2000;⁶⁴
- ★ Ordered “Don’t Ask, Don’t

Tell” training in its “professional military education” system, ensuring that officers and NCOs receive training on the policy’s basics;⁶⁵

- ★ Published a policy training model on one of its websites;
- ★ Published a training brochure, and a “training manual;”⁶⁶
- ★ Directed an update to its training Regulation (Army Regulation 350-1) mandating “annual” unit-level “Don’t Ask, Don’t Tell” training;⁶⁷ and
- ★ Ordered its IG to check policy training as a special interest inspection item.⁶⁸

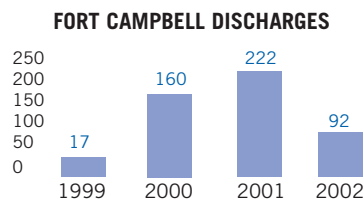
These actions, though, are less than they appear. As of early 2003, the Army’s training regulation had not been updated to reflect mandatory annual training – fully three years after the Chief of Staff directive

requiring the update was issued.⁶⁹ The training conducted at Army schools does not adequately emphasize the “Don’t Harass” prong of the policy. The website anti-harassment materials, the training materials and brochure do not appear to be used in any consistent way. In fact, most commands do not appear to know these resources even exist.

According to the Army Inspector General, 71% of soldiers report receiving some form of “Don’t Ask, Don’t Tell” training from April 2001 through April 2002.⁷⁰ Most soldiers with whom SLDN spoke, however, stated that the training, to the extent it happened at all, was brief and made little to no mention of the policy’s “Don’t Harass” provisions. While we are pleased that the schools are conducting training, the quality of the training appears to leave much to be desired.

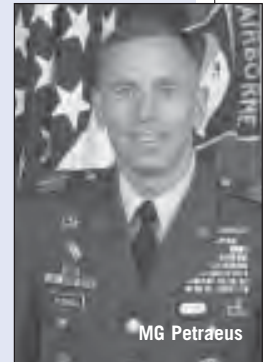
“I am committed to doing all I can to ensure that all my troopers are treated with dignity and respect and are able to serve their nation in an environment that is safe and free from harassment of any form.”

MG David Petraeus, Division Commander, 101st Airborne Division and Fort Campbell⁷¹



Fort Campbell, Kentucky, site of the 1999 anti-gay murder of PFC Barry Winchell, continues to lead the Army – indeed lead every military base – in discharging gay troops. Although its 92 gay discharges during 2002 are down con-

siderably from the 222 during 2001, the number remains alarmingly high.⁷² SLDN continues to work with senior Fort Campbell leaders, including the new commanding general, MG David Petraeus, to address this problem.



RAISE YOUR HAND: HARASSMENT REPORTING MECHANISMS NOT YET EFFECTIVE

“Fags shouldn’t be in the military.”

Comment directed towards PFC Luis Rosas, a Farsi (Persian) linguist at DLI ⁷³

The AHAP requires the Services to “review all avenues for reporting mistreatment, harassment, and inappropriate comments or gestures to ensure they facilitate effective leadership response.”⁷⁴

The Army has designated defense attorneys and Chaplains as confidential resources for reporting anti-gay harassment.⁷⁵ The Army allows soldiers to use other resources to report harassment, including the command and Inspectors General, but stresses that these resources are not confidential. If a gay soldier is being harassed and the soldier’s sexual orientation surfaces during the harassment reporting process, the gay soldier will be at great risk of investigation and discharge. Unfortunately, according to the Army IG, 70% of soldiers are unaware of these confidential designations.⁷⁶

The Army has done a poor job ensuring its troops know how to report anti-gay harassment and to whom they can safely report it. The Army also continues to fail to establish command climates where lesbian, gay and bisexual soldiers feel comfortable speaking out about harassment. Most gay troops with whom SLDN has spoken over the past year indicate they are afraid to report harassment for fear of becoming the target of an anti-gay investigation or of worsening harassment. Until Army leaders actually make it safe for gays to report harassment, the AHAP’s reporting component will remain only partially implemented.



Army Sergeant Sonya Contreras’ experience illustrates the Army’s problem. SGT Contreras, a recruiter in California, reports receiving unit Equal Opportunity training on January 4, 2003.

During this training, instructors told anti-gay “jokes,” leading her unit commander, Captain Ruiz, to suggest “anyone who is gay to raise their hand if they felt offended by the

jokes.”⁷⁷ SGT Contreras felt despondent. She wrote to her command:

I have not raised my hand once, or spoken out against anyone who has felt free to make homosexual comments and jokes in the nearly five years that I have served in our nation’s Army. But today, Sir, I raise my hand There is the discrimination that I feel on a daily basis, the witty jokes, and slanderous comments about gays, but it goes uncorrected. It is obvious to me that no matter how many EO classes we have, how many times I hear the ‘Don’t Ask, Don’t Tell’ policy delivered, I will never be able to feel like a part of the team....⁷⁸

The Army has a duty to set safe conditions for lesbian, gay, and bisexual troops to feel comfortable reporting harassment, and have an expectation that their reports will be taken seriously. SGT Contreras’ experience of having gays ridiculed during the conduct of an Equal Opportunity training briefing indicates that the Army has a ways to go before its AHAP reporting procedures actually work.

SUBSTANTIATED: ACCOUNTABILITY OF HARASSERS MISSING IN ACTION

“As a former Army-level commander, I thoroughly understand and embrace the Chief of Staff of the Army’s directive to ensure that all Soldiers are treated with dignity and respect. As the Inspector General, I plan to assist commanders in ensuring that their training programs fully comply with all applicable laws, directives, and policies designed to create a positive and supportive command climate.”

LTG Paul T. Mikolashek, Army Inspector General⁷⁹



LTG Mikolashek

The AHAP requires that “[t]he Services shall ensure that commanders and leaders take appropriate action against anyone who engages in mistreatment, harassment, and inappropriate comments or gestures.”⁸⁰

The Army appears to have failed to hold a single person accountable for anti-gay harassment this past year. In case after case, SLDN has provided the Army with specific, detailed accountings of anti-gay misconduct, asking that those responsible be held accountable. Yet, time and again, the Army’s response is to rubber-stamp the excuses of those accused of the misconduct. Army leaders will not gain the confidence of soldiers if it fails to seriously and demonstrably hold accountable those who harass.

The Army’s recommendation that MG Robert T. Clark be promoted to Lieutenant General sends a strong signal that it is insincere in its commitment to enforce anti-harassment policies. MG Clark was the commanding general at Fort Campbell,

Kentucky, when soldiers used a baseball bat to bludgeon to death PFC Barry Winchell while he slept. MG Clark’s leadership failures, before and after the murder, are examined more fully in an accompanying spotlight section.

The Army also failed Sergeant Tracey Cade. In last year’s *Conduct Unbecoming*

report, SLDN discussed how SGT Cade’s officers and superior NCOs routinely used the words “faggot” and “fuck” in the presence of female soldiers.⁸¹ SLDN reported the harassment to the Fort Hood, Texas, Inspector General alleging “[m]ale soldiers frequently talk publicly about their interest in female-on-female sexual acts. These conversations take place in front of NCOs and female soldiers, to include SGT Cade. The NCOs do not correct the misconduct, allowing it to continue unabated.”⁸² The Inspector General concluded that the allegations of sexual harassment did not fit the definitions of sexual harassment and were “not substantiated.” The IG did not investigate the allegations of anti-gay harassment at all.⁸³

The Army failed Specialist Gidonny Ramos, too. SPC Ramos reported being harassed by a Chaplain after the Chaplain learned Ramos is a lesbian.⁸⁴ The Chaplain, Major Leininger, informed Ramos that he does not “accept” gays, told her she was “going to hell,” and that “homosexuality is a curable disease.”⁸⁵ SLDN reported the misconduct to the Army Inspector General, asking that Major Leininger be held accountable. The Army IG, however, reported back to SLDN that the allegation was “not substantiated.”⁸⁶ Remarkably, the IG investigators

failed to question the only eyewitness to the harassment, calling into question the competence and objectivity of the investigation.⁸⁷

The Army also failed to hold accountable COL Kevin Rice – the Army Installation commander at the Defense Language Institute – after Rice launched an improper anti-gay investigation after learning that two of his soldiers were lesbian. COL Rice’s appointed inquiry officer, 1LT Ruthe, proceeded to ask others questions about the two soldiers’ sex lives, whether others saw them kissing women or engaging in sexual acts. Ruthe further threatened soldiers with “jail” if they did not cooperate with his inquisition.⁸⁸

SLDN reported 1LT Ruthe’s investigative misconduct to the Army Inspector General, asking that Ruthe – and his superiors – be held accountable. The result? The IG wrote to SLDN that “no investigative action is warranted.” Despite declining to investigate the matter, the IG proceeded to proffer the perplexing conclusion that “the preponderance of evidence did not support your allegation” of investigative misconduct.⁸⁹ Given that the IG declined to investigate, it is difficult to imagine what “evidence” it was referring to. A preponderance of nothing is nothing.

The Army also failed to hold accountable lawyers at the Army’s Judge Advocate General (JAG) school for conducting “Don’t Ask, Don’t Tell” training that belittled and demeaned lesbians, gays and bisexuals. In last year’s *Conduct Unbecoming* report, SLDN documented “Don’t Ask, Don’t Tell” training misconduct at the Army’s JAG School.⁹⁰ The JAG School “training” contained a clip from a Monty Python movie making light of gay people with a male actor singing a song about men wearing

“women’s clothing,” wearing “high heels, suspenders and a bra” and being a “girlie” man. The training made no mention of the anti-harassment rules. What is astonishing is that the training was done by the Army’s lawyers – those charged with knowing “Don’t Ask, Don’t Tell” better than anyone else, those charged with advising senior Army leaders.

SLDN wrote to the Army’s top

lawyer, MG Thomas Romig, asking for accountability.⁹¹ We also asked the Army IG to look into the matter. To date, the Army has reported no action. A senior Army lawyer working in the Inspector General’s office, though, said that he did not believe the complaint warranted serious consideration.

These incidents evidence a continued failure by senior Army leaders to take anti-gay harassment seriously

and to provide the needed public leadership to stamp it out. If the Army wants soldiers to have confidence in its commitment to the AHAP implementation, as its leaders publicly assert, it needs to begin practicing what it preaches. Soldiers and their advocates will not have confidence in the fairness of the Army system until it begins enforcing “Don’t Ask, Don’t Tell” provisions.

**SURVEYING HARASSMENT:
MEASUREMENT COMES UP SHORT**

effective in addressing mistreatment, harassment and inappropriate comments or gestures.”⁹³

in response to the PFC Winchell murder, the Army’s failure to make a good faith effort to measure the scope of current harassment and to see if its harassment training is working is disappointing.⁹⁶ The DoD IG survey asked, for example:

“I have found that the Army has unnecessarily created an environment of intolerance. On a daily basis I hear jokes, crass comments, innuendos and personal opinions that belittle gay men and women. I have heard them from the mouths of privates and of colonels.”

SGT Pepe Johnson, former Fort Sill, Oklahoma, Soldier of the Year ⁹²

The Army is not measuring the effectiveness of its AHAP training program. Although the Army Inspector General recently conducted a “special interest item” review of “Don’t Ask, Don’t Tell” training, the review did not attempt to measure whether the

training is actually making a difference.⁹⁴ For example, the IG used a brief survey for soldiers that asked, “what can a soldier do if threatened, harassed or accused of being homosexual?”⁹⁵ The survey does not, however, ask any questions about the occurrence of harassment.

When contrasted with a DoD IG survey conducted in 2000

- ★ “How often have you heard offensive speech, derogatory names, jokes, or remarks about homosexuals in the last 12 months on your installation?”
- ★ “How often during the past 12 months have you witnessed or experienced event(s)/behavior(s) involving military personnel, on or off duty, who harassed another military person(s) because of perceived homosexuality?”

SLDN recommends that the Army formulate questions similar to the DoD IG survey harassment questions to better gauge the scope of its ongoing harassment problem.

The AHAP requires that “[t]he Services shall determine the extent to which [Don’t Ask, Don’t Tell] training and anti-harassment training programs ... are



**FRIENDS LIKE THESE:
ARMY "PURSUES" AND "ASKS" GAYS**

"I endured three and a half-hour improper interrogation about my — sexuality He stated that I would lose my VA benefits since this issue was severe enough to possibly put me in jail I was devastated and betrayed as my military career was being ripped away."

SSG Karen Coleman, Fort Eustis, Virginia

SLDN documented an increase in Army "Don't Pursue" and "Don't Ask" violations during 2002. The Army's continuing difficulty in adhering to these two important policy components is not surprising given the difficulty it has in implementing the AHAP. The message communicated to the field – intended or not – is that if it is okay to harass perceived lesbian, gay and bisexual soldiers, "asking" and "pursuing" is also permissible.

The case of Staff Sergeant Karen Coleman vividly illustrates this ongoing problem. SSG Coleman was an Army helicopter repairperson who had served 11 years in the military. In August 2002, SSG Coleman's first sergeant received a phone call from a person claiming to be a female

"friend" of SSG Coleman. Based upon this anonymous information, which the command had no reason to believe, and despite SSG Coleman's being a few short months away from completing her military service obligation, she found herself the target of an intrusive Army inquisition into her private life.

"Don't Pursue" was designed to prevent commands from acting on anonymous information. Commands should not investigate service members based on non-credible allegations designed to cause harm to lesbian, gay and bisexual soldiers' careers.⁹⁷ Former Secretary of Defense Les Aspin explained in 1993, "[i]f I came to the commander and said that you told me that you were gay, if that was the only thing going, my expectation would be that the commander would



not do anything."⁹⁸ In SSG Coleman's case, the first sergeant should have simply ignored the anonymous phone call and allowed this outstanding soldier to continue serving our country. Instead, she was investigated and discharged.

**RECOMMENDATIONS:
ARMY MARCHING INTO 2003**

"I have served my country honorably during the past eleven years and have achieved much. I don't regret a minute of it."

A Gay Arabic and German linguist, Louisiana National Guard⁹⁹

Ten years into the life of "Don't Ask, Don't Tell," the Army continues to struggle with the policy's implemen-

tation, especially the "Don't Harass" piece. The sad truth is that, despite Army leaders' assertions to the contrary, the Army does not take anti-gay harassment nearly as seriously as it does other forms of prohibited harassment.

In October 2002, SLDN wrote to all Army Division Commanders¹⁰⁰

providing simple recommendations to assist them in better implementing the AHAP. SLDN's recommendations included:

- ★ Commanding Generals publish a policy letter stressing the need to treat perceived lesbian, gay and bisexual troops with dignity and respect;
- ★ Commanding Generals use their base newspaper and other publications to educate soldiers

about the “dignity and respect” requirement; and

- ★ Commanding Generals invite SLDN to speak with their senior leaders to stress their commitment to ensuring the well-being of all troops, including gay soldiers.

SLDN continues to urge that these combat unit commanding generals follow these recommendations.

Servicewide, to improve, the Army needs to:

- ★ Fully implement the AHAP, improving the “training” and “reporting” components of the AHAP, and implementing the “enforcement” and “measurement” components;
- ★ Direct NCOs to become involved in all facets of the gay policy;

- ★ Task Equal Opportunity representatives to oversee the AHAP (as they do with other types of harassment, including gender and race harassment); and
- ★ Form a committee to review AHAP implementation, including the Deputy Chief of Staff for Personnel (G-1), the Judge Advocate General, Inspector General, an Equal Opportunity Representative, Chaplains, and SLDN.

Spotlight



THE NOMINATION OF MG ROBERT T. CLARK

AT THE TOP OF [THE] CHAIN AT FORT CAMPBELL SAT GENERAL CLARK. INSTEAD OF BEING HELD RESPONSIBLE FOR WHAT HAPPENED TO A SOLDIER IN GOOD STANDING UNDER HIS COMMAND, HE IS BEING PROMOTED.

Thomas Oliphant, *Boston Globe*, October 16, 2002¹⁰¹

In a display of his indifference towards lesbian, gay and bisexual service members, President Bush recently nominated Major General Robert T. Clark, former commanding general of Fort Campbell, Ky., for promotion to Lieutenant General, the Army's second highest rank.



The promotion, which would include command of the prestigious Fifth United States Army, sends a dangerous message about the Bush Administration's regard for the safety and

well-being of its military personnel.

The message from the Administration, the Pentagon and the Army is that it does not take anti-gay harassment seriously and will not hold accountable those who fail to lead and address anti-gay harassment within their commands.

MG Clark was at the helm of Fort Campbell in 1999 when PFC Barry Winchell was beaten to death with a baseball bat by fellow soldiers who thought Winchell was gay. Clark's behavior before, during and after the murder, clearly showed a failure of leadership to address anti-gay harassment. Prior to the murder, there were serious problems of anti-gay harassment at Fort Campbell. PFC Winchell was harassed for months before his death, and leaders in his chain of command knew about the harassment. They did nothing, and in some instances even participated. The Inspector General at the base turned PFC Winchell away when he tried to get help. As commander of the base, MG Clark was responsible

for the conduct of the leaders and soldiers he commanded.

In wake of the murder, MG Clark did nothing. He issued no statements regarding anti-gay harassment, implemented no training regarding anti-gay harassment, and neglected to assure accountability for those who harassed or condoned harassment. He even refused to speak or meet with PFC Winchell's parents. Anti-gay graffiti, including a crude drawing of a baseball bat with the words "fag-whacker" writ-

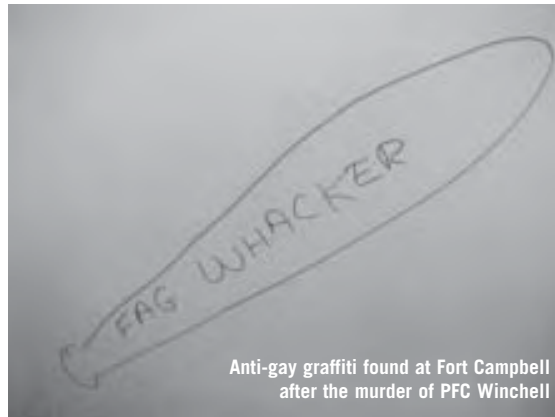


ten on it appeared in public areas of Fort Campbell after the murder.

MG Clark's actions and inactions resulted in a record number of discharges from his base. In fiscal year 1999, gay discharges from Fort

Campbell constituted 3.6% of all Army discharges. After the murder, and still under MG Clark's watch, discharges in FY 2000 sky-rocketed, comprising an astounding 27.7% of the Army's total. Service members fled the base in an attempt to escape the environment Clark had created. They were literally running for their lives.

Despite this overwhelming evidence concerning MG Clark's leadership failure regarding anti-gay harassment



at Fort Campbell, the White House has brushed aside concerns for service member safety and sought to reward MG Clark with a prestigious promotion. SLDN has opposed the nomination, which was originally

considered in October 2002 during a closed door session of the Senate Armed Services Committee. The Committee allowed Clark to testify, but refused to hear from PFC Winchell's mother or others with information related to the environment at Fort Campbell.

SLDN, along with People for the American Way, the National Organization for Women, the National Gay & Lesbian Task Force, the Human Rights Campaign and Michigan's Triangle Foundation, will continue to oppose Clark's promotion.¹⁰²

Our men and women in uniform deserve better.

2002 Air Force Report



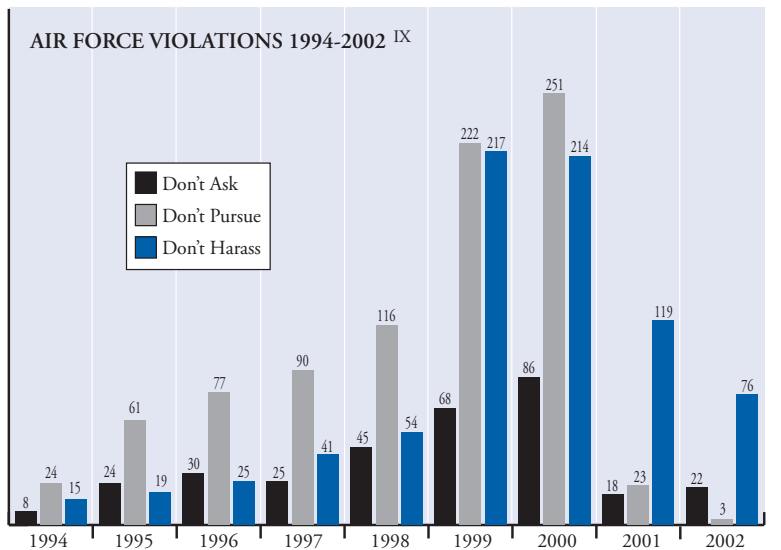
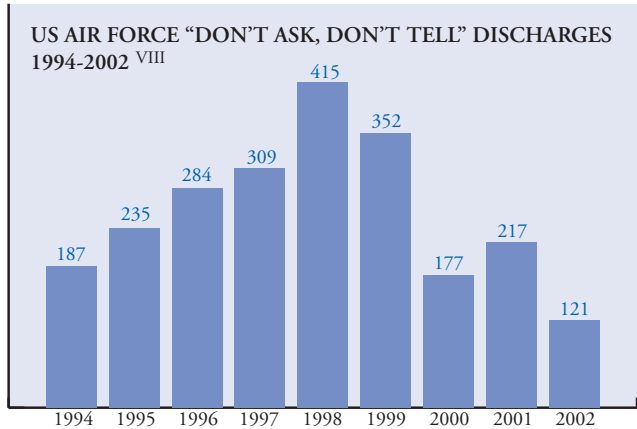
AIR FORCE: SEARCHING FOR STRENGTH IN DIVERSITY

"AMERICAN STRENGTH COMES FROM THE DIVERSITY OF OUR PEOPLE, UNITED BY THE COMMON VISION WE SHARE: FREEDOM."
Secretary of the Air Force Dr. James G. Roche¹⁰³

During FY 2002, the Air Force discharged fewer service members under "Don't Ask, Don't Tell" than ever before. SLDN also recorded the fewest reports of "Don't Ask, Don't Tell" violations from the Air Force since 1994. In as much as the Air Force continues to be reluctant to share information with SLDN, however, we can only speculate as to why discharge and violation numbers have decreased.

One plausible explanation for the decrease in discharge and violation numbers may be that the Air Force has recognized the need to retain qualified personnel during the war on terrorism. The Air Force may be taking steps unknown to SLDN that explain the decrease in discharges and reported violations. We do know, however, that the Air Force's efforts to reduce anti-gay harassment appear inconsistent. While the Air Force has implemented some training and measurement procedures

partially complying with the AHAP, SLDN continues to hear from airmen that they are not receiving training on "Don't Ask, Don't Tell" or the prevention of anti-gay harassment beyond general



training at boot camp.

Despite lower numbers of discharges and violations, harassment and inap-

propriate asking persist as areas of concern. SLDN saw an increase, over the last year, in reports of “Don’t Ask, Don’t Tell” policy viola-

tions centering on invasions of privacy. Specifically, inappropriate asking remains an issue undermining the Air Force’s strength.

INVASION OF PRIVACY: ASKING, PURSUING AND “OUTING”

The Air Force continues to pry into service members’ private lives in violation of “Don’t Ask, Don’t Tell.” In 2002, SLDN received an increase in reported “Don’t Ask” violations and saw evidence of a continuation of the Air Force’s tendency towards inappropriate pursuits. While most of the asking violations were reported to SLDN by young airmen, between the ages of 18 and 25, it appears supervisors as well as peers were responsible for the violations. The following is a list of questions asked directly of airmen during their course of duty:

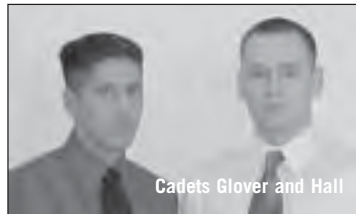
- ★ “Do you have something to tell me? Are you gay?”
- ★ “You are gay, aren’t you?”
- ★ “Do you have a wife? Why aren’t you married [at your age]?”
- ★ “Are you gay?”
- ★ “Are you a faggot?”

The continued prevalence of asking, and the failure to hold those who ask accountable, is unacceptable.

At the same time asking violations increased, the Air Force also persisted in pursuing and inappropriately investigating airmen based on invasions of privacy and violations of confidentiality. During 2002, the Air Force chose to discharge numerous qualified, trained and competent airmen whose sexual orientations were revealed to the Air Force unwittingly. These cases clearly show there is no

zone of privacy for service members and there are few, if any, safe spaces for lesbian, gay and bisexual airmen to be themselves.

The cases of Cadet Jack Glover and Cadet David Hall exemplify the Air Force’s propensity to inappropriately pursue and discharge talented airmen based on violations of their privacy. In the summer of 2002, Glover and Hall were looking forward to entering their last year of ROTC at the University of Alaska as leaders in their cadet corps. They



were also looking forward to, and planning for, their careers as Air Force officers. Unfortunately, in June their excitement was interrupted when Cadet Glover was called into his ROTC commander’s office for questioning. Glover was told that he was under investigation for homosexual conduct and was asked about allegations that he was involved in a homosexual relationship with Cadet Hall. Cadet Glover refused to answer any questions asked by his commander, as did Cadet Hall, who was subsequently confronted with the same allegations by the ROTC command.

The Cadets’ careers as Air Force officers were cut short because a former friend outed them to their ROTC command. There is no dispute that

ARE YOU A HOMOSEXUAL?

In July 2002, SLDN caught the Air Force Reserves still using an outdated 1987 recruiting form asking recruits if they are gay. The old form illegally asks recruits, “Are you homosexual or bisexual?” and “Do you intend to engage in homosexual acts?”

Three recruiting offices, as well as the Air Force Reserve Publications Command, told SLDN that the enlistment application containing the questions was the only form available to recruitment offices. Mike West, forms manager for the Air Force Reserve Command, told SLDN, “I can assure you [the form in question] is the latest version officially released for use.”¹⁰⁴

The Pentagon had previously ordered all services to update recruiting forms after implementation of “Don’t Ask, Don’t Tell.” The 1994 recruiting form available to all Services does not ask questions about sexual orientation.

The Air Force Reserves’ compliance with the federal “Don’t Ask” policy was long overdue.



Graphic courtesy of the Washington Blade

they were top performers in their ROTC program. In fact, prior to the investigation, Glover and Hall were rated the number three and number one cadets in their unit, respectively, by their commander. Even as the investigation was ongoing, both were promoted to group commanders with the rank of Lieutenant Colonel. Cadet Hall had already served in the Air Force as an enlisted man and was honorably discharged prior to entering college.

Instead of respecting their privacy off duty, the Air Force chose to inappropriately investigate and pursue disenrollment from ROTC of Glover and Hall. Cadets Glover and Hall were model cadets. Their grades, attitude and leadership abilities were lauded by their Air Force commanders. The one mistake they made was to trust a fellow ROTC cadet, someone they considered a friend, and acknowledge to her they are gay. This trust was betrayed. Just before Glover and Hall's friend graduated from college and became a lieutenant in the Air Force, she told the cadets' ROTC command of their admission. The resulting disenrollment means that Glover and Hall

lost their college scholarships prior to entering their senior year, and they are prevented from becoming officers in the Air Force or ever serving our country in the military.¹⁰⁵

Similarly, Senior Airman Brandi Grijalva saw her trust and confidentiality broken after seeking counseling from an Air Force chaplain's assistant. While temporarily stationed at Tyndall Air Force Base for training, Senior Airman Grijalva sought help from a chaplain's assistant due to problems she was having at home. Concerned about the confidentiality of their conversation, Grijalva was hesitant to discuss the issues causing her unhappiness. Informed that their conversation was safe and confidential, Senior Airman Grijalva revealed to the chaplain's assistant that she



and her partner were having difficulties in their relationship. Following that revelation, the chaplain's assistant broke the promise of confidentiality and Senior Airman Grijalva was investigated for homosexual conduct.

Initially, Senior Airman Grijalva denied telling the chaplain's assistant she is gay. Soon, however, Grijalva recognized that her suspected sexuality would likely follow her throughout her Air Force career. Unwilling to live in an environment requiring her to lie and fear losing her job because of her sexual orientation, Senior Airman Grijalva told her command in September 2002 about the violation of confidence by the chaplain's assistant and confirmed she is a lesbian.¹⁰⁶ Shortly after her command received this information, the Air Force honorably discharged Senior Airman Grijalva. There has been no indication the Air Force investigated this violation of Grijalva's confidentiality or that the chaplain's assistant was ever held accountable for the violation.

**FALLING SHORT ON THE JOB:
HARASSMENT AND INADEQUATE
TRAINING PERSIST**

"[I have seen] a significant increase in anti-gay jokes and comments in the workplace during the last year."

quote from an active duty senior Air Force officer stationed in Texas

Despite decreased reports of anti-gay harassment to SLDN by Air Force members during the past year, "fag," "dyke," and "queer," as well as anti-

gay comments and jokes remain everyday occurrences in the Air Force. As with asking violations, the vast majority of specific harassment complaints to SLDN last year were made by airmen between the ages of 18 and 25. Supporting these reports, SLDN heard from senior noncommissioned officers (NCOs) and officers that an anti-gay climate persists in the Air Force. Most of these NCOs and officers report they are not consistently receiving annual "Don't Ask, Don't Tell" training, or

anti-harassment training as required under the AHAP.

Information regarding the Air Force's implementation of the AHAP's four prongs – training, reporting, enforcement and measurement – is incomplete and inadequate. SLDN made a Freedom of Information Act (FOIA) request to the Air Force for its anti-harassment training materials and instructions. The response back from the Air Force indicates that it has not made much progress.

RIGHT TO REPORT: SAFE CHANNELS
A MYSTERY IN THE AIR FORCE

With regard to training and reporting, the Air Force says that its “Don’t Ask, Don’t Tell” training materials show compliance with the AHAP. These materials do not meet that mark. The anti-harassment training consists of two Power Point slides stating that an Air Force member threatened or harassed because

of their perceived sexual orientation has “every right to report the threat or harassment to the authorities.”¹⁰⁷ The slides do not explain what is anti-gay harassment as required by the AHAP. Nor do the slides identify to whom the service member should report harassment. These slides do not meet the training and reporting requirements of the AHAP.

The Air Force has prepared separate

“Don’t Ask, Don’t Tell” training materials for general audiences and commanders, judge advocates and law enforcement personnel. While parts of these training materials are tailored to the target audience, the slides addressing harassment are identical. This fails to meet the AHAP requirement that training be tailored to the grade and responsibility level of the audience.

INCOMPLETE STEPS:
ANTI-HARASSMENT ENFORCEMENT
AND MEASUREMENT

The Air Force appears to have taken no steps to enforce anti-harassment provisions. There is no information in the Air Force materials that harassers, or those who condone harassment, will be held accountable for their actions. The Air Force has not provided SLDN any instructions or information regarding accountability.

The Air Force has taken some small steps towards implementing the measurement provisions of the AHAP. Specifically, Air Force Instruction 90-201 is intended to address the measurement prong of the AHAP. This instruction requires the Air Force Inspector General to “evaluate the training of all those charged with implementing the homosexual conduct policy,” and to “assess commander, staff judge advocate, and investigator training on the DoD homosexual conduct policy.”¹⁰⁸

Regrettably, this instruction does not mention anti-harassment training specifically as the AHAP orders. Furthermore, no remedy is indicated if a unit is found not to be in compliance with requirements.

The Air Force has taken some steps towards reducing anti-gay harassment but these steps are anemic. Nearly three years after the AHAP was directed to be implemented, it is disturbing that so little progress in the Air Force has been made.

RECOMMENDATIONS:
AIM HIGH AIR FORCE 2003

“The future of the Air Force will depend on cutting-edge technology and a diverse team of people combining to fulfill our missions. Talent and brain power come in many packages.”

Secretary of the Air Force Dr. James G. Roche¹⁰⁹

With fewer discharges and “Don’t Ask, Don’t Tell” violations, the Air Force seems to be making some progress. The Air Force, however, must do much more to eradicate harassment, asking and pursuits.

During the next year, SLDN recommends the Air Force take the following steps to improve the climate and productivity of their personnel:

- ★ Open a dialogue with SLDN on training and implementation of “Don’t Ask, Don’t Tell” and the AHAP;
- ★ Fully implement all prongs of the AHAP;
- ★ Alter their tailored training to truly address different audience levels (command, judge advocates, senior NCOs, Inspectors General and enlisted ranks);
- ★ Re-emphasize in training materials that asking about sexual

orientation is a violation of the policy and hold accountable those who ask;

- ★ Clearly identify how and to whom Air Force members can safely report harassment based on perceived sexual orientation;
- ★ Authorize Equal Opportunity staff to investigate reports of harassment based on perceived sexual orientation;
- ★ Hold harassers, and those condoning harassment, accountable for their actions; and
- ★ Provide more specific training on “credible evidence” and limits to investigations under “Don’t Ask, Don’t Tell.”

2002 Navy Report



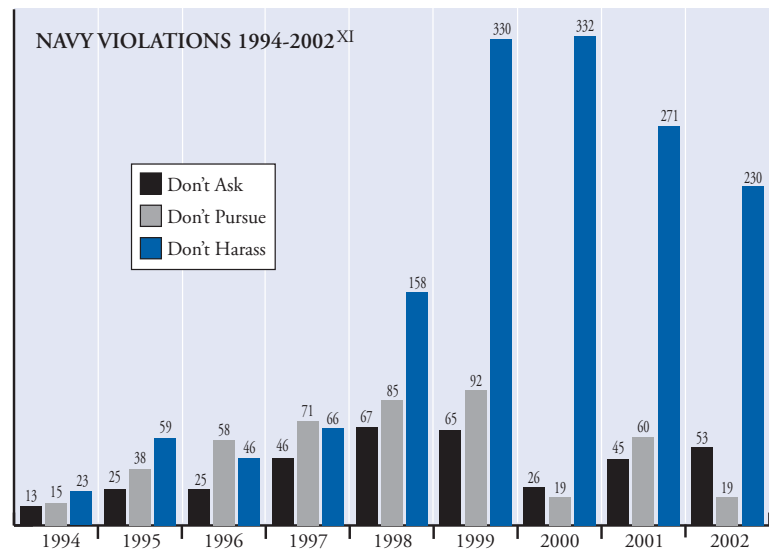
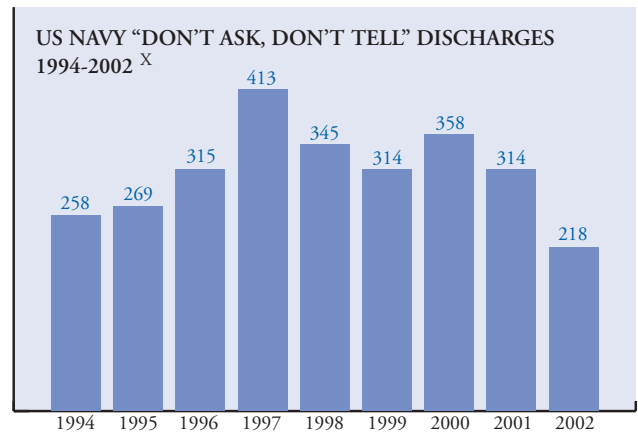
NAVY MEETS INCREASED WORKLOAD WITH SPLIT PERSONALITY TOWARDS LESBIAN, GAY AND BISEXUAL SAILORS

“NOW MORE THAN EVER, WE MUST RECRUIT AND RETAIN THE BEST AND THE BRIGHTEST, DESPITE THE REALITY AND STRAINS OF INCREASED OPTEMPO.”

CNO Guidance for 2002, 4 January 2002¹⁰

Under the spotlight of the war on terrorism, the Navy discharged 218 service members for being gay - the fewest sailors ever under “Don’t Ask, Don’t Tell.”¹¹¹ Along with a decrease in discharge numbers, SLDN also recorded an overall drop in “Don’t

Ask, Don’t Tell” violations in the Navy. Despite this overall decrease, however, harassment remains a significant problem within the Navy and “asking” violations increased during 2002. With little informa-



tion coming from the Navy about their efforts to prevent anti-gay harassment or ensure proper application of “Don’t Ask, Don’t Tell,” SLDN can only speculate why discharge and violation numbers were down during 2002. Perhaps discharge numbers are down because of the Navy’s participation in the war on terrorism and its need to recruit and retain good, qualified sailors.

With the war on terrorism raging thousands of miles away from our country, Navy ships, planes, and personnel are literally on the frontlines and are part of the staging for war. Last year, an increased workload, or OPTEMPO, forced the Navy to reemphasize the importance

of its recruitment and retention efforts of good sailors. These factors may have led to the Navy's apparent split personality treatment of lesbian, gay and bisexual sailors. Some commands are recognizing that a sailor's sexual orientation has no bearing on

their ability to do the job, nor does it negatively affect the good order and discipline of its units. SLDN saw a rise in the last few years of the Navy's efforts to retain openly gay sailors. Countering this retention movement are the Navy commands

who continue to ask about and pursue sailors' sexual orientation and who encourage or allow working environments filled with anti-gay jokes, comments, rumors and threats.

**NAVY EMPHASIZES RETENTION:
INCLUDING LESBIAN, GAY AND
BISEXUAL SERVICE MEMBERS**

"We have repeatedly challenged Navy leaders to recruit, retain, and motivate..."

CNO Guidance for 2002, 4 January 2002¹¹²

"I couldn't care less whether the guy who pulls me out of a burning airplane is straight, gay or into Velveeta."

From an editorial by Ken Lynch, aviation operations limited-duty officer, in the February 3, 2003 Navy Times.¹¹³

The Navy is increasingly attempting to retain openly lesbian, gay and bisexual sailors, recognizing that it is in the best interest of the Navy to do so. Navy commands seem to be following CNO guidance from last year emphasizing retention and recruitment. Navy commands may also be following the lead of their sailors, who recognize the contributions of openly lesbian, gay and bisexual sailors and support the retention of those sailors by not "outing" them.¹¹⁴



A powerful example of the growing trend of Navy commands retaining good sailors, despite knowing they are lesbian, gay or bisexual, is the

story of LTJG Jenny Kopfstein. LTJG Kopfstein was an officer assigned to the USS Shiloh when, more than two years ago, her command learned she is a lesbian. Recognizing her capabilities as a sailor and an officer, Kopfstein's command sought to retain her for continued service while the Navy determined her fate.

During her more than two years aboard the Shiloh, LTJG Kopfstein performed above and beyond officer expectations.

Kopfstein sailed on deployment with the Shiloh and was recognized as an outstanding officer onboard the ship. In her final Fitness Report (FitRep), or officer evaluation, in July 2002, Kopfstein's commander, Captain W.E. Dewes, lauded her as a "trusted Officer of the Deck and the best ship handler among her peers." Captain Dewes also explicitly states in the same FitRep, "[LTJG Kopfstein's] sexual orientation has not disrupted good order and discipline onboard USS Shiloh." Captain Dewes concludes his comments by stating, "LTJG Kopfstein has been an asset to the ship and the Navy, but unfortunately her sexual orientation precludes further naval service."¹¹⁵ After serving more than two years as an "out" lesbian naval officer, defying the specious rationales underlying "Don't Ask, Don't Tell," the Navy honorably discharged LTJG Kopfstein in October 2002.

Similar to LTJG Kopfstein's case, Hospitalman Roy Hill's command attempted to retain him after learning he is gay. Again, Hill's command recognized his retention benefited the Navy. In May 2002, Hospitalman Hill came out to his command while reporting anti-gay harassment he witnessed during his three years of service. In his letter, Hill outlined the types of harassment he encountered, beginning with his boot camp experience and ending with his transition to Camp Lejeune, where he submitted his letter. Hill relayed to his command that he heard "fag, queer, cocker-sucker" jokes constantly and saw a classmate made the brunt



of "many 'bull-dyke' jokes." Hospitalman Hill also reported he had been asked point blank by other sailors if he is gay. Hill explained in his letter how the direct and indirect harassment created an uncomfortable and hostile environment in which he was required to work everyday. He had reached a point where he felt it necessary to make his command aware of his concerns.¹¹⁶

Hospitalman Hill's command reacted to the letter by ignoring his reports of harassment and informing

Virgilio Santos for The Advocate - Used with Permission

Hill they were retaining him. LT Cooper, Hill's command's advising attorney, explained to SLDN that the command conceded "HN Hill was indeed a gay male but CDR Mulvanny believed Navy policy allowed for him to retain an openly gay male if he determined it was for the good of the service."¹¹⁷

Hospitalman Hill's command saw that Hill was a good sailor, with a fine service record and therefore sought to retain Hill for the "good of the service." This simple act of retention however, did not address the issue of Hospitalman Hill's concern about continuing to work in an uncomfortable and threatening environment. There is a clear difference

between threats to your safety from an outside enemy and threats to your safety from within your own work group. In light of his command's disregard of his concerns and failure to address the harassment he was experiencing, Hill maintained his efforts to separate from the Navy and was honorably discharged in October 2002.

**NAVY CAN'T HAVE IT BOTH WAYS:
ASKING AND PURSUITS CONTINUE**

"The government must decide that it cannot have it both ways. It must also rid itself of the notion that one's sexual preference is a reflection of one's courage."

Keith Taylor, 23 year Navy enlisted wrote in an editorial to the Navy Times, December 16, 2002¹¹⁸

In contrast to their retention efforts towards many openly lesbian, gay and bisexual sailors, the Navy continues to ask and pursue sailors rumored to be homosexual in direct violation of "Don't Ask, Don't Tell." The Navy can't have it both ways. Sailors reported to SLDN being asked the following questions by other sailors and supervisors during the past year:

- ★ "We heard you are gay. Are you gay?"
- ★ "You gotta be gay?"
- ★ "Did someone go to a gay bar?"
- ★ "Why don't you go to a whore house? Are you a fag?"
- ★ "What are you some kind of fag?"
- ★ "Are you gay? Oh, you don't have to answer that." – asked by Petty Officer First Class
- ★ "Are you homosexual?" – asked by a non-commissioned officer

- ★ "Are you gay or something?" – asked by LT at Portsmouth

During the early spring of last year, Petty Officer First Class Derek Sparks discovered just how vulnerable a sailor can be under "Don't Ask, Don't Tell." After more than 14 1/2 years of service, he found himself under an excruciating command spotlight following a dubious report that he was gay and involved in homosexual activity onboard his ship. The investigation began after Petty Officer Sparks' Master Chief alleged Sparks and two other sailors were engaged in homosexual activity in Sparks' office. The Master Chief provided two statements of the alleged conduct. The first statement the Master Chief provided was less than a page and contained very few details about the alleged activity. The second statement, provided after his first statement, was much longer and gave the appearance that the Master Chief was coached in documenting his alleged observations of homosexual conduct.¹¹⁹

Throughout the command investigation into these allegations, the three sailors involved denied committing the acts. Petty Officer Sparks answered questions during numerous command interviews. Each time, he denied doing anything other than watching an action movie on the TV in his office

with the other two sailors. Each time, the questions seemed to get more involved and broader in scope.

- ★ Who is Sailor X (sailor from another ship)?
- ★ How did you meet Sailor A?
- ★ How did you meet Sailor B?
- ★ What is your relationship with Sailor A?
- ★ What is your relationship with Sailor B?
- ★ How would you characterize the relationship between Sailor A and Sailor X?
- ★ What were Sailor A and Sailor B doing when [you] left [your] office?¹²⁰

Petty Officer Sparks' command violated "Don't Ask, Don't Tell" and Navy policy by beginning an investigation based on dubious information, and continued to violate the policy by questioning Sparks about

events beyond the scope of the alleged conduct and seeking information about a sailor from another ship.



After the intensive questioning he faced from his command, Petty Officer Sparks decided not to fight his proposed discharge and leave the Navy. Sparks denied the allegation of homosexual conduct brought by his Master Chief, but admitted to

his command that he is gay. In April 2002, the Navy discharged Petty Officer Sparks, giving him a General discharge. Petty Officer Sparks considers this last Navy act as an additional insult. Prior to the Master Chief's allegations, Sparks

had an excellent service record and his own command recommended he receive an Honorable discharge. Petty Officer Sparks is now seeking to upgrade his discharge characterization through the Board for Correction of Naval Records.

HARASSMENT: NAVY CLIMATE NEEDS IMPROVEMENT

"[Quality of service]...also includes providing Sailors with a work environment of which they can be proud."

CNO Guidance for 2002, 4 January 2002¹²¹

The Navy's treatment of Petty Officer Sparks during its investigation and his discharge is indicative of how far the Navy still needs to go in improving its working environment. Another indicator of climate problems, despite the CNO's emphasis on improving the working environment, is the rampant anti-gay harassment reported during the past year. While there were fewer reports of harassment from sailors in 2002, a total of 230 reported violations is unacceptable.

As in previous years, sailors report to SLDN that the general climate in the Navy is one where "faggot," "dyke," and "queer" are part of the everyday language they hear. Further, they continue to report anti-gay comments and threats from peers as well as supervisors. The following are only a few of the threats and comments reported by sailors to SLDN during 2002:

- ★ "I don't want a pole smoker in my division."
- ★ "We can't guarantee your safety."
- ★ "If you are gay in my town, we'll kill you."

- ★ "I can't wait till we get under way again so I can watch your little queer ass drown."
- ★ "You are a fucking queer."
- ★ "Sometimes you don't have to ask, you can just tell."
- ★ "Faggot, if you are here tomorrow night, you'll go home in a body bag."

This type of anti-gay atmosphere is just the environment Petty Officer Jason Reilly and Airman Apprentice Jason Hiatt faced everyday aboard the USS Iwo Jima. Sometime in December 2001, rumors about Petty Officer Reilly being gay started to circulate around the ship. After becoming more and more uncomfortable with hearing rumors about his sexual orientation and suspected conduct, Petty Officer Reilly admitted to his command that he is gay. Following his admission, LCDR Buzzard questioned Petty Officer Reilly. In violation of Navy regulations and "Don't Ask, Don't Tell," LCDR Buzzard asked Petty Officer Reilly to prove his sexual orientation. LCDR Buzzard went so far as to incorrectly tell Petty Officer Reilly that kissing was not a homosexual act and alluded to Reilly that he needed to admit to more conduct. LCDR Buzzard then advised Reilly that if he admitted to engaging in sodomy he would be punished by court martial.¹²²

Shortly after Petty Officer Reilly's admission, Airman Apprentice Hiatt reported to his commander that he

is gay. Heitt knew Reilly was under investigation and was concerned for his own safety and security aboard the Iwo Jima. Petty Officer Reilly and Airman Apprentice Heitt used a buddy system aboard the ship for protection and their time spent together sparked more rumors about the pair's sexual orientation. Instead of ensuring their safety, the admissions by Reilly and Hiatt made their environment worse. Rumors turned into questions and anti-gay comments made directly to them.

In July 2002, SLDN assisted Petty Officer Reilly and Airman Apprentice Hiatt in reporting the intense anti-gay harassment they were encountering. This harassment included a threat by the ship's Command Master Chief to send Reilly to the brig if he was caught confirming he is gay when asked by others. Instead of holding sailors accountable for violating "Don't Ask, Don't Tell" by asking Petty Officer Reilly about his sexual orientation, the Command Master Chief tried to make Reilly's honesty a crime.¹²³ The Navy responded to the complaint by ordering the USS Iwo Jima's commanding officer to investigate his own ship and command actions. Without an investigation by someone outside of the Iwo Jima's chain of command, SLDN was not surprised to hear that the commanding officer "failed to substantiate any anti-gay harassment occurred against Petty Officer Reilly and Airman Apprentice Hiatt while onboard the ship..."¹²⁴

Shortly after the harassment investigation concluded, Petty Officer Reilly and Airman Apprentice Hielt sought relief to escape the hostile environment in which they served by provid-

ing additional information to the Navy to “prove” they are gay and requested discharge. In September 2002, the Navy ordered Reilly and Hielt placed on leave and they subse-

quently discharged the sailors in October 2002. As our report went to print, Petty Officer Reilly and Airman Apprentice Hielt still had not received their final pay from the Navy.

INCOMPLETE AND INEFFECTIVE:
A PROGRESS REPORT ON NAVY
AHAP IMPLEMENTATION

harassment training and prevention as very low priorities. The Navy has provided very little information on how they are addressing the four AHAP prongs of training, reporting, enforcement and measurement.

sexual harassment prevention, and grievance procedures. This training, revised in 2000, speaks to the issues of fostering climates of respect, and ensuring sailors are able to report harassment free from “harm, reprisal, or inappropriate or inadequate command response,” but it does not explain how, and to whom, a sailor can safely report anti-gay harassment.¹²⁶ The Navy also claims to specifically provide Navy leaders and legal professional with more in depth training on the prevention of anti-gay harassment and “Don’t Ask, Don’t Tell.”¹²⁷ Despite this claim, SLDN has been unable to obtain any training materials other than the GMT materials mentioned above.

“[R]egarding the Department of the Navy’s implementation of the Department of Defense Thirteen Point Anti-Harassment Action Plan ... I assure you that the Department of the Navy is sensitive to this issue, and that we require compliance with the letter and the spirit of the various laws, regulations and policies that surround it.”

William A. Navas, Jr., Assistant Secretary of the Navy (Manpower and Reserve Affairs) in a letter to Senator Mark Dayton, September 19, 2002¹²⁵

With regard to training and reporting, the Navy appears to fall well short of complying with the AHAP.

The Navy currently combines its “Don’t Ask, Don’t Tell” training with its general military training (GMT) for equal opportunity,

Despite assurance of compliance, available evidence suggests that the Navy continues to view anti-gay

combines its “Don’t Ask, Don’t Tell” training with its general military training (GMT) for equal opportunity,

FOLLOW THROUGH LACKING:
NAVY ANTI-HARASSMENT
ENFORCEMENT AND MEASUREMENT

SLDN has no evidence that the Navy has taken steps to implement the enforcement or measurement prongs of AHAP. The Navy GMT materials say little about what will happen to sailors who harass other sailors, or commands who violate “Don’t Ask, Don’t Tell.” Further, it

is not clear the Navy is measuring the effectiveness of its training in any systematic way. The Navy claims that the Inspector General staffs include specific interest items in their inspections on the question of “Don’t Ask, Don’t Tell” training, application and enforcement.¹²⁸ There is no indication that the Inspector General staffs seek information about anti-gay harassment. Furthermore, the Navy has not

explained what it does with the information the Inspector General staffs collect.

SLDN will continue seeking information about the Navy’s “Don’t Ask, Don’t Tell” and AHAP implementation. The Navy’s sincerity that it is moving to implement the AHAP and maintain dignity and respect for all sailors, however, remains questionable.

RECOMMENDATIONS:
SAFETY AND SECURITY OF SAILORS
MUST BE A PRIORITY FOR THE NAVY
IN 2003

There is no question that the Navy must make a commitment to implement the AHAP to reduce harassment and protect its sailors. Although SLDN understands the

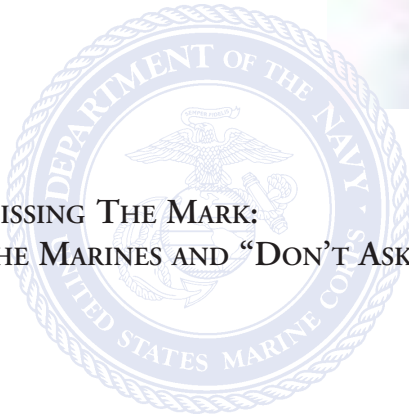
Navy is operating under intense OPTEMPO circumstances, reducing harassment and encouraging an atmosphere of respect without regard to sexual orientation can only improve the work of sailors everyday. SLDN recommends Navy leaders:

- ★ Open a dialogue with SLDN on training and implementation

of “Don’t Ask, Don’t Tell” and AHAP;

- ★ Update the GMT training to more clearly explain how and to whom sailors can safely report anti-gay harassment;
- ★ Authorize Equal Opportunity staff to investigate reports of harassment based on perceived

<p>sexual orientation;</p> <ul style="list-style-type: none"> ★ Instruct Navy leaders on how to hold accountable anyone who violates “Don’t Ask, Don’t Tell” or participates or condones anti-gay harassment; ★ Provide in-depth training on “credible evidence” and limits to 	<p>investigations under “Don’t Ask, Don’t Tell;”</p> <ul style="list-style-type: none"> ★ Create training tailored to different audience levels (command, judge advocates, senior NCOs, and inspectors general vs. junior enlisted ranks); ★ Actively measure the effective- 	<p>ness of “Don’t Ask, Don’t Tell” and anti-harassment training;</p> <ul style="list-style-type: none"> ★ Alter training as necessary when its effectiveness is found to be lacking; and ★ Raise improving command climates and working environments to a higher priority.
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**MISSING THE MARK:
THE MARINES AND “DON’T ASK, DON’T TELL”**

“IF YOU CAN DO THE JOB, YOU HAVE THE JOB.”
GEN Mike Hagee, the new Commandant of the Marine Corps,
discussing his approach to empowering enlisted Marines ¹²⁹

*“I THINK IT IS UNFORTUNATE THAT AS A MARINE
CORPS WE FIGHT FOR FREEDOM BUT SIMULTANEOUSLY
CANNOT GRANT GAYS AND LESBIANS THE FREEDOM TO
SERVE OPENLY.”*

Lance Corporal at Camp Pendleton, California¹³⁰

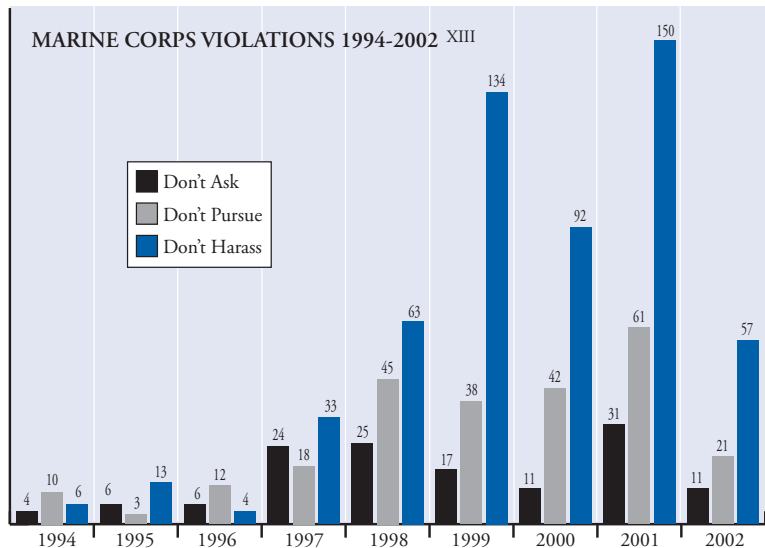
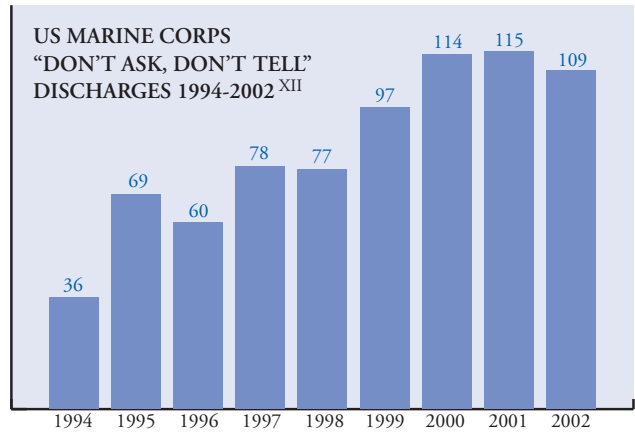
**The Marine Corps
saw some improvement
during 2002.**

Slightly fewer Marines were discharged for being lesbian, gay or bisexual. The Corps also saw a decrease in “Don’t Ask, Don’t Tell” violations with a total of 92 – the fewest violations since 1997. SLDN documented fewer “Don’t Harass” violations, providing some hope that the conditions under which lesbian, gay and bisexual Marines serve may be improving. The Corps conducted an “annual” review during 2002 of its “Don’t Ask, Don’t Tell” compliance and, surprisingly, publicly acknowledged that it is missing the mark, pledging to do better.¹³¹ The Commandant ordered renewed policy training.

These are positive steps in the right direction. The Marine Corps, however, still has a long way to go to

fully implement the AHAP and treat all Marines with dignity and respect. Unfortunately, too many Marines

report receiving death threats, being assaulted, or otherwise harassed



because of perceptions they may be lesbian, gay or bisexual. Similarly, too many Marines report to SLDN that they continue to be directly

asked whether they are gay, and continue to fear becoming the target of an intrusive inquisition into their private lives. Marine leaders also

continue to improperly give gay Marines lower discharge characterizations.

VULGAR STATEMENTS & A CLOSED FIST: ANTI-GAY HARASSMENT
CONTINUES

Marine NCO after the NCO learned that the Lance Corporal is bisexual, illustrates the nature of the

statements are made referring to homosexual acts.”¹³⁴

The command’s reaction to the Lance Corporal’s report? CWO2 Gutierrez “told me just to ignore them and to let them say what they were going to say.” The command’s refusal to address the criminal behaviors directed towards the Lance Corporal forced him to come out as the only means he felt he had to protect himself from further physical harm. The Lance Corporal stated, “I feel very threatened and in fear for my life.”¹³⁵

“Sissy you’re a fucking freak fucking fag shut up, fag.”

Comments directed towards a Camp Pendleton Lance Corporal by Marine noncommissioned officers¹³²

Corps’ ongoing problem with anti-gay harassment.

The NCO, Sgt. Galvan, threatened the young Marine, saying “if I ever caught you doing fag-got shit, I would kill you.” Soon thereafter, the Marine was physically assaulted by LCpl. Cascante.

Cascante called the Marine a “faggot” and proceeded to hit him in the face “with a closed fist.”¹³³

The Lance Corporal reported the assault and death threat to his company commander, Capt. Pace. The Lance Corporal stated “I am

The experience of this Lance Corporal should not be happening ten years into the life of “Don’t Ask, Don’t Tell.” The Marine Corps directly participated in the development of the AHAP and has publicly pledged to implement the Plan.¹³⁶ The reality in 2002, however, is that the Marine Corps’ anti-harassment efforts are not yet fully effective. The Marine Corps has yet to implement the AHAP’s four components – training, reporting, enforcement and measurement.



Note received by SLDN client

The case of a Camp Pendleton Lance Corporal, who found himself the target of a death threat from a

being harassed about this on a daily basis now the word faggot is used commonly and aggressively. Vulgar

TODAY’S LESSON: MARINE CORPS AHAP TRAINING IS SKETCHY, AT BEST

the Commandant directed new and clearer policy training.¹³⁹ The training plans developed by the Marine

Harass.”¹⁴⁰ This training, therefore, does not satisfy the AHAP requirements. A case from Twenty-nine Palms, California, provides an insight into the Marine Corps’ “Don’t Ask, Don’t Tell” training efforts.

“Numerous commands are not in compliance with the requirement to conduct required homosexual conduct policy briefings for Marines”

Commandant of the Marine Corps¹³⁷

Corps, however, make scarce mention of the “Don’t Harass” prong of the policy. In fact, SLDN’s review of the lesson plan and

An April 4, 2002 memorandum from Twenty-nine Palms on the subject of “Homosexual Conduct Discharge Potential” states: “The following is the Commanding Officer,

A Marine Corps review of “Don’t Ask, Don’t Tell” training found the Corps to be lacking. In response,

student handout prepared by the Marine Corps revealed they contain virtually no mention of “Don’t

"If I slipped up just once and let my real self show I fear that I will be killed or beat [sic] severely [other Marines] talk about what they would do if they found out that a Marine in their platoon was gay, namely kill or severely injure them."

A Private from Camp Pendleton, California¹³⁸

Marine Corps Communication and Electronics School (MCCES) guidance on Administrative Discharges for the reason of Homosexual Conduct."¹⁴¹

The Twenty-nine Palms memo, signed by "Captain Darrell V. Allen, Adjutant/Legal Officer Captain – USMC," makes a number of surprising assertions. Among them:

- ★ "Homosexuals can and do serve [h]onorably in the Marine Corps. Homosexuals can and do make some of the best Marines. Homosexuals are capable of Military Service and can and do perform as well as anyone else in the Military;" and
- ★ "Claiming to be Homosexual is not automatic grounds for discharge. We hesitate to discharge Marines solely based on a statement they make about their Sexual Orientation."

SLDN applauds this progressive stance and agrees that lesbian, gay and bisexual Marines should not be discharged for honestly stating their sexual orientation. In our experience, most Marines who make coming out statements do so in response to anti-gay harassment. Marine leaders, therefore, need to address the harassment that is likely driving these coming out statements. Allowing the Marine to continue serving does not relieve the command of its responsibility under the AHAP to stop the harassment. This Twenty-nine Palms' "Don't Ask, Don't Tell" training memo does not make this point.

The memo also asserts that gay Marines will only be discharged when evidence of conduct which brings "discredit on the Armed Forces" is found. The memo states:

- ★ "During a period of 2 years, 2000 through 2001, MCCES has had 19 Marines considered for discharge for Homosexual Conduct. Of those considered, only 5 were actually discharged. These 5 were separated when evidence was found that proved they were engaging in Homosexual Conduct of a nature to bring discredit on the Marine Corps;" and
- ★ "Examples of evidence that was [sic] found include pictures on a website, photographs found in the barracks room, eyewitnesses who caught a Marine in the act, or a combinations [sic] of various factors and other evidence that can support a statement of Sexual Orientation."¹⁴²

"Don't Ask, Don't Tell" contains no requirement that Marine commands obtain evidence of service discrediting behavior in their handling of gay cases. SLDN is concerned that requiring evidence of conduct before discharging gay Marines may lead to abuses. This concern is reinforced by the questions this same command believes are appropriate to ask in investigating gays.

- ★ "Are you currently, or do you intend to engage in homosexual acts?"
- ★ "Do you have a propensity to engage in homosexual acts?"
- ★ "Are you currently or do you intend to enter into a homosexual marriage?"

These questions are inappropriate because they exceed the scope of any legitimate fact finding inquiry allowed under the "Don't Pursue" limitations. This Twenty-nine Palms Policy memorandum indicates that some Marine leaders do not understand the basics of the "Don't Ask, Don't Tell" policy.

SLDN is concerned that the command seems to be encouraging investigating officers to dig up dirt on gay Marines in an effort to identify service discrediting behaviors. Evidence of such behaviors could subject the Marine to UCMJ criminal prosecution, or allow the command to administratively give the Marine a damaging "other than honorable" discharge characterization. As a matter of policy implementation, this part of the Twenty-nine Palms memo is troubling.

The notion of gay Marines serving openly is a positive one. Twenty-nine Palms' admission that it is denying gay discharges to all but those found engaging in prohibited sexual behaviors indicates that gay Marines are serving openly. This command's admission that its gay Marines are not detrimental to morale or readiness further discredits the already weak rationale for the gay ban.

SLDN suspects the ongoing war against terrorism and the need to retain qualified service members may have influenced the Twenty-nine Palms command's policy pronouncement. Although the Marine Corps issued a "stop loss" directive – implemented on January 15, 2003 and essentially halting personnel separations across the Service – it contains an express exception that allows gay discharges to continue.¹⁴³ It is foreseeable that commanders will nevertheless decide to retain gay Marines during this time of combat necessity.

**AN OBLIGATION TO REPORT:
A FAILURE TO IDENTIFY SAFE
CHANNELS**

“I can’t tell you the number of times [the anti-gay harassment] got so bad I’d just sit in my room . . . tying a noose. I was depressed, and I couldn’t even talk to a psychiatrist because they’d be obligated to report me for being gay.”

A gay Marine in Okinawa¹⁴⁴

Marine leaders have established, as required by the AHAP, “avenues for reporting mistreatment, harassment, and inappropriate comments or gestures.”¹⁴⁵ The Marine Corps has not, however, designated confidential resources for reporting anti-gay harassment. Marine Corps policy states that reporting harassment through the chain of command is the “preferred method,”¹⁴⁶ although Marines may also make reports to Chaplains and IGs. Lesbian, gay and bisexual Marines who report harassment, however, face the risk of investigation and discharge if they

inadvertently discuss their sexual orientation during the reporting process. Therefore, Marines are understandably hesitant to report anti-gay mistreatment at all.

The Twenty-nine Palms command’s “Don’t Ask, Don’t Tell” memo discussed above illustrates the dilemma facing gay

Marines. The memo flatly asserts that “there is no threat to Homosexual Service Members of this command, either physically or professionally (career).”¹⁴⁷ This would come as news to the many lesbian, gay and bisexual Marines serving at Twenty-nine Palms. In fact, Twenty-nine Palms’ reputation as being a particularly hostile place for gay Marines is well documented.

In SLDN’s 7th *Conduct Unbecoming* report, we discussed the case of a senior Twenty-nine Palms officer’s anti-gay misconduct. Following the

1999 murder of Army PFC Barry Winchell, Marine Corps Lt. Col. Edward Melton sent out an official email mocking PFC Winchell’s murder and referring to gays as “homos” and “back side rangers.”¹⁴⁸ The same Report contains the story of Twenty-nine Palms LCpl. Jackie Meyer who reported “[t]he people I work with are very homophobic I am forced to stay silent while my coworkers talk about how they hate gays and that if their kids end up gay they’ll disown them and kick them out.”¹⁴⁹

The Marine Corps is still missing the AHAP reporting mark. Lesbian, gay and bisexual Marines will report harassment when Marine leaders make it possible for them to do so. The Marine Corps should designate confidential reporting resources, including Chaplains, defense attorneys, IG’s, medical personnel and Equal Opportunity advisors. Until such time, the Corps’ reality will continue to differ starkly from its rhetoric.

**MISSING IN USMC:
ANTI-HARASSMENT ENFORCEMENT
AND MEASUREMENT**

“Jokes and talk referring to mice and anal sex involving men, fudge packers, and fags were laughed at in my presence during the past few drills I attended. More specifically, at a class given during October’s drill commander Caprio was quoting General Lejune: ‘When asked why we don’t wear a beret he said then we’d either look like the French or fags and we sure don’t want to be either.’”

Marine Corporal Reservist in New Jersey¹⁵⁰

Despite the AHAP requirement to enforce anti-harassment rules and measure the effectiveness of anti-harassment programs, the Marine Corps continues to tolerate mistreatment, harassment and derogatory comments about lesbians, gays and bisexuals. Reports of those engaging in the misconduct being held accountable are scarce, indicating that Marine

leaders are not taking the AHAP enforcement requirement seriously.

The Marine Corps also does not have a system in place to measure AHAP effectiveness. Although the Marine Corps Inspector

General appears to be taking the leadership role in monitoring “Don’t Ask, Don’t Tell” training compliance, neither the IG nor any other Corps agency appears to be taking a serious look at the substance of the anti-harassment training or the training’s effectiveness.

The Commandant ordered Marines to be “tested annually on the Policy,

which also will be made part of the Corps’ Common Skills Handbook.”¹⁵¹ This is a good first step towards being able to better measure Marines’ “Don’t Ask, Don’t Tell” understanding. The inclusion of “Don’t Ask, Don’t Tell” information in the Common Skills Handbook is a very positive development which should also assist unit level commands in better training their Marines.

An example of a good AHAP measurement tool, however, is found in the DoD IG survey used following the 1999 PFC Winchell murder.¹⁵² This confidential survey asked direct questions about the frequency and nature of anti-gay harassment. The Marine Corps IG should adopt questions similar to those used in the DoD IG survey to better gauge the occurrence of harassment within the Corps, as well as the effectiveness of anti-harassment training.

ACCEPTABLE PREJUDICE: MARINES STRUGGLE WITH “DON’T ASK” AND “DON’T PURSUE” VIOLATIONS.

“[The Lieutenant] attempted to draw similar personality traits between these ‘alternative individuals’ and myself. She later directly identified these individuals as ‘homosexuals.’ She attempted to get some kind of affirmation from me”

A Corporal from New River, North Carolina. The Marine reports that he and two others were directly asked whether they are gay.¹⁵³

“Prejudice against homosexuality is not only an acceptable prejudice in the Marine Corps, but a prejudice proudly held aloft and openly applauded within commands as one of the virtues which set Marines apart from civilians.”

Captain Kira K. Zielinski, Cherry Point, North Carolina¹⁵⁴

During 2002, SLDN documented a decrease in “Don’t Ask” and “Don’t Pursue” violations. The persistence of violations, however, ten years into the life of “Don’t Ask, Don’t Tell” is concerning. The Marine Corps Commandant’s concession that many of his commands are not in compliance with “Don’t Ask, Don’t Tell” requirements may help to explain the continued occurrence of “ask” and “pursue” violations. A close review of the case of Capt. Kira Zielinski is helpful in fully appreciating the scope of the problem. If this could happen to a distinguished officer, it could easily happen to any Marine.

The story of Capt. Kira Zielinski, a Marine helicopter pilot, demonstrates that commanders and their military attorneys continue to misinterpret the Marine Corps’ “Don’t Ask, Don’t Tell” policy and are not properly enforcing it.

Capt. Zielinski told her command in April 2001 that she is bisexual. In response, her chain of command conducted two improper substantial investigations. Substantial investiga-

tions entail inquiries which extend beyond questioning the Marine and her chain of command. Substantial investigations require Service

Secretary authorization.¹⁵⁵ After the initial improper investigation, the Cherry Point commanding general, Major General Thomas A. Braatan, appears to have ordered a further investigation,¹⁵⁶ despite his request seeking Secretary of the Navy approval for a “substantial investigation” being disapproved.

During the investigations, a Marine attorney, Capt. V.C. Danyluk, the appointed inquiry officer, improperly contacted members of Capt.

Zielinski’s squadron who were not in her chain of command.¹⁵⁷ Capt. Danyluk also intrusively questioned Capt. Zielinski’s mother about Capt.

Zielinski’s sexuality and her “propensity to engage in homosexual behavior in the future.”¹⁵⁸ Capt. Danyluk then contacted a Marine Chaplain from whom Capt. Zielinski had sought counseling, impermissibly seeking information Zielinski may have shared, in confidence, with the Chaplain.

The Marine Corps eventually notified Capt. Zielinski that a Board of Inquiry (BOI) would be convened, threatening her with an “other than

honorable” discharge – although there was no basis for an OTH discharge in her case.

Capt. Zielinski sought assistance from her squadron Chaplain, Chaplain Grey. Chaplain Grey – instead of assisting this officer or directing her to a Chaplain who would be able to assist – proceeded to berate Capt. Zielinski, calling her a “sinner” and suggesting that she needed counseling for her “un-Christian tendencies.”¹⁵⁹

During the investigation, Capt. Zielinski reported anti-gay harassment she had experienced and observed at Cherry Point, as well as previous commands including Quantico, Twenty-nine Palms, El Toro, and Okinawa. For example, Capt. Zielinski informed the investigating officer of anti-gay misconduct in Okinawa, which included her commanding officer and department

heads frequently using anti-gay language in her presence.¹⁶⁰ Although Capt. Zielinski reported this misconduct, there is no evidence that the Marine Corps took any action to investigate the misconduct or to hold those responsible accountable. Capt. Zielinski was honorably discharged from the Marine Corps in 2002.

Capt. Zielinski’s case illustrates the failings of the Marine Corps’ “Don’t Ask, Don’t Tell” implementation. Command officials had apparently never been trained on the policy. “Don’t Ask, Don’t Tell” was not enforced; no one was held accountable for their misdeeds. SLDN has filed a formal Marine Corps IG complaint on Capt. Zielinski’s behalf and we are awaiting the Corps’ response.



IMPROPER: MARINES CONTINUE TO GIVE STIGMATIZING DISCHARGE CHARACTERIZATIONS

In last year's *Conduct Unbecoming* report, we expressed alarm that in some statements cases Marines were being given improper discharge characterizations in an apparent effort to retaliate against the Marine for coming out. During 2002 this disturbing trend continued.

For example, a Private First Class in New River, North Carolina, recently found himself faced with an effort by his command to improperly give him a "general, under honorable conditions" discharge instead of the "honorable" that he deserved.¹⁶¹ Lower discharge characterizations disadvantage service personnel by limiting their eligibility for many veterans' benefits and programs. The mere fact that a Marine is invol-

untarily separated prior to the end of his enlistment cannot be a reasonable justification for punishing a Marine with a lower discharge characterization than he otherwise has earned by his performance. The Marine Corps should not be in the business of penalizing gay Marines for simply acknowledging the truth of their sexual orientation.

RECOMMENDATIONS:
A CALL TO CHANGE FOR THE MARINE CORP IN 2003

The Marine Corps needs to do much more to satisfy the letter and the spirit of "Don't Ask, Don't Tell" and the AHAP. Marine leaders have a professional and moral duty to take care of all of their Marines, including those who are lesbian, gay and bisexual. GEN Hagee's admonition that "if you can do the job,

you have the job" should be more than a rhetorical sound bite. During 2003, the Marine Corps should:

- ★ Fully implement all facets of the AHAP;
- ★ Designate confidential resources for reporting anti-gay harassment;
- ★ Hold accountable leaders who tolerate anti-gay harassment;

- ★ Direct NCOs to become involved in all facets of the gay policy;
- ★ Task Equal Opportunity representatives to oversee the AHAP (as they do with other types of harassment, including gender and race harassment); and
- ★ End the practice of giving lesbian, gay and bisexual Marines lower discharge characterizations than their service records warrant.



TIDES OF CHANGE: A RESTRUCTURED COAST GUARD GRAPPLES WITH “DON’T ASK, DON’T TELL”

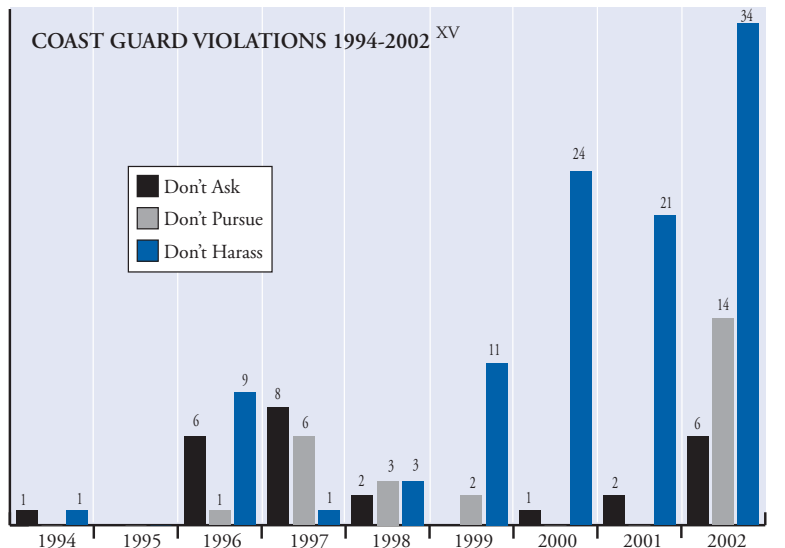
“THE U.S. COAST GUARD IS EMBARKING ON A TRANSFORMATION OF LEVIATHAN PROPORTIONS...”
Mike Bruner, MSNBC¹⁶²

Discharges under “Don’t Ask, Don’t Tell” reached an all-time high during FY 2002 as the United States Coast Guard struggled with adapting to its new mission and place within the newly formed Department of Homeland Security.

Transitioning to its updated role in an era of heightened security, the Coast Guard faces a stark contradiction. Active duty lesbian, gay and bisexual Coast Guard members face asking, pursuit, harassment and losing their jobs while they work side by side with Coast Guard civilian employees, Auxiliary members, federal law enforcement and intelligence personnel protected from discrimination based on actual or perceived sexual orientation.¹⁶³

Coinciding with the increase in dis-

charges, SLDN received more requests for assistance from Coast Guard members



and the most reported violations of “Don’t Ask, Don’t Tell” ever seen. Significantly, during both 2000 and 2001, Coast Guard members reported zero “Don’t Pursue” violations to SLDN. This past year, however, Coast Guard members reported 14 “Don’t Pursue” violations.

The increased numbers of discharges and reports of “Don’t Ask, Don’t Tell” violations may be caused by the Coast Guard’s turbulent year and its outdated training. In an effort to remedy its acknowledged deficiency in training, the Coast Guard began revamping its “Don’t Ask, Don’t Tell” training and anti-harassment training during 2002. Although the new training Rear Admiral Ames promised to SLDN in 2001 has not yet surfaced in final form, the Coast Guard did make specific additions to its personnel manual to reflect some of the principles outlined in the AHAP. The new language in its personnel manual is positive and signif-

COAST GUARD’S NEW ROLE IN HOMELAND SECURITY

During a year where the Coast Guard was adjusting to its increased security responsibility, winds of change came in the form of the new Department of Homeland Security. Last fall the United States Congress passed the Homeland Security Act of 2002, which transferred the Coast Guard from the Department of Transportation to the newly formed Department of Homeland Security. This transition was completed March 1, 2003.¹⁶⁴ The new Department of Homeland Security will combine resources from many different government agencies, such as the Departments of Agriculture, Commerce, Justice, Treasury, and Transportation. “With 41,000 employees, the Coast Guard will be the second-largest component of the new department.”¹⁶⁵

As a component of the Department of Homeland Security, the Coast Guard will be working with more security and law enforcement agency personnel than ever before. Federal law enforcement officers, intelligence personnel, and even military personnel from other countries will work along side Coast Guard members with the goal of securing our people and our country. From this team, only the active duty Coast Guard members work in fear of being targeted, and perhaps losing their jobs, because of their perceived sexual orientation.

icantly improves the manual. During the past year, the Coast Guard also began drafting changes to its annual Equal Opportunity

training curriculum. The target date for finalizing these changes is tentatively set for the summer of 2003.

NOT ALL COAST GUARD CHANGE IS GOOD: ASKING, HARASSMENT AND PURSUIT’S RISE

“He’s a fucking faggot.” “Would love to take care of business if we found a gay on board.” “I hear there is a queer on board.”

Anonymous quotes heard by SLDN Coast Guard clients

Inappropriate investigations based on rumors and innuendo, and without proper command authorization, were present in numerous SLDN Coast Guard cases in 2002. Petty Officer Lee Reinhart’s case is one example of the troubling trends we saw over the past year in the Coast Guard. An environment accepting of rumors and anti-gay harassment seems to be growing.

Lee Reinhart joined the Coast

Guard as Petty Officer Second Class following three years of civilian life. Previously honorably discharged from the Navy, Reinhart decided he missed the military and enlisted in the Coast Guard. Excited about his new career, Petty Officer Reinhart settled into his new assignment aboard the USCGC

Hamilton. Nothing warned him of the events that would quickly lead to his discharge from the Coast Guard and end his dream of serving to protect his country.

Rumor and innuendo ended Petty Officer Reinhart’s military career. Shortly after his first deployment began, Reinhart said he began to hear rumors about the sexual orientation of other crewmembers of the Hamilton. Although concerned,

Petty Officer Reinhart ignored this climate until the anti-gay rumors turned to him. During a deployment stop in Portland, Oregon, Petty Officer Reinhart and a few other enlisted members of the crew visited a gay bar. Under “Don’t Ask, Don’t Tell,” this visit to the gay bar is associational behavior and is not evidence of Petty Officer Reinhart’s sexual orientation or that of any of the other crewmembers. Unfortunately, this did not stop the development of rumors leading to an inappropriate investigation. While the Hamilton was sailing to Hawaii, Petty Officer Reinhart’s Chief jokingly relayed rumors about a couple of gay crew members while in the chiefs’ mess. The Hamilton’s command senior chief reported these jokes and rumors he overheard in the mess to the ship’s Executive Officer (XO). Acting on these

rumors, and seemingly without prior knowledge or approval by the Hamilton's commanding officer, the XO began an inappropriate investigation into Petty Officer Reinhart's sexual orientation. "Don't Ask, Don't Tell" explicitly states that only the commanding officer has the authority to initiate an investigation into an allegation of homosexual conduct based on "credible evidence." Further, rumors do not constitute credible evidence.

A fellow crewmember alerted Petty Officer Reinhart that the XO was questioning Hamilton crewmembers about his sexual orientation. Concerned about this investigation and his career, Petty Officer Reinhart used his chain of command and went directly to the XO to find out what was going on. Waiting outside of the XO's office, Reinhart saw another crewmember he had

gone to the gay bar with leaving the XO's office. This crewmember informed Petty Officer Reinhart he already had provided a statement to the XO regarding his own sexual orientation.

Petty Officer Reinhart faced question after question from the XO after entering the office. Despite the fact that no conduct occurred at the gay bar, Reinhart struggled to remain silent about his own sexual orientation as the questioning persisted. It became even more difficult after the XO told Reinhart he would only stop questioning other crewmembers if Reinhart stated he was gay. Finally, Petty Officer Reinhart admitted to the XO he had gone to the gay bar in Portland, and he is gay.

The remainder of the trip to Hawaii was unbearable for Reinhart.

Rumors about the sexual orientation of Reinhart and other crewmembers escalated to the point where Reinhart became concerned more crewmembers were going to come under investigation. Indeed, Reinhart heard from two other crewmembers that they were under investigation because of rumors about their sexual orientation. By the time the boat reached Hawaii, Petty Officer Reinhart felt defeated. He decided not to fight his command's recommendation for his discharge.

Although Petty Officer Reinhart received an honorable discharge from the Coast Guard, he still wants nothing more than to be back in the service. He hopes when "Don't Ask, Don't Tell" ends, he will be able to reenlist and finish his career in the military.

CLEARING THE WATERS: COAST GUARD SEEKS TO CHANGE "DON'T ASK, DON'T TELL" AND ANTI-HARASSMENT TRAINING

"The Coast Guard does not tolerate harassment and mistreatment of anyone, whether they are service members, civilian employees, Auxiliarists or members of the general public, for alleged or perceived sexual orientation, or any reason."

Coast Guard Manual, Chapter 12.E.1, para 4¹⁶⁶

Personnel Manual states, "[h]arassment can take different forms, ranging from 'innocent' comments and jokes causing a hostile climate, to direct verbal or physical abuse."¹⁶⁷

The Coast Guard has not completed the training modifications on anti-harassment and "Don't Ask, Don't Tell" promised in

2001. SLDN believes the Coast Guard remains committed to revising its training. The timeline, however, was affected last year by its preparation for transition to Homeland Security.

SLDN expects the Coast Guard to fulfill its commitment and provide additional guidance regarding anti-gay harassment in the Equal Opportunity curriculum it is currently revising. To assist in this

work, in June 2002, SLDN submitted a memo to the Coast Guard suggesting the training include the AHAP prongs of training, reporting, enforcement and measurement.¹⁶⁸ Specifically, SLDN suggested the Coast Guard ensure its training materials contain clear and accurate information using appropriate vehicles to illustrate prevention of anti-gay harassment and emphasizing strong leadership and accountability. SLDN also suggested the Coast Guard tailor its training material to its audience, preferably with commanding officers, senior noncommissioned officers, attorneys, Inspectors General, chaplains and equal opportunity officers receiving specialized training.

Final suggestions included clarifying to whom and how Coast Guardsmen should report anti-gay harassment, guiding principles on holding guardsmen accountable for

anti-gay harassment, and measuring the effectiveness of the Coast Guard's training program on anti-gay harassment.

Measurement is especially important because changes to the Coast Guard Equal Opportunity curriculum should target the prevention of anti-gay harassment specifically, not just

general harassment. SLDN looks forward to receiving concrete information during 2003 on how the Coast Guard will address the AHAP requirements.

RECOMMENDATIONS: THE COAST GUARD IN 2003 WORKING FOR CHANGE IN THE HOMELAND

In January of 2003, SLDN representatives met with RADM Kenneth T. Venuto, the Assistant Commander for Human Resources, and members of his staff. As occurred last year, when SLDN met with RADM F.L. Ames, the dialogue in the meeting was frank and productive. With assurances that SLDN and the Coast Guard have a mutual goal in preventing harassment of any Coast Guard member, SLDN remains encouraged in our continued relationship with the Coast Guard. In

the coming year, SLDN looks forward to the completion of the Coast Guard's revised training on "Don't Ask, Don't Tell" and anti-gay harassment and hopes to see the training specifically address:

- ★ Harassment based on sexual orientation;
- ★ To whom, and how members should report anti-gay harassment;
- ★ The identification of safe spaces for Coast Guard members to receive confidential counseling;
- ★ Examples of harassment, including name-calling and

jokes, using anti-gay language; and

- ★ Clear guidance to Coast Guard commands on "credible evidence" and investigative limits under "Don't Ask, Don't Tell."

The new training should use blunt, specific language to clarify to all members of the Coast Guard that this type of harassment is unacceptable and those using these words will be held accountable.

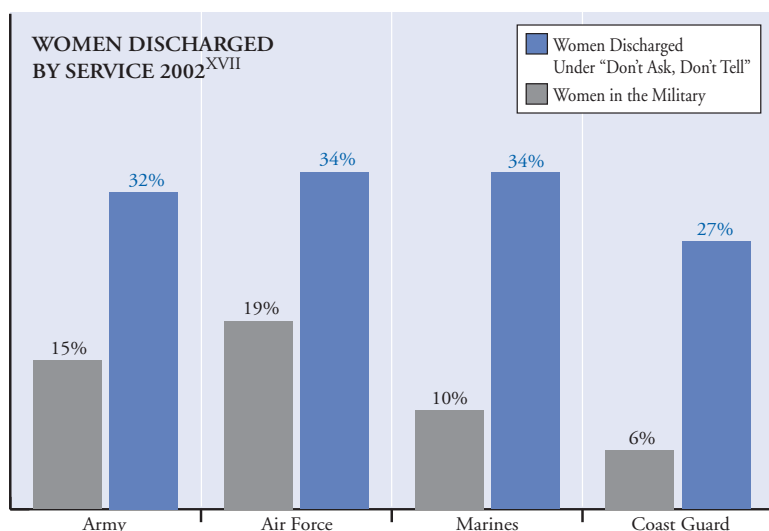
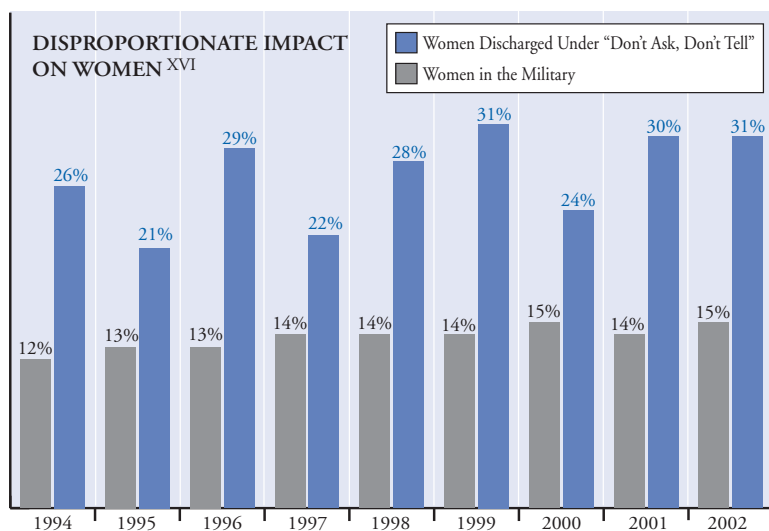
2003 opened positively with the Coast Guard and SLDN hopes this foreshadows beneficial changes to come throughout the year.

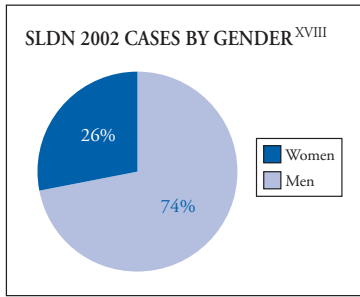
Disproportionate Impact on Women and Youth



SLDN has long reported on the disproportionate impact of “Don’t Ask, Don’t Tell” on women and youth. This year is no exception.

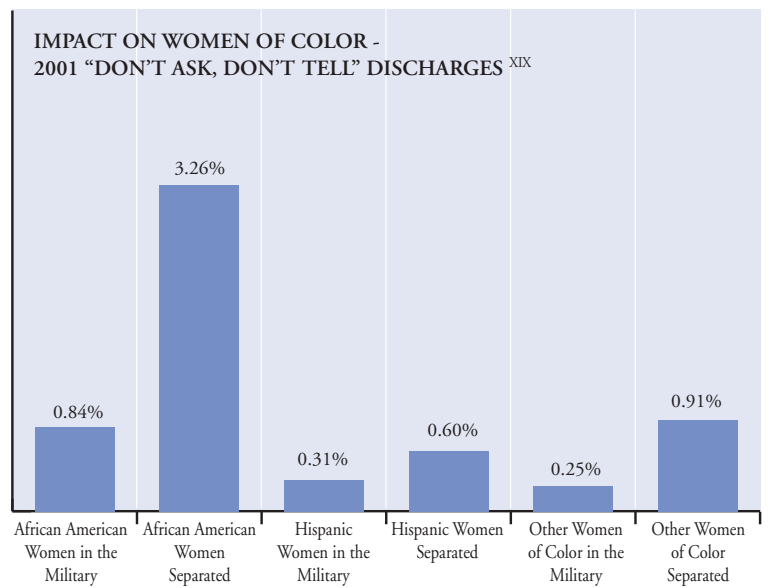
Women have been consistently discharged at a rate nearly twice their presence in the service. While we do not have all the discharge numbers for FY 2002, the numbers we do have indicate this trend continues. Thirty-six percent of the Army’s discharges under “Don’t Ask, Don’t Tell” were women, while women comprise only 15% of the Army’s total force strength. In the Coast Guard, 34% of the discharges were women, while 7% of the force is women. Similarly, in the Air Force 34% of the “Don’t Ask, Don’t Tell” discharges were women, while women only comprise 19% of the Air Force’s total strength. In the Marines Corps, 27% of the “Don’t Ask, Don’t Tell” discharges were women, compared to their being 6% of the Corps. This disproportionate impact is also born out by SLDN cases; women comprised 26% of SLDN cases for 2002.





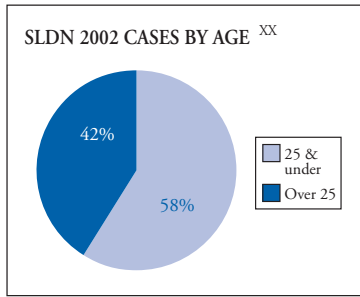
The policy hits women of color especially hard. While we do not have the data for FY 2002, a look at the FY 2001 discharge numbers makes this clear. African American women were discharged at almost three times their presence in the military. Latina and other women of color were also discharged at a disproportionate rate. SLDN does not know why African American women are impacted so hard by this policy. SLDN is committed to further study on this issue.

Women continue to be disproportionately impacted by “Don’t Ask, Don’t Tell” because of lesbian baiting and gender bias.¹⁶⁹ Lesbian baiting is a form of anti-gay harassment as



well as a form of sexual harassment. Women are often called lesbians, regardless of their sexual orientation, for a variety of retaliatory reasons. Some men accuse women who refuse their sexual advances of being lesbians. Other men who sexually harass women accuse them of being lesbians when the women report the sexual harassment, in an attempt to turn the investigation away from

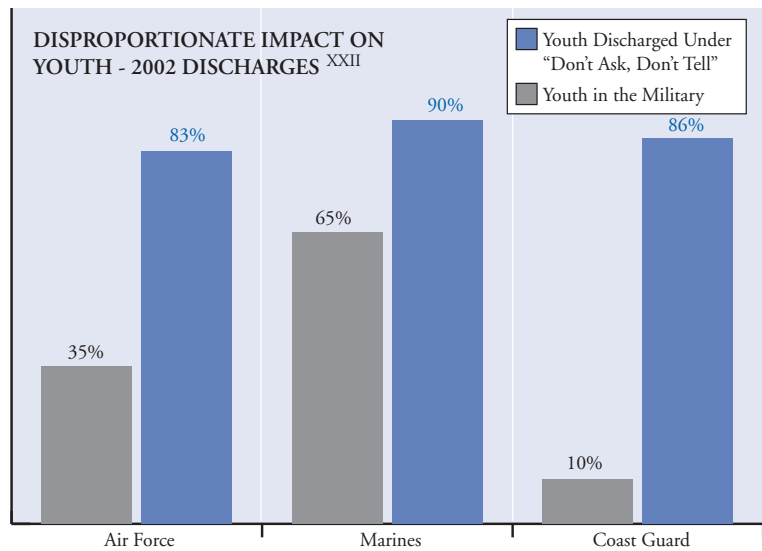
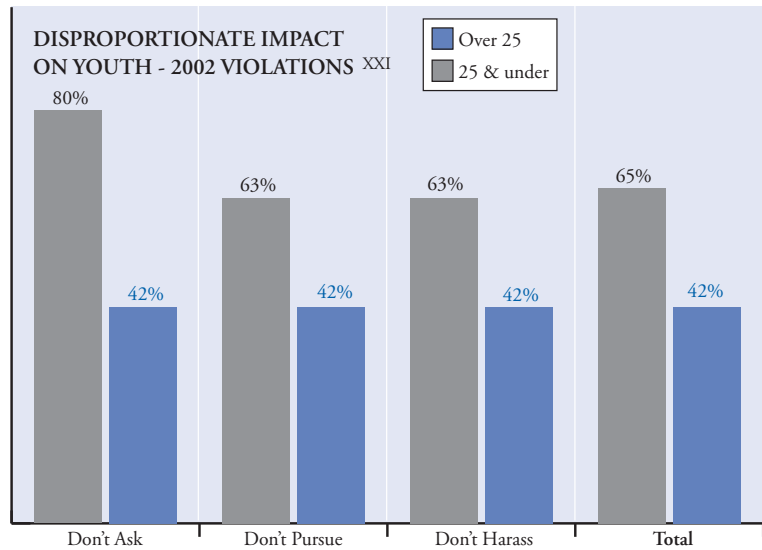
their own misconduct. Others, men and women, accuse female superior officers of being lesbians in retaliation for poor performance evaluations or unpopular orders. Yet others accuse successful women of being lesbians to derail their careers. The stereotype remains that women in nontraditional job fields are viewed, as many have noted, as “dykes.”



“Don’t Ask, Don’t Tell” also heavily impacts young adults aged 18-25.

Due to lack of data from DoD, SLDN only has the discharge data for FY 2002 from the Air Force, Marine Corps and Coast Guard. In the Air Force, 83% of the “Don’t Ask, Don’t Tell” discharges were young adults, while they comprise only 35% of the force. In the Marine Corps, youth comprise 65% of the force, but 95% of the “Don’t Ask, Don’t Tell” discharges. Service members under 26 comprise only 10% of the Coast Guard forces, yet they comprised 86% of the FY 2002 discharges under “Don’t Ask, Don’t Tell.” This is a consistent trend. In FY 2001, while young adults comprised only approximately 42% of the other armed forces, they comprised 90% of the Marine Corps and Navy discharges and 79% of the Coast Guard gay discharges.¹⁷⁰ Similarly, youth comprise a disproportionate number of SLDN’s cases. Young adults comprised 58% of SLDN clients for reporting year 2002.

The vast majority of “Don’t Ask, Don’t Tell” violations - 65% - were reported to SLDN by youth. “Asking” is rampant; 80% of all asking violations were reported by young adults. Harassment too continues to be a disproportionate problem among young service members - 61% of all harassment violations



were reported to SLDN by youth. The DoD Inspector General has also found that the majority of anti-gay harassment is inflicted by junior enlisted men on other junior enlisted men - the majority of who are young adults aged 18 to 25.¹⁷¹

The military is the largest employer in the United States, with approximately 2.5 million members on active duty and in the reserves. The

military is also the largest employer of youth in our country, with more than one million of the active and reserve population between the ages of 18 and 25. The service members most affected by the policy are young men and women. The military is a means by which young people move up and out of poverty. To deny or cut short opportunities for young lesbians, gays and bisexuals who want to serve our country is wrong.

Why do Service Members Make “Statements?”



“Don’t Tell” is commonly viewed as the opposite side of the coin from “Don’t Ask.”

While a service member cannot “ask” another service member about his or her sexual orientation; lesbian, gay and bisexual service members cannot “tell” the military about their sexual orientation.

Current policy, however, does not prohibit “telling” in all circumstances. It allows for gays to “tell” defense attorneys,¹⁷² chaplains,¹⁷³ security clearance personnel¹⁷⁴ and, in limited circumstances, doctors who are treating patients for HIV.¹⁷⁵ The “Don’t Tell” privacy rules do not explicitly state whether statements of sexual orientation in other private contexts are permitted.

The policy allows all service members to associate with gay friends, participate in gay-friendly organizations and read gay publications.¹⁷⁶

Further, the policy states that “sexual orientation is a personal and private matter.”¹⁷⁷ SLDN believes that gay service members should be able to talk openly and honestly with psychotherapists, physicians, law enforcement officials, family and friends. Our view is supported by those who helped craft the current policy, former Under Secretary of Defense Edwin Dorn¹⁷⁸ and military sociologist Charles Moskos, of Northwestern University.¹⁷⁹

SLDN’s interpretation, however, is not reflected in current application of the policy. While some good commands do not punish service members who disclose their sexual orientation in private, discharge actions against other service members who make disclosures in similar contexts are routine. The reality is that service members who come out to anyone, anywhere, anytime risk discharge.

The Pentagon has suggested that gays are “voluntarily” coming out. The

Pentagon has admitted, however, that it has no evidence to support its theory.¹⁸⁰ There is no such thing as a “voluntary discharge” under “Don’t Ask, Don’t Tell” as gay service members who face discharge cannot elect to stay in service. They have no choice. Most of the discharges under the policy, however, are characterized as “statement” cases – where a service member has told someone about their sexual orientation. This raises the question - why are service members making statements?

There are numerous reasons why service members decide to make statements to their commands about their sexuality. Some choose to make statements because they are being harassed; some choose to make statements because they are being threatened or blackmailed; some choose to make statements because they cannot lie about their lives any longer; and some choose to tell their commands about their sexuality because they believe that they have no other option.

HARASSMENT: DIFFICULT TO STAY SILENT IN FEAR

Harassment is one of the primary reasons service members who contact SLDN decide to make statements. After months, sometimes years, of being subjected to constant harassment they have lost faith that their chain of command will protect them. They have no confidence that they will not lose their careers and be subject to more intense harassment if they file a complaint. Unfortunately, these concerns are justified. Until the Pentagon takes the necessary steps to address anti-gay

“fags die!”

Note left on SPC Powell’s Car

SPC Brad Powell was compelled to reveal his sexual orientation to escape harassment that threatened his physical safety. His NCO told soldiers to visualize “blowing up a gay bar” during a grenade training exercise. SPC Powell heard NCOs

say “the only way to decrease our nuclear arsenal is to put all fags on an island and nuke it” and “the only thing a good fag needs is a good fag bashing.” To escape this hostile climate, SPC Powell revealed his sexual orientation to his command. Shortly thereafter, he received a note on his car stating “fags die,” reaffirming for SPC Powell that the only way to protect himself was to reveal that he is gay.

harassment, service members will continue to justifiably believe that they

have no choice but to reveal their sexual orientation to protect themselves.

SILENCE: NOT SIMPLE

ARMY: “Integrity: Do What’s Right, Legally and Morally”

United States Army Core Values181

AIR FORCE: “Integrity First”

United States Air Force Core Values182

NAVY: “Honor: Be honest and truthful in our dealings with each other.”

United States Navy Core Values183

MARINE CORPS: “Integrity ... means being honest, candid, and upright, always.”

United States Marine Corps Core Values184

COAST GUARD: “Honor - Integrity is our standard”

United States Coast Guard Core Values185

Each of the services stresses the virtue of integrity. If lesbian, gay or bisexual service members “tell” anyone – military or civilian – their careers may be in jeopardy. Lesbians, gays and bisexuals are therefore forced to lie in order to serve. For many service members, compromising their personal integrity is too much. Consequently, they are honest and “tell.”

During an Army Equal Opportunity training, the instructors told anti-gay “jokes.” The unit commander, Captain Ruiz, suggested “anyone who is gay to raise their hand if they felt offended by the jokes.”¹⁸⁶ Army Sergeant Sonya Contreras was in the audience. After five years, SGT Contreras felt despondent and could stay silent no more. She wrote to her command, “I have not raised my hand once, or spoken out against anyone who has felt free to make homosexual comments and jokes in the nearly five years that I have served in our nation’s Army. But today, Sir, I raise my hand”

There is a misperception that it is an easy thing not to “tell.” Service members work closely with one another, often times living with one another. It is part of basic human interaction to discuss your life – what you do on the weekends, whom you are dating, whom you love. Lesbian, gay and bisexual service members are barred from having such simple communications with their co-workers. The strain is often unbearable. This prohibition against discussing basic information about

one’s life is harmful to combat readiness. It sows the seeds of distrust among service personnel and erodes the bonds of trust and camaraderie necessary for effective military units.

The issue of lesbian, gay and bisexual service members “telling” is further complicated by the very nature of human sexual development. Most men and women join the armed forces at a very young age. With few exceptions, lesbian, gay and bisexual youth have not fully internalized and accepted their sexual orientation at the point when they enlist or are commissioned in the service. SLDN’s cases reflect this reality. Many young gay service members contact SLDN only after they have reached a comfort level with who they are. Once lesbians, gays and bisexuals reach this level of self-acceptance, they find it more difficult to balance the requirements of “Don’t Tell” with their need to lead healthy lives.¹⁸⁷ Further, young lesbians, gays and bisexuals have far more examples of healthy role models today than ever before. Because lesbian, gay and bisexual service members see greater acceptance of homosexuality within society at large, it is understandably difficult for them to reconcile the contradictions inherent under “Don’t Tell.”

OUTING: IT IS NOT ALWAYS THE SERVICE MEMBER WHO TELLS

Another part of the explanation as to why so many discharges are for “statements” is the problem of service members being “outed.” Sometimes people inform commands of a service member’s sexual orientation – often as a way to get back at or punish the service member. SLDN believes that in most circumstances commands should ignore such information and the motives of those providing the information to the commands be questioned. Unfortunately, such “outings” generally result in discharge.

Staff Sergeant Karen Coleman was a victim of being outed. SSG Coleman’s 11 year career in the Army was ended by a civilian woman with whom she had previously had a relationship. Motivated by a desire to hurt SSG Coleman personally and professionally, this woman called SSG Coleman’s first sergeant and stated that she was SSG Coleman’s lover. Based on this anonymous phone call, SSG Coleman was investigated, interrogated and ultimately discharged.

Cadets Jack Glover and David Hall were victims of a betrayal of trust. Cadets Glover and Hall were model Air Force ROTC cadets. Cadet Hall had already served in the Air Force as an enlisted man and was honor-

ably discharged prior to entering college. Their grades, attitude and leadership abilities were lauded by their Air Force commanders. The one mistake they made was to trust a fellow ROTC cadet, someone they considered a friend, and acknowledge to her they are gay. Just before Glover and Hall’s friend graduated from college and became a lieutenant in the Air Force, she told the cadets’ ROTC command of their admission. The Air Force chose to investigate. The resulting disenrollment meant that Glover and Hall lost their college scholarships prior to entering their senior year, and they are prevented from becoming officers in the Air Force or ever serving our country in the military.¹⁸⁸

BETRAYAL OF TRUST: CHAPLAINS AND HEALTH CARE PROFESSIONALS

SLDN has documented continued instances in which health care providers and chaplains reportedly turned in or threatened to turn in gay service members who sought their help in dealing with anti-gay harassment or the stresses imposed by “Don’t Ask, Don’t Tell.” These “outings” are often considered “statements.”

Issues involving sexual orientation are central to the provision of adequate health care, but health care providers are often reluctant to “ask” out of well-placed concern not to out gay service members. Service members are reluctant to “tell” for fear of being outed. While President Clinton’s Executive Order providing that communications with mental health professionals cannot be used as evidence in criminal proceedings was a step in the right direction, it has only limited value for gay service members who, for the most part, face administrative discharge proceedings, rather than criminal prose-

cutions.¹⁸⁹ While the DoD could extend this privilege to the administrative context, making it clear that private statements to health care providers are not the kind of statements that form a basis for discharge, it has failed to do so.

The Under Secretary of Defense’s clarification in the April 1998 report to the Secretary of Defense that health care providers are not, in fact, required to turn in gay service members was also a step in the right direction.¹⁹⁰ This clarification, however, has not made it to the field nearly five years later. Nor does it adequately address the problem, as it allows individual therapists to turn in military members, whether required to or not, depriving service members of the ability to trust therapists.

Military chaplains can be an invaluable resource for service members who are lesbian, gay or bisexual. Chaplains are supposed to be one of the safe spaces for service members to discuss their sexual orientation. While most chaplains keep the con-

fidences of gay service members, some do not.¹⁹¹ Others continue to give bad legal advice, such as directing service members to turn themselves in, rather than sending service members to a military defense attorney for advice about the policy. Still others tragically berate gay service members, telling them they are sick, going to hell, and deviant.

Two such cases of broken trust appear in this year’s report. Senior Airman Grijalva was outed by a chaplain’s assistant whose help she sought during a time of crisis – even after she was assured confidentiality. Marine Capt. Kira Zielinski sought the assistance of a chaplain. Instead of help, she was called “sinner” and told that she needed counseling for her “un-Christian tendencies.”¹⁹²

Telling gay soldiers to trust chaplains on the one hand, and having chaplains violate that trust undermines confidence. Sadly, such situations harm faith in the Chaplain Corps,

harm lesbian, gay and bisexual service members, and most importantly harm military readiness.

SLDN has long recommended that chaplains receive specific instructions not to turn in gay service members who seek their help and to treat these conversations as confidential,

per the chaplain-penitent privilege. Further, chaplains must be willing to recommend another chaplain if their personal beliefs preclude them from adequately counseling gay service members. As staff officers, chaplains should not engage in behavior that gay service members would likely perceive as harassment, in violation

of the policy's "Don't Harass" component. Chaplains should assist commands in combating anti-gay harassment. The Pentagon should initiate policy training programs tailored for the unique duties of chaplains in serving the needs of lesbian, gay and bisexual service members.

TELLING: A SIMPLE SOLUTION

Why service members make statements is a complicated question to answer. The solutions, however, are simple. Many lesbian, gay and bisexual service members are compelled to "tell" as their only recourse to escape harassment, including threats of physical violence. The solution lies in the hands of military leaders – stop anti-gay harassment in the ranks.

Some service members are outed to their commands by people they know in order to get them discharged. DoD should include specific guidance in the investigative

limits that reports to commands about service members' sexual orientation should not automatically be considered credible evidence and the motive behind the report should be questioned.

Some military therapists, physicians and chaplains out or harass gay service members. Combat readiness is harmed when gays and lesbians in uniform are denied safe access to health care and spiritual counseling. The solution again lies in the hands of military leaders – extend the privilege of mental health care providers and patients to the administrative context; make clear that health care providers and chaplains are not to

turn in service members; properly train health care providers and chaplains and hold them accountable when they violate a service member's confidence.

Lastly, many service members make statements because of the enormous ethical dilemma created by the policy or because they feel they have no other recourse. **Congress and military leaders should stop the hypocrisy that requires lesbian, gay and bisexual service members to lie as a condition of service. Congress should lift the ban on lesbians, gays and bisexuals serving in the armed forces and allow them the freedom to serve.**

END NOTES

¹ Linda D. Kozaryn, *U.S. Must 'Reject Bigotry,' Bush Says in Address to American Muslims*, AMERICAN FORCES PRESS, Sept. 11, 2002, at http://www.defenselink.mil/news/Sep2002/n09112002_200209111.html (last visited February 4, 2003) [hereinafter Kozaryn article].

² Letter from Capt. Darrell V. Allen, MCCES Adjutant, 29 Palms, Subj: "Homosexual Conduct Discharge Potential," (Apr. 4, 2002) [hereinafter 29 Palms Memorandum].^c

³ For documentation on the decrease in discharges of lesbians, gays and bisexuals during World War II, the Korean Conflict, the Vietnam Conflict and the Persian Gulf War see RANDY SHILTS, *CONDUCT UNBECOMING* (St. Martin's Press, 1993) 70-71, 163, 210, 355-57, 387, 569-570, 575, 741, 745-6.

⁴ SLDN only has the number of Navy enlisted service members, and not officers, discharged under "Don't Ask, Don't Tell" for FY 2002; however, no more than nine officers during the last four years have been discharged during a fiscal year. In FY 2001, 2 officers were discharged under "Don't Ask, Don't Tell;" in FY 2000 5 were officers discharged; in FY 1999, 4 officers were discharged, FY 1998, 9 officers were discharged. Therefore, excepting an unlikely 400% increase in officer discharges last year, FY 2002 marks the lowest number of discharges in the Navy since the law was adopted.

⁵ Whenever "gay" is used throughout this report, it is used as an all-inclusive term for lesbian, gay and bisexual.

⁶ U.S. Central Command, *see generally* www.centcom.mil.

⁷ See AARON BELKIN & JASON McNICHOL, *THE EFFECTS OF THE 1992 LIFTING OF RESTRICTIONS ON GAY AND LESBIAN SERVICE IN THE CANADIAN FORCES: APPRAISING THE EVIDENCE* (Center for the Study of Sexual Minorities in the Military at University of California at Santa Barbara, April 2000); AARON BELKIN & JASON McNICHOL, *THE EFFECTS OF INCLUDING GAY AND LESBIAN SOLDIERS IN THE AUSTRALIAN DEFENSE FORCES: APPRAISING THE EVIDENCE* (Center for the Study of Sexual Minorities in the Military at University of California at Santa Barbara, September 2000); AARON BELKIN & JASON McNICHOL, *THE EFFECTS OF INCLUDING GAY AND LESBIAN SOLDIERS IN THE BRITISH ARMED FORCES: APPRAISING THE EVIDENCE* (Center for the Study of Sexual Minorities in the Military at University of California at Santa Barbara, November 2000); AARON BELKIN & JASON McNICHOL, *THE EFFECTS OF LIFTING OF RESTRICTIONS ON GAY AND LESBIAN SERVICE IN THE ISRAELI FORCES: APPRAISING THE EVIDENCE* (Center for the Study of Sexual Minorities in the Military at University of California at Santa Barbara, June 2000).

⁸ J.W. Bicknell, Jr., *Study of naval officers' attitudes towards homosexuals in the military* (2000) (unpublished M.S. thesis, Naval Postgraduate School) (on file with the Naval Postgraduate School, Monterey, CA) (finding that 21% of naval officers and 39% enlisted sailors attending the Defense Language Institute in 1999 answered "yes" to the survey question, "I personally know a homosexual service member.")

⁹ Exec. Order No. 13,087, 63 Fed. Reg. 30,097 (Jun. 2, 1998).

¹⁰ Beth Berlo, *Two Polls Confirm Growing Acceptance of Gay Civil Rights*, BAY WINDOWS, Jun. 22, 2001.

<http://www.baywindows.com/main.cfm?include=detail&storyid=80432> (last visited Feb. 13, 2003).

¹¹ E. KIER, *HOMOSEXUALS IN THE U.S. MILITARY: OPEN INTEGRATION AND COMBAT EFFECTIVENESS*, 23 INT'L SECURITY 5-39 (1998).

¹² THEODORE R. SARBIN, PH.D., & KENNETH E. KAROLS, M.D., PH.D., *DEFENSE PERSONNEL SECURITY RESEARCH AND EDUCATION CENTER, NONCONFORMING SEXUAL ORIENTATION AND MILITARY SUITABILITY* Dec. 1988); RAND CORP., *SEXUAL ORIENTATION AND U.S. MILITARY PERSONNEL POLICY: OPTIONS AND ASSESSMENT*, NATIONAL DEFENSE RESEARCH INSTITUTE (1993).

¹³ HUMAN RIGHTS WATCH, *UNIFORM DISCRIMINATION: THE "DON'T ASK, DON'T TELL" POLICY OF THE U.S. MILITARY*, Vol. 15, No. 1 (G), 49 (Jan. 2003).

¹⁴ Letter from Kenneth Roth, Executive Director, Human Rights Watch, to President Bush (Jan. 23, 2003) at <http://hrw.org/press/2003/01/bushltr012303.htm> (last visited Feb. 11, 2003).

¹⁵ *Nominations: Hearings Before the Senate Comm. on the Armed Services*, 107th Cong. (Sept. 27, 2002) (testimony of Charles S. Abell).

¹⁶ Good Morning America (ABC television broadcast, Sept. 9, 2002).

¹⁷ SLDN's reporting year is February 1, 2002 to January 31, 2003. It is referred to in this report as the 2002 reporting year.

¹⁸ Department of Defense Working Group, *Anti-Harassment Action Plan* (Jul. 21, 2000) [hereinafter AHAP].

¹⁹ *Id.*

²⁰ Good Morning America (ABC television broadcast, Sept. 9, 2002).

²¹ *Id.*

²² Appendix C. *Homosexual Conduct Policy Survey*, DoD INSPECTOR GENERAL'S "DON'T ASK, DON'T TELL, DON'T PURSUE" POLICY SURVEY (undated) [hereinafter DoD Inspector General Policy Survey].^c

²³ See AHAP, *supra* note 18; Memorandum

from Under Secretary of Defense (Personnel & Readiness) Bernard Rostker to the Secretary of the Army, Secretary of the Navy, Secretary of the Air Force, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, and Commandant of the Marine Corps, *Approval and Implementation of the Action Plan Submitted in response to the DoD Inspector General's report on the Military Environment With Respect to the Homosexual Conduct Policy* (Jul. 21, 2000) (directing that the proposed action plan "be forwarded to the Services for implementation").^c

²⁴ Letter from David S.C. Chu to Senator Mark Dayton (Oct. 24, 2002).^c

²⁵ Kozaryn article, *supra* note 1.

²⁶ Editorial, *No Gay Help Wanted*, WASH. POST, Nov. 20, 2002, at A24.

²⁷ John Johnson, *Army Expels 9 Gay Linguists*, PHILA. INQ., Nov. 17, 2002, at A8.

²⁸ REPORT TO CONGRESSIONAL REQUESTERS ON FOREIGN LANGUAGES: HUMAN CAPITAL APPROACH NEEDED TO CORRECT STAFFING AND PROFICIENCY SHORTFALLS (General Accounting Office, GAO 02-375, Jan. 2002) 2.

²⁹ C. Dixon Osburn, *A Policy in Desperate Search of a Rationale: The Military's Policy on Lesbians, Gays and Bisexuals*, 64 UMKC L. REV. 199 (1995).

³⁰ *Policy Concerning Homosexuality in the Armed Forces: Hearings Before the Senate Comm. on the Armed Services*, 103d Cong., 707 (1993) (statement of General Colin Powell) [hereinafter Powell Statement]. "[H]omosexuals have privately served well in the past and are continuing to serve well today." *Id.*

³¹ DEP'T OF DEFENSE DIRECTIVE 1332.14, *Enlisted Administrative Separations* [hereinafter DoDD 1332.14], para. E3.A1.1.8.1.1 (1994); DEP'T OF DEFENSE INSTRUCTION 1332.40, *Separation Procedures for Regular and Reserve Commissioned Officers* [hereinafter DoDI 1332.40], para. E2.3 (1997). "A member's sexual orientation is considered a personal and private matter, and is not a bar to continued service . . . unless manifested by homosexual conduct . . ." *Id.*

³² Statement of General Colin Powell, *supra* note 30, at 709. "We will not ask, we will not witch hunt, we will not seek to learn orientation." *Id.*

³³ DEP'T OF DEFENSE DIRECTIVE 1304.26, *Qualification Standards for Enlistment, Appointment, and Induction: Applicant Briefing Item on Separation Policy*, addendum (1993) [hereinafter DoDD 1304.26 addendum]. "The Armed Forces do not tolerate harassment or violence against any service member, for any reason." *Id.*

³⁴ Memorandum from Secretary of Defense Les Aspin to the Secretaries of the Military Departments, *Implementation of the DoD*

Policy on Homosexual Conduct in the Armed Forces (Dec. 21, 1993).^c “[The new policy] provides that investigations into sexual misconduct will be conducted in an evenhanded manner, without regard to whether the alleged misconduct involves homosexual or heterosexual conduct.” *Id.*

³⁵ See PUB. PAPERS William J. Clinton, 1993, vol. 1, p. 1111. President Clinton pledged that the policy would provide for “a decent regard for the legitimate privacy and associational rights of all service members.” *Id.* Then Senator William Cohen understood that the small amount of privacy under the current policy was intended to prevent the military from prying into people’s private lives. See, *Policy Concerning Homosexuality in the Armed Forces: Hearings Before the Senate Comm. on Armed Services*, 103d Cong. 787 (statement of Senator William Cohen).

³⁶ See DoDD 1332.14, *supra* note 31, at E3.A4.1.4.3; DoDI 1332.40, *supra* note 31, at E8.4.3.

³⁷ DoDD 1332.14, *supra* note 31, at E3.A4.1.3.2.2; DoDI 1332.40, *supra* note 31, at E8.3.2.2.

³⁸ See DoDD 1332.14, *supra* note 31, at E3.A1.1.8.1.1; DoDI 1332.40, *supra* note 31, at E2.3.

³⁹ See DoDD 1332.14, *supra* note 31, at E3.A4.1.1.1; DoDI 1332.40, *supra* note 31, at E8.1.1.

⁴⁰ See DoDD 1332.14, *supra* note 31, at E3.A4.1.1.1; DoDI 1332.40, *supra* note 31, at E8.1.1.

⁴¹ See DoDD 1332.14, *supra* note 31, at E3.A4.1.3.3.4; DoDI 1332.40, *supra* note 31, at E.8.3.3.4.

⁴² See Memorandum from Rudy de Leon, Under Secretary of Defense (P&R), to the Secretaries of the Military Departments, *Guidelines for Investigating Threats Against or Harassment of Service Members Based on Alleged Homosexuality* (Aug. 12, 1999) [hereinafter Under Secretary of Defense (P&R) Rudy de Leon 1999 Implementation Memo].^c

⁴³ See DoDD 1332.14, *supra* note 31, at E3.A4.1.1.3; DoDI 1332.40, *supra* note 31, at E8.1.3.

⁴⁴ See Office of the Under Secretary of Defense (P&R), Report to the Secretary of Defense: *Review of the Effectiveness of the Application and Enforcement of the Department’s Policy on Homosexual Conduct in the Military* [hereinafter Under Secretary of Defense (P&R) 1998 Report], at 11,12 (Apr. 1998); See also Under Secretary of Defense (P&R) Rudy de Leon 1999 Implementation Memo, *supra* note 42.

⁴⁵ See Under Secretary of Defense (P&R) 1998 Report, *supra* note 44, at 11.

⁴⁶ See generally, DEP’T OF DEFENSE INSTRUCTION 5505.8, *Investigations of Sexual Misconduct by the Defense Criminal*

Investigative Organizations and Other DoD Law Enforcement Organizations (2000).

⁴⁷ See DoDD 1332.14, *supra* note 31, at E3.A4.1.1.3; DoDI 1332.40, *supra* note 31, at E8.1.3.; see also, Under Secretary of Defense (P&R) 1998 Report, *supra* note 44, at 11,12; see also, Under Secretary of Defense (P&R) Rudy de Leon 1999 Implementation Memo, *supra* note 42.

⁴⁸ See Under Secretary of Defense (P&R) 1998 Report, *supra* note 44, at 12.

⁴⁹ See *id.*

⁵⁰ See Under Secretary of Defense (P&R) Rudy de Leon 1999 Implementation Memo, *supra* note 42.

⁵¹ See Under Secretary of Defense (P&R) 1998 Report, *supra* note 44, at 12.

⁵² DoDD 1304.26 addendum, *supra* note 33.

⁵³ Letter from MG Robert R. Ivany, Commandant, US Army War College, to Jeffery Cleghorn, SLDN (Oct. 16, 2002).^c

⁵⁴ Letter from COL Gerald E. Ferguson, Jr., Chief of Staff 1st Cavalry Division, to Jeffery Cleghorn, SLDN (Oct. 4, 2002).^c

⁵⁵ Letter from MG John R. Wood, Commanding General, 2d Infantry Division, to Jeffery Cleghorn, SLDN (Oct. 17, 2002).^c

⁵⁶ Letter from MG F.L. Hagenbeck, Commanding General, 10th Mountain Division, to Jeffery Cleghorn, SLDN (Oct. 18, 2002).^c

⁵⁷ Letter from COL Jackson L. Flake, III, Chief of Staff, 1st Armored Division, to Jeffery Cleghorn, SLDN (Nov. 12, 2002).^c

⁵⁸ Letter from LTG Edward Soriano, Commanding General, I Corps and Fort Lewis, to Jeffery Cleghorn, SLDN, (Oct. 15, 2002).^c

⁵⁹ Memorandum from Anonymous Soldier at Fort Bragg, NC, to CPT Adam Steelhammer, A Company, 307th Engineer Battalion, Fort Bragg, NC, Subj: “Reasons for admission of homosexuality to the US Army” (Feb. 24, 2002).^c

⁶⁰ Letter from SPC Auville B. Powell, to CPT Allen (Jun. 28, 2002).^c

⁶¹ Electronic Message from Headquarters Department of the Army to ALARACT, Subj: “Homosexual Conduct Policy” (HQDA WASHINGTON, DC 101700ZJAN 00) (Jan. 10, 2000) [hereinafter ALARACT Message].^c

⁶² Sworn Statement from Anonymous Soldier in Kuwait (Aug. 8, 2002)^c; see also, Letter from Jeffery M. Cleghorn, SLDN, to LTG Edward Soriano, Commanding General, I Corps and Fort Lewis (Oct. 8, 2002).^c

⁶³ See AHAP, *supra* note 18.

⁶⁴ ALARACT Message, *supra* note 61.

⁶⁵ Letter from Bernard P. Ingold, Deputy Legislative Counsel, Department of the Army, to Senator Mark Dayton, (Sep. 4, 2002).

[hereinafter Ingold letter].^c

⁶⁶ *Id.*

⁶⁷ ALARACT Message, *supra* note 61.

⁶⁸ Ingold letter, *supra* note 65.

⁶⁹ ALARACT Message, *supra* note 61.

⁷⁰ Memorandum from Office of the Inspector General, Department of the Army, to the Army Chief of Staff, Subj: “Special Interest Item – Implementation of Homosexual Conduct Policy Training – ACTION MEMORANDUM” (Apr. 11, 2002) [hereinafter IG Letter].^c

⁷¹ Letter from MG David H. Petraeus, Commanding General, 101st Airborne Division and Fort Campbell, to Jeffery Cleghorn, SLDN (Oct. 18, 2002).^c

⁷² Letter from COL Thomas J. Schoenbeck, Chief of Staff, 101st Airborne Division and Fort Campbell, to Jeffery Cleghorn, SLDN (Jan. 13, 2003).^c

⁷³ Letter from PFC Luis Rosas (Dec. 9, 2002).^c

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⁷⁵ *Don’t Ask, Don’t Tell: Army Homosexual Conduct Policy*, HOT TOPICS: CURRENT ISSUES FOR ARMY LEADERS 8 (Winter 2000) (stating “[a] soldier can discuss any topic regarding sexual orientation with a legal assistance attorney or chaplain.”).

⁷⁶ IG Letter, *supra* note 70.

⁷⁷ E-mail from Sonya R. Contreras to Jeffery Cleghorn, SLDN, Re: “Sonya R. Contreras” (Jan. 8, 2003).^c

⁷⁸ *Id.*

⁷⁹ Letter from LTG Paul T. Mikolashek, Inspector General, U.S. Army, to Jeffery Cleghorn, SLDN (Nov. 1, 2002).^c

⁸⁰ AHAP, *supra* note 18.

⁸¹ See SERVICEMEMBERS LEGAL DEFENSE NETWORK, CONDUCT UNBECOMING – THE 8TH ANNUAL REPORT ON “DON’T ASK, DON’T TELL, DON’T PURSUE, DON’T HARASS” 42 (2002) [hereinafter SLDN 8TH ANNUAL REPORT].

⁸² Letter from Jeffery Cleghorn, SLDN, to LTC William H. Haight, Inspector General, 1st Cavalry Division, Re: “Report of Sexual Harassment and Anti-Gay Harassment” (Oct. 2, 2001).^c

⁸³ Memorandum from Inspector General, HQ 1st Cavalry Division, to Commander 1st Cavalry Division, Subj: “Report of Inspector General Investigative Inquiry” (Apr. 23, 2002).^c

⁸⁴ See STACEY L. SOBEL ET AL, CONDUCT UNBECOMING – THE 7TH ANNUAL REPORT ON “DON’T ASK, DON’T TELL, DON’T PURSUE” 25-27 (2000) [hereinafter SLDN 7TH ANNUAL REPORT].

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General Investigation ICO Former SGT Gidonny S. Ramos" (Feb. 7, 2001).^c

⁸⁶ Letter from Robert M. De Ocampo, Records Release Officer, Office of the Army Inspector General, to Jeffery Cleghorn, SLDN, (Mar. 19, 2002).^c

⁸⁷ Letter from Carlos Ramos to LTG Michael Ackerman, Inspector General, U.S. Army, (Mar. 11, 2002).^c

⁸⁸ Letter from Jeffery Cleghorn, SLDN, to COL Kevin M. Rice, Installation Commander, Defense Language Institute (May. 17, 2002).^c

⁸⁹ Letter from LTG Michael Ackerman, Inspector General, U.S. Army, to Jeffery Cleghorn, SLDN (Jun. 10, 2002).^c

⁹⁰ SLDN 8TH ANNUAL REPORT, *supra* note 81, at 13-14.

⁹¹ Letter from Jeffery Cleghorn, SLDN, to MG Thomas J. Romig, The Judge Advocate General of the Army, Re: "Homosexual Conduct Policy (HCP) Training at JAG School" (Jun. 7, 2002).^c

⁹² Letter (unsigned) from SGT Pepe Johnson (Sep. 6, 2002).^c

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⁹⁴ IG Letter, *supra* note 70.

⁹⁵ *Id.*

⁹⁶ DoD Inspector General Policy Survey, *supra* note 22.

⁹⁷ See DoDD 1332.14, *supra* note 31, para. E3.A4.1.1.1; DoDI 1332.40, *supra* note 31, para. E8.1.1.

⁹⁸ See, *Policy Concerning Homosexuality in the Armed Forces: Hearings Before the Senate Comm. on Armed Services*, 103d Cong. 721 (statement of then Secretary of Defense Les Aspin).

⁹⁹ Letter from Anonymous Sergeant, Louisiana National Guard (undated).^c

¹⁰⁰ Letter from Jeffery M. Cleghorn, SLDN, to MG Buford C. Blount, III, Commanding General, 3rd Infantry Division, Re: "The Homosexual Conduct/Dignity & Respect Policy" (Oct. 4, 2002) (citing to letter from Cleghorn, to MG Walter L. Sharp, Commanding General, 3rd Infantry Division, Re: "Dignity and Respect: The Army's Homosexual Conduct Policy" (Nov. 29, 2001)).^c

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¹⁰² For a detailed account of MG Clark's leadership failures and the current status of the nomination fight see www.SLDN.org.

¹⁰³ TSgt Scott Elliott, *SECAF strives to build 'optimum' force*, AIR FORCE PRINT NEWS, Feb. 19, 2002.

¹⁰⁴ Email from Mike West, HQ AFRC Publishing Information Technology Specialist, to Troy D. Byers, SLDN (Jun. 17, 2002).^c

¹⁰⁵ DD Form 256, *Honorable Discharge Certificate*; DD Form 785, *Record of Disenrollment from Officer Candidate-Type Training*, pertaining to SSgt David A. Hall (USAFR) and Amn Jack D. Glover (USAFR).^c

¹⁰⁶ Letter from SrA Brandi L. Grijalva to Lt Col Pat Savoy, 97th Services Commander (Sept. 17, 2002).^c

¹⁰⁷ Select slides from Air Force Training "Homosexual Policy for Commanders, Judge Advocates and Law Enforcement," and "Homosexual Policy (General Audiences)" (undated).^c

¹⁰⁸ AIR FORCE INSTRUCTION 90-201, *Inspector General Activities*, paras. 2.3, A6.2.5 (Oct. 1, 2002).

¹⁰⁹ Roche, released in Air Force Print News, 2/19/02.

¹¹⁰ CNO Guidance for 2002 (Jan. 4 2002).^c

¹¹¹ SLDN only has the number of Navy enlisted service members, and not officers, discharged under "Don't Ask, Don't Tell" for FY 2002; however, no more than nine officers during the last four years have been discharged during a fiscal year. In FY 2001, 2 officers were discharged under "Don't Ask, Don't Tell;" in FY 2000 5 were officers discharged; in FY 1999, 4 officers were discharged, FY 1998, 9 officers were discharged. Therefore, excepting an unlikely 400% increase in officer discharges last year, FY 2002 marks the lowest number of discharges in the Navy since the law was adopted.

¹¹² CNO Guidance for 2002, *supra* note 110.^c

¹¹³ Ken Lynch, *Editorial, Musings On War, Domestic Enemies, Yoda In Kabakis And Horse's Patooties*, NAVY TIMES, February 3, 2003, at 54.

¹¹⁴ 21% of naval officers and 39% enlisted sailors attending the Defense Language Institute in 1999 answered "yes" to the survey question, "I personally know a homosexual service member." J.W. Bicknell, Jr., Study of naval officers' attitudes towards homosexuals in the military (2000) (unpublished M.S. thesis, Naval Postgraduate School) (on file with the Naval Postgraduate School, Monterey, CA).

¹¹⁵ LTJG Jenny Kopfstein, *Fitness Report and Counseling Record* (July 2002).^c

¹¹⁶ Letter from HN Roy Hill to CDR R.J. Mulvanny, Commanding Officer, 2d Med Battalion, 2d FSSG, Camp Lejeune, NC (May 31, 2002).^c

¹¹⁷ Letter from Paula Neira, SLDN, to BG Michael R. Lehnert, Commanding General, 2d Force Service Support Group, Camp Lejeune, NC (Aug. 19, 2002).^c

¹¹⁸ Keith Taylor (23-year Navy enlisted), *Editorial, Military policy on gays wastes valuable talent*, NAVY TIMES, Dec. 16, 2002, at 54.

¹¹⁹ Statements by Master Chief Douglas W. Huffman (Feb. 21, 2002).^c

¹²⁰ Email from Petty Officer Derek Sparks to

Paula Neira, SLDN (Mar. 8, 2002).^c

¹²¹ CNO Guidance for 2002, *supra* note 110.^c

¹²² Email from Petty Officer Jason Reilly to Kathi Westcott, SLDN (May 31, 2002).^c

¹²³ Letter from Paula Neira, SLDN, to VADM Norbert Ryan, Jr, Chief of Naval Personnel (Jul. 15, 2002).^c

¹²⁴ Letter from RADM M.P. Nowakowski, Commander, Amphibious Group 2, to Paula Neira, SLDN (16 Sep. 2002).^c

¹²⁵ Letter from William A. Navis, Jr., Assistant Secretary of the Navy (Manpower and Reserve Affairs), to Senator Mark Dayton (Sep. 19, 2002).^c

¹²⁶ Selected Navy Homosexual Conduct Training Slides, "General Military Training – Developing and Building Trust" (undated).^c

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¹²⁹ *Corps to Re-Emphasize Policy on Gays*, MARINE CORPS TIMES, Jan. 27, 2003, at 5.

¹³⁰ Letter from Anonymous Lance Corporal (base) to Lt. Col. Callan, Commanding Officer MAL, (Sep. 18, 2002).^c

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¹³² Letter from Anonymous Lance Corporal, Camp Pendleton, to Captain Torres (Aug. 8, 2002); Letter from Anonymous Lance Corporal, Camp Pendleton, to Captain G.B. Pace, Commanding Officer, Headquarters Company, 3d Marines, 3d Marine Division (Sep. 5, 2002).^c

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¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ Memorandum from C.L. Grotzky, HQ USMC, to Assistant Secretary of the Navy (Manpower and Reserve Affairs), Subj: "Implementation of the Thirteen Point Anti-Harassment Plan" (Sep. 12, 2002).^c

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¹³⁸ Letter from Anonymous Marine Private at Camp Pendleton (undated) (received by SLDN during 2002).^c

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007/03, Marine Corps Stop Move and Stop Loss (Jan. 7, 2003) (071500Z Jan 03).

¹⁴⁴ David Allen, *Support group helps some gay Okinawa troops balance lifestyle, military*, STARS AND STRIPES (PACIFIC EDITION), May 2, 2002.

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¹⁴⁶ MARADMIN 451/02, *supra* note 131.

¹⁴⁷ 29 Palms Memorandum, *supra* note 2.

¹⁴⁸ SLDN 7th ANNUAL REPORT, *supra* note 84, at 84.

¹⁴⁹ *Id.* at 86.

¹⁵⁰ Letter from Anonymous Marine Corporal (Oct. 1, 2002).^c

¹⁵¹ MARADMIN 451/02, *supra* note 131.

¹⁵² DoD Inspector General Policy Survey, *supra* note 22.

¹⁵³ Timeline by Anonymous Marine at New River (undated).^c

¹⁵⁴ Letter from Capt. Kira K. Zielinski to Commanding Officer, Marine Aviation Training Support Group - 21 (undated) [hereinafter Zielinski letter].^c

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¹⁵⁶ See Memorandum from Capt. V.C. Danyluk, USMC, Trial Service Office, to Col. J.A. White, Commanding Officer, Marine Aviation Training Support Group, *Non-Substantial Inquiry of Captain Kira Zielinski* (Jul. 6, 2001).^c

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¹⁵⁸ See *id.*

¹⁵⁹ See Zielinski letter, *supra* note 154.

¹⁶⁰ See Memorandum from Capt. V.C. Danyluk, USMC, Trial Service Office, to Col. L.L. Larson, Commanding Officer, Marine Aviation Training Support Group, *Non-Substantial Inquiry of Captain Kira Zielinski* (Apr. 23, 2001).^c

¹⁶¹ Letter from Sharra E. Greer, SLDN Legal Director, to MG Dennis T. Krupp, Commanding General, 2d MAW, U.S. MARFORLANT (May 7, 2002).^c

¹⁶² See *Change for the Coast Guard*, Mike Brunker (MSNBC 12/19/2002).

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¹⁶⁵ See *Change for the Coast Guard*, Mike Brunker (MSNBC 12/19/2002), *supra* note 162.

¹⁶⁶ Commandant Instruction M1000.6, *Coast Guard Personnel Manual*, para. 12.E.1.4 (Nov. 12, 2002).

¹⁶⁷ *Id.*

¹⁶⁸ Letter from Paul Neira, SLDN, to Ms.

Lenora Ennis, USCG (Jun. 13, 2002).

¹⁶⁹ See Michelle M. Benecke and Kirsten S. Dodge, *Military Women: Casualties of the Armed Forces' War on Lesbians and Gay Men*, GAY RIGHTS, MILITARY WRONGS: POLITICAL PERSPECTIVES ON LESBIANS AND GAYS IN THE MILITARY 71-108 (Craig A. Zimmerman, ed., 1996).

¹⁷⁰ SLDN does not have the FY 2001 discharge numbers by age for the Army or the Air Force.

¹⁷¹ See Evaluation Report: *Military Environment With Respect to the Homosexual Conduct Policy*, Office of the Inspector General of the Department of Defense, Rept. No. D-2000-101, 18 (Mar. 16, 2000).

¹⁷² See MIL. R. EVID. 502.

¹⁷³ See MIL. R. EVID. 503.

¹⁷⁴ See DEP'T OF DEFENSE DIRECTIVE 5200.2, *DoD Personnel Security Program* encl. 3.7 (1997); see also, DEFENSE INVESTIGATIVE SERVICE MANUAL, DIS-20-1-M, encl. 18.C (1993).

¹⁷⁵ See DEP'T OF DEFENSE DIRECTIVE 6485.1, *Human Immunodeficiency Virus-1 (HIV-1)* encl. 3.2.1.9 (1991). "Information obtained from a Service member during, or as a result of, an epidemiological assessment interview may not be used against the Service member (in adverse criminal or administrative actions)." *Id.*

¹⁷⁶ See DODD 1332.14, *supra* note 31, at E3.A4.1.3.3.4 (stating "[credible information does not exist when] the only information known is an associational activity such as going to a gay bar, possessing or reading homosexual publications, associating with known homosexuals . . ."); DoDI 1332.40, *supra* note 31, at E.8.3.3.4.

¹⁷⁷ DoDD 1332.14, *supra* note 31, at E3.A1.1.8.1.1; DoDI 1332.40, *supra* note 31, at E.2.3.

¹⁷⁸ See Letter from Edwin Dorn to The Honorable Carol DiBattiste, Under Secretary of the Air Force (May 1, 2000).^c "Recent reports have indicated that physicians, EEO personnel, inspectors general and law enforcement personnel believe that they are obliged to turn in service members who reveal their sexual orientation when they report anti-gay harassment, or who are discovered to be gay during an investigation into the reported harassment. If these practices occur, then they have the effect of punishing the victim. This is not what I anticipated or intended when I was involved in the development of DoD's 1997 anti-harassment guidance." *Id.*

¹⁷⁹ See Letter from Charles Moskos, Professor, Northwestern University, to The Honorable

William S. Cohen, Secretary of Defense, (Apr. 12, 2000).^c In my opinion, military members who reveal their sexual orientation during private medical treatment sessions or in the course of reporting harassment and threats are not 'telling' in a manner contemplated under the policy. It is appropriate for officials to assist these service members, not turn them in. Indeed, it is the 'outing' of service members to their units that triggers concerns about unit cohesion. *Id.* Our view is further supported by former Reagan Administration defense official Lawrence Korb (Mr. Korb is now with the Council on Foreign Relations). See Letter from Lawrence J. Korb to The Honorable Carol A. DiBattiste, Undersecretary of the Air Force (May 8, 2000).^c "My primary concerns are the ongoing harassment of service members by their supervisors and peers, and the lack of safe places for service members to turn within the military if they are facing harassment, medical or mental health problems or seeking spiritual guidance." *Id.*

¹⁸⁰ Under Secretary of Defense (P&R) 1998 Report, *supra* note 44, at 2, 5.

¹⁸¹ United States Army, *Army Values: Integrity*, at <http://www.dtic.mil/armylink/graphics/integrity.jpg> (last visited Jan. 20, 2003).

¹⁸² United States Air Force, The Core Values of the Air Force, *available at* http://www.af.mil/news/speech/current/The_Core_Values_of_the_Air_.html (reporting a speech given by The Honorable Sheila E. Widnall, then Secretary of the Air Force, to Air Force Academy Cadets, at Colorado Springs on Apr. 18, 1996) (last visited Jan. 20, 2003).

¹⁸³ United States Navy, *Core Values of the United States Navy*, *available at* <http://www.chinfo.navy.mil/navpalib/traditions/html/corvalu.html> (last visited Jan. 20, 2003).

¹⁸⁴ United States Marine Corp Core Values, *Integrity*, *available at* <http://www.usmc.mil/almar/almar2000.nsf/d50a617f5ac75ae085256856004f3afc/cc041316be6e481085256a55005e1e3?OpenDocument> (last visited Jan. 20, 2003).

¹⁸⁵ Coast Guard Core Values, *available at* <http://www.uscg.mil/lantarea/cutter/reliance/values.html> (last visited Jan. 20, 2003).

¹⁸⁶ E-mail from Sonya R. Contreras to Jeffery Cleghorn, SLDN, Re: "Sonya R. Contreras" (Jan. 8, 2003) *supra* note 77.

¹⁸⁷ See Vivienne Cass, Ph.D., *Sexual Orientation Identity Formation: A Western Phenomenon*, in TEXTBOOK OF HOMOSEXUALITY AND MENTAL HEALTH 227, 231-47 (Robert P. Cabaj & Terry S. Stein, eds., 1996).

¹⁸⁸ DD Form 256, *Honorable Discharge Certificate*; DD Form 785, *Record of Disenrollment from Officer Candidate-Type*

Training, pertaining to SSgt David A. Hall (USAFR) and Amn Jack D. Glover (USAFR), *supra* note 105.

¹⁸⁹ See Exec. Order No. 13140 (Oct. 7, 1999).

¹⁹⁰ Under Secretary of Defense (P&R) 1998 Report, *supra* note 44, at 2, 5.

¹⁹¹ See generally ARMY REGULATION 165-1, *Chaplain Activities in the United States Army* (1998). "A privileged communication is

defined as any communication to a chaplain [including those made as a] matter of conscience." *Id.* at para. 4.4.m(1).

¹⁹² See Zielinski letter, *supra* note 154.

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DEDICATION

TO THE MEN AND WOMEN WHO ARE FAITHFULLY SERVING IN ENFORCED SILENCE TO SECURE FOR AMERICA THE FREEDOM THAT IS DENIED TO THEM.

ACKNOWLEDGMENTS

SLDN would like to gratefully acknowledge the assistance of the entire SLDN staff in producing and distributing *Conduct Unbecoming: The Tenth Annual Report on "Don't Ask, Don't Tell, Don't Pursue, Don't Harass."* We especially thank the authors and editors of this report, Sharon E. Debbage Alexander, Sharra E. Greer, C. Dixon Osburn, Steve E. Ralls, and Kathi S. Westcott. We would also like to acknowledge Abigayle Needham, Christopher L. Neff, Jeffery L. Light, and Joseph T. Gasper for their contributions to this report.



A VISION

Freedom to Serve

A MISSION

Servicemembers Legal Defense Network (SLDN) is a national, non-profit legal services, watchdog and policy organization dedicated to ending discrimination against and harassment of military personnel affected by "Don't Ask, Don't Tell" and related forms of intolerance.

SLDN was founded in 1993 in the wake of the debate leading to "Don't Ask, Don't Tell." SLDN has worked tirelessly to provide free legal services to those harmed by "Don't Ask, Don't Tell," to protect service members from harassment and to press for changes that improve service members' daily lives. SLDN has responded to over 5,400 requests for assistance and obtained almost three dozen changes to military policy and practice, including an Executive Order on hate crimes in the military.

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EXECUTIVE SUMMARY



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“Don’t Ask, Don’t Tell’ works against our military preparedness, is unfair to patriotic Americans and, as a policy, has failed miserably. It must be repealed.”

*The Washington Post*¹

“The rationale for the [gay ban] had always been that the presence of homosexuals in the military somehow undermined ‘unit cohesion’ and morale . . . the reality, increasingly, is that in practice this rationale is undermined by experience.”

Tom Oliphant, *The Boston Globe*²

Momentum to repeal “Don’t Ask, Don’t Tell” is building.

As fighting in Afghanistan and Iraq continues, the Pentagon has discharged the fewest lesbian, gay and bisexual service members since 1995. The Pentagon expelled 787 service members for being gay³ in FY2003, down 17% from FY2002, and 39% from FY2001. Gay discharge numbers have dropped every time America has entered a war, from Korea to Vietnam to the Persian Gulf to the present conflicts.⁴

As more and more lesbian, gay and bisexual Americans serve with honor, veterans of the war on terrorism are

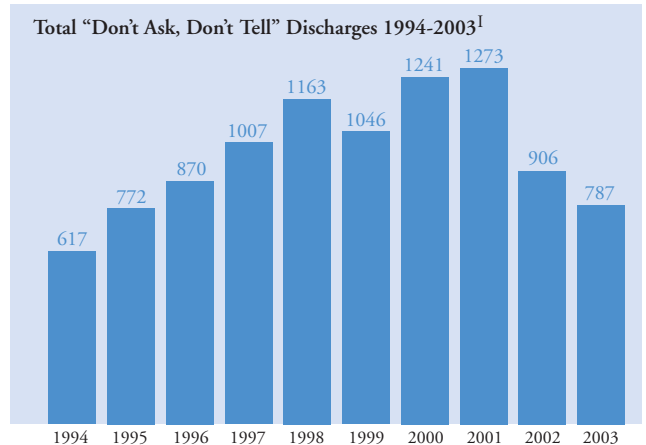
beginning to speak out. In this year’s report, we include the experiences of several service members who have served with distinction in Afghanistan and Iraq.

More of our allies have dropped their bans, and our American troops are fighting alongside openly lesbian, gay and bisexual allied personnel in the war on terrorism.⁵ They are also joined by our own skilled operatives from the Central Intelligence Agency (CIA), Federal Bureau of Investigation (FBI) and National Security Agency (NSA), whose agencies do not discriminate on the basis of sexual orientation.⁶

In an historic declaration, three retired flag officers, and members of SLDN’s

Honorary Board – Generals Keith Kerr and Virgil Richard and Admiral Alan Steinman – came out publicly this year in *The New York Times* and denounced “Don’t Ask, Don’t Tell” as ineffective. “There are gays and lesbians who want to serve honorably and with integrity, but have been forced to compromise,” Brigadier General Richard told the *Times*. “It is a matter of honor and integrity.”⁷

The three officers were joined by thirteen other retired senior military leaders in calling for an end to the ban, including former Reagan Administration Assistant Secretary of Defense Lawrence J. Korb and former Judge Advocate General of the Navy, Rear Admiral John Hutson, USN (Ret.).⁸





Former President Bill Clinton said for the first time ever that, “Simply put, there is no evidence to support the gay ban,” marking a major retreat from a policy that he once called “a major step forward.”⁹

The American people agree. In two separate public opinion polls, Americans registered their strongest support for gays serving openly in our armed forces. In a December 2003 *Gallup* poll, 79% of Americans said they support allowing lesbian, gay and bisexual Americans to serve openly in the armed forces.¹⁰ In a poll from the conservative *Fox News* organization, 64% of Americans said they support gays serving openly in our armed forces.¹¹ In 1993, the number was 57%.¹²

Our nation’s most respected newspapers agree. Almost every major daily newspaper has weighed in on the side of opportunity for lesbian, gay and bisexual service members. *The New York Times*. *The Washington Post*. *USA Today*. *The Chicago Tribune*. *The New Orleans Times-Picayune*. *The Los Angeles Times*.¹³ The list goes on and on.

Policymakers agree. Every Democratic presidential candidate called for an end to the current ban, including Vietnam veteran Sen. John Kerry (D-MA) and former NATO Supreme Allied Commander General Wesley Clark.¹⁴ Members of Congress are also speaking out against “Don’t Ask, Don’t Tell” and taking action in greater numbers.

The Supreme Court’s historic June 2003 decision in *Lawrence v. Texas*,¹⁵ overturning state sodomy laws, also calls into question both the military’s sodomy statute and “Don’t Ask, Don’t Tell.”

In 2003, for the first time in a decade, veterans and their allies convened in Washington, D.C. to urge their elected representatives to open the door to service for every qualified American, regardless of sexual orientation. Participants in the event, part of SLDN’s first annual lobby day, met with more than fifty congressional offices.

Reality television gave America two new images of gay veterans this past year. Jason Tiner, came out as gay on the *Bravo’s* gay dating show, *Boy Meets Boy*. And Reichen Lehmkuhl, an Air Force Academy graduate, and his partner, won *CBS’ Amazing Race*.

In the decade since “Don’t Ask, Don’t Tell” became law, overwhelming evidence has shown the military’s gay ban to be counterproductive to our national interests and contrary to our nation’s ideals.

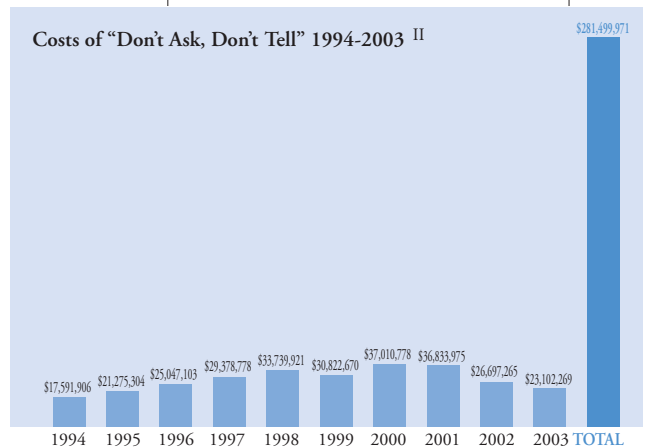
In this year’s report, we provide a ten year review of “Don’t Ask, Don’t Tell,” highlighting the major events of the past decade.

The failed promise to lift the ban a decade ago. The Department of Defense (DoD) policies that made it clear “Don’t Ask, Don’t Tell” is a ban. The anti-gay harassment left unchecked that was exposed by the tragic murder of Private First Class (PFC) Barry Winchell. The careers that have been ruined by pursuits and witch hunts. The loss to the nation of talented needed service members like the 37 linguists - many speaking Arabic, Farsi and Korean - discharged from the Defense Language Institute.

As discharges during the war in Iraq drop to historically low levels, Americans see first hand the talents of the lesbian, gay and bisexual patriots.

This irrational policy of exclusion has cost our nation, and our security, almost 10,000 dedicated and trained Americans over the past ten years. That’s more than two full brigades. It is also one-third of the 30,000 new recruits that the Army now says it needs to fight the war on terrorism.¹⁶

It costs between one quarter *billion* and 1.2 *billion* dollars just to train replacements for those men and women fired simply because of their sexual orientation.¹⁷



The cost of shrinking the pool of talent for our nation's armed forces, meanwhile, is immeasurable.

Yet today, the pool of accomplished lesbian, gay and bisexual Americans who have served in our nation's mili-

tary is one million strong, according to a recent study by the Urban Institute.¹⁸ These patriotic men and women continue to live every day embracing the core values of their services: truth, honor, dignity, respect and integrity.

From the front pages and into America's living rooms, proud gay veterans spoke out about their service to our country.

REMEMBERING THE PAST: HOLDING A GENERAL ACCOUNTABLE

While there is new and palpable momentum to repeal "Don't Ask, Don't Tell," 2003 reminded all Americans how far we have to go. The confirmation of Major General (MG) Robert T. Clark for promotion to Lieutenant General was a prime example.

Clark was commander of Fort Campbell, Kentucky, in 1999 when PFC Barry Winchell was bludgeoned to death by fellow soldiers who believed Winchell was gay. Under Clark's watch many reports of anti-gay harassment surfaced in addition to Winchell's murder, including anti-gay graffiti.¹⁹ Clark also implemented a policy at Fort Campbell that led to a record number of gay discharges at the post. A Department of Army Inspector General (IG) report found other troubling facts about Clark's tenure at the post, including command-wide low morale; inadequate delivery of health care to soldiers and their families; and wide-spread, leader-condoned underage drinking in the barracks.²⁰ According to a report from *60 Minutes*, Fort Campbell also saw an alarming spike in domestic abuse cases during Clark's tenure.²¹ Despite Clark's claims that the IG report exonerated him, the IG in fact asked no questions regarding anti-gay harassment.

The Senate Armed Services Committee refused to act on Clark's nomination in 2002 due to serious concerns about his leadership at Fort Campbell. Undeterred, President Bush re-nominated him in 2003.

The Senate had never denied promotion to a General, let alone questioned his fitness to lead based on his handling of anti-gay harassment under his watch.

For fourteen months, Senators debated MG Clark's leadership, the rampant anti-gay environment under his watch, and the state of lesbian, gay and bisexual military personnel. Sen. Susan Collins (R-ME) expressed concerns about the nomination stating on *NBC Nightly News* that, "[t]here is compelling evidence that there were problems at this base."²² As the nomination moved out of the powerful Senate Armed Services Committee, three of the Committee's members – Sen. Daniel Akaka (D-HI), Sen. Hillary Rodham Clinton (D-NY) and Sen. Edward Kennedy (D-MA) – voted to deny Clark's promotion.

"There is compelling evidence that anti-gay harassment at Fort Campbell was pervasive," Sen. Kennedy said on the Senate floor.²³ Sen. Kennedy went on to say that, when he pointed to such evidence during Committee hearings, "General Clark stated that he agrees with these findings, but that he was, nonetheless, not aware of a single

instance of anti-gay harassment prior to the murder," leading Sen. Kennedy to conclude that "the available evidence indicated that General Clark's response was not adequate."²⁴

Sen. Mark Dayton (D-MN), also speaking on the Senate floor, broadened the question of Clark's nomination. "What about those gay and lesbian service members? What message are we sending them?" Sen. Dayton asked as a vote on Clark's nomination neared.²⁵

And in a written statement, Sen. Akaka said he was "disturbed by General Clark's continued reliance on lack of knowledge regarding misconduct and anti-gay harassment on post as a rationale for his lack of action." Sen. Akaka concluded that "I could not support his promotion to Lieutenant General."²⁶ Senators Russ Feingold (D-WI), John Kerry (D-MA) and Frank Lautenberg (D-NJ) submitted their concerns about the nomination to the Congressional Record.

While Clark was eventually confirmed by the Senate, the debate surrounding his nomination brought the issue of anti-gay harassment in the military to the Senate floor for the first time in history. Military leaders were put on notice that Congressional leaders will no longer turn a blind eye to anti-gay harassment, and signaled growing frustration with the military's intransigence toward its lesbian, gay and bisexual personnel.

★ 13 POINT ANTI-HARASSMENT ACTION PLAN ★

General Recommendations:

1. The Department of Defense should adopt an overarching principle regarding harassment, including that based on perceived sexual orientation:

“Treatment of all individuals with dignity and respect is essential to good order and discipline. Mistreatment, harassment, and inappropriate comments or gestures undermine this principle and have no place in our armed forces. Commanders and leaders must develop and maintain a climate that fosters unit cohesion, esprit de corps, and mutual respect for all members of the command or organization.”

2. The Department of Defense should issue a single Department-wide directive on harassment.
 - It should make clear that mistreatment, harassment, and inappropriate comments or gestures, including that based on sexual orientation, are not acceptable.
 - Further, the directive should make clear that commanders and leaders will be held accountable for failure to enforce this directive.

Recommendations Regarding Training:

3. The Services shall ensure feedback on reporting mechanisms are in place to measure homosexual conduct policy training and anti-harassment training effectiveness in the following three areas: knowledge, behavior, and climate.
4. The Services shall review all homosexual conduct policy training and anti-harassment training programs to ensure they address the elements and intent of the DoD overarching principle and implementing directive.
5. The Services shall review homosexual conduct policy training and anti-harassment training programs annually to ensure they contain all information required by law and policy, including the DoD overarching principle and implementing directive, and are tailored to the grade and responsibility level of their audiences.

Recommendations Regarding Reporting:

6. The Services shall review all avenues for reporting mistreatment, harassment, and inappropriate comments or gestures to ensure they facilitate effective leadership response.
 - Reporting at the lowest level possible within the chain of command shall be encouraged.
 - Personnel shall be informed of other confidential and non-confidential avenues to report mistreatment, harassment, and inappropriate comments or gestures.

7. The Services shall ensure homosexual conduct policy training and anti-harassment training programs address all avenues to report mistreatment, harassment, and inappropriate comments or gestures and ensure persons receiving reports of mistreatment, harassment, and inappropriate comments or gestures know how to handle these reports.
8. The Services shall ensure that directives, guidance, and training clearly explain the application of the “don’t ask, don’t tell” policy in the context of receiving and reporting complaints of mistreatment, harassment, and inappropriate comments or gestures, including:
 - Complaints will be taken seriously, regardless of actual or perceived sexual orientation;
 - Those receiving complaints must not ask about sexual orientation – questions about sexual orientation are not needed to handle complaints; violators will be held accountable; and
 - Those reporting harassment ought not tell about or disclose sexual orientation – information regarding sexual orientation is not needed for complaints to be taken seriously.

Recommendations Regarding Enforcement:

9. The Services shall ensure that commanders and leaders take appropriate action against anyone who engages in mistreatment, harassment, and inappropriate comments or gestures.
10. The Services shall ensure that commanders and leaders take appropriate action against anyone who condones or ignores mistreatment, harassment, and inappropriate comments or gestures.
11. The Services shall examine homosexual conduct policy training and anti-harassment training programs to ensure they provide tailored training on enforcement mechanisms.

Recommendations Regarding Measurement:

12. The Services shall ensure inspection programs assess adherence to the DoD overarching principle and implementing directive through measurement of knowledge, behavior, and climate.
13. The Services shall determine the extent to which homosexual conduct policy training and anti-harassment training programs, and the implementation of this action plan, are effective in addressing mistreatment, harassment, and inappropriate comments or gestures.

July 21, 2000

REVIEWING THE PRESENT:
LITTLE PROGRESS IS MADE TO
IMPLEMENT THE ANTI-HARASSMENT
ACTION PLAN

We write to request full and complete implementation of the 13 Point Anti-Harassment Action Plan (AHAP) by all of the Armed Services... . We conclude that the Services are not in full compliance with the Action Plan and ask that the Department of Defense evaluate the Plan's implementation.

22 Members of Congress in a Letter to Secretary of Defense Ronald Rumsfeld²⁷

[A]ny harassment of the members of our Armed Forces is unacceptable.

Under Secretary of Defense for Personnel and Readiness Dr. David S.C. Chu²⁸

The Bush Administration and its Pentagon leaders continue to ignore a growing epidemic of anti-gay harassment within the armed forces. Despite the adoption of a comprehensive Anti-Harassment Action Plan (AHAP) by then-Secretary of Defense William Cohen more than four years ago, Defense Department leaders refuse to implement the plan and continue to turn a blind eye to dangerous harassment within the ranks.

The AHAP specifically notes that "treatment of all individuals with dignity and respect is essential to good order and discipline."

Its words, however, have never made it down the chain of command. The Plan continues to collect dust on Pentagon shelves.

In response to the Pentagon's failure to follow the Plan, twenty-two Members of Congress, in a July 2003 letter to Secretary of Defense Rumsfeld, ordered action. In their letter, the Congressional

Representatives conclude that "the Services are not in full compliance" with AHAP and subsequent order and request that "the Department of Defense evaluate the Plan's implementation" and report on its progress.

In a September 2003 response to the letter, Under Secretary of Defense Dr. David Chu indicated he would comply with the Congressional request. An honest review will find that:

- **The Pentagon has failed to issue a single Department-wide directive on harassment, as required by the AHAP.** The directive, according to the Anti-Harassment Action Plan, must "make clear that mistreatment, harassment and inappropriate comments or gestures, including based on sexual orientation, are not acceptable." Further, "the directive should make clear that commanders and leaders will be held accountable for failure to enforce this directive."
- **None of the individual services have implemented the training requirements spelled out under the AHAP.** The training is to be tailored to the grade and responsibility of the audience, and administered to every member of the military. Instead, SLDN has documented that training rarely meets such standards, and is instead often treated as a joke and dismissed by military leaders. The Army has come closest to meeting those guidelines and this year took a step forward with the development of a new training for Non-commissioned Officers (NCOs). Unfortunately, the Army failed to include anti-gay harassment training in its revision of its training regulations this year. The Marine Corps acknowledges its training is

inadequate. The Navy and Air Force have blatantly failed to meet the requirements altogether, and indeed took steps backward in 2003.

- **No service has properly instructed personnel on how to safely report anti-gay harassment.** The services are required to provide clear training on how to report harassment and to instruct those who receive such complaints not to ask about a service member's sexual orientation. While some services have taken small steps, most have completely failed to properly inform service members. Here, too, the Army has come closest to meeting the guidelines, but the message is not reaching the field. The Marine Corps has taken small steps. The other services, however, continue to do nothing in this important area.
- **None of the services have enforced – or evaluated adherence to – the Anti-Harassment Action Plan.** The services are required by the AHAP to ensure inspection programs to assess adherence to the AHAP and assess the effectiveness of efforts to address anti-gay harassment. While the Army, Air Force and Marine Corps have taken small steps in the right direction on measurement, the Navy has completely failed to make any assessment of its efforts. None of the services have evaluated the level of anti-gay harassment. Enforcement, also required by the AHAP, is absent from all of the services. Instead, complaints of harassment continue to fall on deaf ears. Credible, well-documented cases of harassment go uninvestigated and offenders go unpunished. Accountability is non-existent.

All this, despite overwhelming evidence, as reported by the DoD Inspector General, on the need for such programs.

DOD IG Findings

III

80% have heard derogatory, anti-gay remarks during the past year;
37% said they witnessed or experienced targeted incidents of anti-gay harassment
—9% of whom reported anti-gay threats
—5% of whom reported witnessing or experiencing anti-gay physical assaults.

This Administration, which has for too long ignored the safety of a specific segment of its military personnel, must immediately:

- **Ensure full and adequate training on anti-harassment programs and the law's investigative limits.** The services should ensure every service member – from recruit to flag officer – receives rank-appropriate training to prevent anti-gay harassment. The Pentagon should

also make clear that anti-gay harassment includes, but is not limited to, inappropriate comments and gestures, mistreatment, threats and assaults. The Pentagon should make clear that “Don’t Ask, Don’t Tell” contains specific investigative limits.

- **Provide adequate avenues to report harassment.** The Pentagon must ensure that all service members understand avenues available for reporting harassment. All service members should know that complaints are to be taken seriously and those making complaints will not be asked about their sexual orientation. Inspectors General, law enforcement personnel, equal-opportunity representatives, chaplains, health-care providers, commanders and all personnel who deal with harassment must be given clear instructions not to “out” service members who seek their help. The services must also adopt a rule of privacy for conversations with health care providers. And, there must be adequate training on how to respond to complaints of harassment.

- **Enforce the policy and hold accountable those who ask, pursue or harass.** The Pentagon must require enforcement of prohibitions against asking, pursuits and harassment. Commands must hold accountable those who harass or condone harassment, as well as those who ask or pursue. Commanders must also understand there are specific consequences for violations, from letters of counseling to court-martial, depending on the offense. *The Pentagon must uphold and enforce its own rules and regulations.*
- **Measure the effectiveness of training and guidance.** The Pentagon must require the services to measure the results of their efforts in implementing the Anti-Harassment Action Plan.

Sound-bites offering empty promises to protect men and women in uniform are useless. The Pentagon must take concrete steps to address harassment. This Administration must leave no service member behind.

CHARTING THE FUTURE:

“THE STATE CANNOT DEMEAN THEIR EXISTENCE OR CONTROL THEIR DESTINY”

Lawrence v. Texas

The future of “Don’t Ask, Don’t Tell” is clear – the ban will be lifted. The question remains when and how.

The Supreme Court’s decision in *Lawrence v. Texas*,³¹ while it does not directly address “Don’t Ask, Don’t Tell,” does call into serious question the future of a law that is predicated on governmental intrusion into the private lives of its citizens.

There’s only one good way to celebrate the 10 year anniversary of this law: by ending the discrimination against American sons and daughters who are protecting us everywhere, everyday and who also happen to be gay.

Robin Gerber, USA Today²⁹

[“Don’t Ask, Don’t Tell”] has done the nation a disservice by doing wrong to those who would fight for it.

Editorial: Unhappy Anniversary, *The Washington Post*³⁰

In broad and sweeping language, Justice Anthony Kennedy confirmed in the *Lawrence* case the “right to liberty under the Due Process Clause,” which, he wrote, “gives the full right to engage in private conduct without government interven-

tion.” The decision, he summarized, found that in the matter of private, consensual adults, “the state cannot demean their existence or control their destiny.”³²

Service members, straight and gay, have already challenged the military’s sodomy statute, and that antiquated statute’s fate lies, initially, with the Court of Appeals for the Armed Forces, the military’s highest criminal court of appeals.

Another case already filed challenges “Don’t Ask, Don’t Tell” using the *Lawrence* decision before the Court

of Federal Claims. Lieutenant Colonel (LTC) Steve Loomis, a decorated Vietnam combat veteran and recipient of the Purple Heart, was discharged eight days prior to his twenty year retirement for being gay. LTC Loomis is challenging his discharge and the constitutionality of “Don’t Ask, Don’t Tell.”

The Pentagon says it is “fairly enforcing” the law.³³ There is, however, no fair way to implement “Don’t Ask, Don’t Tell” or any policy of discrimination. The truth is evident and overwhelming: there is no evidence to support the gay ban.

Pentagon leaders must speak up for repeal. Former Presidents, Secretaries of Defense, service leaders, senior enlisted leaders, and all Americans must speak up and demand repeal. As the courts, veterans and the American people speak out in favor of opportunity for all, the end of discrimination in our armed forces is closer, and more attainable, than ever before. Overturning “Don’t Ask, Don’t Tell” is the right thing for our military, for our service members and for all Americans. The momentum is building.

SPOTLIGHT



FIGHTING FOR FREEDOM: LESBIAN, GAY & BISEXUAL AMERICANS ON THE FRONTLINES IN IRAQ

“Great Britain lifted its ban on gays after our debate in 1993, and over the past year, I did not see any of the critics of gays in the military here in America asking the British to stay out of Afghanistan or Iraq.”

President Bill Clinton, in remarks made to SLDN³⁴

SLDN estimates that the Pentagon has deployed as many as 10,000 lesbian, gay and bisexual service members to Afghanistan, Iraq and other locations in the Middle East.³⁵

As they continue to fight, more and more stories about the heroism of lesbian, gay and bisexual patriots emerge. Their testimony is a powerful reminder that bravery and patriotism know no sexual orientation.



Now that I am back home, I can do what so many cannot: speak about the sacrifices made and the accomplishments realized by lesbian, gay, bisexual and transgender Americans serving our country at its time of greatest need. I know they are there, serving, as I did, under a veil of silence and anonymity. They cannot speak, but today I can.³⁶

CAPTAIN AUSTIN ROOKE

FROM THE FRONTLINE OF QATAR: CAPTAIN AUSTIN ROOKE

The Army recalled Captain Austin Rooke to active duty in the wake of the terrorist attacks on September 11th, 2001. At the time he was recalled, Rooke had been working for the National Gay and Lesbian Task Force, one of the nation's largest lesbian, gay, bisexual and transgender advocacy organizations.

Rooke received his commission as an officer after graduating from the University of Texas on an ROTC scholarship.

Following graduation, Rooke served four years on active duty, including assignments in Bosnia, working with NATO allies. Like many gay soldiers, Rooke came out to himself while in the Army. In 1998, after completing his active duty obligation, Rooke went into the inactive reserves.

Upon his recall to active duty, Rooke reported to Fort Lewis to work in military intelligence. He extended his service commitment by six months to volunteer for overseas duty in Qatar, in support of Operation Enduring Freedom and

for the first few weeks of Operation Iraqi Freedom serving with the Special Operation Forces.

Rooke says it was not easy serving as a gay man overseas. “I had only one

friend I could really be open to and confide in,” he says. “I did not know anyone else who was gay. And the environment was such that one did not feel comfortable coming out,” Rooke says.

Sources of comfort for Rooke,

though, were the care packages that his friends from the Task Force sent him. “Those care packages made me feel connected back to friends and support back home,” he says.

Today, Rooke has returned home to Washington, D.C. and continues his

work with the Task Force. His isolated existence in service to his country stands in stark contrast to his career with the Task Force, where he works on the frontlines for freedom again – for his community as well as his country.

FROM THE FRONTLINE OF IRAQ: GAY MARINE SERVES IN SILENCE

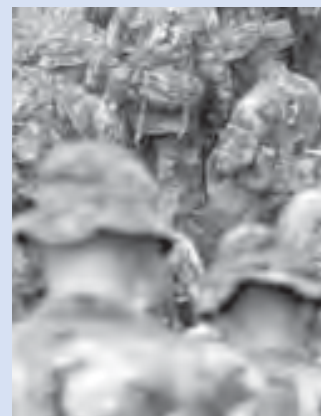
An SLDN client who must remain anonymous because he continues to serve on active duty served as an infantryman in Iraq for seven months, conducting security patrols and humanitarian assistance.

A native Spanish speaker, “Joaquin’s” command selected him to serve as an interpreter for U.S. forces working with allied forces from Spanish-speaking countries. An immigrant to America from Mexico, Joaquin had a uniquely American dream: to become a United States Marine. Joaquin impressed local recruiters in his home town because he had attended recruiting events since he was fifteen years old. “I wanted,” he says, “to give something back to my country, America.”

Joaquin is also a gay American, and came to terms with his sexuality during high school.

At first, he brushed aside the issue of his sexual orientation, not wanting anything to interfere with his dream of becoming a Marine. But as he fought for freedom abroad that his country denied him at home, Joaquin became increasingly wary of serving under “Don’t Ask, Don’t Tell.” The ban compromised his integrity.

Reluctantly, he came out to his command as a matter of honesty, and in response to harassment from other Marines who concluded that his silence about his private life indicated he was likely gay. The Marine Corps has not yet discharged Joaquin and he continues to serve his country proudly.



When I was in Iraq, I served alongside some of our nation’s staunchest allies, many of whom allow gay people to serve openly. In my own country, however, I cannot serve openly and honestly.³⁷

LANCE CORPORAL “JOAQUIN”

FROM THE SKIES OVER THE PERSIAN GULF: A PILOT CLOUDED BY “DON’T ASK, DON’T TELL”

The vast majority of service members deployed for Operation Enduring Freedom and Operation Iraqi Freedom cannot be out. They are the shadows and voices behind the screens. Yet, without their courage and skill, America could not carry out its mission.

One such sailor is a Seahawk helicopter pilot who was deployed in both Iraq and Afghanistan. His missions included combat search and

rescue, submarine hunting, small boat defense and Special Forces support. Seahawk pilots are the ones who try to stop terrorists from striking ships like the *USS Cole* and who helped secure the oil wells in Iraq prior to invasion to ensure that Iraqi forces did not set them ablaze.

“Our mantra is up in twelve, meaning we have to go from a dead sleep to airborne in twelve minutes to carry out any mission assignment,” he explains.³⁸

He speaks anonymously, because his name could mean his discharge. He speaks on behalf of at least a dozen sailors based on his ship who are gay.



What would I say to someone who is anti-gay? If it weren’t for “Don’t Ask, Don’t Tell,” I would say ‘You are a bigot. Get out. Move on. It’s better for the military for him to find another job’⁴⁰

ANONYMOUS NAVY PILOT

He speaks for his partner, also serving in the Navy, fighting for our country, too. "We've been together," he says, "for three years." Everyone on his partner's ship knows he is gay and, he says, "at least five percent of

the ship is gay."³⁹

Back on his ship, the pilot finds comfort in confiding with his gay colleagues, but says everyone is careful to come out only to those they

trust. The pilot intends to make the Navy his career and serve for at least twenty years. One wrong story about life back home, made to one wrong person, however, could result in his discharge.

FROM THE FRONTLINE
OF AFGHANISTAN:

**MASTER CHIEF PETTY OFFICER OF
THE COAST GUARD VINCENT W.
PATTON III, (RET.)**

General John Abizaid, Commander of U.S. Central Command, and the USO, invited SLDN Honorary Board member, Master Chief Petty Officer of the Coast Guard Vincent W. Patton III (Ret.) to tour Afghanistan, Uzbekistan, Kyrgyzstan and Pakistan with the USO. Patton tried to go into Iraq twice, but each time his aircraft turned back due to enemy fire. Patton's mission which was part of the USO's "Operation Handshake" program, was to gauge the morale of our troops involved in military operations in the Middle East.

Patton served in the U.S. Coast Guard for over 30 years, retiring after serving as the Coast Guard's top senior enlisted service member for over four years. Patton most recently completed his divinity studies at Graduate Theological Union, Berkeley, CA and is now an ordained minister.

Patton says that he spoke to roughly 700-800 troops, mostly soldiers, during his tour. While he talked about a variety of topics with the troops, he also talked candidly about his thoughts on gays in the military and the "Don't Ask, Don't Tell," policy. "It's like building a sandwich," Patton says. "You don't start off the conversation talking about gays in the military. I had to first build trust with the individual I was talk-

ing with. In doing so, I found some common ground, that opened up the dialogue to pursue the discussion further to touch on this sensitive yet volatile subject," Patton says.

Attitudes regarding lesbian, gay and bisexual colleagues, he says, split largely among generational lines. Young enlisted troops were not concerned about the sexual orientation of their military colleagues. "I found in my conversations that for the most part they are more culturally exposed to gays. They grew up with it so it's no big deal. There's a lot to be said about Barry Goldwater's statement, you don't have to be straight to be a good soldier, you just have to know how to shoot straight," Patton says.⁴¹

Patton's experience shows that leadership makes a difference. One soldier came out to Patton because he had heard that he was asking troops about gays in the military, and telling them about his work on behalf of SLDN. Having gained the trust of the troops, and showing leadership on behalf of all service members, he created a zone of comfort where at least one soldier was willing to be open. The soldier said, "I know about SLDN."⁴²

"The soldier reported that he knew of three other soldiers in his unit that are gay or lesbian, but they kept themselves distant from each other out of fear of being discovered," Patton says.⁴³

When Patton returned to the United States, he visited troops at Walter



When we take the time to listen, we learn. Too many leaders are unwilling to open their eyes and ears and hearts to the courage of our lesbian, gay and bisexual service members. That trend is changing as more gay veterans speak candidly about their service.⁴⁵

MASTER CHIEF PETTY OFFICER OF THE COAST GUARD VINCENT W. PATTON III, (RET.)

Reed Medical Center in Bethesda. He saw many of the soldiers with a variety of injuries from serious burns to amputated limbs incurred from their hazardous profession. They are the face of the war on terrorism that few see. "They were in bad shape. I had to steel myself to stay positive. The visit was so overwhelming that when I got back to my car, I had to cry and have a talk with God about how deeply this event was so troubling to me. They have given so much for our country," Patton says.⁴⁴

It is quite likely that more than one of the patients Patton saw is gay.

FROM THE HOMEFRONT:
A DISCHARGED SAILOR WAITS FOR
HER GIRLFRIEND TO RETURN

The media are filled with photos of the worried families of straight soldiers, including their tearful, poignant goodbyes or their joyous reunions. But gay and lesbian partners can't share such scenes. They can't access the support services the military offers spouses. They can't be sure they would be the first to find out if their loved ones were wounded, captured or killed.

Patricia Ward Biederman in *The Los Angeles Times*⁴⁶

Unlike their peers, lesbian, gay and bisexual service members have no teary goodbyes at dock-side. Communication is cryptic, to obscure the gender of their loved ones left behind. Separation, for months or for years, is made more painful by the inability to simply say "I love you" in a phone call back home. And, perhaps most cruelly of all, the partners of gay personnel injured or killed in battle may never be notified of their loved one's status.

One such partner met her girlfriend two years ago in the Navy. Jen worked in Navy legal affairs; her partner reads radar, tracks incoming missiles and recently sailed to the Persian Gulf to fight a war.

Jen has since been discharged under "Don't Ask, Don't Tell," but her partner remains on active duty, and plans to stay in for twenty years.



Being able to acknowledge their love, Jen said, "would take a weight off our shoulders." Although Jen said she is not bitter about the "don't ask, don't tell" policy that ended her naval career, she thinks reform is overdue. "The policy needs to change because there are so many gays serving and serving well," she said, sounding like any proud spouse of an American service member. "They're out there, and they're fighting for us."⁴⁷

TEN YEARS OF “DON’T ASK, DON’T TELL.” A DISSERVICE TO THE NATION



The decade under “Don’t Ask, Don’t Tell” has been a disservice to our country and to the people who serve in our Armed Forces.

“Don’t Ask, Don’t Tell” has deprived our Armed Forces of the skills, talent, experience and commitment of nearly 10,000 personnel discharged under the law.

It has deprived us of untold numbers of young Americans who have chosen not to serve or who have cut short their careers in the military because of the ban. The ban demands self-denial far beyond the already substantial sacrifices expected of uniformed personnel and their families.

“Don’t Ask, Don’t Tell” forces gay military personnel to live a lie as a condition of service. The law denies others the opportunity to know and learn from their gay colleagues.

The history of “Don’t Ask, Don’t Tell” is complicated. A comprehensive account of the policy, its genesis and application, would require volumes to tell. On this tenth anniversary, however, we review some of the defining moments of the past decade.

We review how the initial promise of a more benign policy toward gays actually created mass confusion about the policy and backlash against lesbian, gay and bisexual service members.

We review how, over time, the new law showed its true colors as a gay ban, just like its predecessors, not a

step forward for our nation, our military or our military personnel.

We review the epidemic of anti-gay harassment in the ranks and the inadequate response of our military leaders. In particular, we review the brutal murder of Private First Class Barry Winchell at Fort Campbell, Kentucky, exposing six years of harassment and violence against gay service members left unchecked by military leaders.

Lastly, we examine the significant shift in public opinion post September 11th in support of gays serving openly in the military. The American people and some military leaders are beginning to acknowledge that “Don’t Ask, Don’t Tell” was bad policy when it became law, and it is bad policy today. It is time for change.

WHAT IS “DON’T ASK, DON’T TELL?”

“Don’t Ask, Don’t Tell, Don’t Pursue, Don’t Harass” is a statutory ban on gays in the military, similar to the regulatory bans that preceded it.⁴⁸ It is the only law in America that authorizes firing someone for his or her sexual orientation. Indeed, “Don’t Ask, Don’t Tell” is the only

law that punishes lesbians, gays and bisexuals for coming out. Many Americans believe that “Don’t Ask, Don’t Tell” represents a compromise in which gay people can serve in the military as long as they are discrete about their personal lives. Ten years’ experience has proven beyond a doubt that this is simply not the case. An honest statement by a gay

service member of his or her sexual orientation to anyone, at anytime, anywhere may lead to discharge.

“Don’t Ask, Don’t Tell” is an umbrella term for the statute, regulations and memoranda that comprise the ban. It is perhaps easiest to understand by breaking it down into its component parts.

Don't Ask. Commanders or appointed inquiry officials shall not ask, and members shall not be required to reveal, their sexual orientation.⁴⁹

Don't Tell. "A basis for discharge exists if . . . [t]he member has said that he or she is a homosexual or bisexual, or made some other statement that indicates a propensity or intent to engage in homosexual acts . . ."⁵⁰

Don't Pursue. More than a dozen specific investigative limits laid out in DoD instructions and directives comprise "Don't Pursue." It is the most complicated and least understood component of the policy. These investigative limits establish a minimum threshold to start an inquiry and restrict the scope of an inquiry when one is properly initiated.

A service member may be investigated and administratively discharged if they:

- 1) make a statement that they are lesbian, gay or bisexual;
- 2) engage in physical contact with someone of the same sex for the purposes of sexual gratification; or
- 3) marry, or attempt to marry, someone of the same sex.⁵¹

Only a service member's commanding officer may initiate an inquiry into homosexual conduct.⁵² In order to begin an inquiry, the commanding officer must receive credible information from a reliable source that a service member has violated the policy.⁵³ Actions that are associa-

tional behavior, such as having gay friends, going to a gay bar, attending gay pride events, and reading gay magazines or books, are never to be considered credible.⁵⁴ In addition, a service member's report to his/her command regarding harassment or assault based on perceived sexuality is never to be considered credible evidence of their sexual orientation.⁵⁵

If a determination is made that credible information exists that a service member has violated the policy, a service member's commanding officer may initiate a "limited inquiry" into the allegation or statement.

That inquiry is limited in two primary ways. First, the command may only investigate the factual circumstances directly relevant to the specific allegation(s).⁵⁶ Second, in statements cases, the command may only question the service member, his/her chain of command, and anyone that the service member suggests.⁵⁷ In most cases of homosexual statements, no investigation is necessary.⁵⁸ Cases involving sexual acts between consenting adults should normally be dealt with administratively, and criminal investigators should not be involved, except in extraordinary circumstances.⁵⁹

The command may not attempt to gather additional information not relevant to the specific act or allegation, and the command may not question anyone outside of those listed above, without approval from the Secretary of that service.⁶⁰ Such an investigation is considered a "substantial investigation."⁶¹ In order to

request authority to conduct a "substantial investigation," the service member's command must be able to clearly articulate an appropriate basis for an investigation.⁶²

As with a "limited inquiry," only a service member's commanding officer has the authority to request permission to conduct a "substantial investigation."⁶³ By definition, a "substantial investigation" is anything that extends beyond questioning the service member, the service member's immediate chain of command, and anyone the service member suggests.⁶⁴

Don't Harass. "The Armed Forces do not tolerate harassment or violence against any service member, for any reason."⁶⁵ There are many regulations and laws that prohibit harassment and can be applied to anti-gay harassment cases. Harassment can take different forms, ranging from a hostile climate rife with anti-gay comments, to direct verbal and physical abuse, to death threats.

"Don't Ask, Don't Tell" is a complex law comprised of statute, regulations and policy memoranda. The above description, however, covers the basic components of the law – and those are fairly simple. Don't ask about sexual orientation. Don't investigate sexual orientation, except in specific circumstances and in limited ways. Don't harass. Don't tolerate harassment based on perceived sexual orientation.

Unfortunately, even after almost ten years, the services continue to violate these basic rules.

HOPES DASHED THAT THE BAN WOULD BE LIFTED: HOW "DON'T ASK, DON'T TELL" BECAME A LAW

The prohibition of gays from military service has been an issue since the regulatory ban began during

World War II. In 1992, the issue came to the forefront of the American consciousness with the national news coverage of the brutal murder of Seaman Allen Schindler, beaten to death by fellow sailors because he was gay.⁶⁶ The murder

and the public response that accompanied it helped bring attention and support to then-candidate Bill Clinton's vow to lift the ban on gays in the military if he were elected President.



"I lost my son Allen to anti-gay hatred at the hands of his fellow sailors. My son's life was ended in the most brutal way imaginable, and the Navy has done nothing to ensure that another mother of a gay sailor in the future won't have to go through this kind of pain."

DOROTHY HOLMAN, MOTHER OF ALLEN SCHINDLER



Schindler

After President Clinton's election, there was hope that he would issue an Executive Order allowing gays and lesbians to serve following the example of President Harry Truman who

integrated the military by Executive Order. The political response in opposition to lifting the ban was swift and vicious. In the intense political wrangling that plagued his Administration in early 1993, it became clear that President Clinton's promise of an end to the ban would be blocked by the Joint Chiefs of Staff and conservatives in Congress, including members of the President's own party.⁶⁷

Congress held hearings heavily weighted toward supporters of the ban.⁶⁸ The Pentagon created a working group to examine the issue that



"As a member of the Military Working Group assigned by the Secretary of Defense to develop a policy to meet President Clinton's intent to lift the ban, I can attest to the unfairness of the process that led to "Don't Ask, Don't Tell." There was no honest discussion about whether gay service members contribute positively or negatively to unit cohesion. Anti-gay stereotypes and a sense that the military should not break with tradition so as to acknowledge the civil rights of gay Americans were key features of the working group's dynamic. My 30 years of military service lead me to believe that gay, lesbian and bisexual members of the Armed Services deserve every opportunity afforded straight service members; sexual orientation is irrelevant to one's ability to serve well in our Armed Forces."

MASTER CHIEF PETTY OFFICER OF THE COAST GUARD VINCENT W. PATTON, USCG (RET.)

was also biased towards retention of the existing policy.⁶⁹ Ultimately, in July 1993, President Clinton announced that a "compromise" had been reached. This compromise was presented to the public as a "gentleman's agreement" which would respect the sensibilities of heterosexual service members while affording some privacy to gay members of the armed forces. Assurances of a "zone of privacy" with respect to sexual orientation were made, as then-Chair of the Joint Chiefs Colin Powell promised, "We won't witch

hunt. We won't chase. We won't seek to learn orientation."⁷⁰ Military leaders promised that discretion would be all that was required of gay service members, and in exchange, gay service members would not be subject to invasive questioning. As a result, this new policy came to be popularly known as "Don't Ask, Don't Tell."

In November 1993, the new ban on gays in the military became law – a statute passed by Congress. No longer could the ban be lifted by Executive Order, nor was it still possible to work through the regulations to alter the status of gay military personnel.

"Don't Ask, Don't Tell" was different from prior prohibitions on service in three respects. First, Congressional and military leaders acknowledged, for the first time in 1993, that lesbians, gays and bisexuals serve our nation and do so honorably.⁷¹ Second, the policy states sexual orientation is no longer a bar to military service.⁷² Third, President Clinton, Congress and military leaders agreed to end intrusive questions about service members' sexual orientation and to stop the military's infamous investigations to ferret out suspected lesbian, gay and bisexual service members.⁷³ They agreed to take steps to prevent anti-gay harassment.⁷⁴ They agreed to treat lesbian, gay and bisexual service members even-handedly in the criminal justice system, instead of criminally prosecuting them in circumstances where they would not prosecute heterosexual service members.⁷⁵ They agreed to implement the law with due regard for the privacy and associations of service members.⁷⁶

The ink on the new statute had barely dried when the promises underlying it were broken. The "gentleman's agreement" proved illusory when the regulations imple-

menting it were published. Witch hunts and anti-gay harassment were left unchecked by the Pentagon. The promised zone of privacy did not materialize. It quickly became clear that far from a liberalization of the prior regulations, “Don’t Ask, Don’t Tell” was a ban on gay service of the most insidious kind.⁷⁷

No Evidence to Support the Ban: Four reports authored or commissioned by DoD since 1957 have concluded there is no evidence to support a ban on military service by gay people. The Navy’s 1957 Crittenden Report challenged the assumption that gay people in the military posed security risks.⁷⁸ Two reports issued by the Personnel Security Research and Education Center in 1988 and 1989 concluded that there was no empirical evidence to support the ban, finding that gay people performed as well as heterosexuals.⁷⁹ Finally, a 1993 Rand Report commissioned by DoD concluded that allowing gay people to serve openly in the military posed no threat to readiness.⁸⁰ Congress and the public virtually ignored these studies during the debates surrounding the creation of “Don’t Ask, Don’t Tell.”

THE EARLY YEARS OF “DON’T ASK, DON’T TELL:” CONFUSION AND BACKLASH

In the first few years of “Don’t Ask, Don’t Tell,” some believed, mistakenly, that the new policy represented a liberalization of the prior ban on gays in the military. The response from military leaders, however created mass confusion in the ranks.

DoD failed to distribute the new regulations, or train on the policy’s investigative limits.

DoD and the services issued guidance that directly contradicted the promises made when “Don’t Ask, Don’t Tell” became law.

The confusion generated by inaction and missteps created a vacuum quickly filled by anti-gay harassment and improper investigations - manifestations of a severe backlash against service members perceived to be gay, or even gay-friendly. Conservatives within the military transferred their anti-Clinton sentiment and their anger at what they perceived to be a “homosexual agenda” foisted on them by a President with no military credibility, to the easiest targets – their gay coworkers.⁸¹ Where once gay service members flew largely under the radar, there was now nowhere to hide after the political firestorm that surrounded “Don’t Ask, Don’t Tell.”⁸² Anti-gay harassment and witch hunts soared. The human toll mounted as careers were

shattered by an increasing number of illegal investigations and discharges.

CONFUSION

When the Department of Defense issued the regulations implementing “Don’t Ask, Don’t Tell” and the services followed with their directives, the promises made by those who supported the new ban were already broken. The regulations contradicted the very assurances that made “Don’t Ask, Don’t Tell” palatable to those who favored lifting or liberalizing the ban.⁸³ There was no zone of privacy for gay service members, and it was clear that discretion would not save anyone’s career.⁸⁴ Contrary to the promises made, nothing short of celibacy and complete secrecy would be necessary for gay service members to avoid discharge under the new regulations.

For example, in June 1994, the Navy Manpower Analysis Center issued a memorandum suggesting that public displays of support for gay activities by Navy members may be “inconsistent with good military character” contrary to “Don’t Ask, Don’t Tell.”⁸⁵ The Navy issued this memo in response to the discovery that an active duty sailor was a member of a gay choir.

In another memo, the Navy instructed psychologists and other healthcare providers to turn in service members who sought counseling

for issues related to their sexual orientation.⁸⁶ Again, from all indications, Congress had no intent to include within the mandate “Don’t Tell” a prohibition that would prevent members of the armed services from obtaining adequate medical assistance by requiring them to lie to their military healthcare providers. Nonetheless, this guidance served as the basis for a number of discharges.⁸⁷

A November 1994 memorandum from Richard A. Peterson, Air Force Judge Advocate General instructs investigators to question parents, siblings, school counselors, roommates, and close friends of suspected gay service members. The memo also tacitly promotes witch hunts in that it states that commands may take action against service members discovered to be gay during the course of an investigation into another service member.⁸⁸ Nothing in “Don’t Ask, Don’t Tell” or its legislative history even hints at a prohibition on “telling” to parents and family members; the only justification asserted for the “Don’t Tell” component of the law lay in the (unfounded) premise that unit cohesion would be impacted negatively by open gay service. No one ever argued that coming out to one’s parent would impact military readiness.

Then DoD General Counsel Judith Miller buttressed the Air Force memo with one of her own on August 18, 1995, which, among

other things, instructed commanders and inquiry officers to inquire into whether service members making statements of homosexual or bisexual orientation had ever engaged in a sexual relationship with a person of the same sex.⁸⁹ Once again, this instruction contradicted the stated intent of the “Don’t Pursue” component of “Don’t Ask, Don’t Tell.”



DoD General Counsel Miller issued this memorandum in response to a surprising case in which a service member actually prevailed against the odds to remain in the service as an openly gay woman. This was the case of Navy Lieutenant Zoe Dunning. Dunning was a Naval Reserve Lieutenant when she stated publicly that she was a lesbian, and the Naval Reserve initiated discharge proceedings against her.⁹⁰ Dunning fought to remain in the Naval Reserves, arguing that her status as a lesbian could not serve as the basis for her discharge without evidence that she intended to act upon her sexual orientation so as to violate military law.⁹¹ The separation board agreed and retained her. The Miller memorandum prohibited further use of Dunning’s successful “status versus conduct” defense.⁹² Dunning nonetheless continues to serve today, having now reached the rank of Commander.

Commander Dunning and others like her present perhaps the most salient contradiction that marked this early period of the ban - the fact that many gay service members challenging the ban in court served openly during this period with overwhelming support from their colleagues and their commands. A number of service members came out in 1993 as well, when gay discharges were temporarily suspended

while the new policy was being ironed out.⁹³ The Pentagon has never once suggested that military effectiveness decreased while these openly lesbian, gay and bisexual Americans

served our country in uniform.

Colonel Margarethe Cammermeyer was perhaps the most celebrated case of a lesbian serving openly, with her story forming the basis of a movie with Glenn Close, *Serving in Silence*. The Army National Guard initiated Colonel Cammermeyer’s discharge after learning that she is a lesbian during a security clearance investigation.⁹⁴ Cammermeyer, a Vietnam veteran, successfully challenged her discharge, and received overwhelming support from her military colleagues.⁹⁵ She served as an open lesbian for four and one-half years. She was not alone.

Petty Officer Mark Phillips’ coworkers presented him with a chocolate cake on the anniversary of his coming out to his unit, and Captain Rich Richenberg’s colleagues surprised him with a birthday party during his legal battle to stay in the military.⁹⁶ Sergeant Justin Elzie served as an openly gay Marine for many years before he left the military.⁹⁷

Petty Officer Keith Meinhold, rated as one of the Navy’s top airborne sonar analysts, served openly even before he became a plaintiff in litigation challenging the ban.⁹⁸ His unit was named the most combat-ready in the Pacific Fleet, and Meinhold’s coworkers supported him throughout his battle to stay in the Navy.⁹⁹ One of Meinhold’s coworkers, who admitted to being “the bigot from

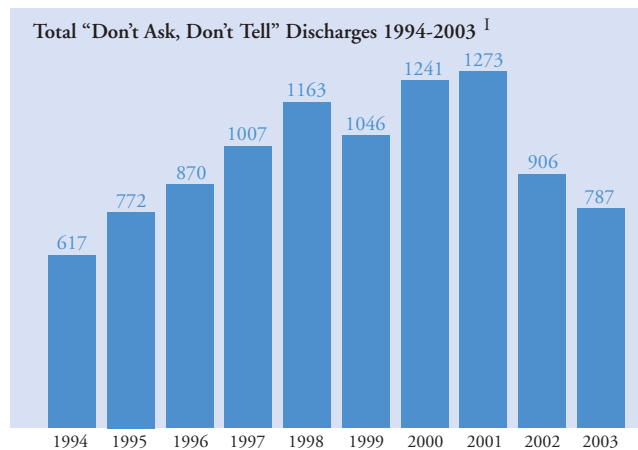
hell” prior to working with Meinhold, said Meinhold “totally changed” his attitude toward gays in the military.¹⁰⁰

For members of the Armed Forces trying to make sense of the new ban during these early years, the juxtaposition of these successful openly gay service members against the regulations mandating discharge of any person found to be gay – regardless of his or her accomplishments or value to the unit – was perplexing.

The silver lining in these early years should have been the limits on administrative and criminal investigations included among the initial guidance from DoD and the services. The prohibition of the use of criminal investigators in almost all inquiries into alleged homosexual conduct was a significant improvement over prior regulations. And even though “Don’t Ask, Don’t Tell” is and will always be a ban on gays in the military, the limits on administrative investigations, if observed, would have provided some minimal protections for gay service members. DoD and the services, however, failed to disseminate this guidance to commanders in the field.¹⁰¹ The vacuum created by the lack of guidance was quickly filled with misinformation, leading to severe violations of service members’ privacy in contravention of the new regulations. Accountability for such violations was virtually non-existent, providing no real incentive for commanders to learn the new regulations and observe them.¹⁰²

BACKLASH

The confusion created by the new regulations themselves, the vacuum created by the poor dissemination of the regulations, and the additional guidance that undercut the initial promises of the policy, set the stage



for anti-gay forces within the military to engage in substantial backlash against service members perceived to be gay or even gay friendly. Gay discharges soared during the first years of the policy, and witch hunts and anti-gay harassment skyrocketed.

SLDN documented a startling number of witch hunts in its first three annual reports on "Don't Ask, Don't Tell." One of the most outrageous occurred in Okinawa in 1994, when twenty-one service members were questioned about their sexual orientation and the sexual orientation of other service members in a massive sweep of suspected gay personnel.¹⁰³

Another egregious situation occurred in the same year in South Korea, where a young female enlisted soldier was threatened with criminal charges for allegedly being a lesbian, after she reported a sexual assault committed by male soldiers and they initiated rumors about her sexual orientation in retaliation.¹⁰⁴

On the *USS Simon Lake*, ported in Sardinia in 1995, over sixty women were questioned about their sexual orientation.¹⁰⁵ General Powell's promises in 1993 of "Don't Pursue" notwithstanding, witch hunts and illegal pursuits were rampant during the first three to four years of "Don't Ask, Don't Tell."

routinely investigated themselves or found their complaints ignored.

The case of Airman Sean Fucci illustrates how military leadership has consistently failed to stop harassment.¹⁰⁸ Fucci reported a note reading, "DIE FAG" left in his room. His commanders offered him no protection, and failed to investigate the source of the threat.¹⁰⁹ Instead, his supervisor questioned him about his sexual orientation, forcing Fucci to move off-base at his own expense for his personal safety.¹¹⁰

Even the tragic death of Seaman Allen Schindler at the hands of fellow sailors was not enough to make the leadership of the *USS Belleau Woods* take anti-gay violence seriously. In 1996, a young sailor on the same ship from which Schindler and his murderers hailed was told by his Chief Master at

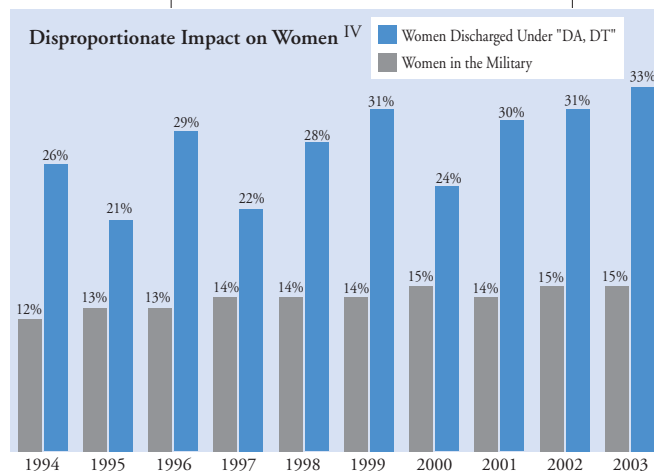
Women are disproportionately impacted by the ban, making up 30% of all gay discharges despite comprising only 14% of the force.

In addition to the witch hunts, anti-gay harassment skyrocketed during the first years of "Don't Ask, Don't Tell," and remains a significant problem today.¹⁰⁶ In 1995, SLDN documented ten death threats in just one year under the ban.¹⁰⁷ When service members reported death threats, they were

Arms that he would be killed in the same way Schindler was if he exercised his right to a discharge board to fight allegations of gay conduct.¹¹¹ Assured that his leaders would not protect him and fearful for his safety the sailor accepted the discharge.¹¹²

Not all harassment was this extreme. But the day-to-day experience for gay service members during this period, and throughout the history of "Don't Ask, Don't Tell," has been characterized by persistent anti-gay comments, jokes, cadences, and epithets - on the parts of both officers and non-commissioned officers (NCOs), as well as junior enlisted personnel. Hostile command climates for gay service members have been the rule, rather than the exception. After putting up with anti-gay language and veiled threats of physical and professional harm for long periods of time, some service members found it necessary to make coming out statements as a matter of principle or personal safety. One such case was that of Air Force Major Robert Kittyle, in which an inquiry officer concluded, "It appears Major Kittyle made this announcement after he could not tolerate derogatory comments concerning homosexuals."¹¹³

A form of harassment known as "lesbian-baiting" was prevalent during



this period and made life very difficult for many women in the service.¹¹⁴ Top female performers, as well as women who rebuffed the sexual

advances of male colleagues and superiors, were regularly targeted by rumors of lesbian conduct.¹¹⁵ This may be one of the reasons behind the

fact that women are discharged at a rate twice their presence in the services under “Don’t Ask, Don’t Tell.”

REALITY SINKS IN:

“DON’T ASK, DON’T TELL” IS A BAN

In 1998, SLDN continued to document inadequate dissemination of the regulations implementing “Don’t Ask, Don’t Tell.” Commanders and military lawyers received conflicting guidance when they received any guidance at all. Service members and commands were still confused about the new rules. Nevertheless, by the mid 1990’s, norms emerged – some good, some not.

Criminal investigations became less common, witch hunts decreased, and inappropriate command-directed asking and pursuits also generally decreased.

Conversely, gay discharges increased exponentially. Reports of anti-gay harassment skyrocketed. Attempts to preserve the promised zone of privacy completely failed. The last of the constitutional challenges to “Don’t Ask, Don’t Tell” also failed, extinguishing the hope some held that the courts would lift the ban.¹¹⁶

THE RULES OF “DON’T ASK, DON’T TELL” BECOME CLEARER

While the regulations implementing “Don’t Ask, Don’t Tell” were promulgated in 1994,¹¹⁷ it took years before they began to filter down to the unit level.¹¹⁸ Even where the new regulations were available, old habits died hard, and reversion to the tactics allowable under the prior ban, but not under “Don’t Ask, Don’t Tell,” was common.¹¹⁹

In 1998, DoD released its only review of the implementation of

“Don’t Ask, Don’t Tell.” While the report white-washed many of the problems in the first years of the implementation of “Don’t Ask, Don’t Tell,” it acknowledged the improper investigations reported by SLDN, and recommended that those responsible for implementing the policy be given better training to ensure compliance with the regulations.¹²⁰ The review also contained recommendations that DoD stress the need for “consultation with higher headquarters” prior to the initiation of substantial investigations.¹²¹ Finally, the report recommended the reissuance of existing guidance on anti-gay harassment.¹²²

Certain aspects of the new rules, however, began to be generally observed. The new security clearance rules were one example.¹²³ The new regulations, followed by an Executive Order, prohibited the use of information about a service member’s sexual orientation garnered during the security clearance process as a basis for investigation and discharge.¹²⁴

Criminal investigations also became less common, as word got out – even where the regulations did not – that the regulations prohibited the use of criminal investigators in administrative investigations under “Don’t Ask, Don’t Tell.”¹²⁵ In the early 1990’s, SLDN documented more than a dozen cases of criminal prosecution for consensual same-sex conduct. Over time, reports of criminal investigations diminished. In 1997, SLDN reported that it did not receive a single report of a gay service member undergoing court martial for consensual same-sex sexual conduct during the entire year.¹²⁶

There were exceptions to this trend, like the 1995 case of Air Force Debra Meeks. The Air Force held Major Meeks beyond her retirement date and subjected her to court-martial for allegedly engaging in sexual conduct with another female.¹²⁷ At stake were Meek’s liberty and her twenty year retirement pension. The court-martial acquitted her.

Witch hunts were not entirely a thing of the past by the mid-to-late 1990’s. A plea arrangement used in a 1996 sexual assault case at Hickam Air Force Base in Hawaii provided a lesser sentence for the accused in exchange for his promise to give the names of all men with whom he had had consensual sex.¹²⁸ The defendant offered 17 names of men in all branches of the military but the Coast Guard, and every one was discharged.¹²⁹

Over time, command-directed asking and pursuing decreased. The regulations were still inadequately disseminated. SLDN reported in 1997 that it was still receiving regular requests for copies of the regulations from commanders and JAG officers. The norm, however, was beginning to change.

There were exceptions to the general trend away from improper administrative investigations.¹³⁰ One of the more flagrant of these was the March 1999 witch hunt at the Defense Language Institute in Monterey, California, in which 14 airmen, primarily women were discharged.¹³¹

Another example of unlawful pursuit was the highly publicized case of Senior Petty Officer Timothy

McVeigh, outed to his command when AOL disclosed his personal information – including the use of the word “gay” in his user profile – to a Navy investigator.¹³² A federal judge found the Navy acted improperly in McVeigh’s case.¹³³

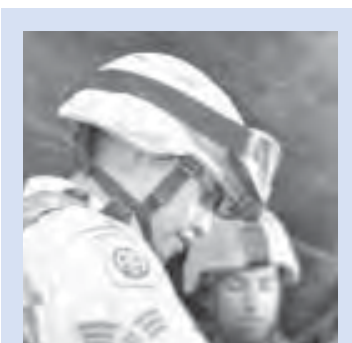
Perhaps the most heart-wrenching example of an inappropriate administrative investigation was the case of Air Force Captain Monica Hill, subjected to invasive and demeaning questions about her sexual life after requesting a deferment of her active duty report date to care for her terminally ill partner.¹³⁴ Upon receiving the deferment request, the Air Force immediately suspended Hill’s orders in order to investigate her.¹³⁵ Hill’s partner died several months later, and the Air Force discharged Hill several months after that.¹³⁶

Complaints of inappropriate investigations by service members rarely resulted in the investigations being stopped, and often resulted in retaliation. Such was the case of Nikki Galvan, a West Point cadet who stood up for what she believed were her rights under “Don’t Ask, Don’t Tell,” when she reported a Lieutenant Colonel for inappropriately questioning her about her sexual orientation and sexual activities.¹³⁷ In response to her complaint, Galvan’s diaries and three years worth of emails were seized, and information contained in them led to her discharge.¹³⁸

While improper command-directed asking decreased, peer asking increased as a new generation of Americans entered the service.

MURDER AND HARASSMENT

The tragic 1999 murder of Private First Class (PFC) Barry Winchell for his perceived sexual orientation exposed on the national stage the



“Don’t Ask, Don’t Tell” Hits Young People Hardest. Personnel under 25 years of age are targeted at much higher rates for investigation and discharge under the ban than their percentage of the force would suggest.

Source: Department of Defense

These young Americans were unfamiliar with the “closet” as a cultural phenomenon, having grown up watching *Will and Grace*, and having much greater access to openly gay people than had prior generations.¹³⁹ Many of them thought nothing of asking questions about the sexual orientation of their peers, sometimes causing trouble for gay service members struggling to keep their sexual orientation secret.

HARASSMENT CONTINUES TO INCREASE

Throughout the mid-to-late 1990’s, harassment continued to increase, as did the targeting of service members who reported harassment for administrative investigation. In 1997, Assistant Secretary of Defense Edwin Dorn issued a memorandum emphasizing that reports of anti-gay harass-

ment and harassment. It represented a defining moment in the history of “Don’t Ask, Don’t Tell.” No longer could one ever view “Don’t Ask, Don’t Tell” as a benign policy.

ment or threats do not constitute a basis for investigation.¹⁴⁰ In 1997, however, SLDN reported that not one of the many commanders and JAG officers with whom SLDN worked had ever heard of, much less seen a copy of, the Dorn memo.¹⁴¹

Lieutenant Edward Galloway’s experience of constant anti-gay harassment and inappropriate questioning from peers and subordinates on the *USS Vandergrift* was typical.¹⁴² When the anti-gay climate aboard his ship proved too humiliating to bear, he came out to his commander in the hopes that he would put a stop to the harassment and ensure his own safety.¹⁴³ Far from protecting Galloway, the commander allowed the anti-gay climate to persist unchecked and offered Galloway no protection, despite acknowledging that a large percentage of the ship’s crew harbored anti-gay sentiments.¹⁴⁴

In another particularly egregious example of anti-gay harassment in the Navy, graffiti aimed at a gay sailor reading “You’re a dead faggot” was left on the sailor’s bunk for more than two weeks.¹⁴⁵

Over time it became clear to service members, commands and the public that “Don’t Ask, Don’t Tell” is indeed a ban on gays in the military. Over time, the rules of this new ban began to filter down from the Pentagon to commands. The new ban kept lesbian, gay and bisexual service members second class citizens in the military. The forced silence of gay service members and failure to address the barrage of harassment and violence set the stage for tragedy.

On July 5, 1999, PFC Barry Winchell was beaten to death with a baseball bat in his sleep by fellow soldiers who believed he was gay.¹⁴⁶ At the trial of his murderers, soldiers testified that Winchell endured four



Winchell

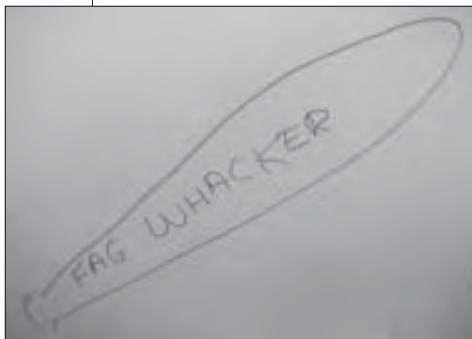
months of daily anti-gay taunts and harassing comments from the two killers and others prior to his death.¹⁴⁷ Winchell had tried to report the harassment to the Fort Campbell Inspector

General, but was turned away. Winchell's chain of command was aware of the harassment and did little. Some members of Winchell's chain of command even participated in the harassment.

"Faggot, faggot down the street. Shot him, shot him 'til he retreats."

– Cadence reported at Fort Campbell in the weeks following Private First Class Winchell's murder.

At Fort Campbell, soldiers continued to report anti-gay graffiti and anti-gay cadences in the weeks and months after Winchell's death.¹⁴⁸ Gay discharges at Fort Campbell skyrocketed after the murder. In FY1999, Fort Campbell's gay discharges represented 3.6% of the Army total. By FY2000, they represented almost 28% of the Army total.¹⁴⁹ Winchell's murder, and the Army's inadequate response to it, was a clear sign to gay soldiers that their lives would not be protected in the face of anti-gay violence.



Many consequently came to view assignment to Fort Campbell as a death sentence. Gay soldiers fled the installation in droves, often making statements of homosexual orientation purely as a means of self-preservation.

Fort Campbell was not the only place in the military where anti-gay rhetoric was pervasive. Rather, it was the most extreme example of a systemic problem across the services.

Just three months following the Winchell murder, a Marine Lieutenant Colonel at Twenty-Nine Palms sent an email to his subordinates mocking the Winchell murder and deriding the premise that commanders should take responsibility for the safety of their gay Marines, or "backside rangers," as he called them.¹⁵⁰

In early 2000, a senior non-commissioned officer on the USS Carl Vinson told a sailor rumored to be gay, "I'm not the one you want to tell that you are gay; I will discharge you from the Navy and send you home in a box."¹⁵¹ SLDN reported scores of similar statements by leaders and junior enlisted personnel across the services in 1999 and 2000.

"There is not, nor has there ever been a climate of homophobia at Fort Campbell."

– LTG Robert Clark.¹⁵²

"Department policy concerning harassment is based on the fact that treatment of all individuals with dignity and respect is essential to good order and discipline. Mistreatment, harassment, and inappropriate comments or gestures undermine this principle and have no place in our armed forces."

– Dr. David S.C. Chu, Under Secretary of Defense¹⁵³



"We never intended to become activists, but the murder of our son and the Army's indifference to the anti-gay climate that led to it left us no other choice. The command climate at Fort Campbell set the conditions for our son's death. After his death, the command, including the commanding general Robert T. Clark, failed to take any action to correct the anti-gay climate on the base. No one in command at the time of our son's murder was ever held accountable for the leadership failures that cost us our son. We will continue to fight for an end to the ban, in the hopes that no other parents will ever have to endure the loss of a child to anti-gay violence in the military again."

– Pat and Wally Kutteles, parents of Private First Class Barry Winchell

RESPONSE FROM DoD AND THE SERVICES

The Pentagon took its first look at anti-gay harassment in 1998, and discovered confusion in the ranks about how to respond to such harassment.¹⁵⁴ Ironically, little more than a month after Winchell's murder, Under Secretary of Defense Rudy de Leon issued a memorandum reiterating DoD policy to investigate threats of harassment, in response to deficiencies discovered during the 1998 review.¹⁵⁵ This reaction was unfortunately too little, too late.

In response to the Winchell murder, the DoD Inspector General administered a survey to assess the command climate across the services and determine whether anti-gay harassment was truly a problem.¹⁵⁶ The results of the survey, reported in March 2000, indicated that anti-gay harassment was a substantial problem. 80% of service members reported having heard derogatory anti-gay remarks in the preceding year. 37% indicated that they witnessed or experienced targeted incidents of anti-gay harassment – of those, 14% reported anti-gay threats or anti-gay physical assaults.¹⁵⁷ The DoD could no longer claim that anti-gay harassment was an isolated occurrence.

The DoD formed a working group to address the now demonstrated wide-spread problem of anti-gay

harassment. The working group proposed a thirteen point Anti-Harassment Action Plan (AHAP) and on July 21, 2000 Under Secretary of Defense Bernard Rostker instructed the services to implement the plan.

The AHAP contained four primary mandates designed to curb anti-gay harassment: (1) training to prevent harassment; (2) appropriate and effective reporting mechanisms for complaints of anti-gay harassment; (3) enforcement of the prohibition on harassment and accountability for those who violate it; and (4) measurement of AHAP implementation and the plan's effectiveness. Unfortunately, the requirements of AHAP have gone largely unfulfilled to date and anti-gay harassment continues to be a significant problem

across the services.

In addition to issuing AHAP, the Administration had one final response to the epidemic of anti-gay harassment. Then President Clinton issued Executive Order 13140 providing for sentence enhancement under the Uniform Code of Military Justice for hate crimes.¹⁵⁸

Anti-gay harassment left unchecked contributed to the tragic murder of PFC Barry Winchell. In response to this tragedy, the military finally began to acknowledge anti-gay harassment is a problem and has taken some steps to address it. The failure to adequately address anti-gay harassment, however, has allowed anti-gay harassment to continue in the ranks and leaves open the possibility of yet another tragedy.

OPPOSITION TO THE BAN GROWS

Over the years, evidence that “Don’t Ask, Don’t Tell” has failed service members and America has grown. After ten years, “Don’t Ask, Don’t Tell” has led to the discharge of nearly 10,000 service members and the loss of countless others who have chosen to leave the military earlier in their careers rather than serve in silence. The price to the American taxpayer is estimated between one quarter of a billion to over \$1.2 billion.¹⁵⁹ The lost time, resources and personnel caused by the law represent an immeasurable disservice to military readiness and American security.

The September 11th, 2001 terrorist attacks and the military actions that followed have brought the failure of “Don’t Ask, Don’t Tell” into stark relief. When the U.S. went to war in Afghanistan, gay discharges decreased 29%, a fact that is unsurprising given the historical trend toward fewer gay discharges in times of war.¹⁶⁰

In FY2003, during which time the U.S. embarked on a second effort, Operation Iraqi Freedom, discharges dropped another 13%. The irony of gay service members being allowed to serve during the times when unit cohesion is of the utmost importance has not been lost on many Americans.



Studies of the experiences of our allies in the United Kingdom, Australia, Canada and Israel have all concluded that lifting the ban was a non-event. Military service by openly gay personnel in these countries and others has resulted in no detriment to morale, unit cohesion, or readiness.¹⁶²

American troops have been serving side by side with openly gay members of allied forces, including the United Kingdom, Canada and Australia. Thirteen coalition partners in Operation Enduring Freedom allow lesbians, gays and bisexuals to serve openly, as do eleven coalition members fighting in Operation Iraqi Freedom. Service members have been working side by side in the war on terrorism with CIA, NSA, and FBI agents – all of whom cannot only be openly gay, but are protected from discrimination on the basis of their sexual orientation.¹⁶¹

Even inside the military, a change in attitude toward gay service members is evident. Gay troops are more openly valued than ever before.

In 2001, the Army dropped its discharge proceedings against openly gay Lieutenant Steve May, an officer skilled in bio-terrorism.¹⁶³

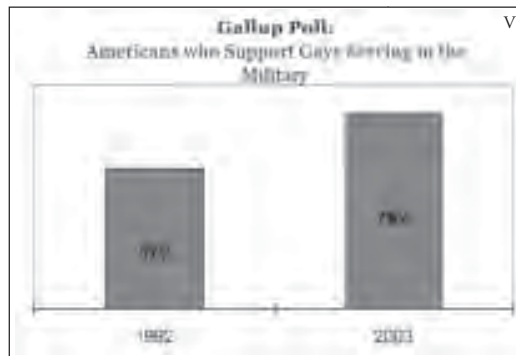
An April 2002 Marine Corps memorandum at Twenty-Nine Palms stat-

ed, "Homosexuals can and do make some of the best Marines."¹⁶⁴ Letters to the editor in the *Military Times* publications are increasingly supportive of gay Americans serving openly. A January 2004 *Military Times* poll shows an increase in acceptance of gays in the military among its subscribers, who tend to be senior military personnel and careerists.¹⁶⁵ Gay service members are becoming less willing to stay in the closet as a condition of service.

High-ranking retired officers and senior NCOs are increasingly speaking out on the issue. In October 2003, retired Admiral John Hutson, formerly the Navy's top military lawyer, wrote an article condemning the ban and calling for repeal.¹⁶⁶ Democratic presidential nomination candidate General Wesley Clark spoke out repeatedly against the ban during his campaign, arguing that the policy is unworkable and calling for a new law under which all Americans may serve regardless of sexual orientation.¹⁶⁷

In November 2003, three retired flag officers denounced "Don't Ask Don't Tell" and came out in a *New York Times* article, becoming the highest ranking gay military personnel ever to come out publicly.¹⁶⁸ In December 2003, fifteen retired senior military leaders signed an open letter calling for an end to the ban.¹⁶⁹

The public's attitude has changed as well. A December 2003 *Gallup* Poll reported that 79% of Americans



believe that openly gay people should serve in the U.S. military¹⁷⁰ – a dramatic change from 1992 when only 57% of Americans believed homosexuals should be hired for the armed forces.¹⁷¹ Even the politically conservative *Fox News Network's* polling in August 2003 indicated that 64% of the public supports allowing gay people to serve in the military.¹⁷²

The political landscape and discourse is shifting as well. From the halls of Congress to the editorial pages there was outrage at the discharge of thirty-seven linguists from the Defense Language Institute. The senselessness of losing Arabic linguists during a time of war for something as irrelevant as their sexual orientation was clear – particularly when there is a severe shortage of qualified linguists.¹⁷³ By the end of 2003, nearly every major newspaper in the country, including the *New York Times*, the *Washington Post*, *USA Today*, and the *Chicago Tribune* had issued editorials calling for an end to the ban.¹⁷⁴

Members of Congress are speaking out against the ban. Sen. Mark Dayton (D-MN) made a lengthy speech on the floor of the Senate during the consideration of Major General Clark for promotion in which he called for an end to the ban.¹⁷⁵ In the same debate, Sen.

Jeff Sessions (R-AL), one of the most conservative voices in the Senate acknowledged gay service members have a right to be treated fairly.¹⁷⁶ Such a statement from as conservative a voice as Sen. Sessions' would have been unthinkable ten years ago.

In the presidential campaigns of 2000 and 2004, the shift in thinking on this issue is apparent. President Bush announced his support of "Don't Ask, Don't Tell"¹⁷⁷ in contradiction to the GOP platform which still states that "homosexuality is incompatible with military service."¹⁷⁸ Every contender for the Democratic nomination from the 2000 election forward has supported gay military service, including Vietnam veteran Sen. John Kerry and retired General Wesley Clark. And former President Clinton issued a letter in October 2003 acknowledging for the first time that there is no evidence to support the ban, marking a major retreat from his initial statements that the policy was a "step forward."¹⁷⁹

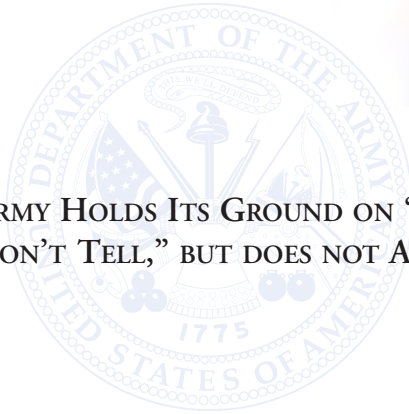
CONCLUSION: “DON’T ASK, DON’T TELL” WAS BAD LAW WHEN IT WAS PASSED, AND IT IS BAD LAW TODAY

“Don’t Ask, Don’t Tell” has proven itself over the course of the last ten years to be an unworkable policy in which nobody wins. “Don’t Ask, Don’t Tell” provides no greater privacy for gay service members than its predecessor regulatory bans. The rules that implement the law are convoluted and strained. The wasted lives and resources behind the statistics of “Don’t Ask, Don’t Tell” are becoming less tolerable to Americans in a wartime environment and a cultural environment in which the clos-

et has become, in many segments of American society, a thing of the past. A sea change has resulted with respect to public support for the ban, stemming from a growing recognition that a policy which deprives the nation of skilled military service members has no place in our federal law. “Don’t Ask, Don’t Tell” will undoubtedly take its place in the history books as a failed policy experiment that did a great disservice to thousands of Americans discharged under the law, and to the country deprived of their service.

The future of the law is uncertain. The Supreme Court’s decision in

*Lawrence v. Texas*¹⁸⁰ acknowledging a constitutional right to engage in intimate sexual relationships may provide a new basis for a constitutional challenge to “Don’t Ask, Don’t Tell.” The Court’s pronouncement in that case has already led to challenges to the constitutional validity of the Uniform Code of Military Justice sodomy provision, Article 125, a provision often used to support the argument that gays should not serve.¹⁸¹ The political landscape is shifting towards repeal. The time for change is upon us, and the only question remaining is when – not whether – the ban will cease to be the law of the land.

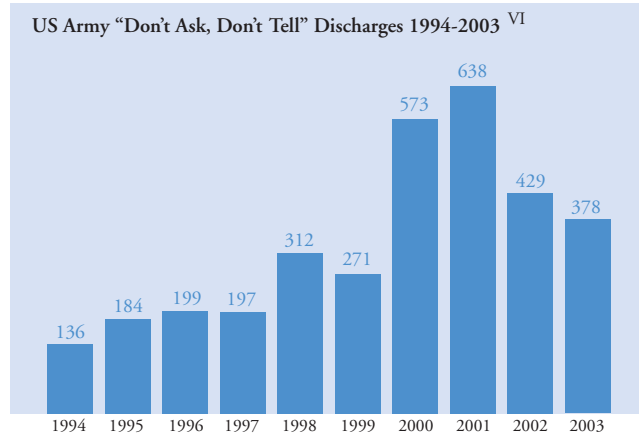


ARMY HOLDS ITS GROUND ON “DON’T ASK, DON’T TELL,” BUT DOES NOT ADVANCE

“... [E]ven as some gay men and lesbians are being tolerated temporarily while they help liberate Iraq, others are being kicked out of military language training. This is an enormous waste of human resources, at once self-destructive and unjust. The military cannot afford to brand as unfit for service qualified men and women who wish to put their talents — whether those lie in combat roles or languages — in the service of their country.”

Washington Post Editorial¹⁸²

In FY2003, Army discharges under “Don’t Ask, Don’t Tell” continued the downward trend that began with the start of the war on terrorism in the Middle East and Afghanistan, dropping to 378.¹⁸³



This represents a 23% decrease from FY2002, and a remarkable 42% decrease from FY2001. As SLDN speculated in the Ninth Annual Report, this continued decrease in gay discharges is likely due to a combination of factors, including the war in Iraq, continued military operations in Afghanistan, and a growing recognition by commanders that sexual ori-

entation is irrelevant to unit cohesion and mission readiness.

The Army’s implementation of the Anti-Harassment Action Plan (AHAP) stagnated in 2003, with the exception of one improvement in anti-gay harassment training, and little progress was achieved in other areas of the policy.

AHAP IMPLEMENTATION: ARMY TAKES ONE STEP FORWARD

The Army made some progress in 2003 with the implementation of AHAP. The Army continues to lead the other services in AHAP implementation, though the bar remains low given

that the other services have virtually ignored AHAP for the last three years. AHAP training and reporting continue to be problematic, and accountability for and measurement of anti-gay harassment in the Army continue to be inadequate.

“Harassment of soldiers for any reason, to include race, religion, national origin, sex, and perceived sexual orientation, will not be tolerated.”

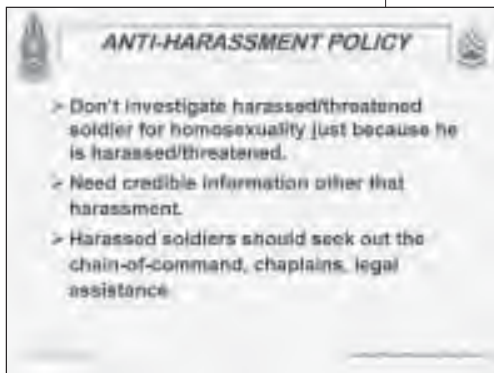
AR 350-1 paragraph 1-7(c)(1)¹⁸⁴

“As a noncommissioned officer your duty is to take care of soldiers. If other soldiers perceive a soldier to be homosexual, and they are threatening or harassing him, your duty is to correct the problem.... If you violate the trust of any soldier, you violate the trust of all.”

U.S. Army Sergeants Major Academy (ANCOC) L434 October 2003, The Army Homosexual Policy [sic], Training Support Package, page 13.¹⁸⁵

The Army made modest improvements in anti-gay harassment training in 2003. The good news is that in October 2003 new training materials were issued by the Sergeants Major Academy, which promises better anti-harassment training for the Army’s senior non-commissioned officers (NCOs). The bad news is that the April 2003 revision of Army Regulation 350-1 failed to include a mandate for annual AHAP training as directed by DoD.

The new training issued by the Sergeants Major Academy in October, 2003 for use in the Advanced Non-commissioned Officers Course (ANCOC) is a positive development.¹⁸⁶ This hour-long training emphasizes NCOs’ responsibilities to care for soldiers – including those perceived to be gay – and the tone of the training materials is respectful and professional. Using

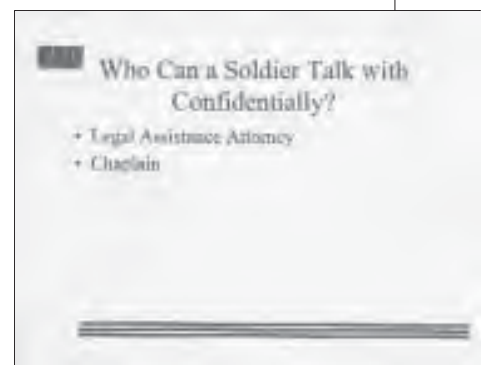
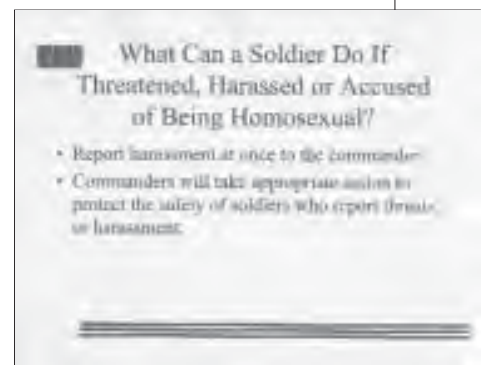
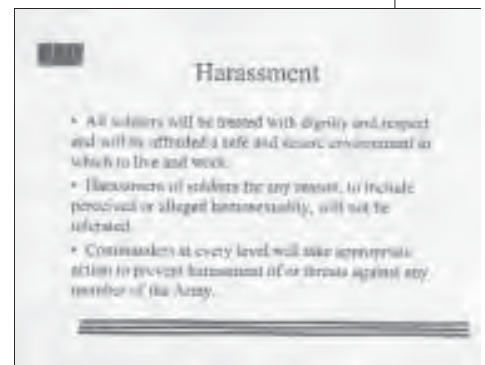
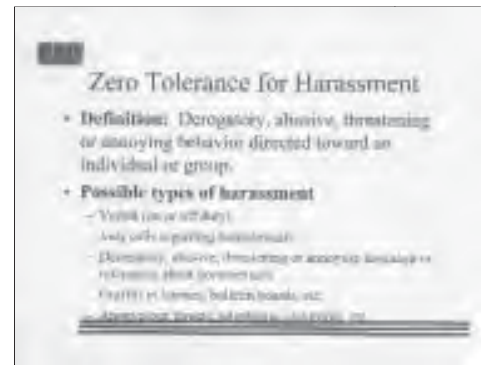


practical exercises, NCOs are coached through situations in which they are faced with rumors regarding the sexual orientation of a soldier, statements of homosexual orientation, lesbian-baiting, and anti-gay vandalism. Throughout the training packet, the emphasis is on the limits to appropriate investigations, and on ensuring that soldiers reporting harassment are not targeted for investigation.

SLDN welcomes this step forward, having long argued that training of NCOs is key to ensuring that the message that anti-gay harassment will not be tolerated is communicated to the field. SLDN encourages the Army to ensure through monitoring and evaluation mechanisms that these trainings are given in the respectful tone in which they are intended by the Sergeants Major Academy.

A major disappointment in 2003 was the failure of the Army to include any reference to AHAP training in its April revision of AR 350-1, the Army Training regulation. The regulation has still not been updated to reflect mandatory annual training on AHAP – more than three years after the issuance of the Chief of Staff’s directive requiring the update.¹⁸⁷ Annual training on the Homosexual Conduct Policy (HCP) is mandated by the regulation, as is annual training on sexual harassment and fraternization policies. The regulation, however, continues to omit a requirement for annual training to prevent anti-gay harassment as required by DoD.

Despite the failure to direct annual training on AHAP, training materials on the HCP are available online¹⁸⁸ and include four slides devoted to



anti-gay harassment. These slides explain the prohibition on anti-gay harassment, define what constitutes

anti-gay harassment, and identify reporting channels.¹⁸⁹

Commanders can use these slides as a basis for annual training on the AHAP within the larger training on the HCP, even though they lack the dedicated AHAP training materials mandated by DoD. Unfortunately, most commands with whom SLDN has had contact are not using these training materials with any consistency, and most SLDN clients continue to report never having received any training on “Don’t Ask, Don’t Tell,” or anti-gay harassment, in basic training or in their units.

ARMY REPORTING, ENFORCEMENT, MEASUREMENT MECHANISMS FOR ANTI-GAY HARASSMENT: MARKING TIME

Reporting mechanisms for anti-gay harassment continue to be problematic in the Army. The new NCO training and the Army-wide training materials contain information designed to ensure that leaders under-

stand that reports of anti-gay harassment should not be used as a basis for an investigation into whether the soldier suffering the harassment actually is gay. Both trainings also include information about confidential reporting channels. However, neither message is being effectively communicated to the field, as soldiers continue to express confusion about to whom they can confidentially report harassment, and commanders continue to inappropriately target soldiers reporting harassment for investigation. According to the Army Inspector General (IG), 70% of soldiers are unaware of the designation of defense attorneys and chaplains as confidential resources.¹⁹⁰

The Army has made little progress in implementing the accountability prong of AHAP. SLDN knows of no case in which a soldier committing anti-gay harassment was held accountable for his or her actions. In case after case, SLDN has provided the Army with specific, detailed accountings of anti-gay misconduct, asking that those responsible be held

accountable. Yet, time and again, the Army’s response is to accept the excuses of those accused of the misconduct.

The Army is also not measuring the effectiveness of its AHAP training program. The Army IG recently conducted a “special interest item” review of “Don’t Ask, Don’t Tell” training. The review, however, did not attempt to measure whether the training is actually making a difference. For example, the IG used a brief survey for soldiers that asked, “what can a soldier do if threatened, harassed or accused of being homosexual?” The survey does not, however, ask any questions about the occurrence of harassment. Asking these types of questions is clearly important, given the contrast between the Army IG survey and the DoD IG survey conducted in 2000, which revealed significant statistics on the reality of anti-gay harassment within the services. Measuring the effectiveness of the anti-gay harassment measures is key to the implementation of AHAP and ensuring the safety of soldiers.

ANTI-GAY DEATH THREAT ENDS CAREER: AHAP FAILURES CONTINUE DISSERVICE TO SOLDIERS AND TO THE ARMY

“The team leader said to me, ‘If I ever found out someone on my crew was gay, I would kill him.’”

Specialist Tommy Cook¹⁹¹

Specialist (SPC) Tommy Cook loved the Army and loved being a soldier. The battalion representative to the Better Opportunities for Single Soldiers (BOSS) program, Cook knew everyone in his battalion and was well-liked. Cook’s positive relationships did not help him, however, when he came out in response to an anti-gay death threat. An NCO in Cook’s company informed Cook, “If I ever found out someone on my

crew was gay, I would kill him.” Daunted by this threat but unwilling and afraid to report it, Cook chose to come out to his command and face the discharge proceedings he knew would follow.

In response to his statement, Cook’s battalion commander accused him of making his statement to avoid deployment, and threatened him with a general discharge. When Cook reminded his battalion commander that he made his statement in response to a death threat, the battalion commander was unmoved and forwarded a recommendation for a general discharge to brigade headquarters. With the help of SLDN and his Army trial defense attorney, however, Cook was honorably discharged in January of 2004.

If anti-harassment training in Cook’s unit had been effective, the NCO who cost the Army this bright young soldier would not have felt at liberty to make an overt threat to gay personnel with whom he worked. If the Army had properly disseminated information about confidential reporting channels, Cook might have chosen to seek assistance through those channels, rather than risking discharge. Cook’s story is yet another example of why AHAP implementation in the Army has a long way to go.



ASKING THE WRONG QUESTIONS:
INAPPROPRIATE INVESTIGATIONS
PERSIST IN THE ARMY

"After September 11th I enlisted to become an MP officer ... to fight for what I believe in. I lost my chance to serve when drill sergeants accused me of being gay and threatened to put me in jail for who I am."

Former Army Private Jennifer McGinn, discharged after inappropriate investigation at Fort Leonard Wood, Missouri.¹⁹²

In 2003, SLDN discovered a troubling trend in the use of a form that clearly violates regulatory limits on investigations. At least two Army installations, Fort Leonard Wood and Fort Stewart, are using this form. The form is a modified Sworn Statement Form (DA Form 2823) apparently being used as a standard investigatory tool in cases where the soldier has made a statement regarding his or her sexual orientation. Questions on the form include "... have you experienced difficulties being around other members of your own sex?" "Did you tell your recruiter about your Homosexual/Bisexual conduct prior to entering the Army?" and "Did you engage in Homosexual/Bisexual acts as an experiment?"¹⁹³ Such questions are a flagrant violation of the "Don't Ask," and "Don't Pursue" components of the law.

SLDN wrote the Fort Leonard Wood Inspector General's (IG) Office regarding the use of this form in the case of one client, Jennifer McGinn. Fort Leonard Wood's IG's office investigated the use of this form, and replied to SLDN that it

SWORN STATEMENT			
For use of this form, see AR 160-45, the proponent agency is ODCSOPS			
PRIVACY ACT STATEMENT			
Title 10 USC Section 301; Title 5 USC Section 2851; E.O. 9397 dated November 22, 1983 (SSSI). To provide commanders and law enforcement officials with means by which information may be accurately identified.			
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval. DISCLOSURE: Disclosure of your social security number is voluntary.			
1. LOCATION	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
Bldg # 1025 Ft Leonard Wood MO, 14th MP Bde	12/01/03	1433	
5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS	
[REDACTED]	[REDACTED]	E-2/Pvt	
8. ORGANIZATION OR ADDRESS			
B-107 MP Bde, 14th MP Bde			
I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:			
Q: CPT Dawn L. Settles			
A: [REDACTED]			
Q: Have you had the opportunity to speak with a lawyer?			
A: [REDACTED]			
1. What does Homosexual/Bisexual mean to you? Conduct with the same sex.			
2. Have you ever engaged in Homosexual/Bisexual acts?			
3. Did you engage in Homosexual/Bisexual acts because you were forced or drunk?			
4. Did you engage in Homosexual/Bisexual acts as an experiment?			
5. Did you engage in Homosexual/Bisexual acts because you were influenced by another?			
6. Did you engage in Homosexual/Bisexual acts of your own free will?			
7. Did you engage in Homosexual/Bisexual acts because you wanted to?			
8. When you say you have participated in Homosexual/Bisexual acts, what do you mean?			
9. Have you had sexual relationships with both males and females?			
10. Are you married? If so, are you married to same sex partner?			
11. Are you, or have you experienced difficulties being around other members of your own sex?			
12. Did you tell your Recruiter about your Homosexual/Bisexual conduct prior to entering the Army?			
13. Why have you brought this to our attention now?			
14. Why did you join the Army? To become a Military Police officer. I wanted to make it a career.			
15. Were you aware of the Army's policy concerning Homosexual/Bisexual Conduct?			
16. Do you still want to be in the Army?			
17. Do you intend to further engage in Homosexual/Bisexual conduct?			
10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF 28 PAGES	
	[REDACTED]	TAKEN AT [REDACTED] DATED [REDACTED]	
ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF [REDACTED]"			
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.			
DA FORM 2823, DEC 1999		DA FORM 2823, 03/02/03 OBSOLETE	

CERTIFIED TRUE COPY

was approved by Fort Leonard Wood's Staff Judge Advocate's office for use in basic training companies. At the time of writing this report, SLDN has not received a response to its written request for confirmation of this approval by the Fort Leonard Wood Staff Judge Advocate's office. SLDN continues to investigate how widespread the use of this form is within the Army, and is working to ensure the Army discontinues its use.

The use of standard forms or questionnaires in "Don't Ask, Don't Tell" cases has been a recurring problem across the services over the years.¹⁹⁴ DoD must ensure that commanders and inquiry officers only ask questions that pertain to the particular instances of alleged homosexual conduct, as required by the regulations.¹⁹⁵

RECOMMENDATIONS:
MAINTAINING PROGRESS ON
AHAP IMPLEMENTATION MUST BE
A PRIORITY FOR THE ARMY

*“He can go over there and he can
fight for his country ... but he can’t
say goodbye to me in public without
the threat of court martial.”*

Partner of gay soldier in the 82nd Airborne.¹⁹⁶

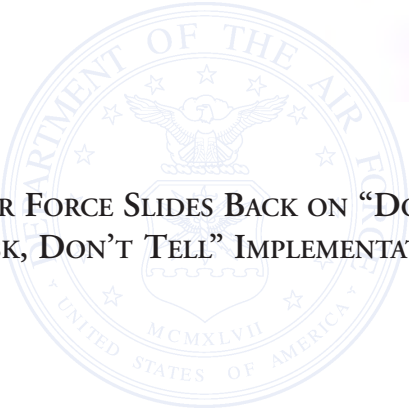
While the Army has come a long way in protecting its gay or perceived to be gay soldiers since the murder of PFC Barry Winchell at Fort Campbell in 1999, there is still much to be done. Full implementation of the AHAP is essential to fair treatment of gay soldiers, and the Army must provide better and more consistent training on “Don’t Ask,

Don’t Tell.” Specific recommendations for 2004 include:

- Ensure anti-gay harassment assessment mechanisms are developed to ascertain the effectiveness of training;
- Train soldiers on how to report harassment;
- Ensure officers know how to respond to reports of harassment;
- Hold harassers, and those condoning harassment, accountable for their actions;
- Utilize command channels and Army publications to better educate soldiers on AHAP, the rules of “Don’t Ask, Don’t Tell”

and on principles of dignity and respect for all soldiers;

- Eliminate the use of standard forms in limited investigations of alleged violations of the homosexual conduct policy. Questions must be tailored to the particular circumstances of each case in order to avoid unnecessary intrusion into the personal lives of service members and their families; and
- Form a committee to review AHAP implementation, encompassing Army experts from the Personnel, Equal Opportunity, Inspector General, Chaplain, and Staff Judge Advocate realms, as well as senior NCO representation.



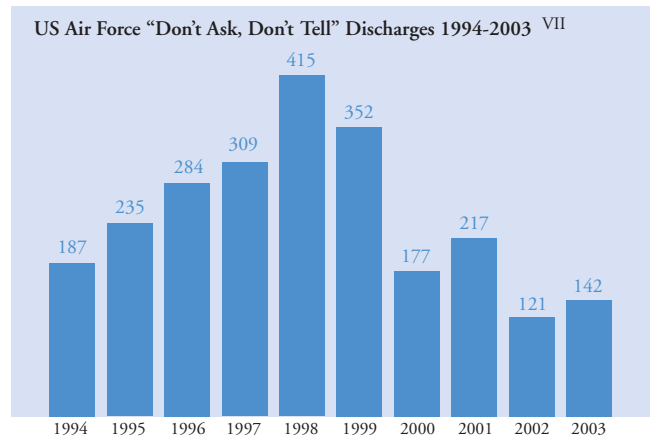
AIR FORCE SLIDES BACK ON “DON’T ASK, DON’T TELL” IMPLEMENTATION

“The Air Force is mission-oriented... . The rank and file falls in line to protect one another.”

Secretary of the Air Force James Roche, *Air Force Times*⁹⁷

Air Force “Don’t Ask, Don’t Tell” discharges increased slightly in FY2003 to 142, higher than the 121 reported in FY2002, but still dramatically lower than the 217 reported in FY2001. The continued trend of lower discharge numbers may be attributed to the

Air Force’s significant involvement in Operation Enduring Freedom and Operation Iraqi Freedom, as well as the Air Force’s growing tendency to selectively apply “Don’t Ask, Don’t Tell.” During FY2003, the Air Force largely ignored implementa-



tion of the Anti-Harassment Action Plan (AHAP).

SELECTIVE ENFORCEMENT IN ACTION:
LACKLAND AIR FORCE BASE (AFB)

Several years ago, Lackland AFB, home of the Air Force’s basic train-

“Entry-level discharges for homosexuality dropped from 326 in 1998 to 19 in 2002... . What happened? Basic-training officials set up a system to make sure recruits really understand all the implications of a discharge for homosexuality, such as having to convince officials they are homosexual.”

*Air Force Times*⁹⁸

“Once they recant their statements, as far as we’re concerned, they never made [the statement]”

Colonel Sharon Dunbar, commander of the 737th training group at Lackland AFB, *Air Force Times*⁹⁹

ing, had alarmingly high “Don’t Ask, Don’t Tell” discharges. This past year, in an interesting turn, the Air Force publicly acknowledged that Lackland AFB’s discharge rates have decreased dramatically since 1998 due to a softening in its implementation of “Don’t Ask, Don’t Tell.” While pleased with the reduction in discharges, SLDN is concerned with how the numbers are now being reduced.

In 1999, after a DoD review revealed the skyrocketing rate of dis-

charges at Lackland AFB, the Air Force invited SLDN to visit the base and assist in a review of the implementation of “Don’t Ask, Don’t Tell” in an effort to reduce discharges. SLDN proposed multiple changes and was pleased to see the discharge numbers decrease over the last few years.

Now, however, it appears the Air Force may be lowering the numbers by requiring service members to prove their sexual orientation. Air Force officials stated to the *Air Force Times* that airmen are required to convince officials of their sexual orientation.²⁰⁰ This requirement of proof is not only contrary to law and policy, it potentially exposes airmen

to discharge as well as to disciplinary or criminal charges. Air Force officials also stated that they are ignoring statements of sexual orientation made by airmen while in training.²⁰¹ While SLDN applauds the retention of gay airmen, the Air Force’s selective application of “Don’t Ask, Don’t Tell” is troubling.

TOLERANCE TUMBLES BACKWARDS: AHAP IMPLEMENTATION CLOUDED BY PRACTICAL EXPERIENCES OF AIR FORCE MEMBERS

The increased demands on the Air Force during FY2002 and FY2003 due to Operation Enduring Freedom and Operation Iraqi Freedom appear to have negatively impacted its compliance with the AHAP. The overwhelming trend during FY2003 was a fall back from the already inadequate compliance efforts in FY2002, resulting in the Air Force falling far short of meeting the training, reporting, enforcement, and measurement requirements of AHAP.

The Air Force claims to conduct annual training on the Homosexual Conduct Policy (HCP), which contains some information about the Air Force’s anti-harassment measures. This training, however, is woefully inadequate and may be contrary to the goal of ensuring that airmen will be comfortable in reporting harassment based on actual or perceived sexual orientation. The HCP training contains only two Power Point slides addressing anti-gay harassment.²⁰² Neither slide identifies to whom airmen may report harassment nor what avenues within the Air Force are confidential, as required by the AHAP.²⁰³ Furthermore, one slide specifically states that an airman’s sexual orientation may be investigated following a report of harassment if credible evidence of conduct arises during the

course of an inquiry into the harassment report.²⁰⁴

“During our officer training program in 2003, we were instructed that Air Force health care professionals are to report statements of sexual orientation to the airman’s command.”

Report by anonymous active duty Air Force Major to SLDN²⁰⁵

SLDN is concerned about reports that the Air Force is telling its members during training that they have a duty to report gay service members. SLDN was dismayed to discover from an Air Force officer who attended an officer training program in 2003 that the attendees were instructed that Air Force health care professionals, including doctors and therapists, and chaplains should report statements of sexual orientation to the service member’s command. DoD has stated there is no requirement that military health care professionals turn in service members.²⁰⁶ SLDN has received at least one other report this year of similar guidance.

In addition, while the Air Force has prepared separate training materials tailoring some of the information for different target audiences (general audiences and commanders, judge advocates and law enforcement per-

sonnel), it appears that these training materials contain identical slides addressing harassment. This fails to meet the AHAP requirement that training be tailored to the grade and responsibility level of the audience.

The Air Force appears not to have taken steps to enforce anti-harassment provisions. There is no information in the Air Force materials about accountability for those who engage in anti-gay harassment. The training materials for supervisors, Staff Judge Advocates (SJA), and commanders should detail that appropriate action must be taken against anyone who condones or ignores harassment or mistreatment based on an airman’s actual or perceived sexual orientation.²⁰⁷ The current training, however, contains no guidance on what action should be taken to hold harassers accountable.

The Air Force has taken some small steps towards implementing the measurement provisions of the AHAP. Specifically, Air Force Instruction 90-201 requires the Air Force Inspector General to “evaluate the training of all those charged with implementing the homosexual conduct policy,” and to “assess commander, staff judge advocate, and investigator training on the DoD homosexual conduct policy.”²⁰⁸ Regrettably, this instruction does not mention anti-harassment training specifically, as the AHAP orders. Furthermore, no remedy is indicated

if a unit is found not to be in compliance with requirements.

It is imperative that the Air Force

take the AHAP requirements seriously. Air Force members need to be clear that harassment based on actual or perceived sexual orientation

is prohibited in the Air Force, and that they can confidentially report such harassment and harassers will be held accountable for their actions.

UNNECESSARY LOSSES:

A SENIOR ENLISTED AIRMAN FIGHTS FOR HIS RETIREMENT

After more than twenty years of outstanding service in the Air Force, the last thing that Master Sergeant David A. Cooper expected was to have to fight for his retirement.

Unfortunately, this is precisely what Cooper was required to do following allegations that he engaged in homosexual conduct at the on-base enlistment club. Despite the fact that Cooper's wife, who was with him at the club that night, and seven other witnesses stated that Cooper did not engage in any type of homosexual conduct that night, Cooper's command chose to believe the statements

of two civilians making vague allegations against Cooper.

Following the accusation, Cooper's command initially recommended that he submit a request to retire.

Incredulous that the Air Force was choosing to believe vague allegations over multiple witness statements to the contrary, and fearing what it might mean to fight his command's recommendation, Cooper submitted his retirement request. Shortly after-



ward, Cooper's command informed him they were withdrawing their retirement recommendation and he was being processed for discharge for homosexual conduct. During the months that followed, Cooper fought to save the retirement he worked so hard for. Cooper's retirement request and discharge paperwork were submitted to the Secretary of the Air Force at the same time. Fortunately for Cooper, the Secretary of the Air Force granted his request for retirement. Unfortunately for Cooper, his separation paperwork from the Air Force is flagged so that he is prohibited from reentering the service.

MORE UNNECESSARY LOSSES: AIR FORCE RESERVE OFFICER TRAINING CORPS CADET CHOOSES HONESTY OVER A SCHOLARSHIP

"But I don't get the impression these kids are in it just for the money. There's something else going on here."

Lieutenant Colonel Joseph Martinelli, AFROTC at Miami University, *Air Force Times*²⁰⁹

"The 'don't ask, don't tell' law is a torturous double standard for people ingrained with a sense of honesty."

Former AFROTC Cadet Mara Boyd, *Air Force Times*²¹⁰

"Don't Ask, Don't Tell" often requires service members to choose between honesty and service. Mara Boyd, like many, felt that service without honesty was too high a price to pay. Boyd entered the University of Colorado as an Air Force ROTC cadet in 1999. Excited by the leadership possibilities the military offers

and the money that enabled her to go to college, Boyd confidently signed her AFROTC contract, prepared to live the Air Force's core values of honesty and integrity, and acknowledging that homosexual conduct was grounds for dismissal. She had no concerns at the time because she had had the same boyfriend for three years in high school. Boyd, however, would later be forced to confront the meaning of honor and integrity as she came to discover she is a lesbian.

After coming out to herself as a lesbian in the summer before her junior year, Boyd soon

realized just how difficult it was to keep her sexuality a secret. Even innocent questions by other cadets became potential minefields. "What did you do over the summer?" "Are you dating anyone?" "Can I fix you up with my friends?" Boyd quickly came to realize that every half truth she told chipped away at her sense of honor and integrity. This was no way to be the officer she knew she could be. So, with complete understanding that her honesty would likely mean disenrollment from

ROTC and a hefty bill from the Air Force, Boyd chose to remain true to herself and revealed to her ROTC command that she is a lesbian.

Despite a very understanding and supportive command, the Air Force honorably discharged Boyd and is now seeking



repayment of her scholarship. Currently, Boyd has left school and is working to save enough money to finish her last year of college and

repay the Air Force for her ROTC scholarship. Boyd would gladly serve her country if she was allowed to do so openly. In the meantime,

Boyd is sharing her story with as many people as she can in an effort to end the ban on gays serving in the military.

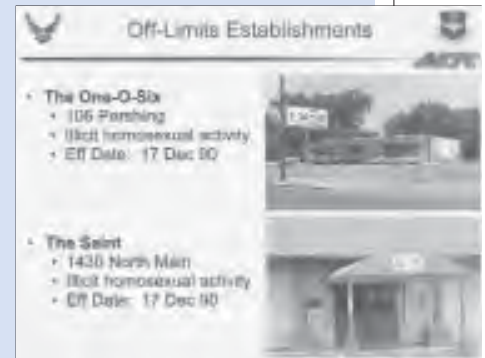
AIR FORCE COMMANDS IN TEXAS CONTINUE OLD PROHIBITIONS:

IN CLEAR VIOLATION OF “DON’T ASK, DON’T TELL,” TEXAS COMMANDS MAKE GAY BARS OFF LIMITS

For the last nine years of “Don’t Ask, Don’t Tell,” it has been clear that simply going to a bar or club catering primarily to lesbians and gays is not a violation of the law. Under “Don’t Ask, Don’t Tell,” the services were supposed to end any prohibitions against service members from going to these types of bars. The Air Force bases in and around San Antonio, Texas, however, are still violating this rule and have been instructing their airmen and officers that

five area bars are off-limits to service members solely because they are considered to be gay bars.

This past year, SLDN obtained a Power Point slide presentation from Randolph AFB listing these off limits establishments.²¹¹ The slides show pictures of the five bars and state that they are off limits because of “illicit homosexual activity.” The slides indicate the bars have been off limits since 1990, before “Don’t Ask, Don’t Tell” became law. The presentation also notes, however, that “[e]ach of these facilities were reviewed and inspected July and Aug 2002 timeframe. We found credible evidence that warrants leaving these facilities on the

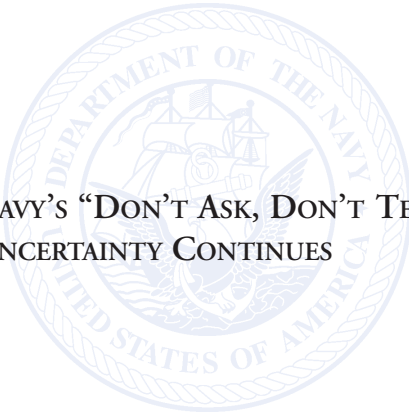


off-limits list.”²¹² Prohibiting service members from frequenting a bar simply because it caters to a gay or alternative crowd is a direct violation of “Don’t Ask, Don’t Tell.”²¹³ SLDN has reported this violation to the Air Force and is awaiting a response.²¹⁴

RECOMMENDATIONS: THE AIR FORCE MUST COMPLY WITH “DON’T ASK, DON’T TELL” AND MOVE FORWARD TO IMPLEMENT AHAP

Tension, confusion, and a return to a few old ways marked the Air Force environment last year with respect to “Don’t Ask, Don’t Tell” and the AHAP. The Air Force members who contacted SLDN during 2003 expressed uncertainty about where the Air Force stands in its implementation of both, and a renewed fear that they will be discharged or otherwise punished if the Air Force perceives them to be lesbian, gay or bisexual. Therefore, SLDN proposes recommendations very similar to those made last year:

- Open a dialogue with SLDN on training and implementation of “Don’t Ask, Don’t Tell” and the AHAP;
- Fully implement all prongs of the AHAP;
- Alter tailored training to address different audience levels (command, judge advocates, senior NCOs, Inspectors General and enlisted ranks);
- Clearly identify how and to whom Air Force members can safely report harassment based on perceived sexual orientation;
- Clearly identify confidential resources for Air Force members who are, or are perceived to be, lesbian, gay or bisexual;
- Authorize Equal Opportunity staff to investigate reports of harassment based on perceived sexual orientation;
- Hold harassers, and those condoning harassment, accountable for their actions;
- Provide more specific training on “credible evidence” and limits to investigations under “Don’t Ask, Don’t Tell;” and
- Re-emphasize that associational behavior, such as going to bars and clubs frequented by lesbians and gays, is not evidence of someone’s sexual orientation and should not be a punishable offense in the military.



NAVY'S "DON'T ASK, DON'T TELL" UNCERTAINTY CONTINUES

"Now I'm the type who's bought into the whole conservative mindset. I believe in a strong military... [And] virtually anything Charlton Heston has to say. Still, I can't tell you how much I don't care about someone's sexual orientation."

Kenneth Lynch, aviation operations limited-duty officer, *Navy Times*²¹⁵

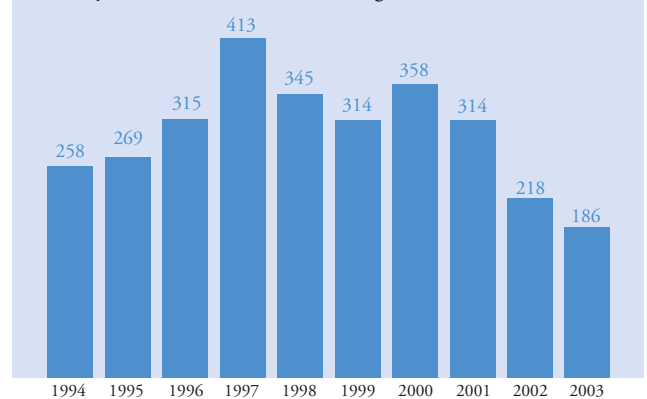
Discharges of lesbian, gay and bisexual sailors continued to drop in

FY2003. This trend is not surprising. The Navy needs good sailors and has shown reluctance to discharge sailors while they are deployed. A significant percentage of the Navy was deployed in 2003. Deployments in support of the Operation Iraqi Freedom and Operation Enduring Freedom in Afghanistan engaged over half of the

Navy's surface vessels and submarines during FY2003.²¹⁶

The Navy also appears to be further de-emphasizing its Homosexual Conduct Policy (HCP) and Anti-Harassment Action Plan (AHAP) training during this time of amplified deployment. This reduction in training is troubling. There remains confusion in the

US Navy "Don't Ask, Don't Tell" Discharges 1994-2003 VIII



Navy about how the HCP should be implemented and Navy commands are still pursuing service members based on non-credible evidence, or evidence provided based on retaliatory motives.

EFFICIENCY TAKES ITS TOLL ON SAFETY: NAVY'S IMPLEMENTATION OF AHAP WEAKENS

The Navy made no progress on its implementation of AHAP in FY2003. Instead, the Navy actually

reduced its training from the minimal and inadequate training that existed in FY2002. This reduction was part

of a larger trend by the Navy in FY2003 to cut down on its personnel training programs. The only vehicle the Navy uses for training on HCP and AHAP is its general military training (GMT) for equal opportunity, sexual harassment prevention, and grievance procedures. In 2002, the Navy's GMT contained just three slides out of twenty-five addressing "Don't Ask,

"Every hour a sailor doesn't have to sit in training is an hour they're working."

Commander Craig Anderson, executive officer of the personnel development center, *Navy Times*²¹⁷

"GMT [general military training] is sometimes viewed as a negative because we do repeat it over and over again"

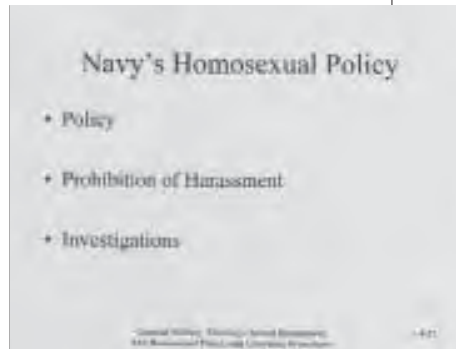
Master Chief Electronics Technician Lyman Watts, *Navy Times*²¹⁸

Don't Tell" and anti-harassment measures. In our 2002 report, SLDN reported deficiencies in this training. Unfortunately, in its desire to cut down on the time spent in training, the Navy's 2003 revision of the GMT has further reduced the training and now provides only one slide addressing the HCP and AHAP.

The one remaining slide briefly addresses three major issues. First, it instructs sailors that homosexuals and bisexuals will be separated from the Navy if they state their sexual orientation, engage in sexual acts with someone of the same gender, or marry or attempt to marry someone of the same gender. Second, it states that sailors who are perceived to be gay should not be harassed. Lastly, the slide instructs that investigations into a sailor's sexual orientation by their command should be based on credible evidence. These subjects are much too broad to be addressed in one training slide. Therefore, this slide, the full extent of the Navy's training, completely fails the training requirements of AHAP by providing no details on how anti-gay harassment will be addressed. This failure is reflected in reports from sailors to SLDN that the GMT trainings they have received provided very little information about the "Don't Ask, Don't Tell" or about anti-harassment measures.

The Navy claims to specifically provide Navy leaders and legal profes-

sionals with more in-depth training on the prevention of anti-gay harassment and "Don't Ask, Don't Tell," as required by the AHAP. However, SLDN has been unable to find any training materials to support this claim.



The Navy has utterly failed to meet the reporting requirement of AHAP that mandates that sailors be provided with information on how and to whom to report harassment based on actual or perceived sexual orientation. The Navy training materials state that "[i]ndividuals must be able to report crimes and harassment free from fear from harm, reprisal, or inappropriate or inadequate command response."²¹⁹ The training materials do not discuss how or to whom harassment can be reported, nor do they indicate what avenues for reporting may be confidential.

Enforcement of AHAP and accountability for those who harass is virtu-

ally non-existent. The Navy GMT materials say little about what will happen to sailors who harass other sailors, or commands who violate "Don't Ask, Don't Tell." SLDN is unaware of any directives or orders specifically addressing the issue of enforcement and accountability. Furthermore, SLDN has found little proof that the Navy is holding accountable its members for harassing or condoning harassment of its sailors.

AHAP's final requirement is measurement of the effectiveness of anti-harassment programs. It is unclear what, if any steps, the Navy is taking to comply with this requirement. The Navy claims that its Inspector Generals include specific interest items in their inspections on the question of "Don't Ask, Don't Tell" training, application and enforcement. There is no indication that the Inspector Generals seek information about anti-gay harassment, nor has the Navy explained what it does with the information collected.

The Navy's desire to make sure that sailors' time is used efficiently during this time of war is understandable. This desire for efficiency should not come at the expense of training that is geared towards ensuring the safety of sailors and improving unit cohesion.

COMMAND SANCTIONED REVENGE SUCCEEDS:

CHAPLAIN RESIGNS AFTER HER COMMAND RECOMMENDS DISCHARGE BASED ON ALLEGATIONS MADE IN RETALIATION

Since its passage in 1993, "Don't Ask, Don't Tell" has been seen as a perfect vehicle for revenge. Spurned men and women use the law to ruin the careers of those who reject sexual

advances; supervisors use the law to frighten subordinates seeking to report them for improprieties; ex-spouses use the law to try and gain an edge in divorce or custody proceedings. Unfortunately, the services contributed to the popularity of this avenue for revenge by freely accepting allegations of "wronged" persons without considering how motive might affect their credibility. Revenge appears to be the motive

that ended the ten year career of Navy Chaplain, Lieutenant Commander Karen Soria.

In late 2002, early 2003, Soria realized her Navy ministry was in danger when the husband of a close friend alleged Soria was having an affair with his wife. Newly divorced, but on very good terms with her own husband, Soria provided support and counsel as her friend pro-

ceeded through her own divorce. Unhappy with his impending divorce, Soria's friend's husband threatened to hurt Soria and his wife by alleging they were involved in an intimate relationship. The husband followed through on his threat and reported to Soria's command that she was in a relationship with his wife. Attempting to ensure his allegations had the correct result, he turned over two personal and private documents to Soria's command.

The first document was a friendship card sent by Soria to his wife expressing caring and gratitude for their friendship during a difficult time in both their lives; the second document was an entry he had ripped from his wife's private journal detailing an erotic dream she had about Soria.

Soria's command first stated that they would not pursue the allegations. Ultimately, the Navy chose to disre-

gard Soria's outstanding ten year Naval career and initiated discharge proceedings. Disgusted by the Navy's pursuit of allegations made by a man motivated by revenge with his only evidence a friendship card and a dream, Soria decided to resign her commission and leave the Navy to minister in the civilian world. In the summer of 2003, Soria was honorably discharged and the Navy lost an experienced, caring and compassionate spiritual advisor for its sailors.

COMMAND SANCTIONED RETALIATION STOPPED BY SEPARATION BOARD: DOING THE RIGHT THING LEADS SAILOR TO BRINK OF LOSING CAREER

During the spring of 2003, a senior enlisted sailor learned first hand how "Don't Ask, Don't Tell" can be a dangerous weapon of retaliation. This sailor found herself facing allegations that she had engaged in misconduct and homosexual conduct shortly after she reported another sailor engaging in fraud.

In April of 2002, the senior enlisted sailor reported an incident in which she witnessed another sailor engaging in fraud by misusing her government purchasing card. As a result of this report, the sailor engaged in the fraudulent activity was investigated, found guilty of fraudulent acts and ultimately demoted.

Shortly after the demotion of this sailor, the reporting senior enlisted sailor's command confronted her stating they were unhappy because her fraud report had caused embarrassment to the entire command. Rather than supporting a sailor

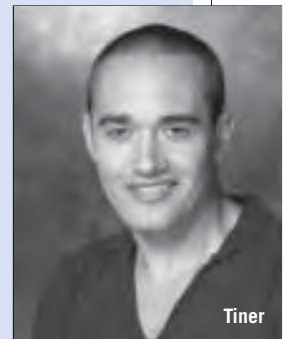
MIXED REVIEWS OF A VERY PUBLIC EVENT: "BOY MEETS BOY"

"I was giving up a lot to be there – my job." "I would do it again, but ... I wish I'd fought the policy."
Former Fire Control Technician 1st Class
Michael J. Tiner, *Navy Times*²²⁰

"There are a lot of homosexuals in the military, and there will be a lot of homosexuals in the military no matter what the policy is. The guy who went on the show didn't do anything wrong, and there was no inappropriate behavior."
IT3(SW) Joseph M. Schnettler, *Navy Times*²²¹

Fire Control Technician 1st Class Michael Jason Tiner, a combat systems instructor based in San Diego who taught at the Navy's Submarine Learning Center, made headlines last year when he was outed on national television. In the spring of 2003 Tiner found himself at a proverbial fork in the road. Down one road was his continued successful career in the Navy, down the other road was the freedom to live a fuller life. With few regrets, Tiner, 26, chose to live his life openly and became a contestant on the *Bravo* television series *Boy Meets Boy*. The program was a gay dating show in which men, both gay and straight, vied for

the affections of a gay bachelor. The show later revealed the sexual orientation of the contestants once they were dismissed. Tiner, eliminated in the first episode, was identified as gay.



Tiner

Prior to the airing of the show, Tiner's command confronted him about his appearance on the series. Some members of his command had recognized Tiner in promotional advertisements for the show. Within weeks of the show airing, and Tiner admitting he is gay on the show, the Navy honorably discharged him. Tiner decided at that time not to fight his discharge when his command agreed not to conduct an intrusive investigation into his private life and recommended he receive an honorable discharge.

Although he lost his Navy career through discharge, Tiner received support directly from sailors he served with, and others with whom he had not served. The private and public support he has enjoyed, have made Tiner even more committed to advocating for the end of "Don't Ask, Don't Tell."

NAVAL ACADEMY

ALUMNI COME OUT:

FORMER MIDSHIPMEN APPLY FOR LESBIAN AND GAY ALUMNI CHAPTER

“We want gay and lesbian officers and midshipmen to know we have gone before them, and they can serve with honor and pride.”

Former Lieutenant Junior Grade Jeff Petrie, *Navy Times*²²²

“[John Sewell, Class of 1990] said the pressure caused by not being honest about who he was caused him to leave the Navy. A submariner, Sewell loved being at sea, but resigned after five years.”

*Navy Times*²²³

On Veterans Day of 2003, a group of former naval officers and United States Naval Academy graduates applied to the academy for recognition of a lesbian and gay alumni chapter. The officers and graduates created USNA Out, as it is called, to provide positive openly lesbian, gay, bisexual and transgender role models for active duty officers and midshipmen forced to serve in silence. USNA Out also allows gay Naval Academy Alumni, who may not feel comfortable in joining traditional alumni chapters, a way to connect with their peers.

Although the Academy rejected USNA Out’s application, the intent behind the application received support. An editorial in the November 24, 2003 edition of the *Navy Times* stated, “[w]hat the Heck, if the Fab Five on ‘Queer Eye for the Straight Guy’ can remake the doofusses they deal with, the far-less-flamboyant gay alumni ought to be able to rearrange the thinking of some retired naval officers.”²²⁴

for properly reporting illegal activity, the senior enlisted sailor’s command appears to have engaged in deliberate retaliatory action against her. First, her performance evaluations dropped dramatically. Then, the senior enlisted sailor’s command reprimanded her for referring to a civilian friend as her “sister.” During that reprimand meeting, the sailor reported that her new Executive Officer (XO) initially expressed her disapproval with the “sister” reference; however, the XO soon expressed her displeasure instead

with the sailor for reporting the fraud.

The sailor’s command then attempted to separate her from the Navy for allegedly providing a false official statement and for homosexual conduct. Despite an outstanding record, including evaluations consistently praising her efforts and demeanor, and receiving the award of “Senior Sailor of the Year” for FY2002, the sailor’s command chose to pursue allegations made against her by the very same sailor she had reported for

defrauding the government.

Determined to fight this retaliation, the senior enlisted sailor presented her case before an administrative separation board and filed an official complaint against her command. The separation board voted unanimously to reject the command’s allegations and retain this sailor in the Navy. Unfortunately for the Navy, this senior enlisted sailor chose not to reenlist in large part because of her experience under “Don’t Ask, Don’t Tell.”

RECOMMENDATIONS:

CLEAR AND CONSISTENT IMPLEMENTATION OF THE AHAP AND “DON’T ASK, DON’T TELL” WITHIN THE NAVY MUST BE A PRIORITY

“For this training to be as effective as it can, sailors need to see their leadership participating, too.”

Commander Craig Anderson, *Navy Times*²²⁵

The Navy must lead by example. The Navy cannot sacrifice clarity and consistency in training intended to promote the safety of its sailors

and unit cohesion in the name of time saving measures. SLDN continues to hear reports from sailors and naval officers that anti-gay harassment is an everyday occurrence in the Navy. When harassment is reported, no one is held accountable for engaging in or condoning that harassment. Furthermore, sailors report to SLDN that they feel even less is being done to stop harassment and retaliation than has been done in previous years. While SLDN understands that the Navy is under great pressure to perform in the current military

operations, the Navy cannot neglect its sailors nor ignore DoD directives. SLDN makes recommendations identical to last year. SLDN challenges Navy leaders to:

- Open a dialogue with SLDN on training and implementation of “Don’t Ask, Don’t Tell” and AHAP;
- Update the GMT training to more clearly explain how and to whom sailors can safely report anti-gay harassment;
- Authorize Equal Opportunity

staff to investigate reports of harassment based on perceived sexual orientation;

- Create accountability measures for those who violate “Don’t Ask, Don’t Tell,” or who participate in or condone anti-gay harassment, and instruct all Navy leaders on those measures;

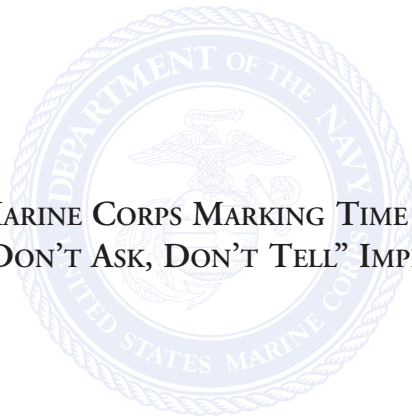
- Provide in-depth training on the “credible evidence” standard and limits to investigations under “Don’t Ask, Don’t Tell;”

- Create training tailored to different audiences (command, judge advocates, senior NCOs, and inspectors general vs. junior enlisted ranks);

- Actively measure the effectiveness of “Don’t Ask, Don’t Tell” and anti-harassment training;

- Alter training as necessary when its effectiveness is found to be lacking; and

- Raise improving command climates and working environments to a higher priority.



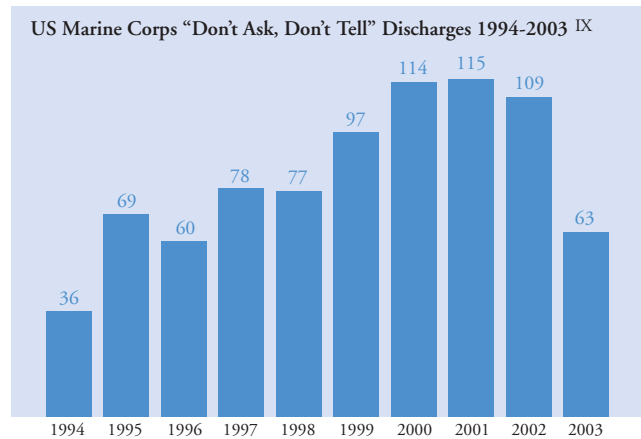
MARINE CORPS MARKING TIME ON “DON’T ASK, DON’T TELL” IMPLEMENTATION

“The nongay soldiers who do not wish to shower with gay soldiers are ideological descendants of those white soldiers who did not wish to live with in the same barracks, eat at the same table, or swim in the same swimming pool with black soldiers”

Col. R.M. Balzhiser (Ret.), *Army Times*²³⁶

Discharge numbers of lesbian, gay and bisexual Marines dropped again in FY2003 – a remarkable 43% from FY2002. Despite the exemption of gay discharges from the January 9th, 2003 stop loss covering the entire Marine Corps and Marine Reserves, it appears that

in practice gay Marines are being retained. It is likely that this is attributable to the Corps’ need for good Marines in wartime. In 2003, the Marine Corps also failed to follow



up on its progress made in 2002 regarding the implementation of Anti-Harassment Action Plan (AHAP).

MARINE CORPS FAILS TO FOLLOW THROUGH: AHAP IMPLEMENTATION STILL LACKING

“In concert with our core values, all Marines will be treated with dignity and respect.”

MARADMIN 259/02 Homosexual Conduct Policy

The Marine Corps failed to follow through on progress made in 2002 on AHAP implementation. AHAP implementation in the Marine

Corps continues to miss the mark in all respects.

In FY2002, the Marine Corps conducted a review of its training and implementation of the Homosexual Conduct Policy (HCP) and AHAP and issued revised training guidance applicable to the entire Marine Corps in May.²²⁷ The May 2002 guidance also indicated that “specific taskings and responsibilities to further improve training and the Marine Corps’ execution of the

HCP will be provided under separate MARADMIN.”²²⁸ Revised training materials were then published in August of 2002.

While the review and issuance of revised training guidance in 2002 was a positive step, follow up in 2003 has been minimal. The May 2002 guidance mandated that the next annual review of training be conducted in January of 2003.²²⁹ SLDN has found no evidence that the Marine Corps conducted such a

review or that any revised training materials have been issued. Despite issuance of new training materials in August 2002, specific taskings to improve training have failed to appear as promised in the May 2002 guidance.

Further, while the 2002 training plans still in use by the Marine Corps provide a good overview of the HCP and limits on investiga-

tions, they give short shrift to the “Don’t Harass” component of the policy. The training provides virtually no information about harassment, and while it identifies reporting channels, the training materials do not indicate which channels are confidential. There is also only one set of training guidance on the HCP available to Marines, instead of several sets of training materials suitable for different audiences as required by

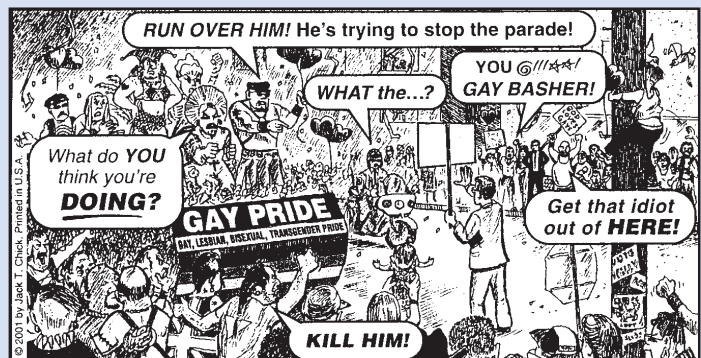
the AHAP.²³⁰ Finally, despite the Marine Corps policy that HCP training will be provided to every Marine within 14 days of enlistment or accession into active duty, after 6 months on active duty, or, in the case of Reservists, after the Marine has completed recruit training, and again at reenlistment, most SLDN Marine clients report not having received any training on the HCP or the AHAP.

**FORCED EXPOSURE TO HATE:
ANTI-GAY CARTOONS
DISTRIBUTED AT BRIG**

“We take your concerns very seriously and have conducted an investigation into the matter....Once it was discovered that one of the volunteers brought the material into the Brig, he was instructed as to the inappropriateness of the material, and corrective action was taken.”

Colonel R.H. Zales, Assistant Chief of Staff, Camp Pendleton Office of the Staff Judge Advocate.²³¹

A gay Marine incarcerated in the Camp Pendleton Brig reported distribution through



the Brig Chaplain of anti-gay religious materials, including those pictured here. In response to a letter from SLDN, the Marine Corps investigated and determined the materials were distributed by a civilian volunteer, rather than a chap-

lain. Once advised by SLDN of the distribution of the cartoons, the Marine Corps took corrective actions, according to a response from the Camp Pendleton Office of the Staff Judge Advocate.

Harassment reporting mechanisms in the Marine Corps continue to be insufficient. The reporting component of AHAP entails encouraging those with concerns to report them and providing confidential avenues for reporting. Marine Corps leaders, however, have not established confidential avenues for reporting mistreatment, harassment, and inappropriate comments or gestures. Marine Corps policy states that reporting harassment through the chain of command is the “preferred method,” although Marines may also make reports to Chaplains and IGs. Lesbian, gay and bisexual Marines who report harassment,

however, face the risk of investigation and discharge if they inadvertently discuss their sexual orientation during the reporting process. Therefore, Marines are understandably hesitant to report anti-gay mistreatment at all. Marine clients of SLDN continue to report anti-gay harassment as a significant problem within the Marine Corps, and the lack of channels for confidentially reporting such harassment is a key contributing factor in this problem.

There is little evidence that the Marine Corps is enforcing AHAP. Reports to SLDN indicate that the Marine Corps continues to tolerate

mistreatment, harassment and derogatory comments about lesbians, gays and bisexuals. Reports of those engaging in the misconduct being held accountable are scarce, indicating that Marine leaders are not taking the AHAP enforcement requirement seriously.

Lastly, the Marine Corps appears to have taken some steps to address measuring the effectiveness of their implementation of the AHAP. However, despite the inclusion of “Don’t Ask, Don’t Tell” training as a special interest for the Marine Corps Inspector General, neither the IG nor any other Marine Corps agency

appears to be taking a serious look at the substance of the anti-harassment training or the training's effectiveness. SLDN welcomes the Commandant's order that "Don't

Ask, Don't Tell" training be included in the Marine Corps Common Skills Handbook, the Marine Corps' manual of basic skills all Marines must master, regardless of military occupa-

tional specialty. SLDN encourages the Marine Corps to measure the effectiveness of including HCP related information in the Common Skills Manual.

**ANOTHER CAUSALITY TO
"DON'T ASK, DON'T TELL:"
GAY IRAQ VETERAN COMES OUT
IN RESPONSE TO THREATS**

"All I ever wanted to do was become a Marine. I have wanted to be a Marine for as long as I can remember."

"Joaquin," Marine Lance Corporal²³²

The case of a Marine Lance Corporal we will refer to only as "Joaquin" speaks volumes about the tragic loss of talent and motivation inflicted by the ban in today's Marine Corps.

Joaquin has wanted to be a Marine for as long as he can remember. Years after he and his family immigrated to the United States from Mexico, Joaquin made himself a legend among recruiters in his small

home town when he started showing up at recruiting events at the age of fifteen. During high school, Joaquin came to terms with the fact that he was gay, but did not want his sexual orientation to get in the way of his dreams of wearing the Marine uniform. He had been out to his friends in high school without incident, and did not appreciate the complexity of the double life he would have to lead as a gay Marine.

Joaquin realized his dream and became a Marine in 2002. He served as an infantryman and spent seven months in Iraq doing humanitarian assistance missions and security patrols. A native Spanish speaker, Joaquin's command selected him to serve as an interpreter for US forces working with coalition forces from Spanish speaking countries. His language skills made him an especially valuable Marine, and he took pride in

the additional contributions he made to the mission as an interpreter.

Shortly after his return from the war, however, Joaquin determined that pursuing his dream of a life in the Marine Corps came at too great a cost. The stress of hiding his sexual orientation was worse than the stress of deployment or any other stresses he had endured as a Marine, and fear of being discovered and scorned by his fellow Marines became too much for him. Joaquin told his command he was gay, as a matter of integrity and in response to anti-gay threats he endured from people in his unit who interpreted his discretion about his private life to mean he was gay. At the time of this publication, Joaquin awaits a decision from his command as to whether he will be discharged or allowed to continue to live his dream as a United States Marine.

**RECOMMENDATIONS:
TAKE CARE OF MARINES**

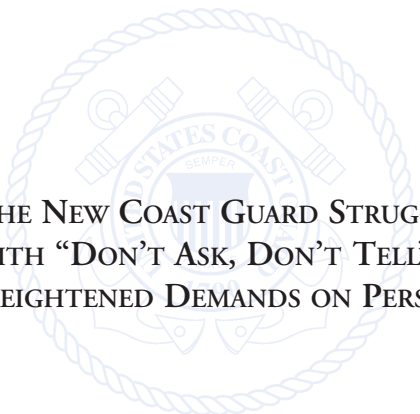
"Some years ago, I would have agreed with the Joint Chiefs of Staff and then-Sen. Sam Nunn, R-Ga., as chairman of the Senate Armed Service Committee. But I no longer feel that way... It's time to remove this ban and stop wasting valuable resources on investigating and kicking out otherwise fully competent personnel."

Marine Lieutenant Colonel H. Thomas, *Army Times*²³³

The Marine Corps needs to do much more to satisfy the letter and the spirit of "Don't Ask, Don't Tell" and the AHAP. Marine leaders have a professional and moral duty to take care of all of their Marines, including those who are lesbian, gay and bisexual. During 2004, the Marine Corps should:

- Open a dialogue with SLDN on training and implementation of "Don't Ask, Don't Tell" and AHAP;
- Update training to adequately address anti-gay harassment;

- Designate "confidential" resources for reporting anti-gay harassment;
- Hold accountable leaders who tolerate anti-gay harassment; and
- Actively measure the effectiveness of "Don't Ask, Don't Tell" and anti-harassment training.



THE NEW COAST GUARD STRUGGLES WITH “DON’T ASK, DON’T TELL” UNDER HEIGHTENED DEMANDS ON PERSONNEL

“From the Mediterranean Sea to the Persian Gulf, the homeland-focused Coast Guard is engaged in its largest overseas deployment since the Vietnam War.”

*Navy Times*³⁴

The Coast Guard saw a 38% decrease in gay discharges during FY2003 as the demands on its personnel and resources

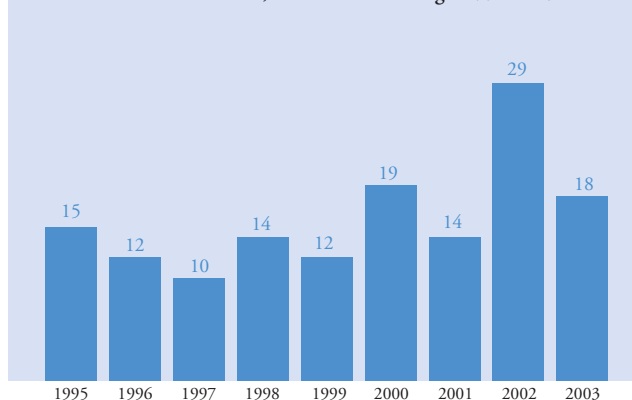
increased. This past year the Coast Guard was required to expand beyond its duty of guarding homeland shores to engaging in security duties overseas in Operation Iraqi Freedom. More Coast Guard personnel and equipment are deployed abroad now than at any other time since the Vietnam War. This over-

seas deployment, combined with the high volume of ships coming in and out of

United States ports, has pushed the Coast Guard to its limits.

Acknowledging the increased demands on the Coast Guard this past year, it is still disappointing that the Coast Guard’s promised “Don’t

US Coast Guard “Don’t Ask, Don’t Tell” Discharges 1994-2003 X



Ask, Don’t Tell” training revisions have not yet been completed. Further, there are indications that delays in completing the training revisions have resulted in continuing command violations of “Don’t Ask, Don’t Tell.”

SECURITY AND SAFETY CONFLICT: ANOTHER YEAR PASSES WITHOUT THE COAST GUARD COMPLETING ANTI-HARASSMENT TRAINING

“Safety and security are both sides of the same coin, and we can’t ignore safety at the expense of security.”

Rear Admiral Paul J. Pluta, *Navy Times*³⁵

Individual Coast Guard commands struggled this year with implementing “Don’t Ask, Don’t Tell” and the Anti-Harassment Action Plan (AHAP) without clear guidance from above. The Coast Guard has taken some steps towards revamping its execution of “Don’t Ask, Don’t Tell” and its compliance with the

AHAP. Specifically, the Coast Guard added “Don’t Pursue” and “Don’t Harass” language to its Personnel Manual section addressing “Don’t Ask, Don’t Tell.”³⁶ Importantly, the addition included the statement that, “[h]arassment can take different forms, ranging from ‘innocent’ comments and jokes

causing a hostile climate, to direct verbal or physical abuse.”²³⁷ Unfortunately, any additional progress on AHAP implementation has slowed significantly. The Coast Guard still has not completed the training modifications on anti-harassment and “Don’t Ask, Don’t Tell” promised in 2001. Therefore, SLDN finds that the Coast Guard has yet to meet any of the requirements outlined in the four components of the AHAP.

The Coast Guard has assured SLDN that it plans to fulfill its commit-

ment and provide additional guidance regarding anti-gay harassment in the Equal Opportunity curriculum it is currently revising. Currently, SLDN’s understanding is that the Equal Opportunity officer for each command has been tasked with temporarily altering their training material to reflect the changes to the personnel manual. This temporary measure is intended to fill the gap until the permanent changes to the Equal Opportunity curriculum are finished. The Coast Guard has informed SLDN that completion of its changes to the Equal

Opportunity curriculum is targeted for the spring of 2004.

As of the publication date for this report, SLDN had received, reviewed, and offered recommendations to the Coast Guard regarding their draft Equal Opportunity curriculum alterations. SLDN urges the Coast Guard to make AHAP implementation a priority. The safety of Coast Guard members, in their person and in their jobs, helps to ensure the security of our ports and of our other service members abroad.

FACT AND RUMOR CLASH:
IN VIOLATION OF “DON’T ASK,
DON’T TELL,” COAST GUARDSMAN
JUSTIN PEACOCK IS INVESTIGATED
BASED ON RUMOR AND CONJECTURE



Delays in revising Coast Guard training, combined with incomplete implementation of the AHAP, has cost the Coast

Guard and its members dearly. Individual guardsmen pay through the loss of their careers; the Coast Guard pays through losing valuable personnel at a time when it can least afford it. One example is Seaman Justin Peacock.

When Peacock joined the Coast Guard he never imagined he would spend almost a year of his enlistment fighting to keep his job. A good guardsman, Peacock never thought his command would begin an investigation, and move to discharge him, based on rumors and an offhand comment made in response to

harassment. Unfortunately, this is exactly what happened to Peacock this last year.

Shortly after reporting for duty at Cape Disappointment, Peacock became the subject of rumors that he was gay. Peacock endured jokes and comments for months until during the summer of 2002 Peacock reported to his Executive Officer that another guardsman, Seaman Bilby, was repeatedly harassing him calling him a faggot. Following Peacock’s report, it appears that the Executive Officer admonished Bilby for the comment but then asked Bilby if he had any evidence that Peacock is gay. This was clearly an inappropriate response by the command to a report of harassment.²³⁸

Even more disturbingly, it appears Peacock’s Executive Officer and Chief then began an inappropriate investigation by questioning other guardsmen about their knowledge of Peacock’s sexual orientation. An investigation based on rumors, speculation and the allegation of a disgruntled witness violates the requirement that credible evidence from a reliable source be presented prior to initiating an investigation.²³⁹ Peacock’s Executive Officer and Chief further violated “Don’t Ask,

Don’t Tell” by apparently conducting this investigation without prior approval by Peacock’s Commanding Officer.²⁴⁰

In the fall of 2002, Peacock was notified that he was under investigation and immediately contacted SLDN. Determined to remain in the Coast Guard, Peacock fought fiercely for retention by requesting to appear before an administrative discharge board. At the board, evidence revealed that Peacock’s command had violated “Don’t Ask, Don’t Tell” repeatedly. Interviews with fellow guardsmen showed that the workplace was rife with direct and indirect anti-gay harassment. Peacock had faced numerous rumors about his perceived sexual orientation and was not the only guardsman at the command to face such rumors. Furthermore, Peacock’s was not the only inappropriate investigation within the command. At Peacock’s discharge board, it was revealed that another guardsman in the same command was also investigated regarding his sexual orientation apparently based on rumor alone.

Ultimately, Peacock lost his case before the discharge board which recommended his dismissal based

largely on an off-hand comment Peacock made to co-workers after other guardsmen repeatedly teased him about being gay. Almost every witness to this alleged statement testified that Peacock was frustrated with the incessant ridicule and rumors he was enduring and when he was once again harassed and asked if he was gay while on watch duty, he responded by saying “Yeah, whatever.” One witness even testified that she felt Peacock made the statement to get the harasser off his back. Despite this testimony, the

board ruled to honorably discharge Peacock.

SLDN appealed to the Coast Guard Assistant Commandant for Personnel and requested the Commandant reject the board’s decision and allow Peacock to remain in the Coast Guard. Unfortunately, the Commandant confirmed the discharge board’s decision and discharged Peacock. Adding insult to injury, the Coast Guard then tried to improperly recoup against Peacock for his enlistment bonus. SLDN was

forced to intercede on Peacock’s behalf and was successful in stopping the attempt to recoup the bonus.

It is also troubling that while Peacock’s career in the Coast Guard is over, there is no indication that any steps have been taken to reprimand the guardsmen who were harassing Peacock and other guardsmen in the command. There is also no evidence that the command has held Peacock’s Chief and Executive Officer accountable for conducting improper investigations.

RECOMMENDATIONS:

THE COAST GUARD IN 2004 SHOULD FULFILL ITS PROMISES

Following a year that saw tremendous demands placed on the Coast Guard to protect the homeland and our troops abroad, SLDN remains cautiously optimistic that the Coast Guard will fulfill its promises of improving training and implementation of “Don’t Ask, Don’t Tell” and the AHAP. Similar to our recommendations of last year, SLDN hopes the Coast Guard’s revised training is completed this year and that the Coast Guard:

- Maintain a dialogue with SLDN on training and implementation of “Don’t Ask, Don’t Tell” and the AHAP;

- Ensure that anti-harassment specifically addresses harassment based on perceived sexual orientation;
- Clearly identify to whom, and how Coast Guard members can safely report anti-gay harassment;
- Clearly identify safe spaces for Coast Guard members to receive confidential counseling;
- Provide examples of harassment, including name-calling and jokes, using anti-gay language; and
- Provide clear guidance to Coast Guard commands on “credible evidence” and investigative limits under “Don’t Ask, Don’t Tell.”

The new training should use blunt, specific language to clarify to all members of the Coast Guard that anti-gay harassment is unacceptable and that those using anti-gay epithets, or otherwise engaging in anti-gay harassment, will be held accountable.

Safety and security of Coast Guardsmen should remain as high a priority as the inspection of ships entering and leaving our harbors. SLDN challenges the Coast Guard to complete the work it started on revamping its training in an effort to ensure the safety of its members and move it closer to compliance with the AHAP.

END NOTES

- ¹ Editorial, *No Gays Except . . .*, WASH. POST, March 26, 2003 at A16.
- ² Tom Oliphant, *Gays In Military See An Easing Of Discrimination*, BOSTON GLOBE, April 8, 2003 at A23.
- ³ Whenever “gay” is used throughout this report, it is used as an all-inclusive term for lesbian, gay and bisexual.
- ⁴ For documentation on the decrease in discharges of lesbians, gays and bisexuals during World War II, the Korean Conflict, and the Vietnam War see RANDY SHILTS, *CONDUCT UNBECOMING* (St. Martin’s Press, 1993) 70-71, 163, 210, 355-57, 387, 569-570, 575, 741, 745-6.
- ⁵ Eleven allied countries with troops in Operation Iraqi Freedom allow open service: Australia, Czech Republic, Denmark, Italy, Lithuania, Netherlands, New Zealand, Norway, Slovenia, Spain and Great Britain. Thirteen coalition partners in Operation Enduring Freedom allow lesbian, gay and bisexual troops to serve openly: Australia, Belgium, Canada, Czech Republic, Denmark, France, Germany, Great Britain, Italy, Netherlands, Norway and Spain.
- ⁶ Exec. Order No. 13087, 63 Fed. Reg. 30097 (Jun. 2, 1998).
- ⁷ John Files, *Gay Ex-Officers Say ‘Don’t Ask’ Doesn’t Work*, N.Y. TIMES, December 10, 2003 at A18.
- ⁸ Those endorsing the statement include: BG Keith H. Kerr, CSMR (Ret.), BG Virgil A. Richard, USA (Ret.) and RADM Alan M. Steinman, USCG (Ret.). The three were joined by COL Robert V. Barnes, Jr., USA (Ret.); COL Graham E. Beard, USA (Ret.); COL Margarethe Cammermeyer, USA (Ret.); MG Vance Coleman, USA (Ret.); COL Paul W. Dodd, USA (Ret.); BG Evelyn P. Foote, USA (Ret.); former Assistant Secretary of Defense Lawrence Korb; COL Eugene A. “Andy” Leonard, USA (Ret.); MCPOCG Vincent W. Patton III, USCG (Ret.); CAPT Mike Rankin, USNR (Ret.); and MG Charles Starr, Jr., USAR (Ret.).
- ⁹ Letter from William Jefferson Clinton to Servicemembers Legal Defense Network, [hereinafter Clinton Letter], (Aug. 12, 2003) (on file at http://www.sldn.org/binary-data/SLDN_ARTICLES/pdf_file/1163.pdf).
- ¹⁰ Gallup Poll, *Public OK with Gays, Women in the Military*, December 23, 2003.
- ¹¹ See Dana Blanton, *Majority Opposes Same-Sex Marriage*, FOX NEWS, August 26, 2003, available at http://www.foxnews.com/printer_friendly_story/0,3566,95753,00.html, describing the National Poll conducted by Opinion Dynamics Corporation where question 5 “Allowing gays and lesbians to serve openly in the military?” resulted in 64% in favor.
- ¹² Gallup Poll, *Do You Think Homosexuals Should Or Should Not Be Hired For Each Of The Following Occupations?*, June 1992.
- ¹³ Editorial, *Law Schools, Gays And The Military*, N.Y. TIMES, October 5, 2003 sec. 4 p12; Editorial, *No Gays Except . . .*, WASH. POST, March 26, 2003 at A16; Editorial, *Still No Gay Linguists*, WASH. POST., April 16, 2003 at A26; Editorial, *Unhappy Anniversary*, WASH. POST, November 30, 2003 at B6; Robin Gerber, *End Decade-Old ‘Don’t Ask’ Policy*, USA TODAY, November 26, 2003 at A25; Editorial, *A Self-Inflicted Military Wound*, CHIC. TRIB., December 5, 2003 at C24; Editorial, *Let Gays Serve*, NEW ORLEANS TIMES-PICAYUNE, March 28, 2003; Editorial, *The Price of Not Telling*, LA TIMES, December 21, 2003 at M4.
- ¹⁴ See Lisa Neff, *Presidential Candidates Attack ‘Don’t Ask, Don’t Tell’*, CHICAGO FREE PRESS, November 12, 2003.; see also, *Gay Today*, *Democratic Presidential Hopefuls Support Gays In The Military*, GAY TODAY.COM, November 5, 2003.
- ¹⁵ *Lawrence v. Texas*, 123 S. Ct. 2472 (2003).
- ¹⁶ See George Cahlink, *Army May Temporarily Boost Troop Size*, GOV. EXEC., January 28, 2004, available at <http://www.govexec.com/dailyfed/0104/012804g1.htm>.
- ¹⁷ *Id.*
- ¹⁸ Gary Gates, *Gay Veterans Top One Million*, URBAN INSTITUTE, July 9, 2003.
- ¹⁹ SERVICEMEMBERS LEGAL DEFENSE NETWORK, *CONDUCT UNBECOMING – THE 9TH ANNUAL REPORT ON “DON’T ASK, DON’T TELL, DON’T PURSUE, DON’T HARASS”* 23-24 (2003) [hereinafter SLDN 9TH ANNUAL REPORT].
- ²⁰ Department of the Army Inspector General (DAIG), *DAIG Special Assessment / Investigation Of Allegations Of Violations Of The DOD Homosexual Conduct Policy At Fort Campbell*, July 2000
- ²¹ Michael Radutzky, *The War At Home*, [Transcript], CBS 60 MINUTES, January 17, 1999.
- ²² Tom Brokaw, *Mother Tries To Prevent Promotion Of General Who Commanded A Base Where Her Son Was Killed For Being Gay*, NBC Nightly News, June 17, 2003.
- ²³ CONG. REC. S15030, Executive Session (daily ed. November 18, 2003) (statement of Sen. Kennedy).
- ²⁴ *Id.*
- ²⁵ CONG. REC. S15040, Executive Session (daily ed. November 18, 2003) (statement of Sen. Dayton).
- ²⁶ CONG. REC. S15029, Executive Session, (daily ed. November 18, 2003) (statement of Sen. Akaka).
- ²⁷ Letter from 22 Members of Congress to Donald Rumsfeld, Secretary of Defense, July 23, 2003.^c
- ²⁸ See Letter from David S. Chu, Under Secretary of Defense, to James Langevin, House of Representative, September 25, 2003, responding to the letter from the 22 Members of Congress.^c
- ²⁹ Robin Gerber, *USA Today: End Decade-Old ‘Don’t Ask’ Policy*, USA TODAY, November 26, 2003 at A25.
- ³⁰ Editorial, *Unhappy Anniversary*, WASH. POST, November 30, 2003 at B6.
- ³¹ *Lawrence*, supra note 15.
- ³² *Id.*, at 2484
- ³³ See *Highest Ranking Military Officers To Date Come Out*, N.Y. TIMES, December 10, 2003.
- ³⁴ See Clinton Letter, supra note 9.
- ³⁵ Estimate based on conservative estimate that 5% of the American population is gay. See Gay and Lesbian Families in the United States, David M. Smith and Gary Gates, Urban Institute available at <http://www.urban.org/url.cfm?ID=1000491>. Over 200,000 service members have been deployed over seas in support of Operation Enduring Freedom and Operation Iraqi Freedom. (See <http://www.defenselink.mil>).
- ³⁶ Email from Austin Rooke to SLDN (February 5, 2004).
- ³⁷ Phone Communication from Lance Corporal “Joaquin” to SLDN (October 29, 2003).
- ³⁸ Email from anonymous service member to SLDN (February 5, 2004).
- ³⁹ *Id.*
- ⁴⁰ *Id.*
- ⁴¹ Email from Vince Patton to SLDN (February 5, 2004).
- ⁴² *Id.*
- ⁴³ *Id.*
- ⁴⁴ *Id.*
- ⁴⁵ *Id.*
- ⁴⁶ Patricia Ward Biederman, *For Gays, Secrecy In Love, War*, LA TIMES, April 17, 2003 at A1.
- ⁴⁷ *Id.*
- ⁴⁸ C. Dixon Osburn, *Symposium: “Don’t Ask, Don’t Tell”: Gays in the Military A Policy in Desperate Search of a Rationale: The Military’s Policy on Lesbians, Gays and Bisexuals*, 64 UMKC L. REV. 199 (1995).
- ⁴⁹ See DEP’T OF DEFENSE DIRECTIVE 1332.14, *Enlisted Administrative Separations* [hereinafter DoDD 1332.14] at E3.A4.1.4.3; DEP’T OF DEFENSE INSTRUCTION 1332.40, *Separation Procedures for Regular and Reserve Commissioned Officers* [hereinafter DoDI 1332.40] at E8.4.3.
- ⁵⁰ See DoDD 1332.14, supra note 49, at E3.A1.1.8.1.1; DoDI 1332.40, supra note 49, at E2.3.
- ⁵¹ See DoDD 1332.14, supra note 49, at E3.A1.1.8.1.1; DoDI 1332.40, supra note 49, at E2.3.
- ⁵² See DoDD 1332.14, supra note 49, at E3.A4.1.1.1.1; DoDI 1332.40, supra note 49, at E8.1.1.
- ⁵³ See *Id.*
- ⁵⁴ See DoDD 1332.14, supra note 49, at E3.A4.1.3.3.4; DoDI 1332.40, supra note 49, at E.8.3.3.4.
- ⁵⁵ See Memorandum from Rudy de Leon, Under Secretary of Defense (Personnel & Readiness), to the Secretaries of the Military Departments, *Guidelines for Investigating Threats Against or Harassment of Service Members Based on Alleged Homosexuality* (Aug. 12, 1999) [hereinafter de Leon 1999 Implementation Memo].^c
- ⁵⁶ See DoDD 1332.14, supra note 49, at E3.A4.1.1.3; DoDI 1332.40, supra note 49, at E8.1.3.
- ⁵⁷ See Report to the Secretary of Defense from Under Secretary of Defense (Personnel & Readiness), *Review Of The Effectiveness Of The Application And Enforcement Of The Department’s Policy On Homosexual Conduct In The Military*, April 1998 [hereinafter Under Secretary of Defense (P&R) 1998 Report]; see also de Leon 1999 Implementation Memo, supra note 55.
- ⁵⁸ See Under Secretary of Defense (P&R) 1998 Report, supra note 57, at 11.
- ⁵⁹ See generally, DEP’T OF DEFENSE INSTRUCTION

5505.8, *Investigations of Sexual Misconduct by the Defense Criminal Investigative Organizations and Other DoD Law Enforcement Organizations* (2000) [hereinafter DODI 5505.8].

⁶⁰ See DoDD 1332.14, *supra* note 49, at E3.A4.1.1.3; DoDI 1332.40, *supra* note 49, at E8.1.3.; *see also*, Under Secretary of Defense (P&R) 1998 Report, *supra* note 57, at 11,12; *see also*, de Leon 1999 Implementation Memo, *supra* note 55.

⁶¹ See Under Secretary of Defense (P&R) 1998 Report, *supra* note 57, at 12.

⁶² See DoDD 1332.14, *supra* note 49, at E3.A4.1.3.1.

⁶³ See de Leon 1999 Implementation Memo, *supra* note 55.

⁶⁴ See Under Secretary of Defense (P&R) 1998 Report, *supra* note 57, at 12.

⁶⁵ DEP'T OF DEFENSE DIRECTIVE 1304.26, *Qualification Standards for Enlistment, Appointment, and Induction: Applicant Briefing Item on Separation Policy*, addendum (1993) [hereinafter DoDD 1304.26 addendum]. "The Armed Forces do not tolerate harassment or violence against any service member, for any reason." *Id.*

⁶⁶ Cheryl Lavin, *Strange Case of a Dead Sailor; Was Allen Schindler Killed Because He Was Gay?*, CHI. TRIB., Dec. 21, 1992, at C1.

⁶⁷ See JANET E. HALLEY, DON'T: A READER'S GUIDE TO THE MILITARY'S ANTI-GAY POLICY 20-22 (1999).

⁶⁸ 139 Cong. Rec. S11157 (daily ed. Sep. 9, 1993) (statement of Sen. Kennedy).

⁶⁹ Thomas W. Lippman, *Pentagon Studies Conflict on Effect of Gays in the Military*, WASH. POST, Aug. 27, 1993, at A10.

⁷⁰ *Policy Concerning Homosexuality in the Armed Forces: Hearings Before the Senate Comm. on the Armed Services*, 103d Cong., 707 (1993) (statement of Gen. Colin Powell) [hereinafter Powell Statement].

⁷¹ *Id.*, "[H]omosexuals have privately served well in the past and are continuing to serve well today." *Id.*

⁷² DoDD 1332.14, *supra* note 49 at E3.A1.1.8.1.1; DoDI 1332.40, *supra* note 49, at E2.3. "A member's sexual orientation is considered a personal and private matter, and is not a bar to continued service . . . unless manifested by homosexual conduct . . ." *Id.*

⁷³ Powell Statement, *supra* note 70, at 709. "We will not ask, we will not witch hunt, we will not seek to learn orientation." *Id.*

⁷⁴ DoDD 1304.26 addendum, *supra* note 65.

"The Armed Forces do not tolerate harassment or violence against any service member, for any reason." *Id.*

⁷⁵ Memorandum from Les Aspin, Secretary of Defense, to the Secretaries of the Military Departments, *Implementation of the DoD Policy on Homosexual Conduct in the Armed Forces* (Dec. 21, 1993) [hereinafter Les Aspin Memo].^c "[The new policy] provides that investigations into sexual misconduct will be conducted in an evenhanded manner, without regard to whether the alleged misconduct involves homosexual or heterosexual conduct." *Id.*

⁷⁶ See PUB. PAPERS William J. Clinton, 1993, vol. 1, p. 1111. President Clinton pledged that the policy would provide for "a decent regard for the legiti-

mate privacy and associational rights of all service members." *Id.* Then Senator William Cohen understood that the small amount of privacy under the current policy was intended to prevent the military from prying into people's private lives. *See, Policy Concerning Homosexuality in the Armed Forces: Hearings Before the Senate Comm. on Armed Services*, 103d Cong. 787 (statement of Sen. William Cohen).

⁷⁷ Opposition in Congress to the idea of liberalizing the policy on gays in the military did not end when President Clinton signed the bill into law on November 30, 1993. On July 31, 1996, Congressmen Dornan, Hunter, Chambliss, Stearns and Crane introduced a bill to reinstate the pre-"Don't Ask, Don't Tell" regulations allowing the services to ask about sexual orientation and pursue personnel perceived to be gay. The bill passed the House of Representatives, but ultimately failed to become law.

⁷⁸ *Report of the Board of Appointed to Prepare and Submit Recommendations to the Secretary of the Navy for the Revision of Policies, Procedures and Directives Dealing with Homosexuality* (Mar. 15, 1957) "Crittenden Report."

⁷⁹ Theodore R. Sarbin, Ph.D. & Kenneth E. Karols, M.D., Ph.D., *Defense Personnel Security Research and Education Center, Nonconforming Sexual Orientation and Military Suitability* (Dec. 1988); M. McDaniel, *Defense Personnel Security Research and Education Center, Preservice Adjustment of Homosexual and Heterosexual Military Accessions: Implications for Security Clearance Suitability* (1999).

⁸⁰ RAND Corp., *Sexual Orientation and U.S. Military Personnel Policy: Options and Assessment*, National Defense Research Institute (1993).

⁸¹ The DoD Working Group's findings foreshadowed this dynamic. "Lifting the ban on homosexuals serving in the military would be perceived by many service members as the imposition of a political agenda by a small group - an agenda which is seen as having no military necessity and as being, in fact, destructive to the finest fighting force in the world. Morale would suffer accordingly." DoD MWG report at 5. Gary Lehring describes the anti-gay harassment sparked by President Clinton's new policy. "Following a period in which the military fought long and hard to keep gay and lesbian service members out of the armed forces, the increased attention directed new waves of hatred at anyone in the military who was suspected of being gay or lesbian. . . . Seen as political rather than military, the national debate over lifting the ban against gays in the armed forces had the long-lasting effect of making any service member who was suspected of being gay or lesbian an even greater target than before. . . . [G]ay men and lesbians were increasingly considered fair game by fellow soldiers. . . . [H]aving more than failed to create real change, the Clinton policy had seemingly created a more dangerous environment for gay men and lesbians in the military." GARY LEHRING, OFFICIALLY GAY: THE POLITICAL CONSTRUCTION OF SEXUALITY BY THE U.S. MILITARY 141-142 (2003).

SLDN's First Annual Report also provides insight into the anti-Clinton

sentiment in the military during this time, and its effect on gay service members. "An alarming number of command violations documented by SLDN result from outright insubordination, not lack of information or inadequate training. These violations are fueled, in part, by a climate of backlash in many units. The controversy over President Clinton's proposal to lift the ban charged the atmosphere in the military and focused unprecedented attention on the private lives of servicemembers. . . .

In this climate, many commanders and others have taken the Congressional vote against lifting the ban as a license to go after those whom they suspect are gay. As Lawrence J. Korb, former Assistance Secretary of Defense for Personnel and Readiness under President Reagan . . . stated, 'I think the military feels they have beaten Clinton back on this issue, and they're not going to change.' As a result, many servicemembers are actually worse off than before." SERVICEMEMBERS LEGAL DEFENSE NETWORK, CONDUCT UNBECOMING - THE FIRST ANNUAL REPORT ON "DON'T ASK, DON'T TELL, DON'T PURSUE" 17 (1994) [hereinafter SLDN 1ST ANNUAL REPORT].

⁸² "The controversy over President Clinton's proposal to lift the ban charged the atmosphere in the military and focused unprecedented attention on the private lives of servicemembers. Since that time, everyone from private to general officer has speculated about who in the ranks might be gay. . . . As a result, many servicemembers are actually worse off than before." SLDN 1ST ANNUAL REPORT, *supra* note 81, at 17.

⁸³ *See generally* SERVICEMEMBERS LEGAL DEFENSE NETWORK, CONDUCT UNBECOMING - THE 2ND ANNUAL REPORT ON "DON'T ASK, DON'T TELL, DON'T PURSUE" 5-7 (1995) [hereinafter SLDN 2ND ANNUAL REPORT].

⁸⁴ *See* SERVICEMEMBERS LEGAL DEFENSE NETWORK, CONDUCT UNBECOMING - THE 3RD ANNUAL REPORT ON "DON'T ASK, DON'T TELL, DON'T PURSUE" 5-6 (1996) [hereinafter SLDN 3RD ANNUAL REPORT].

⁸⁵ Navy Manpower Analysis Center, *Homosexual Administrative Discharge Board / Show Cause Hearings*, June 1994 memo at 4.^c

⁸⁶ DEP'T OF THE NAVY, NAVMED P-5134, GENERAL MEDICAL OFFICER (GMO) MANUAL (May 1996 ed.).

⁸⁷ *See*, the case of Marine Lance Corporal Blaessing, discharged for asking questions about sexual orientation to a military psychologist, described in SLDN 1ST ANNUAL REPORT, *supra* note 81, at 22; *see also* SLDN 3RD ANNUAL REPORT, *supra* note 84, at 6-7.

⁸⁸ *See* SLDN 1ST ANNUAL REPORT, *supra* note 81, at 20; *see also* Memorandum from Richard A. Peterson, to All Staff Judge Advocates and Military Judges, *Commander Inquiries on Members Stating They are Homosexual* (Nov. 3, 1994) [hereinafter Peterson Memo].^c

⁸⁹ Memorandum from Judith A. Miller, General Counsel for the Department of Defense, to the General Counsels of the Military Departments, *Re: Policy on Homosexual Conduct in the Armed Forces* (Aug. 18 1995) [hereinafter Miller Memo].^c

90 Janet Zich, *Living in Limbo with "Don't Ask, Don't Tell"*, 70 Stan. Bus no. 4 (Aug. 2002), available at <http://www.gsb.stanford.edu/community/bmag/sbsm0208/viewpoint.html>.

91 *Id.*

92 Miller Memo, *supra* note 89.

93 Janet Halley, *supra* note 67, at 24.

94 See generally *Cammermeyer v. Perry*, 97 F.3d 1235, 1236 (9th Cir. 1996). See also MARGARETHE CAMMERMEYER, *SERVING IN SILENCE* 1-5 (1994).

95 SLDN 1ST ANNUAL REPORT, *supra* note 81, at 1.

96 *Id.*

97 SLDN 3RD ANNUAL REPORT, *supra* note 84, at 24-25.

98 SLDN 1ST ANNUAL REPORT, *supra* note 81, at 1.

99 SLDN 3RD ANNUAL REPORT, *supra* note 84, at 24.

100 C. Dixon Osburn, *supra* note 48 at 218.

101 SLDN 1ST ANNUAL REPORT, *supra* note 81, at 16.

102 *Id.* at 17-18.

103 *Id.* at 11; see also, SLDN 2ND ANNUAL REPORT, *supra* note 83, at 11-12

104 SLDN 2ND ANNUAL REPORT, *supra* note 83, at 12.

105 *Id.*

106 See SLDN 1ST ANNUAL REPORT, *supra* note 81, at 11-12, 23-24; SLDN 2ND ANNUAL REPORT, *supra* note 83, at 21-26; SLDN 3RD ANNUAL REPORT, *supra* note 84, at 16-25.

107 SLDN 1ST ANNUAL REPORT, *supra* note 81, at 12.

108 SLDN 3RD ANNUAL REPORT, *supra* note 84, at 17-18.

109 *Id.*, at 18.

110 *Id.*

111 *Id.*, at 19.

112 *Id.*

113 *Id.*, at 21.

114 SLDN 2ND ANNUAL REPORT, *supra* note 83, at 22-25; SLDN 3RD ANNUAL REPORT, *supra* note 84, at 21-24.

115 SLDN 2ND ANNUAL REPORT, *supra* note 83, at 24; SLDN 3RD ANNUAL REPORT, *supra* note 84, at 21.

116 A number of cases were brought during the mid 1990's challenging the new ban on First Amendment free speech grounds. The Second Circuit Court of Appeals in *Able v. U.S.*, 155 F.3d 628 (2d Cir. 1998) found that "Don't Ask, Don't Tell" and the prohibition on homosexual acts did not violate gay, lesbian and bisexual service members' right to free speech because the prohibitions on speech furthered the government's interest in preventing homosexual conduct in the military. In *Thomasson v. Perry*, 80 F.3d 915 (4th Cir. 1996) and *Philips v. Perry*, 106 F. 3d 1420 (9th Cir. 1997) the Fourth and Ninth Circuits, respectively, analyzed the "statements" prong of the "Don't Ask, Don't Tell" statute and found that discharges based on statements did not violate the First Amendment, because the statements themselves were evidence of a propensity to act and the discharges were based on the propensity demonstrated by the statements, not

the statements themselves. Equal protection arguments were also central to the constitutional challenges to "Don't Ask, Don't Tell." Both the "acts" component of the policy and the "statements" component were unsuccessfully challenged on Fifth Amendment Equal Protection grounds. In *Philips v. Perry*, 106 F.3d 1420 (9th Cir. 1997), the Ninth Circuit Court of Appeals rejected a challenge to the "acts" component, finding the Navy's justifications for the policy – the maintenance of unit cohesion, preservation of personal privacy, and the reduction of sexual tension, among others – were legitimate government interests rationally related to the policy of discharging persons who engaged in homosexual acts. Equal protection challenges to the "statements" component of the law also failed in *Holmes v. California Army National Guard*, 124 F.3d 1126 (9th Cir. 1997), *Richenberg v. Perry*, 97 F. 3d 256 (8th Cir. 1996), and *Philips v. Perry*, 106 F.3d 1420 (9th Cir. 1997). The rebuttable presumption of an intent to act implied in a statement of homosexual orientation was found to be rationally related to the legitimate government interest of preventing homosexual conduct in the ranks.

117 DODD 1304.26, *supra* note 65; DoDD 1332.14, *supra* note 49; DoDD 1332.30, *supra* note 49; DoDI 5505.3 "Initiation of Investigations by Military Investigative Organizations" (July 11, 1986); DoDI 5505.8, *supra* note 59. For a brief summary of the changes, see Les Aspin Memorandum, "Implementation of DoD Policy on Homosexual Conduct in the Armed Forces" 21 Dec. 1993. Each branch's implementation as follows: Army Regulation 165-1; Army Command Policy 600-20, Ch. 4 – Para. 19; NAVADMIN 033/94 CNO Washington DC 110300Z (Mar 94); ALMAR 64/94 CMC Washington DC 281600Z (Feb 94); USCG Personnel Manual 12.E

118 SERVICEMEMBERS LEGAL DEFENSE NETWORK, CONDUCT UNBECOMING-THE 4TH ANNUAL REPORT ON "DON'T ASK, DON'T TELL, DON'T PURSUE, DON'T HARASS," 63, (1997) [hereinafter SLDN 4TH ANNUAL REPORT].

119 New ways of pursuing gay service members developed during this period as well. Among the new rules and regulations was guidance from a memorandum from John M. Deutch, Deputy Secretary of Defense to the Secretaries of the Military Departments regarding when service members discharged under "Don't Ask, Don't Tell" would have to repay educational assistance or enlistment bonuses. The 1996 Deutch memo prohibited recoupment except in cases where the service member was found to have made his or her statement for the purpose of avoiding service. With the notable exception of the Air Force, the services generally complied with this memorandum, until a federal judge validated the Air Force's more aggressive interpretation of the law. Now recoupment is common throughout the services in statements cases. Memorandum from John M. Deutch, Deputy Secretary of Defense to the Secretaries of the Military Departments, *Recoupment of Education Assistance Funds, Bonuses and Special Pay from Persons Disenrolled or Separated on the Basis of Homosexual Conduct* (May 17, 1994) [hereinafter

Deutch Memorandum];^c; see also, *Hensala v. Department of the Air Force, et al.*, 343 F.3d 951 (9th Cir. Cal. Ct. App., 2002).

120 Secretary of Defense (P&R) 1998 Report, *supra* note 57.

121 *Id.*

122 *Id.*

123 Memorandum from Deputy Secretary of Defense to Secretaries of the Military Departments, *Implementation of "Policy Guidelines on Homosexual Conduct in the Armed Forces" in Personnel Security Investigation and Adjudication*, available at http://www.sldn.org/binary-data/SLDN_ARTICLES/pdf_file/990.pdf.

124 Executive Order 12968 (Aug. 4, 1995).

125 See generally, DoDI 5505.8, *supra* note 59.

126 SLDN 4TH ANNUAL REPORT, *supra* note 118, at 42-43.

127 SLDN 3RD ANNUAL REPORT, *supra* note 84.

128 SLDN 4TH ANNUAL REPORT, *supra* note 118, at 28.

129 See *Id.*, explaining how this incident was among those motivating the 1998 Report's recommendation for a review of the use of pretrial agreements to obtain information about service members' sexual orientation.

130 In addition to instances of improper pursuits, as late as 2002 SLDN discovered that some Air Force recruiting offices were still using outdated forms containing questions about recruits' sexual orientation notwithstanding Defense Secretary Cohen's 1997 order to the services to replace the forms with updated ones. SERVICEMEMBERS LEGAL DEFENSE NETWORK, CONDUCT UNBECOMING – THE 7TH ANNUAL REPORT ON "DON'T ASK, DON'T TELL, DON'T PURSUE, DON'T HARASS," 12-13 (2001) [hereinafter SLDN 7TH ANNUAL REPORT].

131 SLDN 7TH ANNUAL REPORT, *supra* note 130.

132 *McVeigh v. Cohen*, 983 F. Supp. 215 (D.D.C. 1998)

133 *Id.*

134 SERVICEMEMBERS LEGAL DEFENSE NETWORK, CONDUCT UNBECOMING – THE 8TH ANNUAL REPORT ON "DON'T ASK, DON'T TELL, DON'T PURSUE, DON'T HARASS" 22-23 (2002) [hereinafter SLDN 8TH ANNUAL REPORT].

135 SLDN 8TH ANNUAL REPORT, *supra* note 134, at 22-23.

136 *Id.*

137 SERVICEMEMBERS LEGAL DEFENSE NETWORK, CONDUCT UNBECOMING – THE 5TH ANNUAL REPORT ON "DON'T ASK, DON'T TELL, DON'T PURSUE, DON'T HARASS" 10 (1998) [hereinafter SLDN 5TH ANNUAL REPORT].

138 SLDN 5TH ANNUAL REPORT, *supra* note 137.

139 The lack of familiarity with the closet that characterized this new generation of service members also resulted in a decreased willingness on the part of gay service members to remain in the closet. Many service members were out to their colleagues and friends. At Lackland Air Base in San Antonio, discharges for statements soared so high that the Air Force invited SLDN to investigate the reason for the soaring discharges. After SLDN's visit, which included training on the

policy for Lackland personnel, discharges dropped from 200 in FY1997 to fewer than 50 in FY2000. SLDN 8TH ANNUAL REPORT, *supra* note 134, at 27.

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141 SLDN 4TH ANNUAL REPORT, *supra* note 118, at 64.

142 SLDN 5TH ANNUAL REPORT, *supra* note 137, at 74.

143 *Id.*

144 *Id.*

145 SLDN 4TH ANNUAL REPORT, *supra* note 118, at 11.

146 SLDN 5TH ANNUAL REPORT, *supra* note 137, at 48-49.

147 SERVICEMEMBERS LEGAL DEFENSE NETWORK, CONDUCT UNBECOMING – THE 6TH ANNUAL REPORT ON “DON’T ASK, DON’T TELL, DON’T PURSUE, DON’T HARASS” 48-49 (1999) [hereinafter SLDN 6TH ANNUAL REPORT].

148 SLDN 6TH ANNUAL REPORT, *supra* note 147, at 51-54.

149 SLDN 9TH ANNUAL REPORT, *supra* note 19, at 22.

150 “Due to the ‘hate crime’ death of a homo in the Army, we now have to take extra steps to ensure the safety of the queer who has ‘told’ (not keep his part of the DOD ‘don’t ask don’t tell’ policy). Commanders now bear the responsibility if someone decides to assault the young backside ranger. And remember, little ears are everywhere.” Statement of Lt. Col. Melton, SLDN 6TH ANNUAL REPORT, *supra* note 147, at 55.

151 SLDN 6TH ANNUAL REPORT, *supra* note 147, at 57.

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153 Letter from David S. Chu to Sen. Mark Dayton, Unites States Senate, October 24, 2003.^c

154 See Under Secretary of Defense (P&R) 1998 Report, *supra* note 57.

155 de Leon 1999 Implementation Memo, *supra* note 55.

156 Appendix C. Homosexual Conduct Policy Survey, DoD INSPECTOR GENERAL’S “DON’T ASK, DON’T TELL, DON’T PURSUE” POLICY SURVEY (undated).^c

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159 Servicemembers Legal Defense Network, *General Accounting Office, Defense Force Management: Statistics Related to DoD’s Policy on Homosexuality* (1992); George Cahlink, *supra* note 16.

160 R.L. Evans, *U.S. Military Policies Concerning Homosexuals: Development, Implementation and Outcomes*, 11 Law & Sex 113, 133-38 (2002).

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Armed Forces: Appraising the Evidence, Center for Study of Sexual Minorities in the Military (Nov. 2000); Aaron Belkin & Jason McNichol, *The Effects of Including Gay and Lesbian Soldiers in the Australian Defence Forces: Appraising the Evidence*, Center for Study of Sexual Minorities in the Military (Sep. 2000); Aaron Belkin & Jason McNichol, *Effects of the 1992 Lifting of Restrictions on Gay and Lesbian Service in the Canadian Forces: Appraising the Evidence*, Center for Study of Sexual Minorities in the Military (Apr. 2000); Aaron Belkin & Melissa Levitt, *Effects of Lifting of Restrictions on Gay and Lesbian Service in the Israeli Forces: Appraising the Evidence*, Center for Study of Sexual Minorities in the Military (June 2000). All are available at <http://www.gaymilitary.ucsb.edu/Publications/PublicationsHome.htm>.

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164 Letter from Capt. Darrell V. Allen, MCCES Adjutant, 29 Palms, Subj: “Homosexual Conduct Discharge Potential.” (Apr. 4, 2002). [hereinafter 29 Palms Memorandum].^c

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169 *Highest Ranking Military Officers To Date Come Out*, N.Y. TIMES, December 10, 2003, *supra* note 33.

170 Darren K. Karlson, *Public OK with Gays, Women in Military*, Gallup Poll Tuesday Briefing, Dec. 23, 2003.

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172 Dana Blanton, *Majority Opposes Same-Sex Marriage*, FOX News Poll, Aug. 26, 2003, available at <http://www.foxnews.com/story/0,2933,95753,00.html>.

173 General Accounting Office, *Foreign Languages: Human Capital Approach Needed to Correct Staffing and Proficiency Shortfalls* 7. Report to Congressional Requesters GAO-02-375 (Jan. 2002).

174 Editorial, *Why We Need Gays in the Military*, N.Y. TIMES, November 28, 2003, at A43;

Editorial, *Still No Gay Linguists*, WASH POST, April 16, 2003, at A26; Robin Gerber, *End Decade-Old ‘Don’t Ask’ Policy*, USA TODAY, November 26, 2003, at A25; Nathaniel Frank, Editorial, *Don’t Ask, Don’t Tell, Don’t Act*, CHIC. TRIB., March 27, 2002, at N16.

175 CONG. REC. S15029, Executive Session, (daily ed. November 18, 2003) (statement of Sen. Dayton). “But I have also visited parents of young men and women who are not recovering, who are not coming home because they paid the ultimate

price for their service. I am on the Armed Services Committee, and when I look at the reports and the casualty figures of the brave young Americans who are being injured or wounded or maimed or who died in combat, I don’t see categories of “heterosexual” or “gay” or “lesbian” and I don’t see “women” or “men.” I see American soldiers, with the same kind of blood and bodies. All they are asking is an equal opportunity to serve their country, to risk their lives in the service of their country even to die in the service of their country.” *Id.*

176 CONG. REC. S15029, Executive Session, (daily ed. Nov. 18, 2003) (statement of Sen. Sessions). Sen. Sessions stated, “This investigation of the command climate found that Major General Clark was not culpable of any dereliction or failure of leadership, as has been alleged by the Service Members Legal Defense Network—SLDN—which is an advocacy group that works to protect and ensure that homosexual soldiers are treated fairly in the military, as they have every right to be treated. They have a right to insist that they be treated fairly.” *Id.*

177 *Excerpts from the Debate Among G.O.P. Candidates*, N.Y. TIMES, Jan. 7, 2000, at A15.

178 Republican Party Platform, available at <http://www.gop.com/About/PartyPlatform/default.aspx?Section=8>.

179 Clinton Letter, *supra* note 9.

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182 Editorial, *Still No Gay Linguists*, WASH. POST, April 16, 2003 at A26.

183 “United States Army Discharges,” Source – Unofficial Source, Outside the Army.

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186 See generally *Id.*

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189 See *Id.*

190 Memorandum from Office of the Inspector General, Department of the Army, to the Army Chief of Staff, Subj: “Special Interest Item – Implementation of Homosexual Conduct Policy Training – ACTION MEMORANDUM” (Apr. 11, 2002) [hereinafter IG Letter].^c

191 Phone Communication from Specialist Tommy Cook to SLDN (December 2, 2003).

192 Email from Jennifer McGinn to SLDN, January 15, 2004, in response to Email From SLDN to Jennifer McGinn, January 12, 2004.^c

193 See Sworn Statement from Jennifer McGinn at 1.^c See also Sworn Statement from anonymous service member.^c

194 For example, in 1998 SLDN documented the Navy's use of a standard form known as the "homosexual/bisexual questionnaire" containing fifty questions designed to determine a sailor's sexual orientation. The form was used to discharge at least two sailors that year. See SLDN 5TH ANNUAL REPORT, *supra* note 137, at 10.

195 See DoDD 1332.14, *supra* note 49, at E3.A4.1.1.3; DoDD 1332.40, *supra* note 49, at E8.1.3.

196 See News Story, "Don't Ask, Don't Tell" on the Frontlines in Iraq, KGO-TV, San Francisco, April 16, 2003, available at <http://www.sldn.org/templates/press/record.html?section=5&record=883>.

197 Laura M. Colarusso, *Sexual Assault In The Air Force: How Bad Is The Problem?* AIR FORCE TIMES, August 4, 2003, at 8.

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199 *Id.*

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201 *Id.*

202 United States Air Force, *Homosexual Policy Training for Supervisors*, Power Point Presentation, available at <http://www.aetc.randolph.af.mil/jal/documents/hspbasicfinal.ppt>.^e

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204 *Id.*, at slide 16.^e

205 Confidential Phone Conversation from service member to SLDN (December 23, 2003).

206 See Office of the Under Secretary of Defense (P&R), Report to the Secretary of Defense: *Review of the Effectiveness of the Application and Enforcement of the Department's Policy on Homosexual Conduct in the Military* [hereinafter Under Secretary of Defense (P&R) 1998 Report], at 10 (Apr. 1998), (stating that the Department of Defense has found that none of the Services require health care professionals or chaplains to report if a service member reveals his sexual orientation.)

207 Department of Defense Working Group, *Anti-Harassment Action Plan* (July 21, 2000) [hereinafter AHAP].

208 AIR FORCE INSTRUCTION 90-201, *Inspector General Activities*, paras. A6.2.5.1, A6.2.5.2 (Oct. 1, 2002).

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210 News Briefs, *Lesbian Cadet Gets The Boot*, AIR FORCE TIMES, September 22, 2003, at 4.

211 Power Point Presentation from Randolph Air Force Base, *Off-Limits Establishments AETC*, sent to SLDN by anonymous service member.^e

212 *Id.*, Slide 1.^e

213 See DoDD 1332.14, *supra* note 49, at E3.A4.3.3.4; See also, DODI 1332.40, *supra* note 49, at E8.3.3.4, stating that "A member's sexual orientation is considered a personal and private matter, and is not a bar to continued service . . . unless manifested by homosexual conduct . . ." and DoDD 1332.14, *supra* note 49 at E3.A4.1.3.3.4 (stating "[credible information of homosexual con-

duct does not exist when] the only information known is an associational activity such as going to a gay bar, possessing or reading homosexual publications, associating with known homosexuals . . .").

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215 Kenneth Lynch, "Old Sailor" Gives His Last Reflections Before He Moves On And Overseas, NAVY TIMES, July 7, 2003, at 62.

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218 *Id.*

219 United States Navy, *Discussion Points Relating to Slide 22 Of The Navy General Military Training available at* <http://www.cnet.navy.mil/cnet/gmt/gmt03/3-1.pdf>.

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226 Col. R. M. Balzhiser (ret.), letter to the editor, ARMY TIMES, December 20, 2003.

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229 *Id.*, at para. 12.

230 See AHAP, *supra* note 207.

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233 Marine Lt. Col. H Thomas, letter to the editor, ARMY TIMES, December 20, 2003.

234 Patricia Kime, *Coasties Take Fight To The Enemy Half A World Away*, NAVY TIMES, April 7, 2003.

235 Ledyard King, *Admiral Wants More Active-Duty Coasties*, NAVY TIMES, June 30, 2003 at 30.

236 Commandment Instruction M1000.6, *Coast Guard Personnel Manual*, para. 12.E.1 (Nov. 12, 2002).

237 *Id.* at para. 12.E.1.4.

238 See de Leon 1999 Implementation Memo, *supra* note 55, stating that a report of harassment to a service members command "should result in prompt

investigation of the threat or harassment itself. Investigators should not solicit allegations concerning the sexual orientation or homosexual conduct of the threatened or harassed person."

239 See DoDD 1332.14, *supra* note 49, at E3.A4.1.1.1; DoDI 1332.40, *supra* note 49, at E8.1.1.

240 See DoDD 1332.14, *supra* note 49, at E3.A4.1.1.1; DoDI 1332.40, *supra* note 49, at E8.1.1; see also, DoDI 5505.8, *supra* note 59, at para 6.3.

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- II. "Costs of 'Don't Ask, Don't Tell' 1994-2003," Source - Servicemembers Legal Defense Network, General Accounting Office, Defense Force Management: Statistics Related to DoD's Policy on Homosexuality (1992).
- III. "DoD IG Findings" Source - Appendix C. Homosexual Conduct Policy Survey, DoD Inspector General's "Don't Ask, Don't Tell, Don't Pursue" Policy Survey (undated).
- IV. "Disproportionate Impact on Women" Source - Department of Defense, United States Army, United States Air Force, United States Navy, United States Marine Corps, United States Coast Guard and Unofficial Congressional Sources.
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- VI. "US Army 'Don't Ask, Don't Tell' Discharges 1994-2003," Source - Department of Defense, United States Army, and Unofficial Congressional Sources.
- VII. "US Air Force 'Don't Ask, Don't Tell' Discharges 1994-2003," Source - Department of Defense, United States Air Force and Unofficial Congressional Sources.
- VIII. "US Navy 'Don't Ask, Don't Tell' Discharges 1994-2003," Source - Department of Defense, United States Navy.
- IX. "US Marine Corps 'Don't Ask, Don't Tell' Discharges 1994-2003," Source - Department of Defense, United States Marine Corps and Unofficial Congressional Sources.
- X. "US Coast Guard 'Don't Ask, Don't Tell' Discharges 1994-2002," Source - United States Coast Guard.

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Navy moves to allow women on submarines

Unless Congress objects, the policy could go into effect by April. Submarines are the only class of ship that bars female service members.




Sailors on the submarine Portsmouth in 2004. The prohibition on women has stood since the U.S. submarine force began in 1900. Lawmakers have 30 working days to respond, but are not expected to oppose the change, officials said. (Petty Officer 1st Class David A. Levy / U.S. Navy / August 21, 2004)

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Reporting from Washington - The Navy plans to allow women to serve for the first time on submarines, the only class of ship from which they are barred, military and congressional officials said Tuesday.

Defense Secretary Robert M. Gates notified Congress on Monday that the Navy intended to change its policy. Congress

has 30 working days to object. Unless the House or Senate moves to block the shift, the policy could go into effect as soon as mid-April.

Allowing women to serve as regular crew members would shatter a gender barrier that has stood since the U.S. submarine force was created in 1900. The new policy would allow women to serve in cramped quarters while at sea for months at time, a prospect that for years has managed to forestall

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consideration of such a change.

But lawmakers are unlikely to challenge the shift, congressional officials said. Many Republicans, who would be the most likely opponents, are working to preserve the ban on gays serving openly in the military and would probably not expend time and effort on the issue of female service members in submarines.

Rep. Ike Skelton (D-Mo.), chairman of the House Armed Services Committee, said in a statement that the House intended to conduct an assessment of the change "following its implementation."

The Defense Department's "decision to allow women to serve on submarines will present challenges, but these challenges should not be insurmountable for the Navy," Skelton said.

In the letter to Congress, Gates said the Navy would begin a "phased approach" to allowing women to serve on submarines. Women will probably be allowed first on larger subs.

Women have been able to serve on the military's surface ships since 1993. The following year, the Navy cited high costs of accommodating women on submarines as the reason for not allowing them.

However, today's fleet includes larger vessels with diverse missions that could more easily accommodate women. Larger subs have multiple bathrooms, allowing for gender-specific use, and sleeping areas that could be cordoned off for women.

Congressional officials said they had not been given cost estimates for the shift.

The policy change has been pushed by Adm. Michael G. Mullen, chairman of the Joint Chiefs of Staff and a former Navy chief of operations. As the Navy chief, Mullen oversaw research on whether women could be accommodated on subs. Last fall, while up for a second term as chairman, Mullen told Congress he supported the change.

Few sailors have voiced objections to changing the rule. Serving on nuclear submarines is considered especially demanding, and the Navy has struggled to attract qualified officers. Many thought that barring women needlessly reduced the pool of qualified prospects.

On a related issue, top Army officials said Tuesday they might reevaluate combat roles for women. Women are restricted from serving in infantry units, but belong to units that have regularly been involved in fighting in Iraq and Afghanistan.

"I believe that it's time that we take a look at what women are actually doing in Iraq and Afghanistan, and look at our policies," said Gen. George W. Casey, the Army chief of staff, appearing before senators.

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Headquarters, United States Army Forces Command
1777 Hardee Avenue, SW.
Fort McPherson, Georgia 30330-1062
15 July 1999

*FORSCOM Regulation 500-3-3

**Emergency Employment of Army and Other Resources
RESERVE COMPONENT UNIT COMMANDER'S HANDBOOK (RCUCH)**

Summary. This regulation is the Reserve Component Unit Commander's Handbook (RCUCH). It provides information and guidance to Reserve Component unit commanders to enable them to plan for mobilization, to mobilize and move to assigned mobilization stations, and to prepare their postmobilization training plans.

Applicability. This regulation applies to the Active Army, the Army National Guard, and the U.S. Army Reserve.

Supplementation. Local supplementation of this regulation is prohibited without prior approval from the Deputy Chief of Staff, Operations, FORSCOM. Requests for exceptions, with justification, will be sent to CDR, FORSCOM, ATTN: AFOP-OCM, 1777 Hardee Avenue, SW., Fort McPherson, GA 30330-1062.

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Restrictions. Approved for public release; distribution limited.

FOR THE COMMANDER:

OFFICIAL: JOHN M. PICKLER
Lieutenant General, USA
Chief of Staff

Signed
DALE E. PEYTON
Colonel, GS
Assistant Deputy Chief of Staff for
Command, Control, Communications
and Computers

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Chapter One: Introduction

General

a. The rapid expansion or commitment of American military forces to meet major national military strategy requirements will require the use of Reserve Component (RC) units. The RC unit's readiness to perform wartime missions and the ability to rapidly and efficiently mobilize is of vital importance to our nation.

b. The Secretary of the Army, with approval of the President or Congress, may order RC units to active duty with no advance warning if military conditions require. Considering the numerous threats to peace, the speed with which crises escalate, the current weapons technology and the difficulty of predicting future emergencies, all RC members must be informed that they are subject to activation with little notice. Units will be given as much time as possible, but notification timeframes will be extremely short. RC members should arrange their personal affairs accordingly, and RC unit commanders must periodically review and inspect these preparations.

c. Throughout the document the term Regional Support Command (RSC) is intended to include responsibilities of all major subordinate commands of the United States Army Reserve Command (USARC).

d. The term mobilization station (MS) encompasses both the Power Projection Platforms and Power Support Platforms .

Purpose

This handbook provides standardized RC unit mobilization requirements and procedures for Phases I, II and III of mobilization, as well as information on procedures at the mobilization station, and general procedures for redeployment and demobilization.

Scope

This is FORSCOM Regulation 500-3-3, Volume III of the FORSCOM Mobilization and Deployment Planning System (FORMDEPS). Where subject complexity and detail prevent full coverage, other related Army publications are referenced. It is designed to assist RC unit commanders, their staff/key personnel, and RC commands providing peacetime support in accomplishing planning for

mobilization, transition to active duty and return to the home station (HS) following demobilization.

Applicability

This regulation is applicable to all U.S. Army CONUS-based RC units (MTOE and TDA), including Puerto Rico and Virgin Islands. It is directive in nature. Unit commanders will appoint a Mobilization Officer or NCO to maintain mobilization files IAW this regulation, as well as guidance from the peacetime chain of command [State Area Command (STARC) and Regional Support Command (RSC)]. Small units/detachments that cannot qualify to provide the support and meet the requirements of this handbook due to rank structure or organization (i.e., limited technician support, etc.) will be supported by their peacetime higher commands until arrival at the MS, at which time the MS will assume the responsibility.

How To Use This Regulation

a. This document is divided into chapters corresponding to functional areas (Personnel, Operations, and Logistics), with specific actions further divided by phases. Each phase is listed separately to allow flexibility for reorganization by phase, if desired. (Because of this organization, acronyms are not always explained when they are first introduced. Users may refer to the glossary (Annex X) for definitions). Chapters further identify tasks and corresponding standards, required for each phase. The annexes and appendices provide detailed guidance. References within various parts of this document, especially in the mobilization checklist at Annex E, will indicate chapter, phase, task, and standard (e.g., 2-III-4a). Annexes will be referenced by their letter designation.

b. Mobilization planning and execution, as tasks organized in this regulation, are the overall responsibilities of the RC Unit Commander. In order to gain and maintain mobilization readiness, it is recommended that unit commanders assign the completion of preparatory and execution mobilization tasks by functional area. Coordination of this effort in the functional areas is the responsibility of the additional duty mobilization planner, typically the unit's executive officer.

The Mobilization Spectrum

MOBILIZATION is the process of preparing for war or other emergencies by assembling and organizing personnel and materiel for active military forces,

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activating or federalizing the RC, extending terms of service, surging or expanding the industrial base, and bringing the US Armed Forces to a state of readiness for war or other national emergency. Involuntary activation of the RC includes the following categories of force activation:

Selective mobilization is the mobilization, by the Congress or the President, of RC units, Individual Ready Reservists (IRR), and the resources needed for their support to meet the requirements of a domestic emergency (e.g., postal strike, flood, earthquake, etc.) that does not involve a threat to the national security.

Presidential Selective Reserve Call-Up (PSRC), the so-called “200K Callup” is used to augment the active force of all services with up to 200,000 soldiers of the Selected Reserve for up to 270 days, for an operational mission including Weapons of Mass Destruction within the United States.

Partial mobilization involves the mobilization by the President or Congress of not more than 1,000,000 Ready Reservists (units and individual reservists), for not longer than 24 months, along with the resources needed for their support, to meet the requirements of war or other national emergency involving an external threat to the national security.

Full mobilization is the mobilization by the Congress of all RC units in the existing force structure, all individual, standby, and retired reservists; retired military personnel; and the resources needed for their support for the duration of a declared emergency, plus six months, to meet the requirements of a war or other national emergency involving an external threat to the national security.

Total mobilization is the expansion of the Armed Forces by the Congress and the President to organize or generate additional units or personnel beyond the existing force structure, and the resources needed for their support, to meet the total requirements of a war or other national emergency involving an external threat to the national security.

Further detail is presented in the following table:

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The Mobilization Spectrum

	GENERAL DESCRIPTION	HOW MANY?	WHO AUTHORIZES?	STATUTORY AUTHORITY	UNITS OR INDIVIDUAL SOLDIERS OR UNITS
SELECTIVE	For a domestic emergency, mobilization of RC units or soldiers may be required to protect life, protect federal property, prevent disruption of federal activities, or in case of an insurrection in any state against its government. National Guard in Federal Service, if - U.S. invaded or in danger - rebellion against US Government - President unable with regular forces to execute US laws Civil Reserve Air Fleet - Stage I	As needed. As needed.	President President	10 USC 331 - 335 10 USC 12406	Units of State Militia, National Guard Units and/or individual soldiers.
PRESIDENTIAL SELECTED RESERVE CALL-UP	For Low-Intensity Regional Conflict through Mid-Level Regional Conflict Selected Reserve - The President may augment the Active Forces by a call-up of the Selected Reserve to meet the requirements of an operational mission. Stop Loss - President may suspend any law relating to promotion, retirement, or separation Civil Reserve Air Fleet, Stage II	Not more than 200,000 for not more than 270 days.	President/ Secretary President Secretary	10 USC 12304 (Cannot be used for insurrection or national disaster.) 10 USC 12305 10 USC 9511 CJCSI 3110.11A	Units and/or individuals of the Selected Reserve only.
PARTIAL MOBILIZATION	For a Major Regional Operation RC generally Selected Reserve Ready Reserve - In case of war or other national emergency, Congress or the President may order mobilization of up to one million Ready Reserve for up to 24 months. The Congress can increase the numbers and duration by separate action. Retired Reserve and Recall of Retired Regulars	Up to 1,000,000 (All Services) for up to two years. Can be increased by Congressional action. As needed.	President or Congress. Secretary	10 USC 12301 10 USC 12304 10 USC 12302 (Expansion of armed forces.) 10 USC 12307 (Recall of Retired Reserves) 10 USC 688 (Recall of Retired Regulars) 10 USC 6485 (Recall of Fleet Reserve and Fleet Marine Reserve)	Ready Reserve units and individuals. Retirees.
	Stop Loss Civil Reserve Air Fleet, Stage III		President Secretary, provided President or Congress has declared national emergency.	10 USC 9511 CJCSI 3110.11A	

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The Mobilization Spectrum (concluded)

	GENERAL DESCRIPTION	HOW MANY?	WHO AUTHORIZES?	STATUTORY AUTHORITY	UNITS OR INDIVIDUAL SOLDIERS OR UNITS
FULL MOBILIZATION	<p>For Global Conflict RC generally Selected Reserve Ready Reserve Full mobilization requires passage by Congress of a Public Law or joint resolution declaring war or national emergency. It involves the mobilization of all RC units in the existing approved force structure, all individual reservists, and the material resources needed for the expanded force structure. Term: duration plus six months. Standby Reserve - Secretary determines that there are not enough units or individuals in the Ready Reserve. Stop Loss. Conscription.</p>	<p>Up to the strength of the approved force structure of the Armed Forces.</p>		<p>10 USC 12301 10 USC 12304 10 USC 12302 Public law or joint resolution by Congress declaring war or national emergency. 10 USC 12306 10 USC 12305 50 USC App 451 Requires enabling legislation.</p>	<p>All of the above, plus national conscription as determined by the Congress and President.</p>
TOTAL MOBILIZATION	<p>For Extended Global Conflict All of the above listed mobilization options Total mobilization involves expansion of the active Armed Forces by organizing and/or activating additional units beyond the existing approved troop basis to respond to requirements in excess of the troop basis and the mobilization of all additional resources needed, to include production facilities, to augment and sustain such forces.</p>	<p>Strength levels beyond full mobilization as determined by the President and approved by Congress.</p>	<p>Congress President</p>	<p>As above.</p>	<p>As above.</p>

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Concept of Operations

a. The mobilization process is divided into five phases as follows:

(1) Phase I - Planning. This phase includes the normal day-to-day efforts of each unit at its HS. During this phase, units plan, train and prepare to accomplish assigned mobilization missions. They prepare mobilization plans and files as directed by STARCs, RSCs and FORMDEPS, attend mobilization coordination conferences, provide required planning data to the MS, conduct mobilization training and develop postmobilization training plans as directed. Each unit will complete as many administrative processing actions as possible before being ordered to federal active duty. Inherent within the planning phase is providing unit personnel, logistics, and training data electronically to a units respective PPP/PSP. Unit data must be provided at least annually. The annual requirement can be accomplished during the participation in an OPTIMAL FOCUS or CALL FORWARD exercise. Plans for movement to the MS must be completed during this phase, in accordance with FORSCOM Regulation 55-1, and automated information systems identified for deployment and must be accredited as specified in Chapter 3, AR 380-19. Phase I ends when the unit receives its official alert notification.

(2) Phase II - Alert. This phase includes all those actions taken by a unit following receipt of the official alert. Specific tasks and standards are listed in this regulation. The unit takes specific actions to prepare for transition from RC to active status. Actions such as screening and cross leveling are essential during the alert phase. Unit commander should attempt to contact gaining unit commander (especially if gaining command is already deployed) to determine mission requirements in order to modify the unit's METL. Upon alert, unit commanders will provide unit data files to the mobilization station effective M-Day. This phase ends with the effective date of mobilization of the unit at HS.

(3) Phase III - Home Station. This phase begins on the effective date of the unit mobilization. Once mobilized, units have 72 hours to be ready to move to their MS. Actions taken at this point include inventory and loading of unit property and dispatch of the advance party to the MS. During this phase, the unit takes action to speed its transition to active status. Specific tasks and standards are listed in the following chapters and annexes of this regulation.

Movement from HS to MS will be by the most expeditious and practical means available. Detailed unit movement planning will be in accordance with FORSCOM Regulation 55-1. The unit will coordinate directly with the MS prior to the unit departing HS, and keep peacetime higher headquarters informed. At the beginning of this phase, command passes from the peacetime chain of command to the CONUSA in whose geographic area the unit is located. Mobilizing units are encouraged to continue to request assistance and support from their peacetime chain of command until directed otherwise. This phase ends with arrival of the unit at its MS.

(4) Phase IV - Mobilization Station. This phase begins with arrival of the unit at its MS and encompasses all the actions necessary to meet required deployment criteria. Command of the unit passes from the CONUSA to the MS (or to gaining MACOM for CONUS base support units) at the beginning of Phase IV. Actions at MS include the processing of personnel and equipment and the actual accessioning of the unit into the active structure. The goal of the unit during this phase is to attain operational readiness status in the shortest possible time, consistent with its planned deployment or operational mission. This phase also includes any necessary individual or collective training as well as appropriate cross-leveling actions, Soldier Readiness Processing (SRP)/Preparation for Overseas Movement (POM) and validation for deployment. Phase IV ends with arrival of the unit at the point of embarkation (POE). Phase IV and Phase V may overlap since equipment moving by surface transportation begins Phase V earlier than with personnel.

(5) Phase V - Port of Embarkation. This phase begins with arrival of the unit at its POE. It encompasses all activities at the SeaPort of Embarkation (SPOE) and the AirPort of Embarkation (APOE). These activities include both manifesting and loading of personnel. This phase ends with departure of personnel and equipment from the POE.

b. This document is designed as a "how to" handbook to assist the unit commander during Phases I, II, and III of mobilization. Once the unit arrives at the MS, it falls under the command of the MS commander, unless the unit is commanded by a General Officer or is a separate brigade, TAACOM, COSCOM, etc., in which cases it remains under the command of the CONUSA or of the AC affiliate

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division (if the latter is not already deployed). In the former case, the unit should take direction from the MS Commander and his staff. Because unit requirements and MS operations vary, it is impractical to attempt to specify the tasks and standards required in Phase IV and Phase V. The commander must take the initiative to make the necessary coordination and arrangements with the appropriate MS agencies to provide for housing, training, logistics and other support to bring his unit to a combat ready status as soon as possible. These actions begin in Phase I with planning and coordination with the MS, and continue through Phases II, III and IV. However, the commander may be assisted by the Mobilization Checklist for Unit Commanders (Annex E), Initial Mobilization Station Activities Checklist (Table 3-1) and the Mobilization Station Requirements Checklist (Annex G) as a starting point.

c. FORSCOM's intent is to automate the mobilization and deployment process to the fullest extent possible. In this regard:

(1) Maximum utilization of the available automation of unit and individual personnel, training, and logistics information, and electronically transferring the most current data to a PPP or PSP, is the cornerstone automation initiative.

(2) Automation provides the capability to subsequently transfer the data to installation systems, which are used to manage and account for individuals and units.

(3) Unit data (Individual, logistic and training) will be transferred in the following manner:

(a) Mobilization Level Automation
Software MOBLAS hardware and software is used to fill the need for a mobilization automation system visible to both Active and Reserve Components. MOBLAS improves the ability of units and installations to plan for and execute mobilization and deployment operations.

(b) The FORSCOM-developed MOBLAS uses data provided by the states for mobilizing ARNG units and data provided via the Center Level Application Software (CLAS) [Conversion is on-going to use the Regional Level Application Software (RLAS)] for mobilizing USAR units. Data transfer includes unit, personnel, training and logistics information. The MOBLAS application allows manipulation of the data into formats and reports that support required mobilization functions on the

installation.

(c) MOBLAS interfaces with the Installation Support Modules (ISM).

(d) MOBLAS in the mobilization role will:

- Facilitate rapid processing of unit and Soldier Readiness Processing (SRP) data.
- Provide visibility of the personnel, training and logistic status of mobilizing units prior to their arrival at the PPP/PSP.
- Provide standardized software at all PPPs/PSPs.
- Provide the capability to manipulate RC data transferred via CLAS/RLAS, ARNG scripts/disks, and ultimately from the Reserve Component Automation System (RCAS).

(4) It is FORSCOM's intent to provide data on mobilized and deploying individuals and units to gaining commands for their use.

(5) MOBLAS is currently being adapted to support management of all multi-component units. This is the only vehicle that will currently support consolidation and roll-up of data when the organizations are composed of members from more than one component.

d. Preparedness is the basic concept in premobilization processing. Units must complete personnel actions and maintain current and accurate records to ensure their completeness and availability at the mobilization station.

e. Between alert and departure from HS, the unit will continue personnel processing actions required for movement to the MS. After administrative, logistic and training needs have been determined, the commander must prioritize and integrate the requirements into a realistic activity list based on the time available. As many actions as possible will be scheduled and accomplished at HS.

f. FORSCOM Form 319-R (PTSR), command readiness inspection reports, compliance evaluation, Training Assessment Model (TAM), Annual Training (AT) evaluation reports, the unit commander's Mission Essential Task List (METL), Army Training and Evaluation Program (ARTEP), Unit Status Report (USR), Battle Focus Training Assessment and Evaluation Program (for USASOC units), and informal evaluations and observations provide an overview of the unit's training status.

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g. Intensive, coordinated logistic planning by all levels eases the transition from peacetime to mobilization. Logistical support for mobilized RC units at HS is provided to the maximum extent possible through the mobilizing unit's normal logistic support system. Army National Guard (ARNG) units and U.S. Army Reserve (USAR) units should continue to request logistic support from their peacetime channels. Command Logistic Review Team (CLRT) reports, USR and Command Supply Discipline Program (CSDP) evaluations provide an indication of unit logistic status.

h. Movement requirements are determined in accordance with FORSCOM Regulation 55-1. The total movement requirement may be fragmented into two or more increments (i.e., a portion may be moved by organic transportation from the HS and one or more storage sites, and the remainder may be moved by commercial means from any one or all locations). The State Area Command (STARC) and USPFO for the ARNG, and the U.S. Army Reserve Command (USARC) and RSC in conjunction with supporting installation (SI/CI) for the USAR, are responsible for arranging and providing the transportation.

i. The Computerized Movement Planning and Status System (COMPASS) and Automated Unit Equipment List (AUEL) are the reporting systems used to identify movement requirements to the transportation managers IAW FORSCOM Regulation 55-2.

j. The order to active duty serves as the unit's official travel orders to move from HS to the MS.

k. Movement of dependents and shipment of household goods to the MS is not authorized. However, Headquarters, Department of the Army (HQDA) may authorize dependent movement for MS permanent party personnel at a later date. Deploying units' personnel are prohibited from bringing Privately Owned Vehicles (POV) to the MS without coordination with and prior approval of the MS.

l. Commanders and members of units are alerted to the impending order to active duty through official command channels (see Annex A). Notification is provided according to the following time schedule:

(1) *F-Hour*. SECDEF directs military departments to order reservists to active duty and makes general public announcements of numbers of reservists, by service, and the duration of service.

Unit designations will not be indicated at this time. F-Hour will be stated in the alert message.

(2) *F-Hour to F+12 Hours*. HQDA issues alert notification to the Chief, National Guard Bureau (NGB), CG FORSCOM, and other appropriate addressees (e.g., USAREUR, USARPAC and USASOC). The Chief, NGB transmits the notification by the most expeditious means available to the state governors, through the state adjutants general (TAG). FORSCOM transmits the notification by the most expeditious means available to the USARC, with information copy to each CONUSA. It is then disseminated through peacetime command channels to affected USAR and ARNG units.

(3) *F+12 to F+18 Hours*. Unit commanders and advisors of all affected RC units are notified by message (Annex A). Messages will be unclassified; however, they will contain the protective marking, FOR OFFICIAL USE ONLY, which will be applicable until F+19 hours.

(4) *Prior to F+19 Hour*. Unit commanders alert unit members. They will employ a communications means that precludes release of alert information to news media.

(5) Due to the rapid communications capabilities of the news media, it may be impossible to accomplish the time-phased procedures before the media becomes aware of specific units alerted. Commanders and members of units at all echelons should be aware of this possibility. If this should occur, the unit commander must immediately notify higher headquarters. Unit members should be instructed to not provide any information or make any comments to the news media prior to F+19.

(6) *F+19 Hours*. CONUSAs and state adjutants general may notify the news media of details of mobilization.

Mobilization Authority

The authority to order mobilization resides with the President and/or the Congress. The Secretary of Defense (SECDEF), with the advice and recommendation of the Service Secretaries and the Joint Chiefs of Staff (JCS), recommends to the President and the Congress the level of mobilization required to support a given contingency, OPLAN, or national emergency. The SECDEF directs

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mobilization of the RC units and manpower through the various military departments.

Emergency Authority

In the event of a surprise attack on the U.S. (conventional or nuclear), the formal notification of RC units may not be possible. RC unit commanders, upon becoming aware of an attack through the National Warning System, the Emergency Broadcast System, or physical evidence (actually in the area of the attack), will assemble and mobilize their units as soon as possible; establish communications with higher, lower and lateral units and civil authorities, and take actions to protect the unit, repel attackers, and restore the military capability of the U.S.

Future Operations

The advent of the 21st century (and Force XXI, which is the Army's overall program to meet new challenges), a strategic focus on power projection from CONUS, and the increased likelihood of participation in Small Scale Contingency Operations (SSCO), require Army planners to address in detail several operational requirements which are unprecedented.

RC Residual Mission

The traditional mobilization concept of sending an entire unit to the MS and closing facilities is no longer the norm. RC mobilization planners must include guidance for management of non-mobilized soldiers, continued management of facilities, coordination for family support and other missions required by the operation. Plans should recognize all potential missions but not address any specific resource to support the requirement until execution.

Tailored Force/Derivative Unit Identification Codes (UICs)

Power projection concepts and support requirements for limited contingencies have created a new focus on tailoring the force for specific missions prior to deployment. The need to successfully manage and account for RC elements, can lead to the establishment of derivative UICs in command and control, personnel, and logistics systems.

Home Station Mobilization

During Small Scale Contingency Operations, the FORSCOM commander may designate RC units to mobilize, be validated and deploy from Home Station. Lodging, feeding, equipment modernization,

all TAT, Soldier Readiness Processing (SRP), Preparation for Overseas Movement (POM) will be performed by the unit's peacetime headquarters (STARC/RSC). The CONUSA will supervise and interpret the established standards for minimum deployment criteria (C-ratings) and validate the unit. The unit's designated SI will provide all support required for accession and deployment from the home station to the theater of operations. The designated SI also assists in unit demobilization as required. Instructions for the conduct of Home Station Mobilization will be published by FORSCOM and the supporting CONUSA, and will be developed to meet specific contingency operations.

Chapter Two: Personnel and Administration

General.

As a general rule, all members assigned to a unit, on receipt of an alert order, will be mobilized with that unit unless otherwise directed by regulation, Secretary of the Army guidance, or operational-unique guidance. Standard exceptions for mobilization are soldiers who have not completed initial entry training, high school students, and soldiers who have received reassignment or transfer orders. Unit commanders need to be aware (and brief unit members) that upon mobilization date at home station, all personnel management actions fall under active army regulations, except for pay and promotions. The tasks and standards noted below and the information in tables 2-1 through 2-2 are designed to provide guidance and information which will support a seamless transition to active duty, whether it is a limited call under PSRC or Full Mobilization.

The administrative tasks listed from Phase I through Phase III are all those tasks necessary to complete the mobilization of RC units (both TO&E and TDA) and accession them into the active component personnel systems and other standard systems. Peacetime support roles, limited full time support (FTS) personnel and unit administrative support, very short alert and home station phases (primarily for PSRC units), and other mobilization factors may impact the timing of tasks and whether they are accomplished by the unit or other supporting agencies (e.g. STARC, RSC, training support element, or Supporting Installation). A prime example is STARC management of ARNG unit records. Some tasks indicated in the alert and home station phases may, if necessary, be delayed until arrival at the MS (coordination should be made with the installation during the alert phase to validate their capability of supporting additional tasks). The STARC or RSC may execute other tasks after departure of the unit (e.g., processing of transfer orders for high school students). Commanders throughout the RC chain must be aware of the status of their units, and must ensure that units identify support requirements to the appropriate headquarters/agency.

Throughout the administrative processes in the planning, alert and home station phases, commanders

and administrative personnel need to ensure that record updates include updates to appropriate automated systems and files (e.g. CLAS, SIDPERS [ARNG AND USAR]) The administrative process includes the electronic unit data transfers to MOBLAS.

Condition: Phase I - Planning (Peacetime To Alert)

2-I-1. TASK: Provide personnel information.

STANDARD

a. Present individual letters to unit personnel during unit in processing that provides general information and guidance to assist them in understanding their role in the reserve system.

b. For personnel readiness planning, present each individual with a copy of Annex C of this volume of FORMDEPS (ensure that the Annex is annotated with unit specific information where appropriate). Additionally, order copies of any current family assistance support pamphlets or publications, identified by the unit family program coordinator, for each unit member to provide to his/her family.

c. Conduct welcome and annual briefing to soldiers using Annex C.

d. Conduct Military Medical benefits and Dental briefings for family members annually.

e. Obtain copies of current pamphlets explaining reemployment rights and responsibilities from you Local State Committee for Employer Support of the Guard and Reserve (ESGR) representative for each unit member to provide to his/her employer. If local ESGR representative is unknown, contact the National Committee for Employer Support of the Guard and Reserve (NCESGR) at 1-800-336-4590.

f. Provide copy of TC 21-7 (Personal Financial Readiness and Deployability Handbook) to each unit member.

2-I-2. TASK: Prioritize the conduct of Soldier Readiness Processing (SRP) checks and conduct SRP actions.

FORSCOM Regulation 500-3-3

STANDARD

a. Prioritize SRP Checks. Based on priorities, only one SRP check (other than for actual mobilization and deployment) will be made on an annual basis. All other inspections or checks will use data from the primary check.

(1) SRP checks are done through several processes throughout the year.

(a) Selected data is required to support unit status reporting.

(b) Annual records checks to ensure that forms and administrative data required to support the soldier and his/her family are up to date.

(c) Inspections and readiness evaluations are conducted by command agencies throughout the year.

(d) Soldier readiness is evaluated during exercises such as CALL FORWARD.

(e) Soldier readiness is required in preparation for Overseas Deployment for Training.

(2) Commanders must review schedules for the training year and annotate the training schedule for the primary SRP check, to reduce the multiple SRP checks.

b. Conduct SRP.

(1) Guidance is in AR 600-8-101. Supplemental guidance will be provided as required to meet changing policy in SRP management and operational requirements.

(2) Those administrative actions that are required for the day-to-day support of the soldier and his/her family will ensure that most of the SRP requirements are current (i.e., maintenance of DD Form 93 and pre-enrollment in DEERS). Selected items, such as immunizations and issuance of ID cards, cannot be accomplished until mobilization execution.

(3) The tasks in this phase noted below that support SRP actions are grouped in the same pattern as the SRP checklist (600-8-101 TEST) provided by DA DCSPER on their home page and the electronic form available in the Mobilization Level Application System (MOBLAS) at all PPPs and PSPs and the Installation Support Modules (ISMs) at FORSCOM Installations. Tasks are neither all-inclusive for SRP nor are they necessarily in sequential order.

(4) Those tasks that do not align with SRP but are critical to unit and soldier mobilization are categorized and added as the final sections.

FOLLOWING TASKS SUPPORT SRP ACTIONS FOR PERSONNEL REQUIREMENTS

2-I-3. TASK: Maintain MPRJ (DA Form 201).

STANDARD

Update as required IAW AR 600-8-104.

2-I-4. TASK: Update and maintain unit data bases and personnel SIDPERS data (ARNG or USAR). (SRP Section I)

STANDARD

Commanders will ensure that unit's data bases and RC SIDPERS data is timely and accurate. Data is used in automated systems which identify and earmark fillers and support development of training base expansion requirements. Verify accuracy of AOC/MOS data on SIDPERS.

2-I-5. TASK: Screen personnel for members not available for mobilization or deployment.

STANDARD

a. Commanders will screen members of their unit annually IAW AR 135-133 and NGR 600-2. Those who are identified as key employees, ministry students, medically disqualified for deployment or whose mobilization will result in extreme personal or community hardship will be discharged or transferred as appropriate.

b. Screening should identify all soldiers who are non-deployable, to include reason. Unit commanders will take actions to resolve the non-deployable condition. Soldiers determined to have permanent non-deployable conditions will be transferred or discharged as appropriate.

c. AR 614-30 (Table 3-1), AR 220-1 and Table 2-1, this regulation, should be used as references to identify non-deployable categories.

2-I-6. TASK: Complete Family Care Plans (FCP). Standards identifying soldiers who require a family care plan can be found in AR 600-20. An

FORSCOM Regulation 500-3-3

FCP is required for both members of a dual-service couple, and soldiers who:

- have no spouse
- are divorced, widowed or separated
- reside without the spouse when the soldier becomes pregnant, or have joint or full legal and physical custody of one or more children under the age of 19 years
- have adult, non-spouse, dependent family members incapable of self-care.
- Have spouse who is incapable of self-care.

STANDARD

Documents required by paragraph 5-5, AR 600-20 must be current and on file for each soldier requiring a plan.

2-I-7. TASK: Ensure that all unit members have appropriate identification documents.

STANDARD

a. Issue a serviceable U.S. Armed Forces Identification Card DD Form 2A (Green). (AR 600-8-14)NOTE: If soldier has a DD Form 2 (Red) replace it with DD Form 2 (Green) for Reserves as forms are made available.

b. Initiate, for non-combatants, application for Geneva Convention Identity Card (DD Form 1934), if applicable. (AR 600-8-14)

c. Issue ID Tags IAW AR 600-8-14.

2-I-8. TASK: Identify and process soldiers with permanent medical profiles of P3 or worse.

STANDARD

Individuals who have a P3 profile or worse must be processed for retention, reclassification, reassignment, retirement or discharge as appropriate (AR 40-501, AR 135-178 and AR 635-40). See Criterion 19, Table 2-1.

FOLLOWING TASKS SUPPORT SRP ACTIONS FOR SECURITY REQUIREMENTS

2-I-9. TASK: Ensure personnel have a security clearance required by their duty position.

STANDARD

a. Identify personnel requiring security clearances IAW unit structure document (e.g. MTOE) and other requirements (Annex G). Document the positions requiring a security clearance on a copy of the unit-manning roster.

b. Security managers submit requests for security clearances IAW AR 380-67.

FOLLOWING TASKS SUPPORT SRP ACTIONS FOR LEGAL REQUIREMENTS

2-I-10. TASK: Provide premobilization legal preparation including:

a. The Premobilization Legal Counseling Program (PLCP).

b. Premobilization legal services (PLS).

STANDARDS:

a. PLCP/PLS will be provided by RC Judge Advocates IAW Annex Q FORSCOM Mobilization Plan (FORSCOM REGULATION 500-3-1, FMP).

b. See Table 2-3 for detailed guidance.

FOLLOWING TASKS SUPPORT SRP ACTIONS FOR FINANCE REQUIREMENTS

2-I-11. TASK: Maintain individual soldier's Master Military Pay Account (MMPA).

STANDARD

a. Maintain individual soldier's MMPA in unit file.

b. Review MMPA for accuracy during annual joint review of soldier's personnel records.

c. Update the soldier's MMPA on receipt of documentation.

FOLLOWING TASKS SUPPORT SRP ACTIONS FOR MEDICAL AND DENTAL REQUIREMENTS

NOTE: Recent legislation imposes new medical and dental care requirements for members of the selected reserve. They include:

FORSCOM Regulation 500-3-3

a. An annual medical screening for all soldiers

b. For FAD 3 or higher deploying units, a full physical examination not less than once every two years for members who are over 40 years of age; and, an annual dental screen and dental care to ensure that soldiers meet the dental class 2 standards required for deployment in the event of mobilization.

2-I-12. TASK: Maintain Health Record (DA Form 3444 Series).

STANDARD

Update as required IAW AR 40-66 and AR 40-501.

2-I-13. TASK: Ensure medical examinations are current and that required medical warning tags are issued.

STARCs/RSCs and mobilization installations will coordinate the process set forth below.

STANDARD

a. Schedule and follow-up on unit members to ensure periodic physical examinations are accomplished by appropriate medical personnel IAW AR 40-501.

(1) Periodic physicals for all soldiers. For most unit members this requirement occurs every five years (on a quinquennial basis). Lack of a current physical exam will not prevent mobilization.

(2) Soldiers over 40, and are assigned to early-deploying units, will receive physical examinations every two years.

(3) Soldiers over 40 must receive additional cardiovascular screening at their next regularly scheduled exam.

b. Medical personnel conducting periodic examinations will identify members requiring medical warning tags IAW AR 40-15, prepare DA Form 3365, coordinate to have the tags issued, and affix DA Label 162 to the health record.

2-I-14. TASK: Ensure dental examinations.

STARCs/RSCs and mobilization installations will coordinate the process noted.

STANDARD

a. All soldiers are required to have a complete dental health record. AR 40-501 provides guidance on how to satisfy the dental examination requirement for a dental health record.

b. All soldiers are required to have in the dental record a panoramic x-ray, which provides forensic identification (AR 40-66).

c. Lack of a complete dental record will not preclude mobilization.

d. For early deploying units, an annual dental screen and dental care is required to bring soldiers to dental class 2 standards. The TRICARE Selected Reserve Dental Program will be used as the basis for meeting these standards.

2-I-15. TASK: Ensure Deoxyribonucleic Acid (DNA) specimen is completed.

STANDARD

All soldiers are required to have one DNA specimen drawn and noted on an SF 600. There is no longer a requirement for a DNA sample to be placed in the medical record. The set will be stored in a humidity barrier pouch and will be sent to the DNA specimen repository in the mailer provided with the kits. The only accepted documentation is if the repository enters the receipt in DEERS. Each of the reserve components is involved in specimen collection of RC soldiers who have been accessed to active duty. Specimens are routinely collected on all soldiers who are new accessions for the Army (in all components).

2-I-16. TASK: Ensure unit members are tested periodically for HIV.

STANDARD

RC unit members must be screened for HIV every five years. For all RC soldiers entering active duty for 30 days or more, the HIV test must have been completed within the previous 6 months. Individuals who are confirmed HIV antibody positive must be transferred to a non-deploying unit, transferred to the IRR or separated (the individual must select option).

2-I-17. TASK: Ensure immunizations are current.

STANDARD

FORSCOM Regulation 500-3-3

a. Individual immunization records must be reviewed to ensure soldiers meet the requirements of AR 40-562 plus any additional immunizations

required by the immediate mobilization scenario. Routine immunizations are required for:

IMMUNIZATION * Basic Requirement	BOOSTER FREQUENCY
Tetanus and Diphtheria	Every Ten (10) years
Yellow Fever *	Every Ten (10) years
Typhoid-Basic Series Either Oral or by Injection (NOT BOTH)	
<u>Oral</u> (Four-Dose series, taken on days 0, 2, 4, and 6. Do not give on same day as mefloquine or with antibiotics.)	Every Five (5) years
<u>Injection</u> Boosters vary dependent on type: - Wyeth-Ayerst Two-dose primary weeks 0 & 4 - Typhim Vi One Injection primary	Every Three (3) years Every Two (2) years
Influenza- Annually for AC, Upon Mobilization for RC ordered to AD for 30 days or more	Annual – Voluntary Required upon Mobilization
Anthrax-Basic Series** PER DA ANTHRAX Vaccine Immunization Program. Recommended Schedule Series of 6 doses given at day 0, week 2, week 4, 6 months, 12 months, & 18 months	Every year
Hepatitis A Basic Series Two shot series 6/12 month period	No boosters after basic
Hepatitis B- *** (For AMEDD personnel) Three (3) shot series at months 0, 1, and 6	No boosters after basic

* EXERCISE CAUTION WHEN CONSIDERING ANY IMMUNIZATION DURING PREGNANCY. AVOID ALL LIVE VIRUS VACCINES (E.G., YELLOW FEVER, MEASLES) DURING PREGNANCY.

** COMMANDERS MUST ENSURE THAT ANTHRAX SERIES IS RECORDED INTO THE MEDPROS SYSTEM.

*** FOR ALL MEDICAL PERSONNEL AND THOSE AT HIGH RISK FOR CONTACT WITH BLOOD AND BODY FLUIDS

b. All other immunizations will be determined by the theater of operations and administered during alert or home station phases or at the mobilization station.

c. Appropriate medical units or facilities IAW AR 40-562 will administer required immunizations. Commanders are responsible for members receiving scheduled immunizations and updating of information in appropriate personnel or medical databases.

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d. Medical personnel will document immunizations on SF 601 (Record of Immunizations) and PHS Form 731 (Yellow Shot Record).

2-I-18. TASK: Identify personnel who wear spectacles and/or hearing aids.

STANDARD

Require each soldier to provide copy of latest civilian prescription for spectacles/hearing aid and file in the member's medical record.

2-I-19. TASK: Identify personnel requiring lens inserts for protective mask.

STANDARD

Personnel with visual acuity of 20/70 or worse and drivers of military vehicles with visual acuity of 20/40 or worse must have lens inserts, IAW AR 600-55. A

requisition with copy of prescription for spectacles attached will be submitted to the STARC/RSC IAW AR 40-63.

FOLLOWING TASKS SUPPORT SRP ACTIONS FOR FAMILY ASSISTANCE REQUIREMENTS

2-I-20. TASK: Verify application for Uniformed Services Identification Card DEERS Enrollment (DD Form 1172), for family members, as appropriate.

STANDARD

a. Required for each member with family members. Member must provide documents to verify family status and must notify unit as changes occur.

b. Member completes and signs DD Form 1172. Unit verifies information based on records and documentation provided and issues DD Form 1173-1 to family members. DEERS enrollment should be accomplished whenever the DD Form 1173-1 is issued/reissued. However, if the unit does not have the capability to issue ID cards, provide family member with verified copy and instruct member to take family to nearest Reserve Center/Armory or ID facility (all services can provide this support) for issue.

c. Enrollment will be either on-line or with DEERS Floppy Disk. Current version of DEERS Floppy Disk can be requested through command channels.

d. Anytime there is a change in family status, e.g., gain/loss of dependents, change of address, the member must also change information in DEERS through the unit.

2-I-21. TASK: Establish a Family Support Group (FSG).

STANDARD

Establish a FSG IAW AR 600-20 and DA PAM 608-47 and coordinate liaison with supporting activities. Minimum procedures include:

a. Appoint an officer or senior NCO as the unit Family Assistance Coordinator.

FORSCOM Regulation 500-3-3

b. Support preparation of a telephone tree for FSG members.

c. Maintain communication between family support group leader and STARC/RSC Family Support Coordinator.

d. Post location (and telephone number if available) of supporting Family Assistance Centers.

e. Conduct annual briefings to family members IAW Annex C.

FOLLOWING TASKS ARE NOT SRP-RELATED BUT ARE REQUIRED TO SUPPORT UNIT READINESS FOR DEPLOYMENT

2-I-22. TASK: For units with assigned Health Care Providers, screen Practitioner Credentials File (PCF) for update and verification requirements. PCF custodian requests necessary verifications and documents updates IAW AR 40-66 and AR 40-68. Review annually.

STANDARD

Prepare roster of individual practitioner PCF status. If PCF is deficient, list deficiencies that require correction. PCF custodian will correct deficiencies

and, at mobilization, forward current rosters to STARC (ARNG) and RSC (USAR) for information. Send roster information copy to MS Director of Health Services (DHS) for physicians, nurses, and physician assistants, and an information copy to MS Director of Dental Services (DDS) for dentists. Review with MS DHS/DDS at biennial mobilization visit. Units without PCF custodian capability will seek assistance through chain of command.

FOLLOWING TASKS ARE NOT SRP-RELATED BUT ARE REQUIRED TO SUPPORT UNIT ADMINISTRATION FOR DEPLOYMENT

2-I-23. TASK: Familiarize administrative personnel in SIDPERS.

STANDARD

Ensure appropriate administrative personnel are familiar with SIDPERS-AC system, IAW DA Pam 600-8-23 (this applies primarily to personnel with a the 75-series PMOS, or who are training in that field). Training assistance is available (Training Support Element, Support Installation, MS).

FORSCOM Regulation 500-3-3

2-I-24. TASK: Appointment/Signature cards, as applicable , prepared for:

DUTY	STANDARD
Classified Courier	DA Form 2501, AR 25-11
Morale Support Fund Representative	Appointment Memo, AR 215-1
Custodian of Classified Documents	Appointment Memo, AR 380-5
Military Postal Officer	DD Form 285, AR 600-8-3
Mail Clerk & Alternate	DD Form 285, AR 600-8-3
Mail Orderly	DD Form 285, AR 600-8-3
Information Management Officer (IMO)/Terminal Area Security Officer (TASO)	Appointment Memo FORSCOM Regulation 500-3-3
Family Assistance Coordinator	Appointment Memo FORSCOM Regulation 500-3-3
Information Systems Security Manager (ISM)	Appointment Memo, AR 380-19

2-I-25. TASK: Assemble and maintain unit Morale, Welfare And Recreation (MWR) kits.

STANDARD

Assemble and maintain unit MWR supplies and equipment IAW Chapter 7 and Annex E, FM 12-6.

2-I-26. TASK: Identify personnel requiring waiver of benefits.

STANDARD

a. Screen personnel and records to identify personnel receiving retirement pay, disability allowance, and compensation.

b. Prepare and submit Declaration of Retired Pay Benefits and Waivers (DA Form 3053) IAW AR 37-104-4 (DRAFT) and 37-104-10.

2-I-27. TASK: Identify personnel incurring problems with their employer.

STANDARD

Refer all personnel incurring problems with their employer to the local ESGR representative. If local ESGR representative is unknown, refer to NCESGR at 1-800-336-4590.

Condition: Phase II- Alert

Tasks in this phase are not presented in SRP sequence, but are noted by the annotation of the SRP task and the appropriate section in parenthesis after

the task. Commanders are reminded that capabilities to accomplish tasks will vary dependent on the length of alert and capabilities of both the RC chain and the AC support elements to provide assistance. During small scale contingency operations with lengthy alert (or alert for training), commanders will continue to execute phase I tasks as well as executing the tasks in the alert phase and some tasks from the home station phase. Operational unique guidance will dictate any deviations from the tasks noted below:

- Implementation of Strength Ceiling Limitations. This forced decisions to prohibit the mobilization of non-deployable soldiers.
- No use of AC to fix RC. This required expanded coordination of home station cross-leveling and use of multiple units to bring selected units to appropriate deployment levels
- Use RC to sustain RC and meet individual requirements. This action required coordination of volunteers to be assigned to and mobilize with derivative UICs and deploy as unit/individual fillers.

2-II-1. TASK: Coordinate mission-related travel.

STANDARD

Identify individuals whose duties during Phase II or III will require them to travel beyond the HS local commuting area as determined by STARC/RSC policy (i.e., unit retrieval teams). Request travel arrangements from appropriate USPFO (for ARNG) or RSC (for USAR).

2-II-2. TASK: Review and validate receipt of unit orders.

FORSCOM Regulation 500-3-3

STANDARD

Unit should receive an AD/Federalization order which includes movement authorization and establishes any operation-unique structure or strength requirements. The CONUSA will process orders for CONUS-based units and units in Puerto Rico and the Virgin Islands (less USASOCOM units ; USASOCOM will process mobilization orders for its RC units).. Similarly, OCONUS MACOMs will process mobilization orders for their RC units.

2-II-3. TASK: Review, coordinate and validate actions requiring individual orders.

STANDARD

Units will normally have soldiers on AT, IET, ADSW, ADT, or TTAD. Units should receive orders transferring non-mobilizing soldiers from their units. They will also receive guidance to coordinate the return of soldiers on ADSW, ADT or TTAD, when appropriate. In addition, they should receive orders assigning new members to the unit through cross leveling actions. They must review and validate these orders and request additional orders or changes from the STARC/RSC, if necessary.

a. Some categories of personnel requiring transfer from the unit are:

(1) Soldiers on ADSW, ADT or TTAD that cannot return to the unit (Criterion 1, Table 2-1).

(2) Untrained Soldiers (Criterion 2, Table 2-1).

(3) AMEDD Officers in Training (Criterion 35, Table 2-1).

(4) Simultaneous Membership Program (SMP) Participants (Criterion 4, Table 2-1).

(5) High School Students (Criterion 6, Table 2-1).

(6) Selected OCS Candidates (Criterion 31, Table 2-1).

(7) Other transfer actions as required.

b. Soldiers on AT, IET, ADSW, ADT or TTAD who can return to the unit will require amendment or revocation of orders (Criterion 1, Table 2-1).

c. The unit should receive a copy of assignment orders on all personnel gains, based on home station cross-leveling actions.

2-II-4. TASK: Release attached personnel and recover unit personnel attached to another unit. Soldiers will mobilize only with their unit of assignment, not their unit of attachment.

STANDARD

Request orders from the headquarters that originally published the attachment order IAW Criterion 8, Table 2-1.

2-II-5. TASK: Screen promotion eligible personnel.

STANDARD

Both officer and enlisted personnel promotions will remain under RC component policies unless otherwise directed by DA.

2-II-6. TASK: Identify personnel who require evaluation reports.

STANDARD

a. Identify all soldiers who will have a change of rater or change of duty upon mobilization. AR 623-105, AR 623-205.

b. Review DA/FORSCOM guidance on evaluation requirements for the projected mobilization. Mobilization in itself is not a reason for an evaluation.

2-II-7. TASK: Order unit members to active duty. (For PSRC units see Table 2-2.)

STANDARD

a. Upon receipt of the unit's AD/Federalization order, RC unit commanders will publish orders using FORMAT 153, AR 600-8-105 (ARNG units may use FORMAT 800 NGR 310-10). ING personnel will be included on the unit order except for PSRC activation's, where they are exempt from call.

b. ARNG units will submit request for orders to STARC for return of ING to active status concurrent with the unit's M-Date.

FORSCOM Regulation 500-3-3

c. Annotate a copy of the unit manning roster or DA 1379, indicating the status of unit members, i.e.,

- (1) Advance Party.
- (2) Main Body.
- (3) Personnel authorized delayed entry.
- (4) Convoy.
- (5) TTAD to other units.
- (6) Other categories as deemed necessary.

d. Prepare separate mobilization orders for each unit member using FORMAT 165, AR 600-8-105.

e. Distribute individual mobilization orders and unit orders (with authentication rosters) as follows:

INDIVIDUAL ORDERS: Must be separate mobilization order with only one standard name line.

- (1) Ten copies to the individual member. (Emphasize need to pass a copy to family member for benefits and ID Card applications and a copy to the employer).
- (2) One copy to member's MPRJ (Each member is required to sign and date this copy).
- (3) One copy to MMPA file.
- (4) Two copies to unit file.

UNIT ORDERS: The primary unit order with annotated rosters listing unit members by category.

- (1) One copy to each higher headquarters within parent command.
- (2) One copy each to the appropriate STARC (ARNG)/RSC (USAR) and to the CONUSA headquarters.
- (3) One copy to the DFAS (RC) input station on transmittal letter.
- (4) Four copies to the MS (delivered by the advance party if possible).
- (5) Two copies to the SI, if required.
- (6) Two copies to the Family Assistance Center.
- (7) One copy to gaining MACOM (Units with CONUS sustaining mission).

f. Provide individual orders (Format 165) to each member by the most expeditious means. If the

member cannot be presented with the order personally, dispatch it by certified mail, restricted delivery, with a return receipt requested.

2-II-8. TASK: Notify finance input station of unit's mobilization. (SRP Checklist - Section V, Finance)

STANDARD:

Notify USPFO for ARNG and RSC for USAR to initiate actions to assist and/or complete mobilizing soldier financial readiness processing.

2-II-9. TASK: Process delayed arrival personnel.

STANDARD

a. Identify by individual application and Criteria 1, 14, 17, 18, 19, 22, 32, and 34, of Table 2-1 of this document, and process IAW AR 601-25.

b. Issue delay letter using format contained in AR 601-25.

2-II-10. TASK: Review appointment memoranda.

STANDARD

Review appointment memoranda (e.g., Morale Support Fund Representative) and issue new memorandum, if appropriate.

2-II-11. TASK: Increase update of unit and personnel databases.

STANDARD

Ensure that databases (e.g., SIDPERS, CLAS, or RLAS as appropriate ARNG unit databases) are updated on a daily basis.

2-II-12. TASK: Activate the unit family support network.

STANDARD

a. Request that the unit family support group leader activate the telephone tree contact roster by contacting all family members.

b. Unit family assistance liaison coordinator should provide the STARC Family Program Coordinator family support group information and potential support requirements to assist in setting up a

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FAC. USAR unit commanders should provide information through the RSC.

c. Provide names of non-mobilizing soldiers who could participate in family assistance programs to the STARC/RSC, as appropriate.

2-II-13. TASK: Update or verify soldier financial readiness. (SRP Checklist - Section V, Finance)

STANDARD

a. Ensure that the most recent MMPA is available for each alerted unit member.

b. Obtain most recent MMPA for each soldier transferred from other units to fill unit vacancies.

c. Notify alerted soldiers to report on the first day of mobilization with documentation to support any changes to their MMPA.

2-II-14. TASK. Notify local ESGR representative of impending mobilization.

STANDARD

Request that the local ESGR representative provide information and liaison about services available to recognize employers and offer assistance with employer conflicts.

2-II-15. TASK. Coordinate orders for Active Guard/Reserve (AGR) soldiers.

STANDARD

a. For ARNG AGR soldiers serving under Title 32, there are minimal actions. These soldiers will be released from their Title 32 status by the STARC. They will mobilize and deploy on unit and individual orders as addressed in task 2-II-7 above.

b. For USAR AGR soldiers serving under Title 10, actions are different. The PCS order that an AGR soldier receives from FTSMD 'attaches' him or her to a TPU. The special instruction portion of that order contains the statement that upon mobilization of the unit the attachment status changes to that of being "assigned" to the unit. The USARC, through its RSCs then cut a TCS order using format 401 that takes the soldier to the appropriate mobilization station. The mobilization station will endorse or process new TCS orders moving the soldier to theater with the USAR unit.

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Condition: Phase III - Home Station

Tasks in this phase are not presented in SRP sequence, but are noted by the annotation of the SRP task and the appropriate section in parenthesis after the task.

2-III-1. TASK: Verify arrival status of personnel at the assembly site.

STANDARD

- a. Document the arrival.
- b. Process those personnel who do not report as ordered IAW criterion 33, table 2-1.

2-III-2. TASK: Initiate SRP check for mobilization.

STANDARD.

Follow guidance in AR 600-8-101 and any detailed guidance provided in support of the operation for which the unit is being mobilized.

2-III-3. TASK: Identify medically disqualified personnel and screen for medical problems. (SRP Checklist - Section VI, Medical)

STANDARD

Process personnel IAW criteria 13, 14, 18, 19 or 34, table 2-1 of this document. Soldiers are interviewed (by a military doctor, physician's assistant, or nurse practitioner) regarding medical problems or history which would delay movement or prevent deployment. Soldiers will update Standard Form 93, initiate Report of Medical History, DA Form 8007, and retain updated DD 93 and DA Form 8007 for review by medical in-processing at MS.

2-III-4. TASK: Verify soldier financial readiness. (SRP Checklist - Section V, Finance)

STANDARD

- a. Using the MMPA as the financial SRP checklist, verify all finance data for accuracy with each mobilized soldier.
- b. Add any other MMPA change documentation to the MMPA for processing by the USPFO or RSC. Forward those requiring change with supporting

documentation to the servicing USPFO or RSC. Retain a copy of the annotated MMPA.

2-III-5. TASK: Review and update those personnel, medical, dental, and health care provider Practitioner Credentials Files not individually identified in this section.

STANDARD

- a. Complete all document requirements IAW applicable regulations.
- b. Forward updated PCF roster to STARC/RSC for information.

2-III-6. TASK: Process record of emergency data (DD Form 93), if update is required. (SRP Checklist - Section I, Personnel)

STANDARD

- a. Screen for accuracy and completeness IAW AR 600-8-1.
- b. Prepare new forms as required. Distribute copies as follows:
 - (1) Original -- Consolidate with other originals and forward IAW AR 600-8-1
 - (2) First copy to MPRJ (DA Form 201)
 - (3) Second copy to member.
- c. For forms not requiring update, the original, which is stored in the MPRJ, will be extracted and forwarded IAW AR 600-8-1.

2-III-7. TASK: Prepare evaluation reports.

STANDARD

Mobilization is not a reason for a report. Evaluation reports are required only for changes in duty or rater. Complete OER as required IAW AR 600-8-18. Complete NCOER as required IAW AR 623-205.

NOTE: Specific guidance will be provided by HQDA for different stages of mobilization. If DA/FORSCOM guidance directs evaluation reports upon completion of mobilization, then departure reports will be prepared.

2-III-8. TASK: Complete change of address cards.

STANDARD

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Complete three Change of Address and Directory Cards (DA Form 3955) for each member IAW DOD Postal Manual 4525.6-M, Volume II and AR 600-8-3. Provide to the post locator upon unit arrival at MS. (Requirement may be eliminated if the mobilization station is using the PERSLOC application. Unit commanders should coordinate this action with the MS.

2-III-9. TASK: Process family member ID cards. (SRP Checklist- Section XII, Family Assistance)

STANDARD

a. When DEERS pre-enrollment has been completed. Provide information noting that family members may take a copy of the individual mobilization orders and their DD Form 1173-1 to any DEERS/Rapids site.

b. When DEERS pre-enrollment has not been completed, a DD Form 1172 must be issued.

(1) Provide verified copy of Application for Uniformed Services Identification Card DEERS Enrollment (DD Form 1172) to sponsor or family member along with a copy of section IV, annex D.

(2) Family members may secure ID Card (DD Form 1173) and be activated in DEERS (transferred from pre-eligible to eligible file) by presenting the verified DD Form 1172 and copy of sponsor's mobilization order to any DEERS/RAPIDS site.

2-III-10. TASK: Verify ID Cards and Tags. (SRP Checklist - Section I, Personnel)

STANDARD

a. Verify that each soldier has a valid ID card (Red or Green). Issue DD Form 2 (Green) Active if forms are available. Develop a roster of those requiring issue of Active ID cards upon arrival at the mobilization station.

b. Verify ID Tags and Medical Alert Tags.

2-III-11. TASK: Process Geneva Convention Identity Card, if required and not previously issued. (SRP Checklist- Section I, Personnel)

STANDARD

Initiate, for non-combatants, applications for Geneva Convention Identity Card (DD Form 1934) if time and blank forms are available. Otherwise process at MS. (AR 600-8-14)

2-III-12. TASK: Security clearance rosters. (SRP Checklist- Section III, Security)

STANDARD

a. Review security clearance requirements.

b. Determine which soldiers do not have the required clearance.

c. Initiate required security clearance requests through MS security division.

2-III-13. TASK: Prepare claims for travel from home to assembly site and advance party pay.

STANDARD

a. Prepare travel voucher (DD Form 1351-2) IAW AR 37-106 for travel from home to unit assembly site. Submit to finance station during in processing.

b. Prepare vouchers for final pay for unit members ordered to AT/ADT in the alert phase to support mobilization activities.

2-III-14. TASK: Arrange for legal services. (SRP Checklist - Section IV, Legal)

STANDARD

a. Coordinate JAG support to prepare legal documents (wills, power of attorney) and provide legal advice as necessary.

b. See Table 2-3 for detailed guidance.

2-III-15. TASK: Provide health, MMPA, and personnel records to MS.

STANDARD

Soldier health records, MMPA, and personnel records must be provided to MS in time to be available for unit personnel in-processing. However, records will not be hand carried by the soldier or transported in the same vehicle. Health records must be marked and sealed IAW AR 40-66.

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2-III-16. TASK: Conduct Records Processing for Direct Deploying Units.

STANDARD

The SI and the unit must coordinate to ensure that appropriate records are provided to the SI.

2-III-17. TASK: Account for medical emergencies, perform casualty reporting, and complete LODs.

STANDARD

Per AR 600-8-1.

2-III-18. TASK: Verify incentives and entitlements.

STANDARD

Ensure adequate documentation to support future soldier claims in RC incentives and entitlements (SLRP, MGIB, SRIP). Provide rosters of reassigned incentive recipient to the supporting STARC/RSC.

2-III-19. TASK: Provide final personnel report.

STANDARD

Close out DA Form 1379 and provide personnel status report to STARC/RSC and Mobilization Station documenting personnel cross-leveling, status of non-deployable, untrained personnel and other requirements addressed in execution orders.

NOTE: Specific requirements will be provided with execution orders, and will depend on the level of mobilization, and data required by HQDA and other authorities.

2-III-20. TASK: Coordinate transfer of data to the mobilization station.

STANDARD

a. USAR units should validate transfer of data required to support MOBLAS processes to the PPP or PSP via CLAS or RLAS.

b. ARNG units should coordinate with their state to ensure that data required to support MOBLAS processes is provided by electronic file transfer or by downloading data to a disk that is mailed or sent by courier to the PPP/PSP.

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Table 2-1: Criteria for Personnel Action

The following criteria necessitate personnel actions during the mobilization process, and establish the appropriate personnel action procedures. Where appropriate, procedural changes based on Small Scale Contingency Operations (SSCO), PSRC, and selective mobilization are also identified. Numerous administrative responsibilities are identified for the unit commander throughout the following paragraphs; as a general rule, the unit commander should attempt to solve as many personnel administrative problems locally as possible. However, as the increasing mobilization burden obviates local solution, these actions should be turned over, through channels, to the STARC/RSC or MS, with a record of actions taken at the unit level. The unit commander's main concerns should be in assembling the unit, preparing to move to the MS, and identifying those personnel who did not report, so that follow-up actions can be taken by STARC/RSC or MS personnel.

INDEX OF CRITERIA:

1	Member on IET, ADSW, ADT or TTAD
2	Awaiting IET or AIT Phase of Split-Option Training
3	Civilian Acquired Skill Program (CASP) personnel not yet awarded MOS
4	SMP participant
5	Applicants for SMP not yet enrolled in Advanced ROTC
6	High School Student
7	Attachment to mobilizing unit as individual or augmentation team
8	AGR personnel serving in a FTUS status
9	Excess/surplus personnel
10	Promotable officer
11	Federal recognition in higher grade not received
12	Promotable enlisted member
13	Sickness, injury or disability existing prior to AD
14	Sickness or injury occurring on or after M-date
15	ING member
16	Defective enlistment
17	Dependency (4 or more)
18	Pregnancy
19	Profile
20	Pending transfer or reassignment
21	Homosexual Conduct
22	Overage or overweight
23	Pending retirement, separation or discharge action
24	Non-deployable personnel
25	Individual does not possess required special skills
26	Conscientious objector
27	Death of member
28	Key employee
29	Minister or theological student
30	Personal/community hardship
31	Officer candidate
32	Civil confinement
33	Failure to report to AD
34	Has orthodontic appliances requiring active maintenance
35	AMEDD Officer in training and participant in medical civilian contract training

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CRITERION	ACTIONS(S)
<p>1. Member on IET, ADSW, ADT or TTAD.</p>	<p>Unit commander may request release and return to unit for those members on ADSW, ADT or TTAD but not IET (BT/AIT, OBC).</p> <p>a. Limited operations in an SSCO environment may not require the recall of all unit members serving on ADSW, ADT or TTAD. Examples include units which fall into the selective mobilization category, and operations supported by a limited PSRC in which units are being task-organized, unit commanders should only coordinate recall of soldiers on ADSW or ADT who are critical to the unit mission. Additionally, These operations will not normally require retention on AD for soldiers completing IET.</p> <p>b. For those on tours not terminated early, if IET/ADSW/ADT/TTAD tour is scheduled to end in sufficient time to allow the soldier to travel to the MS and complete SRP processing prior to the unit's scheduled OCONUS deployment date:</p> <p>(1) The member will remain assigned to the unit and will be given a delayed entry on AD, which will terminate upon completion of the period of IET/ADSW/ADT/TTAD. Upon completion of the period, the member will report for AD with his assigned unit. The absence of the member does not create a vacancy in the unit.</p> <p>(2) Unit commander will authorize or request delayed entry on AD. Delay letter will be prepared IAW AR 601-25 and will specify the date and location at which the member is to report to his unit. If the military situation permits, up to 10 days delay in reporting after completion of IET/ADSW/ADT/TTAD may be granted for member to return home to settle personal affairs. The delay letter will be sent to the member with a copy to the supervisor/commander of the IET/ADSW/ADT/TTAD location and copy for the member's personnel records which will be given to the MS PSC during unit in-processing.</p> <p>c. During a PSRC or limited Partial Mobilization without STOPLOSS. If IET/ADSW/ADT/TTAD tour is scheduled to end after the unit's scheduled deployment date, soldier will be reassigned to the STARC/RSC for accountability and command control upon completion of the tour. The STARC/RSC will coordinate reassignment back to the unit upon its release from active duty.</p> <p>d. During Partial or Full Mobilization with STOPLOSS. If IET/ADSW/ADT/TTAD tour is</p>

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CRITERION	ACTIONS(S)
	<p>scheduled to end after the unit's scheduled deployment date:</p> <p>(1) Individual will be accessed into AD status at the installation at which serving and will be cleared from the rolls of the mobilizing unit as of the effective date of the unit's order to AD.</p> <p>(2) STARC/RSC will notify directly, by letter, the commanding officer of the installation where the member is serving on IET/ADSW/ADT/TTAD, advising that the member is to be accessed into active duty status at the installation at which serving effective the date of the unit's order to AD and is not to return to the original unit of assignment. The member will be reassigned according to the needs of the Army. Member's records will be shipped to the member's location along with the letter.</p> <p>(3) If the level of mobilization is such that a deployment date is not initially defined for a unit, all personnel are expected to return to the unit. If a deployment date is later assigned, a second letter must be sent for those who have not yet returned to the unit.</p>
<p>2. Awaiting IET or AIT Phase of Split-Option Training</p>	<p>a. <u>PSRC, Selective or Partial Mobilization.</u></p> <p>(1) Member will not mobilize with unit but will process for training under existing orders.</p> <p>(2) Member will be reassigned to STARC/RSC or designated unit for administrative support.</p> <p>(3) STARC/RSC will coordinate with USAREC for movement to the training base.</p> <p>(4) Upon declaration of Full or Total Mobilization, accelerated training will be coordinated by USAREC.</p> <p>b. <u>Full or Total Mobilization.</u></p> <p>(1) Member will be ordered to AD with the unit and accompany the unit to MS unless the MS arrival date for the unit is seven or more days after the unit M-date, in which case the individual will accompany the advance party to MS. Records will be shipped separately or in a second vehicle.</p> <p>(2) At MS, the member will be accessed to AD with the unit and then be transferred from the unit to the MS reception center/garrison for reassignment to appropriate training. MS will request new training</p>

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CRITERION	ACTIONS(S)
	<p>reservation quota IAW existing enlistment contract or the needs of the Army as defined by HQDA.</p> <p>(3) Personnel will be processed through the reception center/garrison IAW AR 612-201. DA Form 201 (to include DA Forms 3444 and 3716) will be sent to the training centers IAW AR 600-8-104.</p>
<p>3. CASP Personnel not yet awarded MOS</p>	<p>Member will be ordered to AD with the unit. MS commander will determine if reassignment is required IAW AR 601-201.</p> <p>a. Members who have not yet attended Basic Training will be processed IAW Criterion 2.</p> <p>b. Members who have completed Basic Training but have not yet been awarded an MOS based on completion of the 48 hours of proficiency training required by Chapter 7, AR 601-210 will be ordered to AD with the unit. MS commander will determine if reassignment to complete proficiency training is required.</p>
<p>4. SMP Participant. (PSRC or limited Partial Mob - SEE TABLE 2-2)</p>	<p>Transfer ROTC SMP participants (MOS 09R20) to USAR Control Group (ROTC) IAW AR 145-1. Effective date of orders will be the day before the M-date of the unit. Orders should be provided from the STARC/RSC automatically with unit orders. Unit should report exceptions (additions or deletions to the STARC/RSC). ROTC cadets will be ordered to AD by their ROTC region when appropriate.</p>
<p>5. Applicants for SMP not yet enrolled in Advanced ROTC.</p>	<p>Applicants (MOS 09R10) will be ordered to AD with the unit in enlisted status.</p>
<p>6. High School Student. (PSRC: SEE TABLE 2-2)</p>	<p>Transfer to USAR Control Group (Standby Ineligible) IAW AR 601-25. Effective date of orders will be the day before the M-date of the unit. Orders should be provided from the STARC/RSC automatically with unit orders. Unit should report exceptions (additions or deletions) to the STARC/RSC. Upon graduation or age 20, whichever occurs first, the individual will be ordered to AD by ARPERCOM IAW the needs of the service.</p>
<p>7. Attachment to Mobilizing Unit as Individual or Augmentation Team.</p>	<p>Terminate the attachment of individuals from the IRR to units for IDT and retirement points when the unit enters on AD. Members attached to another unit will be recovered to mobilize with the unit. Members attached from other units will be released to their assigned unit.</p>
<p>8. AGR personnel serving in a FTUS status.</p>	<p>a. AGR serving under Title 10 mobilize with their unit (of attachment or assignment). Title 10 AGR do not get a DD Form 214 upon demobilization. These soldiers are controlled by orders that move/reassign them between locations and units. These soldiers remain on DJMS-AC pay system throughout an operation.</p> <p>b. AGR serving under Title 32 Full Time National Guard Duty (FTNGD) will be released from FTNGD the</p>

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CRITERION	ACTIONS(S)
	day before unit federalization and ordered to active duty with their unit, under Title 10. The appropriate STARC must issue a DD Form 214 covering the period of active duty under Title 32. These AGR will be issued a DD Form 214 upon demobilization, and must receive new orders to FTNGD under Title 32. These soldiers remain on DJMS-AC pay system throughout an operation.
9. Excess/Surplus Personnel.	<p>Members will be ordered to AD with the unit and accompany the unit to the MS where they will be cross-leveled or reassigned as appropriate by the MS commander. MS commander will report the following special branch officers to HQDA for assignment:</p> <ul style="list-style-type: none"> a. Chaplain Officers. HQDA (DACH-PER) Wash, DC 20310. b. JAGC Officers. HQDA (DAJA-PT) Wash, DC 20319. c. AMEDD Officers. HQDA (DASG-PTZ) Wash, DC 20319.
10. Promotable Officer.	Promote in accordance with Reserve Component Guidance unless otherwise directed by DA.
11. Federal Recognition in Higher Grade not received.	ARNG officers (not including general officers) and warrant officers who have appeared before a federal recognition board and have been recommended for federal recognition will be ordered to AD in the current grade.
12. Promotable Enlisted Member.	Promote in accordance with Reserve Component Guidance unless otherwise directed by DA.
13. Sickness, Injury or Disability Existing Prior to AD.	<p>All unit members who are not under previously initiated removal actions for reasons of medical profile or disability will be ordered to AD with the unit. If a member subsequently claims an inability to report as ordered due to sickness or injury, the unit commander will immediately obtain a determination from the attending physician which includes medical diagnosis, date of illness/injury, prognosis of recovery, and anticipated date of release or improvement.</p> <ul style="list-style-type: none"> a. If the sickness/injury is sufficiently minor and temporary that the member can travel without discomfort or danger to health, the member will enter AD and move with the unit to the MS. b. If local commander is unable to make a determination based on information presented; the entire case should be referred to TAG/RSC Surgeon to determine if soldier should mobilize with the unit. c. If the sickness/injury is such that the member is hospitalized or that travel would be a significant discomfort or danger to health, but the individual is expected to fully recover, a delayed entry on AD may be authorized IAW AR 601-25 and Paragraph 4-8g, AR

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CRITERION	ACTIONS(S)
	<p>135-210. Personnel records for all members granted a delay will be taken to the MS. If the unit deploys prior to member's arrival at MS, member's records will be transferred to MS.</p> <p>d. Under PSRC or Partial MOB, soldiers with medical conditions that restrict mobilization or deployment should be deferred or reassigned until review by TAG/RSC Surgeon.</p>
14. Sickness or Injury Occurring on or after M-date.	<p>a. Sickness or injury occurring after entry on AD at HS or while enrobe to MS will be handled and reported IAW AR 40-3.</p> <p>b. Commanders must ensure that line of duty (LOD) documents are completed, where appropriate.</p>
15. ING Member.	Member is ordered to AD with the unit to which assigned IAW NGR 614-1 and accompanies unit to MS. ARNG unit will request orders from STARC for assignment of ING members effective on unit's M-date.
16. Defective Enlistment.	<p>a. If final determination has been received prior to the effective date of AD, member will be released from enlistment IAW Chapter 9, AR 135-178.</p> <p>b. If final determination has not been received, delayed entry will be requested IAW AR 601-25 pending final determination.</p>
17. Dependency.	<p>a. If discharge by reason of dependency has been requested and approved prior to the unit's receipt of <u>alert</u> notification, the member will be discharged prior to the unit's effective date of AD IAW AR 135-133 and 135-178.</p> <p>b. If discharge has been requested but not yet approved, delayed entry will be requested IAW AR 601-25 pending final determination.</p> <p>c. If discharge is not requested prior to the unit's receipt of <u>alert</u> notification, discharge is not authorized. Member will enter AD with the unit.</p>
18. Pregnancy.	Based on medical verification of pregnancy, member may be delayed in entry on AD, reassigned or separated (at soldiers request). Specific guidance will be provided in operation execute orders or DA message.
19. Profile	Reassignment or discharge due to physical profile is IAW AR 140-10, AR 135-91, AR 135-175, and AR 135-178 for USAR soldiers. ARNG members are processed IAW NGR 600-200 and NGR 635-100. If reassignment or discharge is not requested prior to the unit's receipt of <u>alert</u> notification, reassignment or discharge is not authorized. Member will enter AD with the unit. Soldiers with a permanent P3 or higher profile will be reported to the installation for board action UP AR 40-501.

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CRITERION	ACTIONS(S)
20. Pending Transfer or Reassignment from the unit.	If orders have been issued with an effective date prior to the unit's receipt of the alert notification, the transfer or reassignment action will remain valid unless DA issues STOPLOSS or STOP MOVEMENT orders. Unit members who have moved out of the unit's geographic area and are looking for a new unit assignment but have not reported one to the original unit remain the responsibility of the original unit commander to locate and mobilize.
21. Homosexual Conduct	<p>a. If discharge has been requested and approved prior to the unit's receipt of <u>alert</u> notification, the member will be discharged prior to the unit's effective date of AD IAW Chapter 10, AR 135-178 or Chapter 2, AR 135-175.</p> <p>b. If discharge has been requested but not yet approved, delayed entry will be requested IAW AR 601-25 pending final determination.</p> <p>c. If discharge is not requested prior to the unit's receipt of <u>alert</u> notification, discharge is not authorized. Member will enter AD with the unit.</p>
22. Overage or overweight.	Members who have not been discharged for overweight prior to the unit's receipt of <u>alert</u> notification will enter AD with the unit.
23. Pending Retirement, Resignation, Separation or Discharge Action.	<p>a. If retirement, separation, resignation, or discharge action is required or is requested prior to the unit's receipt of the alert notification, member's action will be effected prior to the unit's M-date unless DA has issued STOPLOSS.</p> <p>b. If retirement, separation, resignation, or discharge action is requested after receipt of the alert notification, the action will not be processed and the soldier will enter AD with the unit.</p> <p>c. Upon receipt of STOPLOSS, if retirement, separation or discharge is required but the effective date is after the receipt of the alert notification, removal will be suspended and the member will enter AD with the unit unless exemption is authorized in the alert announcement. If separation orders have already been published with a separation date after the unit's effective date of active duty, they will be revoked.</p>
24. Non-deployable Personnel	<p>a. Members who are ineligible for overseas service IAW Table 3-1, AR 614-30, will be ordered to AD with the unit. MS commander will resolve non-deployable conditions, reassign soldiers to non-deploying units, or take appropriate separation actions.</p> <p>b. Exceptions during a PSRC or partial mobilization are addressed throughout Chapter 2, this table and table 2-2.</p>

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CRITERION	ACTIONS(S)
	<p>c. Unit commanders should screen soldiers on a continuing basis, at least annually. Soldiers who are determined to have a permanent non-deployable condition should be reclassified, transferred to a reserve component unit with a CONUS sustaining mission, transferred to the IRR, retired or separated as appropriate.</p>
<p>25. Individual Does Not Possess Required Special Skills.</p>	<p>Members who are not qualified in special skills required for their AOC/MOS or duty position (flight, jump, ranger, etc) IAW AR 600-200 will be ordered to AD with the unit. MS commander will initiate action to acquire skills or reassign the member to another unit.</p>
<p>26. Conscientious Objector (CO).</p>	<p>Member will be ordered to AD with the unit. Those with applications for classification as 1-0 or 1-A-0 which were pending prior to the unit's receipt of alert notification and those previously classified 1-A-0 will be transferred to a non-combatant unit if necessary by the MS commander IAW AR 600-43.</p>
<p>27. Death of Member.</p>	<p>Members who die at anytime after departing home to report to the unit assembly site based on unit order to AD will be reported/processed IAW AR 600-8-1.</p>
<p>28. Key Employee.</p>	<p>Removal of key employees from the Selected Reserve is a mandatory peacetime requirement under AR 135-133 and AR 690-11. If removal has not been requested prior to the unit's receipt of alert notification, the member will be ordered to AD with the unit.</p>
<p>29. Minister or Theological Student.</p>	<p>Transfer or discharge of ministers or theological students is a peacetime requirement under AR 135-133. If transfer or discharge has not been requested prior to the unit's receipt of alert notification, the member will be ordered to AD with the unit. Orders should be provided from the STARC/RSC with unit orders. Unit should report exceptions (additions/deletions) to the STARC/RSC.</p>
<p>30. Personal/Community Hardship.</p>	<p>a. If discharge by reason of hardship has been requested and approved prior to the unit's receipt of <u>alert</u> notification, the member will be discharged prior to the unit's effective date of AD IAW AR 135-133, AR 135-175 and 135-178.</p> <p>b. If discharge has been requested but not yet approved, delayed entry will be requested IAW AR 601-25 pending final determination.</p> <p>c. If discharge is not requested prior to the unit's receipt of <u>alert</u> notification or requested discharge is not approved, discharge is not authorized. Member will enter AD with the unit unless granted delayed entry for other reasons.</p>
<p>31. Officer Candidate. (PSRC: SEE TABLE 2-2)</p>	<p>a. Officer candidates attending an AC OCS program will be processed IAW Criterion 1.</p>

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CRITERION	ACTIONS(S)
	<p>b. Members enrolled as cadets in state operated OCS programs will be offered one of the following options upon mobilization of their unit:</p> <p>(1) Withdraw from the state OCS program and enter AD with assigned unit as enlisted member.</p> <p>(2) Remain enrolled in the state OCS program until commissioned or such time as it terminates, and then be designated to attend Branch Immaterial OCS.</p> <p>c. During a PSRC and the early stages of partial mobilization, the non-federalized STARC will retain the capability to continue Regional Training Institution courses. Depending on available time, STARC may consolidate and accelerate state programs in coordination with NGB. Under the above conditions, members who elect to remain enrolled in the state OCS program will be transferred out of their unit effective the day prior to the unit's effective date of AD. ARNG members will be transferred to the STARC. USAR members will be transferred to the appropriate RSC. Upon graduation or release from the state OCS program, members will be transferred to a non-mobilized ARNG/USAR unit, if available, or to the USAR Control Group.</p> <p>Commissioned graduates transferred to the USAR Control Group will be processed for quotas by ARPERCOM. Those members who are not commissioned and were transferred to units or Control Group will be subject to mobilization as enlisted members with their unit or as individuals by ARPERCOM IAW the needs of the Army.</p> <p>d. Upon mobilization and federalization of the STARC, no policy or procedures are currently in place to provide for the termination of state military academies and transition of cadets into AC schools. Recommended policy currently being staffed will have all Regional Training Institute activity terminated, with academy staff personnel entering AD with the STARC and being processed under Criterion 9, Excess/Surplus Personnel, unless separate assignment instructions are issued by HQDA. Students will return to their assigned units.</p> <p>(1) Cadets assigned to mobilized units will be ordered to AD with the unit. Upon availability of seats in Branch Immaterial OCS, supporting MS will move the member to the appropriate location.</p> <p>(2) Cadets returned to non-mobilized units will train with their unit in preparation for its later</p>

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CRITERION	ACTIONS(S)
	<p>mobilization. Upon mobilization, they will be processed as described in paragraph d(1) above. Prior to their unit's alert, they may apply for active duty OCS based on accessioning requirements in force at that time.</p>
<p>32. Civil Confinement.</p>	<p>a. If the member is scheduled for release prior to the unit's scheduled deployment date, delayed entry on AD is authorized IAW AR 601-25.</p> <p>b. If the member is not scheduled for release from confinement until after the unit's scheduled deployment date, the member will be processed for transfer to the USAR Control Group (Standby-Ineligible) IAW AR 601-25. Request for transfer will include court or confinement records indicating expected release date and the member's personnel records. Member's transfer will be effective a day prior to the unit's entry on AD. Upon release from confinement, ARPERCOM will order the individual to AD according to the needs of the Army.</p> <p>c. Determination of security clearance actions must be made, if soldier is in a duty position requiring a security clearance.</p>
<p>33. Failure to Report to AD.</p>	<p>a. Upon notice of alert and mobilization, unit commanders will notify unit members and provide them with copies of the unit's mobilization order. Every effort will be made to assure notification and delivery of orders in sufficient time to allow the member to finalize personal affairs and report to the assembly site on the established reporting date.</p> <p>b. RC absentees upon mobilization are processed IAW Chapter 6, AR 630-10. A member who fails to report on the established reporting date will be accessed to AD as assigned-not-joined after the unit commander has determined that the member has received or has knowledge of the mobilization order. The unit commander will then immediately report the member AWOL unless a delay in entry on AD is requested IAW AR 601-25.</p> <p>c. If the member fails to report for active duty during the 7 days immediately following the established report date, the unit commander will report the member as a deserter for apprehension purposes. The member will be dropped from the roles (DFR) of the unit. The unit is responsible for completing all necessary documentation for AWOL and DFR status in coordination with the MS PSC.</p> <p>d. Deserters returned to military control will be sent to the nearest Army installation for appropriate administrative and judicial action and will be reassigned according to the needs of the Army.</p>

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CRITERION	ACTIONS(S)
34. Soldier has orthodontic appliance, which was in place prior to receipt of alert notification and requires active maintenance.	<p>a. Soldier is non-deployable in support of combat or contingency operations.</p> <p>b. If orthodontic appliance is inactivated, soldier can deploy.</p>
35. AMEDD Officers in Training and Participant in Medical Civilian Contract Training	<p>AMEDD Officers in training and Participants in Medical Civilian Contract Training will not be considered for mobilization or deployment until Full Mobilization unless approved by The Surgeon General (TSG). They will be considered for delayed entry on active duty according to Criteria 1 and 2. Includes:</p> <ul style="list-style-type: none"> (1) Residents and Fellows. (2) Interns. (3) AMEDD Officers attending Long Courses (More than 20 weeks). (4) AMEDD officers engaged in specialized training in critical wartime skills identified by TSG.

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Table 2-2: PSRC Units

The following criteria noted in Chapter 2 and/or Table 2-1 are modified for PSRC units.

PHASE I PLANNING - None

PHASE II ALERT

TASK 2-II-3 (Includes Criteria 4, 6 and 31 in Table 2-1)

PSRC units will transfer personnel in special categories (e.g. SMP, High School Student, etc.) to a unit or a derivative UIC established by the STARC/RSC. FORSCOM will provide any operational unique guidance that would support mobilization of these soldiers at a later date.

PHASE III HOME STATION

TASK 2-III-4

PSRC units should emphasize enrollment in SURE PAY during preparatory phase. With only a 72-hour deployment criterion, coupled with the possibility of executing on a weekend, it may not always be possible to coordinate with a local banking establishment. Additionally, early deployment may limit time at the MS and failure to have SURE PAY will not stop deployment.

TASK 2-III-1717

Shipment of records would apply to all unit members except the special cases noted above. Those records should be shipped to the appropriate STARC/RSC.

Table 2-3: Premobilization Legal Preparation

Premobilization legal preparation starts at the planning phase of mobilization and follows through mobilization station processing for overseas deployment. Actions from planning through the home station phase must be accomplished by Reserve Component Judge Advocate (JA) General Officers within the constraints of resources available. Detailed JAG support actions are described in Appendix Q of the FORSCOM Mobilization Plan (FMP).

a. PLCP will include:

- (1) Organization of legal affairs.
- (2) Estate Planning.
- (3) Wills.
- (4) Guardianship of minor children.
- (5) Powers of Attorney.
- (6) Soldiers' and Sailors' Civil Relief Act protections.
- (7) Veteran's reemployment rights.

b. PLS is the provision of individual legal advice and preparation of legal documents such as wills and powers of attorney.

- (1) PLS is provided to RC soldiers and their families by RC As subject to available resources.
- (2) PLS will not detract from supported unit mission essential task list (METL) training requirements.
- (3) PLS is primarily a RC initiative supported by RC As and RC resources.
- (4) Commanders will ensure that word processing center support is available for preparation of legal documents.

c. This is a proactive program. Commanders must ensure that PLCP and PLS are scheduled and accomplished. Soldiers must be made aware that failure to have proper legal documents at the implementation of mobilization will not stop deployment.

Chapter Three: Operations And Training

Condition: Phase I - Planning

3-I-1. TASK. Maintain a unit mobilization file. RC MTMC units will maintain a battle book as prescribed by HQ, MTMC, in lieu of a mobilization file. The battle book will include the mobilization file planning requirements of alert and movement plans.

STANDARD

a. File will be clearly labeled, logically organized indexed and tabbed.

b. All AA level units must have complete MOB file containing:

(1) Documents required by STARCs and RSCs, including the planning requirements telephone number of the alert and movement headquarters IAW Annex A, App 1.

(2) The alert and assembly plan and documentation of the result of the last annual test/exercise of the plan.

(3) A list of key personnel by position to be ordered to duty prior to unit activation, IAW Task 3-I-7.

(4) Mobilization purchasing authority packet, IAW Annex B.

(5) Unit commander's mobilization checklist with Phase I tasks annotated as completed (IAW Annex E) and HS unit activity plan (3-I-4).

(6) Mission Guidance Letter (may be maintained in separate location if classified) and other mission guidance provided by unit's WARTRACE chain of command.

(7) MS information packet, initial MS activities checklist (completed with available information) (Table 3-1) and documentation of last MS liaison visit (3-I-6).

(8) A copy of the unit's postmobilization training plan and latest PTSR.

(9) Logistics data file. (see Chapter 4)

(10) A copy of the MS requirements checklist. (Annex G).

(11) Results of last chain of command review inspection and approval of unit's mob file.(3-I-2).

(12) HS unit activity plan.

c. Organic units with derivative UICs which are not collocated with the parent unit must, as a minimum, maintain an alert and assembly plan, load plan, movement plan for joining with parent, and other data as required by parent command.

3-I-2. TASK. Conduct annual review of the mobilization file by the chain of command.

STANDARD

The unit's chain of command (STARC/RSC and below, down to AA-UIC unit) is responsible to review/inspect and approve the unit's mobilization file on an annual basis. A record of the results of this review will be maintained in the mobilization file.

3-I-3. TASK. Develop the postmobilization training plan and support requirements.

STANDARD

a. Of those tasks selected for training prior to mobilization, determine which tasks require additional training to achieve standard.

b. Add those tasks to the list of tasks deferred to postmobilization and determine the time required to achieve standard in all tasks.

c. Identify the resources needed to train those tasks and develop the plan to be executed at the MS.

c. Update the plan annually or any time a significant change takes place in training proficiency.

3-I-4. TASK. Develop HS unit activity plan.

STANDARD

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Includes critical activities to be accomplished at HS during Phases II/III. (This plan should include administrative and logistical activities. Individual and collective training may be included, if time permits.) Use Annex E (Mobilization checklist for unit commanders) to assist in developing the plan.

3-I-5. TASK. Test/exercise the alert notification plan annually.

STANDARD

- a. Exercise the alert roster annually IAW STARC/RSC direction.
- b. Document the annual test/exercise alert and retain the documentation in the mobilization file.
- c. Report and assemble only if directed by higher headquarters.

3-I-6. TASK. Maintain liaison with MS.

STANDARD

- a. Establish and maintain liaison with the MS, triennially at a minimum. Coordinate all PTSR requirements at this time.
- b. New commanders of MOB entities (units with UICs ending in AA) or units mobilizing at a MS other than the parent unit's will visit the MS within nine months after assuming command.
- c. Complete initial MS activities checklist (Table 3-1).

3-I-7. TASK. Identify key personnel to be ordered to duty in advance of the unit.

STANDARD

- a. Establish a list of required key personnel capable of performing the critical activities identified in Task 3-I-5. (Key personnel may vary from unit to unit based upon the tasks to be accomplished).
- b. Each person on the list must initial by his name indicating awareness of the possibility of an early call to duty.

3-I-8. TASK. Conduct a premobilization briefing.

STANDARD

IAW with Annex C.

3-I-9. TASK. Establish COMSEC Account.

STANDARD

- a. Units authorized COMSEC material must either establish a separate COMSEC account or be serviced as a subaccount or hand receipt holder.
- b. Coordinate with next higher WARTRACE headquarters for determination of type account (separate or sub) prior to submitting a COMSEC request.
- c. Prepare and submit IAW TB 380-41 series, AR 380-40(C) and FORSCOM Regulation 380-41.
- d. Forecast adequate COMSEC storage requirements at MS to store Emergency Action Procedures (EAP) and other COMSEC material in a secure environment.
- e. Ensure Controlled Cryptographic Items (CCI) equipment and key for COMSEC purposes are requisitioned by and received from standard logistical service facilities and is handled and governed IAW DA PAM 25-380-2 and 380-41 Series.
- f. Ensure proper packaging and handling procedures IAW TB 380-41 series, AR 380-40, FR 380-41 and DA PAM 25-380-2.
- g. Appoint COMSEC custodians and command COMSEC inspectors IAW AR 380-40 and TB 380-41 Series.

3-I-10. TASK. Identify Advance Party positions and their mission.

STANDARD

Identify members of the advance party by position and list the functions each are to perform at the MS. These should be key unit personnel capable of coordinating specific activities for the unit (see Annex G).

3-I-11 TASK. Establish liaison with CI/SI (when different from MS).

STANDARD

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Establish and maintain liaison with the CI/SI, as a minimum triennially, when CI/SI is different from the MS. Maintain a list of points of contact to provide support until the unit arrives at the MS.

Conditions: Phase II - Alert

3-II-1. TASK. Review and update HS activities plan and prepare HS activities schedule.

STANDARD

Refer to 3-I-4 and Annex E, as a minimum, activity schedule should show day, time required, location and responsibility for accomplishment.

3-II-2. TASK. Respond to press inquiries.

STANDARD

Respond IAW with STARC/RSC PAO guidance.

3-II-3. TASK. Take actions outlined in the mobilization checklist for unit commanders.

STANDARD

Use the mobilization checklist for Unit Commanders at Annex E to ensure required tasks are accomplished during each mobilization phase.

3-II-4. TASK. Review and finalize Postmobilization Training Plan and PTSR.

STANDARD

Update all areas of the Postmobilization Training Plan and the PTSR IAW Annex D.

3-II-5. TASK. Identify advance party members and brief advance party for movement to MS.

STANDARD

Instruct advance party on their duties.

a. Assign members of the advance party by name. Ensure that they are knowledgeable and understand what they are to do at the MS.

b. Ensure the advance party is prepared to provide the MS items identified in Annex G.

c. Ensure that members carrying classified documents have courier orders or a courier card, DD Form 2501, for transporting classified material.

3-II-6. TASK. Identify adequate storage for classified documents and/or equipment.

STANDARD

Coordinate secure storage requirements. Advance party will finalize upon arrival at MS.

3-II-7. TASK. Review Unit Status Report (USR).

STANDARD

Review the USR (DA Form 2715) and begin updating to ensure that it will be completed for advance party to take to MS.

3-II-8. TASK. Coordinate arrival of filler personnel as appropriate.

STANDARD

Ensure that filler personnel cross-leveled into the unit are provided with appropriate arrival and accommodation conditions.

Condition: Phase III - Home Station

3-III-1. TASK. Coordinate with MS on unit's date and time to report.

STANDARD

Make coordination with MS on scheduled date, time and gate for arrival of advance party and main body.

3-III-2 TASK. Execute HS activities plan, with activities schedule.

STANDARD

Execute HS activities plan with accompanying activities schedule. Schedule must be posted in a location accessible to unit members.

3-III-3 TASK. Dispatch advance party to mobilization station.

STANDARD

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a. Dispatch advance party to arrive at MS 24 to 48 hours prior to the main body or as directed by MS.

b. Upon arrival, begin the process of converting the Postmobilization Training Plan into a unit training schedule.

c. Provide MS items IAW Annex G and any additional requirements from the MS information packet.

3-III-4. TASK. Conduct an operational/ information status briefing.

STANDARD

a. Brief unit personnel on the current situation and the schedule for move to MS and deployment.

b. Provide other information if available (e.g., unit mailing address at MS, nearest family assistance center).

c. Advise members of what they can and can not say about the operation.

d. Conduct/coordinate an ESGR/USERRA briefing.

3-III-5. TASK. Update USR.

STANDARD

Complete the update of DA Form 2715, Unit Status Report, and send to MS with advance party.

3-III-6. TASK. Prepare classified material for movement.

STANDARD

Coordinate for transportation and ensure proper packaging IAW, Chap VIII, AR 380-5.

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Table 3-1: Initial Mobilization Station Activities Checklist

SECTION I. ADMINISTRATIVE COORDINATION.

1. Determine location, POC and Phone Number (where appropriate) of the following MS agencies, facilities, and services:

AGENCY/FACILITY	LOCATION/BLDG #	POC	PHONE
DPCA			
AG			
FINANCE			
DOL			
DEH/DPW			
PAO			
IG			
CPO			
ITO			
TSC.			
PUB/BLANK FORMS			
DIST. POINT			
DISPENSARY			
DENTAL CLINIC			
RED CROSS			
CHAPLAIN'S OFFICE			
POST OFFICE			
SERVICE CENTER			
POST EXCHANGE			
AER			
JAG			
PROVOST MARSHAL			
MAT/VALIDATION TEAM			
EMPLOYER SUPPORT TO GUARD AND RESERVE			

SECTION I. ADMINISTRATIVE COORDINATION (Cont'd)

2. When does my unit in-process?	
3. When will I meet the SIDPERS Interface Branch (SIB) to discuss the accessioning of my unit?	
4. What is sick call schedule for my unit and where?	
5. What additional duty assignments must be made within the unit; i.e., mail clerk, safety officer?	
6. Where does my unit pick up mail?	
7. Does my unit have adequate phone, FAX and DSN/WATS service? If not, how do we get it?	
8. How will ADP support be provided (hardware and software)?	

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SECTION II. OPERATIONS COORDINATION.

1. Where is the mobilization coordination center located that the advance party reports to?	Building # _____ Phone # _____ POC _____
2. To whom is my unit attached/assigned?	
a. Where are they located?	
b. Is there a unit sponsor program?	
3. When can my unit begin training?	
4. Where can unit training aids be obtained?	
5. When does my unit deploy?	
6. When does my unit begin SRP/POM processing and where?	
7. What additional SOPs will my unit need and where can I acquire them?	
8. Where is the storage facility for COMSEC equipment and keying material?	
9. Where is my unit status report (DA FORM 2715) submitted?	
10. Where does my unit submit its materiel readiness report, DA Form 2406? (Required within 72 hours after arrival)	
11. What kind and how much training ammunition are available for my unit?	
a. Where does my unit draw training ammunition?	
12. Where does my unit store its classified materials? (documents or equipment)	
13. Where is MAT and/or CONUSA Validation Team located?	

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SECTION III. LOGISTIC COORDINATION.

1. Where is my unit's higher headquarters logistics office and what is its phone number?	
2. Where are my unit's billets and dining facility?	
a. Officer/Male	
b. Officer/Female	
c. Enlisted/Male	
d. Enlisted/Female	
3. Where is my unit's motor pool/vehicle parking area?	
4. Where is my unit's DS maintenance support facility?	
5. Where does my unit turn in excess or unserviceable property?	<u>Unit</u> <u>Bldg</u> <u>Phone</u>
a. General Property	
b. Vehicles	
c. Communications Equipment	
d. Weapons	
6. Where does my unit pick up requisitioned items?	
7. Where and when do I review my unit's property book?	
8. Where is:	<u>Activity</u> <u>Bldg</u> <u>Phone</u>
a. Central Issue Facility	
b. Clothing Sales Store	
c. Food Service Officer/TISA	
d. Ammunition Supply Point (ASP)	
9. Where and when can I set up my unit's accounts for:	
<u>Class</u>	<u>Bldg #</u> <u>Phone</u>
a. I	
b. II	
c. III	
d. IV	
e. V	
f. VII	
g. VIII	
h. IX	
i. Office Supplies	
j. Self-Help	
10. Where does my unit submit work order requests?	
11. If my unit is to be bivouacked in tents:	
a. Where do we acquire tents, cots and heaters?	
b. Where and how do we get water?	
c. Where and when do we get showers?	
d. What arrangements are made for trash pick up?	
e. Do I establish field latrine facilities for my unit or are commercial portable toilets available?	
12. Where do I coordinate on-post transportation requirements for my unit?	
12a. Where do I update my Deployment Equipment List?	

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13. Is my unit's basic load of small arms ammunition, To Accompany Troops (TAT), available? Where am I issued TAT?	
14. What is laundry turn-in schedule and where does my unit turn it in?	
15. Where does my unit get calibration support? Where does my unit submit AOAP samples?	
16. Where does my unit pick up BBPCT?	

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Chapter Four: Logistics

This chapter contains guidance on the construction of the logistics data file, which will be an important part of the complete unit mobilization file. This file will contain all documentation specifically identified in this chapter, as well as those additional documents identified in Annex G.

Tasks in Phase I are those additional logistical missions necessary to effectively mobilize, move to the MS, and deploy. Units will accomplish the normal logistical tasks required in peacetime that will maximize equipment on hand and serviceability readiness.

Phase II and III tasks are a logical progression to update records, cross-level equipment, enhance serviceability and move to the MS in an efficient manner with all equipment, personnel, and the documentation required for the advance party.

Condition: Phase I - Planning

4-I-1. TASK: Develop lodging plan for HS.

STANDARD:

a. Develop a plan for the lodging of appropriate unit members. Unit should estimate the number of soldiers who will require lodging during HS Phase. Normally, this applies to personnel more than 50 miles from HS.

b. Plan should address shower, sanitation, and sleeping quarters or identify commercial facilities. If unit plans to use commercial facility, unit will include a coordination letter with the facility manager. Plan should address lodging for those personnel called to active duty early. If the mobilization convoy or advance party departs early, unit may plan for those personnel to sleep at HS prior to departure.

4-I-2. TASK: Develop subsistence plan for HS.

STANDARD:

a. Develop a subsistence plan for unit at HS. Plan should address the following: identify how and where rations will be obtained and or served, how the unit will transition from HS to MS with adequate time to load mess equipment, ensure coordination with units using the same facility, identify first and last meal and planned meal hours.

b. If unit plans to use a commercial facility, unit will include a coordination letter with the manager. This plan will cover all meals at HS and the mobilization movement plan will address all meals en route to the MS.

c. Retain plan in logistics data file.

4-I-3. TASK: Identify contracting requirements to SI or USPFO contracting office.

STANDARD:

a. Identify requirements (who, what, where, when, how) to the servicing contract officer. Unit should list supplies required, i.e. lodging, bulk POL, and maintenance, etc. for Phases II and III, and the possible source of supply. Example: 10 rooms for 2 nights. Units will not negotiate contracts.

b. Units will annually verify with their supporting contract office that all requirements are addressed by some means (ordering officer, blanket purchase requirement, on-the-shelf contract, or mobilization clause).

c. Retain copy of the memorandum to the supporting contract office and their reply in the logistics data file.

d. Procedures must be established to ensure purchase card (IMPAC) billing statements (invoices) are received by the appropriate (primary or alternate) approving official and processed timely for payment prior to deployment.

4-I-4. TASK: Identify Class V ABL requirement.

STANDARD:

a. Annually review ABL listing or prepare FORSCOM Form 149-R IAW FORSCOM Regulation 700-3 and prepare updated DA Form 581 for ABL.

b. Forward the completed DA Form 581 to the MS ammunition supply point (ASP).

c. Coordinate with the MS during triennial mobilization conference and obtain MS ASP SOP procedures for issue and turn-in.

d. Retain a duplicate of the document register file copy (DA Form 581) and acknowledgment of the receipt of the complete DA Form 581 by the MS in the logistics data file with a copy of the ABL authorization listing.

4-I-5. TASK: Identify Class VIII, post-mobilization medical supplies

STANDARD:

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a. Prepare a list of Class VIII requirements and maintain in logistics data file. Annually review and update.

b. All units will identify medical material required, but not authorized, during premobilization IAW AR 40-61 and AR 725-50. CTA 8-100, Army Medical Department Expendable/Durable Items, and FORSCOM Regulation 700-2, FORSCOM Standing Logistics Instructions, should be reviewed for assistance in identifying these requirements. Items such as field sanitation team requirements (FORSCOM Regulation 700-2) chap stick, earplugs, camouflage sticks, sunscreen, combat lifesaver kits, and wet bulb temperature kits are authorized by CTA. Review Medical Equipment Set Component List/Unit Assemblages for requirements.

4-I-6. TASK: Prepare a Unit Movement Plan.

STANDARD:

a. Prepare a mobilization movement plan IAW FORSCOM/ARNG Regulation 55-1.

b. Prepare a deployment movement plan IAW, FORSCOM/ARNG Regulation 55-1 if required by the MS.

c. Appoint a UMO in writing IAW FORSCOM/ARNG Regulation 55-1. Retain document in movement plan and forward copy to SI/USPFO.

d. Ensure enroute support requirements are identified to the SI/USPFO.

e. Retain plan in logistics data file or specify location if filed separately.

4-I-7. TASK: Prepare and test Unit Load Plan.

STANDARD:

a. Prepare, test and evaluate unit load plan IAW FORSCOM/ARNG Regulation 55-1.

b. Annotate test date and evaluation in pencil on load card. File with mobilization movement plan.

4-I-8. TASK: Maintain COMPASS AUEL/TC ACCIS UEL documentation.

STANDARD:

a. Ensure COMPASS AUEL/TC ACCIS UEL data is current and accurate IAW FORSCOM Regulation 55-2. Update annually, or as significant changes occur.

b. Retain updated COMPASS AUEL/TC ACCIS UEL printout with unit movement plan.

c. Identify commercial transportation requirement IAW FORSCOM/ARNG Regulation 55-1.

4-I-9. TASK: Develop and coordinate Unit Retrieval Plan.

STANDARD:

a. Develop and coordinate a unit retrieval plan, which addresses responsibilities for pickup, list of equipment and locations, material handling equipment, commercial transportation requirements and other areas of concern.

b. Equipment includes not only vehicles and other major end items but also consolidated shipments (conex inserts, pallets, etc.) containing chemical protective equipment, cold weather clothing, tentage, tools, PLL and other supplies/equipment in storage or long-term hand receipt not at HS.

c. Possible locations include ASF, AMSA, and ECS for USAR units and UTES, OMS, CSMS, MATES, and AASF for ARNG.

d. Retain plan with unit movement plan.

4-I-10. TASK: Identify property not to be taken to MS.

STANDARD:

All RC unit organizational property (including excess property book items unless transferred by direction of the RSC/STARC during the Alert Phase) will be taken to the MS unless mobilization directives indicate otherwise.

Retain a list in the mobilization file or identify where list is kept of property that will not be taken to the MS. The following property will not be taken:

a. Installation property (desk, chairs, computers, STU III, etc.) except units with a MS mission and based on coordination with MS and the RSC/STARC.

b. State property (ARNG Only).

c. Private property (TV, coolers, POV, weapons).

d. Unit fund property other than recreational equipment.

e. Training aids from supporting TSC (unless the account is located at the unit's MS). Ensure a copy of the written TSC emergency turn-in plan has

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been received and reviewed. Retain this plan in the logistic data file.

- f. Leased/rented equipment.
- g. Items furnished on an installed “per training center” basis.

4-I-11. TASK: Plan to transfer facility.

STANDARD:

- a. Armory/Reserve Center commanders, in coordination with STARC/RSC Plan, must develop a file of actions to be taken if the center is vacated or transferred to a rear detachment.
- b. Retain plan in logistics data file.

Condition: Phase II - Alert

4-II-1. TASK: Make final coordination for HS Logistics Support Plans.

STANDARD:

- a. Review, modify as required and make final coordination on lodging and subsistence plans developed in Phase I.

4-II-2. TASK: Update contracting requirements and coordinate with supporting contract office.

STANDARD:

- a. Unit will review current plans to mobilize the unit and update any contracting requirements to support the unit at HS.
- b. Coordinate this information with supporting contract office and negotiate the most effective method of providing these supplies and services to the unit.
- c. Ensure purchase card (IMPAC) billing statements (invoices) are received by the appropriate (primary or alternate) approving official and processed for payment prior to deployment.

4-II-3. TASK: Coordinate requirement for signature cards and delegation authority with mobilization station.

STANDARD:

- a. Coordinate through the chain of command to the MS and identify the different requirements for DD

Form 577, Signature Cards, and DA Form 1687, Notice of Delegation of Authority - Receipt of Supplies.

- b. Begin preparing updated forms with appropriate signatures.

4-II-4. TASK: Prepare memorandum to MS Troop Issue Subsistence Activity to establish account.

STANDARD:

- a. Prepare a memorandum for subsistence support to the MS TISA IAW AR 30-21. Unit will include the following information in the memorandum: unit name, UIC, DODAAC, Unit Commander, Food Service Officer, Food Operations Officer and phone number, expected present for duty strength, start date and meal, and proposed menu for field training.
- b. Coordinate through the chain of command with the MS for additional information.

4-II-5. TASK: Prepare to conduct a showdown inspection of OCIE and personal uniforms.

STANDARD:

- a. Review and update personal clothing records. Uniform requirements for mobilization are identified in CTA 50-900, Table 1 (Male) and Table 2 (Female) under Active Army - Mobilization (AA-M) allowance. OCIE requirements are in FORSCOM Regulation 700-2 and operational mission guidance.
- b. Identify shortages by size. Cross level where possible. Prepare requisitions for remaining shortages.

4-II-6. TASK: Identify and procure POL packaged product basic load.

STANDARD:

- a. Using mission guidance on operational area, historical records and FORSCOM Regulation 700-2, calculate unit packaged POL basic load.
- b. Remaining shortages from operational stocks will be requisitioned or cross-leveled.

4-II-7. TASK: Review and update ABL documentation.

STANDARD:

- a. Review and update ABL Recap Listing based on weapon modernization, mission guidance, and cross leveling of equipment. Use FORSCOM

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Regulation 700-3 for authorization for new weapons systems and manually update listing.

b. Review and update DA 581, Request for Ammunition, based on any changes to the ABL Recap Listing.

4-II-8. TASK: Prepare records and begin to conduct inventory of unit property.

STANDARD:

a. Review and update the property book and hand receipts of MTOE/CTA/TDA items.

b. In the interest of time and efficiency, plan for the inventory inspection to be conducted at the lowest possible hand receipt or supervisory level.

c. Inventory will include life support equipment as authorized by CTA 50-909 such as tents, stoves, field desks/tables, water/fuel cans. Unless otherwise specified in mission guidance, all units must be prepared to operate in an austere environment.

d. Based on mission guidance on threat, units will inventory chemical defensive equipment against contingency requirements in FR 700-3.

e. Verify all assets subject to unique item tracking (DODSASP, CCISP, DODRATTS, IAW AR 710-3, Chapter 4).

f. Units that maintain Standard Property Book System - Revised (SPBS-R) accountability for subordinate units will coordinate with RSC/STARC on procedures for transferring records and responsibilities to a non-mobilizing unit/activity.

g. Begin cross-leveling and taking other appropriate supply actions once mission guidance is provided and shortages identified.

4-II-9. TASK: Review medical item requirements and prepare requisitions for Class VIII.

STANDARD:

a. Prepare requisitions based on listing developed in Phase I.

b. Develop list of personnel needing spectacles, optical inserts and hearing aids. Hold requisitions until Phase III.

4-II-10. TASK: Review PLL listing, identify shortages and cross level.

STANDARD:

a. Unit will review PLL based on peacetime demand supported requirements. Identify shortages

from current stocks and cross level with supporting organizational maintenance activity.

b. Remaining shortages will be forwarded through the chain of command to the RSC/STARC to either cross level or requisition from the wholesale system.

4-II-11. TASK: Coordinate for the transfer of property not to be taken to MS to appropriate activity.

STANDARD:

Coordinate with the center/armory custodian to transfer any property currently accountable from mobilizing unit. If no one is available, contact the next higher command to resolve accountability conflict. Begin joint inventory of property prior to transfer.

4-II-12. TASK: Coordinate with supporting maintenance activities to provide priority service.

STANDARD:

a. Coordinate with Area Maintenance Support Activity or Organizational Maintenance Shop to prioritize the required maintenance support to include technical inspections, services, application of material work orders and readiness improvement.

b. Begin updating Material Condition Status Reporting.

4-II-13. TASK: Retrieve operational, historical and other maintenance records.

STANDARD:

a. Coordinate retrieval with the supporting organizational maintenance activity and any equipment storage activity that maintains operational, historical or other maintenance records.

b. Coordinate with the supporting Army Oil Analysis (AOAP) Laboratory and obtain completed oil analysis records for all deploying equipment including any items cross-leveled.

c. Identify any printing or MWO requirements that cannot be accomplished prior to M-Day.

d. Retrieve and review these records for accuracy and completeness.

4-II-14. TASK: Update calibration records.

STANDARD:

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- a. Coordinate with the supporting AMC TMDE/CSMS facility and update all calibrated items.
- b. Obtain a current copy of the TMDE Instrument Master Record File printout and file on computer disk.

4-II-15. TASK: Review and coordinate unit Mobilization Movement Plan.

STANDARD:

- a. Review mobilization movement plans. Make any necessary adjustments. Begin coordination for support (MHE, subsistence and POL en route) with SI/CI/STARC/RSC.
- b. If commercial transportation is required make initial coordination with RSC/USPFO.
- c. Verify BBPCT requirements and pass information to MPA/Ordering Officer.
- d. Ensure supervisor verifies load cards and make adjustments as necessary.
- e. Ensure adequate time is allocated on the HS unit activity schedule.
- f. Coordinate advance party movement to MS.
- g. Prepare a DD Form 1265, Request for Convoy Clearance, and coordinate with the State DMC.
- h. Ensure plan adequately addresses security and accountability of weapons, COMSEC equipment, and sensitive items during transportation to the MS IAW Chap 7, 8, App A through E, AR 190-11, DOD Regulation 4500.9-R, Volume II, Cargo Movements, and FORSCOM/ARNG Regulation 55-1.

4-II-16. TASK: Update COMPASS AUDEL/TC ACCIS UEL based on cross-leveling actions and coordinate with supporting TC ACCIS office.

STANDARD:

- a. Review current COMPASS AUDEL/TC ACCIS UEL and update any outdated information from last annual update.
- b. Identify any additional cross-leveling actions, both personnel and equipment, and make appropriate changes to the COMPASS AUDEL/TC ACCIS UEL.
- c. Coordinate with supporting TC ACCIS office to update COMPASS AUDEL/TC ACCIS UEL. If office is not the unit's MS, coordinate the generation of a diskette/cartage with the unit's electronic data and forward to the MS either by the advance party or mail.

4-II-17. TASK: Make final coordination and execute equipment retrieval plans.

STANDARD:

- a. Review plans developed in Phase I and execute.
- b. Make final coordination with supporting maintenance and storage facility to:
 - (1) Refine specific unit personnel and/or equipment requirements necessary to support the plan.
 - (2) Refine specific support required from facility manager.
 - (3) Request support beyond the unit's or facility capability from the SI/USPFO.
- c. Execute equipment retrieval plans as soon as personnel and equipment assets become available. Ensure adequate time is available on the HS unit activity plan.

4-II-18. TASK: Storage of personal property and household goods.

STANDARD:

- a. Identify soldiers who require storage of personal property including POV IAW AR 55-71 and DOD 4500.34R.
- b. Coordinate with nearest Transportation Officer to determine appropriate military installation responsible for storage of personal property. The Personnel Property Consignment Instructions Guide (PPCIG) Volume I governs this support.

Condition: Phase III - Home Station

4-III-1. TASK: Provide HS support/services.

STANDARD:

- a. Implement HS lodging and subsistence plans.
- b. Maintain close coordination with USPFO/SI during HS operations. Keep the USPFO/SI informed of all changes in support required as the operation transitions through each phase of mobilization.
- c. Notify the USPFO/SI as soon as possible when HS operations are scheduled for termination.

4-III-2. TASK: Execute contracts or Mobilization Purchasing Authority.

STANDARD:

FORSCOM Regulation 500-3-3

a. Initiate agreements/purchases for identified material through MPA/Ordering Officer or DA Form 3953 through SI/USPFO.

b. Ensure purchase card (IMPAC) billing statements (invoices) are received by the appropriate (primary or alternate) approving official and processed for payment prior to deployment.

4-III-3. TASK: Complete signature cards and delegation authority.

STANDARD:

a. Prepare appropriate DA Form 1687, Delegation of Authority, for receipt of Supplies, and DD Form 577, Signature Cards.

b. Provide to logistical representative of the advance party.

4-III-4. TASK: Prepare memo to establish Dining Facility account.

STANDARD:

a. Submit memo to MS TISA based on mobilization Present for Duty Strength, MS arrival time and planned training.

b. Provide to logistical representative of the advance party.

4-III-5. TASK: Conduct a showdown inspection of OCIE and Personal Uniforms.

STANDARD:

a. Conduct a showdown inspection of OCIE and Personal Uniforms and identify any remaining shortages after cross leveling and other supply actions. Ensure serviceability and fit during inspection.

b. Provide shortage listing and requisitions to logistical representative of the advance party.

4-III-6. TASK: Prepare requisitions for shortages of packaged POL.

STANDARD:

a. Prepare requisitions for shortages of Packaged POL basic load after computation of basic load and fill from operational stocks and cross leveling from supporting maintenance activity.

b. Provide requisitions to the logistical representative of the advance party.

4-III-7. TASK: Finalize DA Form 581 for ABL.

STANDARD:

a. Finalize the DA Form 581 with the commander's signature based on any updated requirements.

b. Provide to logistical representative of the advance party.

4-III-8. TASK: Finalize reconciliation of Property Book and identify shortages after cross leveling.

STANDARD:

a. Update Property Book and equipment on hand based on inventories, cross-leveling and other supply actions. Update EOH rating for USR reporting.

b. Provide property book or printout to logistics representatives of the advance party.

4-III-9. TASK: Finalize Class VIII requisitions and forward to the Installation Medical Supply Account (IMSA).

STANDARD:

a. Complete Class VIII requisitions.

b. If the IMSA is located at the MS, hand carry requisitions and listing with the advance party.

c. If the IMSA is not located at the MS, forward requisitions and listing by the most expeditious means available.

4-III-10. TASK: Finalize PLL/ASL Listing and prepare requisitions for remaining shortages.

STANDARD:

a. On hand PLL/ASL items organic to mobilizing units will accompany units to the MS unless otherwise directed.

b. Requisitions for shortages to complete the 15-day PLL and 30-day ASL will be based on makes and models of equipment on hand.

c. Requisitions for shortages should be first screened against ASF/OMS/AMSA/USPFO stocks. If the parts are not available, the advance party will submit requisitions to the MS. Additionally, a copy of the PLL/ASL for organic units will be furnished to the MS.

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4-III-11. TASK: Complete transfer of property not to be taken to the MS.

STANDARD: Transfer property identified as remaining at home station to the appropriate non-deploying unit or activity.

STANDARD: Complete actions with supporting military installation to store personal property of authorized individuals.

4-III-12. TASK: Finalize material condition status report.

STANDARD:

a. Finalize, as appropriate, an “as of” material condition status report (DA Form 2406, DA Form 1352, and /or DA Form 3266-1) for submission to the MS.

b. A DA Form 2407/5504 will be taken to the MS for equipment that could not be retrieved from general support maintenance.

4-III-13. TASK: Execute Mobilization Movement Plan.

STANDARD: Move IAW the unit movement plan and convoy movement order.

4-III-14. TASK: Finalize COMPASS AUDEL/TC ACCIS UEL.

STANDARD:

a. Complete COMPASS AUDEL/TC ACCIS UEL based on cross leveling and updated load plan.

b. Provide to logistical representative in the advance party.

4-III-15. TASK: Complete transfer of facilities and non-organizational equipment.

STANDARD:

a. ARNG units transfer responsibility for custody and security of armory IAW State Plan.

b. USAR units transfer responsibility for custodian and security of USAR center IAW RSC Plan.

c. Notify local law enforcement agencies and utility companies to change the status of the facility.

4-III-16. TASK: Complete storage of personal property.

Chapter Five: Tasks, Conditions, and Standards By Phase (in Mission Training Plan Format)

Planning Phase (Phase I)

TASK: Maintain a Mobilization Plan to facilitate preparation for unit activation and deployment overseas.

CONDITION: The Reserve Unit is assigned a Mobilization Station (MS) and is required to proceed to that MS independently. Combat Units will maintain a Mobilization Plan no lower than Battalion level. CS/CSS units will maintain a Mobilization Plan at “AA” level, or at a level at which the unit is most likely to be mobilized.

STANDARDS: Initially using its organic resources, establish and maintain a Mobilization Plan. Upon notification of alert, be able to properly prepare for the activation of the unit by alerting key personnel. Properly prepare the facility for the activation of the entire unit and the dispatch of the advance party to the mobilization station. Plan for the movement, and the subsequent mobilization activities, as required by the Mobilization Station Information Packet.

LEGEND:

	Critical Task
+	
Trained:	(T) All critical tasks and subtasks were successfully completed.
Needs Practice:	(P) All critical tasks were performed successfully, but one or more non-critical subtasks were performed unsuccessfully.
Untrained:	(U) One or more critical tasks were completed unsuccessfully.

PERSONNEL AND ADMINISTRATION (PHASE I) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
<p>(1) Provide personnel information</p>	<p>a. Present individual letters to unit personnel during unit in processing that provides general information and guidance to assist them in understanding their role in the reserve system in-processing.</p> <p>b. For personnel readiness planning, present each individual with a copy of Annex C of this volume of FORMDEPS (ensure that the Annex is annotated with unit specific information where appropriate). Additionally, order copies of any current family assistance support pamphlets or publications, identified by the unit family program coordinator, for each unit member to provide to his/her family.</p> <p>c. Conduct welcome and annual mobilization briefing to soldiers, using Annex C as a guide.</p> <p>d. Conduct Military Medical benefits and Dental briefings for family members annually.</p>	
<p>+ (2) Prioritize the conduct of Soldier Readiness Processing (SRP) checks and conduct SRP actions</p>	<p>a. Prioritize SRP Checks. Based on priorities, only one SRP check (other than for actual mobilization and deployment) will be made on an annual basis. All other inspections or checks will use data from the primary check.</p> <p>(1) SRP checks are done through several processes throughout the year.</p> <p>(a) Selected data is required to support unit status reporting.</p> <p>(b) Annual record checks to ensure that forms and administrative data required to support the soldier and his/her family are up to date.</p> <p>(c) Inspections and readiness evaluations are conducted by command agencies throughout the year.</p> <p>(d) Soldier readiness is evaluated during exercises such as CALL FORWARD.</p> <p>(e) Soldier readiness is required in preparation for Overseas Deployment for Training.</p> <p>(2) Commanders must review schedules for the training year and annotate the training schedule for the primary SRP check, to reduce the multiple SRP checks.</p> <p>b. Conduct SRP.</p> <p>(1) Guidance is in AR 600-8-101. Supplemental guidance will be provided as required to meet changing policy in SRP management and operational requirements.</p> <p>(2) Those administrative actions that are required for the day-to-day support of the soldier and his/her family will ensure that most of the SRP</p>	

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PERSONNEL AND ADMINISTRATION (PHASE I) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
		<p>requirements are current (i.e., maintenance of DD Form 93 and pre-enrollment in DEERS). Selected items, such as immunizations and issuance of ID cards, cannot be accomplished until mobilization execution.</p> <p>(3) Requirements noted in a FORSCOM Memorandum will delineate those items that cannot be accomplished until the home station or mobilization station phases, and will establish which items should be checked to support unit status reporting and establish priorities for inspections/SRP checks during each year. Many of the tasks noted in the planning, alert and home station phases actually support SRP actions.</p> <p>(4) The tasks in this phase noted below that support SRP actions are grouped in the same pattern as the SRP checklist provided by the FORSCOM Memorandum and the electronic form available in the Mobilization Level Application System (MOBLAS) at all PPPs and PSPs and the Installation Support Modules (ISM) at FORSCOM installations. Tasks are neither all-inclusive for SRP, nor are they necessarily in sequential order.</p> <p>(5) Those tasks that do not align with SRP but are critical to unit and soldier mobilization are categorized and added as the final sections.</p>
(3) Maintain MPRJ (DA Form 201).		Update as required IAW AR 600-8-104.
(4) Update and maintain unit data bases and personnel SIDPERS data (ARNG or USAR). (SRP Section I)		Commanders will ensure that unit's data bases and RC SIDPERS data is timely and accurate. Data is used in automated systems which identify and earmark fillers and support development of training base expansion requirements. Verify accuracy of AOC/MOS data on SIDPERS.
(5) Screen personnel for members not available for mobilization or deployment.		<p>a. Commanders will screen members of their unit annually IAW AR 135-133 and NGR 600-2. Those who are identified as key employees, ministry students, medically disqualified for deployment or whose mobilization will result in extreme personal or community hardship, will be discharged or transferred as appropriate.</p> <p>b. Screening should identify all soldiers who are non-deployable, to include reason. Unit commanders will take actions to resolve the non-deployable condition. Soldiers determined to have permanent non-deployable conditions will be transferred or discharged as appropriate.</p> <p>c. AR 614-30 (Table 3-1), AR 220-1 and Table 2-1, this regulation, should be used as references to identify non-deployable categories.</p>
(6) Complete Family Care Plans (FCP). Standards identifying soldiers		Documents required by paragraph 5-5, AR 600-20 must be current and on file for each soldier requiring a plan.

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PERSONNEL AND ADMINISTRATION (PHASE I) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
<p>who require a family care plan can be found in AR 600-20. An FCP is required for both members of a dual-service couple, and soldiers who:</p> <ul style="list-style-type: none"> • have no spouse • are divorced, widowed or separated • reside without the spouse when the soldier becomes pregnant, or have joint or full legal and physical custody of one or more children under the age of 19 years • have adult, non-spouse, dependent family members incapable of self-care 		
<p>(7) Ensure that all unit members have appropriate identification documents.</p>		<p>a. Issue a serviceable U.S. Armed Forces Identification Card DD Form 2A (Red). (AR 600-8-14)</p> <p>b. Initiate, for non-combatants, application for Geneva Convention Identity Card (DD Form 1934), if applicable. (AR 600-8-14)</p> <p>c. Issue ID Tags IAW AR 600-8-14.</p>
<p>(8) Identify and process soldiers with permanent medical profiles of P3 or worse.</p>		<p>Individuals who have a P3 profile or worse must be processed for retention, reclassification, reassignment, retirement or discharge as appropriate (AR 40-501, AR 135-178 and AR 635-40). See Criterion 19, Table 2-1.</p>
<p>(9) Ensure personnel have a security clearance required by their duty position.</p>		<p>a. Identify personnel requiring security clearances IAW unit structure documents (e.g. MTOE) and other requirements (Annex G). Document the positions requiring a security clearance on a copy of the unit-manning roster.</p> <p>b. Security managers submit requests for security clearances IAW AR 380-67.</p>
<p>(10) Provide pre-mobilization legal preparation including:</p> <p>a. The Premobilization Legal Counseling Program (PLCP).</p>		<p>a. PLCP/PLS will be provided by RC Judge Advocates IAW Annex Q FORSCOM Mobilization Plan (FORSCOM REGULATION 500-3-1, FMP).</p> <p>b. See Table 2-3 for detailed guidance.</p>

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PERSONNEL AND ADMINISTRATION (PHASE I) STANDARDS			Go/No Go Remarks
TASKS	Advance Party		
b. Premobilization legal services (PLS).			
(11) Maintain individual soldier's Master Military Pay Account (MMPA).		<ul style="list-style-type: none"> a. Maintain individual soldier's MMPA in unit file. b. Review MMPA for accuracy during annual joint review of soldier's personnel records. c. Update the soldier's MMPA on receipt of documentation. Update as required IAW AR 40-66 and AR 40-501.	
(12) Maintain Health Record (DA Form 3444 Series).			
(13) Ensure medical examinations are current and that required medical warning tags are issued.		STARC/RSCs and mobilization installations will coordinate the process set forth below. <ul style="list-style-type: none"> a. Schedule and follow-up on unit members to ensure periodic physical examinations are accomplished by appropriate medical personnel IAW AR 40-501. <ul style="list-style-type: none"> (1) Periodic physicals for all soldiers. For most unit members this requirement occurs every five years (on a quinquennial basis). Lack of a current physical exam will not prevent mobilization. (2) Soldiers over 40 and assigned to early-deploying units will receive physical examinations every two years. (3) Soldiers over 40 must receive additional cardiovascular screening at their next regularly scheduled exam. b. Medical personnel conducting periodic examinations will identify members requiring medical warning tags IAW AR 40-15, prepare DA Form 3365, coordinate to have the tags issued, and affix DA Label 162 to the health record. STARC/RSCs and mobilization installations will coordinate the process noted. <ul style="list-style-type: none"> a. All soldiers are required to have a complete dental health record. AR 40-501 provides guidance on how to satisfy the dental examination requirement for a dental health record. b. All soldiers are required to have in the dental record a panoramic x-ray, which provides forensic identification (AR 40-66). c. Lack of a complete dental record will not preclude mobilization. d. For early deploying units, an annual dental screen and dental care is required to bring soldiers to dental class 2 standards. All soldiers are required to have one DNA specimen drawn and noted on an	
(14) Ensure dental examinations.			
(15) Ensure Deoxyribonucleic Acid			

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PERSONNEL AND ADMINISTRATION (PHASE I) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
(DNA) specimen is completed.		SF 600. There is no longer a requirement for a DNA sample to be placed in the medical record. The set will be stored in a humidity barrier pouch and will be sent to the DNA specimen repository in the mailer provided with the kits. The only accepted documentation is if the repository enters the receipt in DEERS. Each of the reserve components is involved in specimen collection of RC soldiers who have been accessed to active duty. Specimens are routinely collected on all soldiers who are new accessions for the Army (in all components).
(16) Ensure unit members are tested periodically for HIV.		RC unit members must be screened for HIV every five years. For all RC soldiers entering active duty for 30 days or more, the HIV test must have been completed within the previous 6 months. Individuals who are confirmed HIV antibody positive must be transferred to a non-deploying unit, transferred to the IRR or separated (the individual must select option).
(17) Ensure immunizations are current.		a. Individual immunization records must be reviewed to ensure soldiers meet the requirements of AR 40-562 plus any additional immunizations required by the immediate mobilization scenario. The only <i>routine</i> immunization requirement is for Tetanus (every 10 years). All other immunizations will be determined by the theater of operations and administered during alert or home station phases or at the mobilization station. b. Hepatitis B- basic series is required for all RC AMEDD personnel. c. Required immunizations will be administered by appropriate medical units or facilities IAW AR 40-562. Commanders are responsible for members receiving scheduled immunizations. d. Medical personnel will document immunizations on SF 601 in the member's health record and on the member's PHS Form 731. e. Lack of immunizations does not prevent mobilization of the soldier.
(18) Identify personnel who wear spectacles and/or hearing aids.		Require each soldier to provide copy of latest civilian prescription for spectacles/hearing aid and file in the member's medical record.
(19) Identify personnel requiring lens inserts for protective mask.		Personnel with visual acuity of 20/70 or worse and drivers of military vehicles with visual acuity of 20/40 or worse must have lens inserts IAW AR 600-55. A requisition with copy of prescription for spectacles attached will be submitted to the STARC/RSC IAW AR 40-63.
(20) Verify application for Uniformed Services Identification Card DEERS		Verify application for Uniformed Services Identification Card DEERS Enrollment (DD Form 1172), for family members, as appropriate.

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PERSONNEL AND ADMINISTRATION (PHASE I) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
Enrollment (DD Form 1172), for family members, as appropriate.	<p>a. Required for each member with family members. Member must provide documents to verify family status and must notify unit as changes occur.</p> <p>b. Member completes and signs DD Form 1172. Unit verifies information based on records and documentation provided and issues DD Form 1173-1 to family members. DEERS enrollment should be accomplished whenever the DD Form 1173-1 is issued/reissued. However, if the unit does not have the capability to issue ID cards, provide family member with verified copy and instruct member to take family to nearest Reserve Center/Armory or ID facility (all services can provide this support) for issue.</p> <p>c. Enrollment will be either on-line or with DEERS Floppy Disk. Current version of DEERS Floppy Disk can be requested through command channels.</p> <p>d. Any time there is a change in family status, e.g., gain/loss of dependents, change of address, member must also change information in DEERS through the unit.</p>	
+ (21) : Establish a Family Support Group (FSG).	<p>Establish a FSG IAW AR 600-20 and DA PAM 608-47 and coordinate liaison with supporting activities. Minimum procedures include:</p> <p>a. Appoint an officer or senior NCO as the unit Family Assistance Coordinator.</p> <p>b. Support preparation of a telephone tree for FSG members.</p> <p>c. Maintain communication between family support group leader and STARC/RSC Family Support Coordinator.</p> <p>d. Post location (and telephone number if available) of supporting Family Assistance Centers.</p> <p>e. Conduct annual briefings to family members IAW Annex C.</p>	
(22) For units with assigned Health Care Providers, screen Practitioner Credentials File (PCF) for update and verification requirements. PCF custodian requests necessary verifications and documents updates IAW AR 40-66 and AR 40-68. Review annually.	<p>Prepare roster of individual practitioner PCF status. If PCF is deficient, list deficiencies that require correction. PCF custodian will correct deficiencies and, at mobilization, forward current rosters to STARC (ARNG) and RSC (USAR) for information. Send roster information copy to MS Director of Health Services (DHS) for physicians, nurses, and physician assistants, and an information copy to MS Director of Dental Services (DDS) for dentists. Review with MS DHS/DDS at biennial mobilization visit. Units without PCF custodian capability will seek assistance through chain of command.</p>	
(23) Familiarize administrative personnel in SIDPERS.	<p>Ensure appropriate administrative personnel are familiar with SIDPERS AC system IAW DA Pam 600-8-23 (this applies primarily to personnel in the 75 series PMOS, or who are training in that field). Training assistance is</p>	

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PERSONNEL AND ADMINISTRATION (PHASE I) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
(24) Appointment/Signature cards, as applicable, prepared for:	<p>available (Training Support Element, Support Installation, MS).</p> <p>Classified Courier - DA Form 2501, AR 25-11</p> <p>Morale Support Fund Representative - Appointment Memo, AR 215-1</p> <p>Custodian of Classified Documents - Appointment Memo, AR 380-5</p> <p>Military Postal Officer - DD Form 285, AR 600-8-3</p> <p>Mail Clerk & Alternate - DD Form 285, AR 600-8-3</p> <p>Mail Orderly - DD Form 285, AR 600-8-3</p> <p>IMO/TASO - Appointment Memo FORSCOM Regulation 500-3-3</p> <p>Family Assistance Coordinator - Appointment Memo FORSCOM Regulation 500-3-3</p>	
(25) Assemble and maintain unit morale welfare and recreation (MWR) kits.	Assemble and maintain unit MWR supplies and equipment IAW Chapter 7, and Annex E, FM 12-6.	
(26) Identify personnel requiring waiver of benefits.	<p>a. Screen personnel and records to identify personnel receiving retirement pay, disability allowance, and compensation.</p> <p>b. Prepare and submit Declaration of Retired Pay Benefits and Waivers (DA Form 3053) IAW AR 37-104-4 (DRAFT) and 37-104-10.</p>	

OPERATIONS AND TRAINING (PHASE I) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
<p>+ (1) Maintain a unit mobilization file. RC MTMC units will maintain a battle book as prescribed by HQ, MTMC in lieu of a mobilization file. The battle book will include the mobilization file planning requirements of alert and movement plans.</p>	<p>a. File will be clearly labeled, logically organized, indexed and tabbed. b. All AA level units must have complete MOB file containing: (1) Documents required by STARCs and RSCs, including the planning requirements telephone number of the alert and movement headquarters IAW Annex A, App 1. (2) The alert and assembly plan and documentation of the result of the last annual test/exercise of the plan. (3) A list of key personnel by position to be ordered to duty prior to unit activation, IAW Task 3-I-9. (4) Mobilization purchasing authority packet, IAW Annex B. (5) Unit commander's mobilization checklist with Phase I tasks annotated as completed (IAW Annex E) and HS unit activity plan (3-I- 6). (6) Mission Guidance Letter (may be maintained in separate location if classified) and other mission guidance provided by unit's WARTRACE chain of command. (7) MS information packet, initial MS activities checklist (completed with available information) (Table 3-1) and documentation of last MS liaison visit (3-I- 8). (8) A copy of the unit's postmobilization training plan and latest PTRS. (9) Logistics data file. (see Chapter 4) (10) A copy of the MS requirements checklist. (Annex G). (11) Results of last chain of command review inspection and approval of unit's mob file .(3-I-2). (12) HS unit activity plan. c. Organic units with derivative UICs which are not collocated with the parent unit must, as a minimum, maintain an alert and assembly plan, load plan, movement plan for joining with parent, and other data as required by parent command.</p>	<p>The unit's chain of command (STARC/RSC and below, down to AA-UIC unit) is responsible to review/inspect and approve the unit's mobilization file on an annual basis. A record of the results of this review/inspection will be maintained in the mobilization file.</p>
<p>(2) Conduct annual review of the mobilization file by the chain of command (MOFIRE).</p>		
<p>+ (3) Develop the postmobilization training plan and support</p>	<p>a. Of those tasks selected for training prior to mobilization, determine which tasks require additional training to achieve standard.</p>	

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OPERATIONS AND TRAINING (PHASE I) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
<p>requirements.</p>		<p>b. Add those tasks to the list of tasks deferred to postmobilization and determine the time required to achieve standard in all tasks. c. Identify the resources needed to train those tasks and develop the plan to be executed at the MS. d. Update the plan annually or any time a significant change takes place in training proficiency.</p>
<p>+ (4) Develop HS unit activity plan.</p>		<p>Include critical activities to be accomplished at HS during Phases II/III. (This plan should include administrative and logistical activities. Individual and collective training may be included, if time permits.) Use Annex E (Mobilization checklist for unit commanders) to assist in developing the plan.</p>
<p>(5) Test/exercise the alert notification plan annually.</p>		<p>a. Exercise the alert roster annually IAW STARC/ RSC direction. b. Document the annual test/exercise alert and retain the documentation in the mobilization file. c. Report and assemble only if directed by higher headquarters.</p>
<p>(6) Maintain liaison with MS.</p>		<p>a. Establish and maintain liaison with the MS, triennially as a minimum. Coordinate all PTSR requirements at this time. b. New commanders of MOB entities (units with UICs ending in AA) or units mobilizing at a MS other than the parent unit's will visit the MS within nine months after assuming command. c. Complete initial MS activities checklist (Table 3-1).</p>
<p>(7) Identify key personnel to be ordered to duty in advance of the unit.</p>		<p>a. Establish a list of required key personnel capable of performing the critical activities identified in Task 3-I-5. (Key personnel may vary from unit to unit based upon the tasks to be accomplished). b. Each person on the list must initial by his name indicating awareness of the possibility of an early call to duty. Conduct IAW with Annex C.</p>
<p>(8) Conduct a premobilization briefing.</p>		
<p>(9) Establish COMSEC Account.</p>		<p>a. Units authorized COMSEC material must either establish a separate COMSEC account or be serviced as a subaccount or hand receipt holder. b. Coordinate with next higher WARTRACE headquarters for determination of type account (separate or sub) prior to submitting a COMSEC request. c. Prepare and submit IAW TB 380-41 series, AR 380-40(C) and FORSCOM Regulation 380-41. d. Forecast adequate COMSEC storage requirements at MS to store</p>

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OPERATIONS AND TRAINING (PHASE I) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
		<p>Emergency Action Procedures (EAP) and other COMSEC material in a secure environment.</p> <p>e. Ensure Controlled Cryptographic Items (CCI) equipment and key for COMSEC purposes are requisitioned by and received from standard logistical service facilities and is handled and governed IAW DA PAM 25-380-2 and 380-41 Series.</p> <p>f. Ensure proper packaging and handling procedures IAW TB 380-41 series, AR 380-40, FR 380-41 and DA PAM 25-380-2.</p> <p>g. Appoint COMSEC custodians and command COMSEC inspectors IAW AR 380-40 and TB 380-41 Series.</p>
(10) Identify Advance Party positions and their mission.		Identify members of the advance party by position and list the functions each are to perform at the MS. These should be key unit personnel capable of coordinating specific activities for the unit (see Annex G).
(11) Establish liaison with CI/SI (when different from MS).		Establish and maintain liaison with the CI/SI, as a minimum triennially, when CI/SI is different from the MS. Maintain a list of points of contact to provide support until the unit arrives at the MS.

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LOGISTICS (PHASE D) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
(1) Develop lodging plan for HS.		<p>a. Develop a plan for the lodging of appropriate unit members. Unit should estimate the number of soldiers who will require lodging during HS Phase. Normally, this applies to personnel residing more than 50 miles from HS.</p> <p>b. Plan should address shower, sanitation, and sleeping quarters or identify commercial facilities. If unit plans to use commercial facility, unit will include a coordination letter with the facility manager. Plan should address lodging for those personnel called to active duty early. If the mobilization convoy or advance party departs early, unit may plan for those personnel to sleep at HS prior to departure.</p>
(2) Develop subsistence plan for HS.		<p>a. Develop a subsistence plan for unit at HS. Plan should address the following: identify how and where rations will be obtained and or served, how the unit will transition from HS to MS with adequate time to load mess equipment, ensure coordination with units using the same facility, identify first and last meal and planned meal hours.</p> <p>b. If unit plans to use a commercial facility, unit will include a coordination letter with the manager. This plan will cover all meals at HS and the mobilization movement plan will address all meals en route to the MS.</p> <p>c. Retain plan in logistics data file.</p>
(3) Identify contracting requirements to SI or USPFO contracting office.	Yes	<p>a. Identify requirements (who, what, where, when, how) to the servicing contract officer. Unit should list supplies required, i.e. lodging, bulk POL, and maintenance, etc. for Phases II and III, and the possible source of supply. Example: 10 rooms for 2 nights. Units will not negotiate contracts.</p> <p>b. Units will annually verify with their supporting contract office that all requirements are addressed by some means (ordering officer, blanket purchase requirement, on-the-shelf contract, or mobilization clause).</p> <p>c. Retain copy of the memorandum to the supporting contract office and their reply in the logistics data file.</p>
(4) Identify Class V ABL requirement		<p>a. Annually review ABL listing or prepare FORSCOM Form 149-R IAW FORSCOM Regulation 700-3 and prepare updated DA Form 581 for ABL.</p> <p>b. Forward the completed DA Form 581 to the MS ammunition supply point (ASP).</p> <p>c. Coordinate with the MS during triennial mobilization conference and obtain MS ASP SOP procedures for issue and turn-in.</p> <p>d. Retain a duplicate of the document register file copy (DA Form 581) and</p>

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LOGISTICS (PHASE I) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
(5) Identify Class VIII, postmobilization medical supplies	Yes	acknowledgment of the receipt of the complete DA Form 581 by the MS in the logistics data file with a copy of the ABL authorization listing. a. Prepare a list of Class VIII requirements and maintain in logistics data file. Annually review and update. b. All units will identify medical material required, but not authorized during premobilization IAW AR 40-61 and AR 725-50. CTA 8-100, Army Medical Department Expendable/Durable Items, and FORSCOM Regulation 700-2, FORSCOM Standing Logistics Instructions, should be reviewed for assistance in identifying these requirements. Items such as field sanitation team requirements (FORSCOM Regulation 700-2) chap stick, earplugs, camouflage sticks, sunscreen, combat lifesaver kits, and wet bulb temperature kits are authorized by CTA. Review Medical Equipment Set Component List/Unit Assemblages for requirements
+ (6) Prepare a Unit Movement Plan.		a. Prepare a mobilization movement plan IAW FORSCOM/ARNG Regulation 55-1. b. Prepare a deployment movement plan IAW, FORSCOM/ARNG Regulation 55-1 if required by the MS. c. Appoint a UMO in writing IAW FORSCOM/ARNG 55-1. Retain document in movement plan and forward copy to SI/USPFO. d. Ensure enroute support requirements are identified to the SI/USPFO. e. Retain plan in logistics data file or specify location if filed separately. a. Prepare, test and evaluate unit load plan IAW FORSCOM/ARNG Regulation 55-1. b. Annotate test date and evaluation in pencil on load card. File with mobilization movement plan.
(7) Prepare and test Unit Load Plan.		a. Prepare, test and evaluate unit load plan IAW FORSCOM/ARNG Regulation 55-1. b. Annotate test date and evaluation in pencil on load card. File with mobilization movement plan.
+ (8) Maintain COMPASS AUEL/TC ACCIS UEL documentation.	Yes	a. Ensure COMPASS AUEL/TC ACCIS UEL data is current and accurate IAW FORSCOM Regulation 55-2. Update annually or as significant changes occur. b. Retain updated COMPASS AUEL/TC ACCIS UEL printout with unit movement plan. c. Identify commercial transportation requirement IAW FORSCOM/ARNG Regulation 55-1.
(9) Develop and coordinate Unit Retrieval Plan.		a. Develop and coordinate a unit retrieval plan, which addresses responsibilities for pickup, list of equipment and locations, material handling equipment, commercial transportation requirements and other areas of concern.

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LOGISTICS (PHASE I) STANDARDS			
TASKS	Advance Party	Go/No Go Remarks	
		<p>b. Equipment includes not only vehicles and other major end items but also consolidated shipments (conex inserts, pallets, etc.) containing chemical protective equipment, cold weather clothing, tentage, tools, PLL and other supplies/equipment in storage or long-term hand receipt not at HS.</p> <p>c. Possible locations include ASF, AMSA, and ECS for USAR units and UTES, OMS, CSMS, MATES, and AASF for ARNG.</p> <p>d. Retain plan with unit movement plan.</p>	
(10) Identify property not to be taken to MS.		<p>All RC unit organizational property (including excess property book items unless transferred by direction of the RSC/STARC during the Alert Phase) will be taken to the MS unless mobilization directives indicate otherwise. Retain a list in the mobilization file or identify where list is kept of property that will not be taken to the MS. The following property will not be taken.</p> <p>a. Installation property (desk, chairs, computers, STU III, etc.) except units with a MS mission and based on coordination with MS and the RSC/STARC.</p> <p>b. State property (ARNG Only).</p> <p>c. Private property (TV, coolers, POV, weapons)</p> <p>d. Unit fund property other than recreational equipment.</p> <p>e. Training aids from supporting TSC (unless the account is located at the unit's MS). Ensure a copy of the written TSC emergency turn-in plan has been received and reviewed. Retain this plan in the logistic data file.</p> <p>f. Leased/rented equipment.</p> <p>g. Items furnished on an installed "per training center" basis</p>	
(11) Plan to transfer facility.		<p>a. Armory/Reserve Center commanders, in coordination with STARC/RSC Plan, must develop a file of actions to be taken if the center is vacated or transferred to a rear detachment.</p> <p>b. Retain plan in logistics data file.</p>	
(12) Establish contingency procedures for purchase card (IMPAC) billing account statements.		<p>Procedures must be established to ensure purchase card (IMPAC) billing statements (invoices) are received by the appropriate (primary or alternate) approving official and processed timely for payment prior to deployment.</p>	

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Alert Phase (Phase II)

TASK: Prepare for the unit's entry on active duty and movement to a mobilization station or port of embarkation.

CONDITION: The Reserve Unit is assigned a Mobilization Station and is required to proceed to that Mobilization Station independently.

STANDARDS: Upon notification of alert, to properly prepare for the activation of the unit by alerting key personnel early. Plan for the movement to and the subsequent mobilization activities at the MS, as required the Mobilization Station Information Packet.

LEGEND:

	Critical Task
+	
Trained:	(T) All critical tasks and subtasks were successfully completed.
Needs Practice:	(P) All critical tasks were performed successfully, but one or more non-critical subtasks were performed unsuccessfully.
Untrained:	(U) One or more critical tasks were completed unsuccessfully.

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PERSONNEL AND ADMINISTRATION (PHASE II) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
(1) Coordinate mission-related travel.		Identify individuals whose duties during Phase II or III will require them to travel beyond the HS local commuting area as determined by STARC/RSC policy (i.e., unit retrieval teams). Request travel arrangements from appropriate USPFO (for ARNG) or RSC (for USAR).
(2) Review and validate receipt of unit orders.		Unit should receive an Active Duty/Federalization order, which includes movement authorization and establishes any operation-unique structure or strength requirements. The CONUSA will process orders for CONUS based units and units in Puerto Rico and the Virgin Islands (less USASOCOM units; USASOCOM will process mobilization orders for its RC units). Similarly, OCONUS MACOMs will process mobilization orders for their RC units.
(3) Review, coordinate and validate actions requiring individual orders.		Units will normally have soldiers on AT, IET, ADSW, ADT, or TTAD. Units should receive orders transferring non-mobilizing soldiers from their units. They will also receive guidance to coordinate the return of soldiers on ADSW, ADT or TTAD, when appropriate. In addition, they should receive orders assigning new members to the unit through cross leveling actions. They must review and validate these orders and request additional orders or changes from the STARC/RSC, if necessary. a. Some categories of personnel requiring transfer from the unit are: (1) Soldiers on ADSW, ADT or TTAD that cannot return to the unit (Criterion 1, Table 2-1). (2) Untrained Soldiers (Criterion 2, Table 2-1). (3) AMEDD Officers in Training (Criterion 35, Table 2-1). (4) Simultaneous Membership Program (SMP) Participants (Criterion 4, Table 2-1). (5) High School Students (Criterion 6, Table 2-1). (6) Selected OCS Candidates (Criterion 31, Table 2-1). (7) Other transfer actions as required. b. Soldiers on AT, IET, ADSW, ADT or TTAD who can return to the unit will require amendment or revocation of orders (Criterion 1, Table 2-1). c. The unit should receive a copy of assignment orders on all personnel gains based on home station cross leveling actions.
(4) Release attached personnel and recover unit personnel attached to another unit. Soldiers will mobilize		Request orders from the headquarters, which originally published the attachment, order IAW Criterion 8, Table 2-1.

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PERSONNEL AND ADMINISTRATION (PHASE II) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
only with their unit of assignment, not their unit of attachment.		
(5) Screen promotion eligible personnel.		Both officer and enlisted personnel promotions will remain under RC component policies unless otherwise directed by DA.
(6) Identify personnel who require evaluation reports.		<p>a. Identify all soldiers who will have a change of rater or change of duty upon mobilization. AR 623-105, AR 623-205.</p> <p>b. Review DA/FORSCOM guidance on evaluation requirements for the projected mobilization. Mobilization in itself is not a reason for an evaluation.</p>
(7) Order unit members to active duty. (For PSRC units see Table 2-2)..		<p>a. Upon receipt of the unit's AD/Federalization order, RC unit commanders will publish orders using FORMAT 153, AR 600-8-105 (ARNG units may use FORMAT 800 NGR 310-10). ING personnel will be included on the unit order except for PSRC activation's, where they are exempt from call.</p> <p>b. ARNG units will submit request for orders to STARC for return of ING to active status concurrent with the unit's M-Date.</p> <p>c. Annotate a copy of the unit manning roster or DA 1379, indicating the status of unit members, i.e.,</p> <ol style="list-style-type: none"> (1) Advance Party. (2) Main Body. (3) Personnel authorized delayed entry. (4) Convoy. (5) TTAD to other units. (6) Other categories as deemed necessary. <p>d. Prepare separate mobilization orders for each unit member using FORMAT 165, AR 600-8-105.</p> <p>e. Distribute individual mobilization orders and unit orders (with authentication rosters) as follows:</p> <p>INDIVIDUAL ORDERS: <u>Must be separate mobilization order with only one standard name line.</u></p> <ol style="list-style-type: none"> (1) Ten copies to the individual member. (Emphasize need to pass a copy to family member for benefits and ID Card applications and a copy to the employer). (2) One copy to member's MPRJ (Each member is required to sign and date

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PERSONNEL AND ADMINISTRATION (PHASE II) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
	<p>this copy).</p> <p>(3) One copy to MMPA file. (4) Two copies to unit file.</p> <p><u>UNIT ORDERS</u>: The primary unit order with annotated rosters listing <u>unit members by category</u>.</p> <p>(1) One copy to each higher headquarters within parent command. (2) One copy each to the appropriate STARC (ARNG)/RSC (USAR) and to the CONUSA headquarters. (3) One copy to the DFAS (RC) input station on transmittal letter. (4) Four copies to the MS (delivered by the advance party if possible). (5) Two copies to the SI, if required. (6) Two copies to the Family Assistance Center. (7) One copy to gaining MACOM (Units with CONUS sustaining mission). f. Provide individual orders (Format 165) to each member by the most expeditious means. If the member cannot be presented with the order personally, dispatch it by certified mail, restricted delivery, with a return receipt requested.</p>	
(8) Notify finance-input station of unit's mobilization. (SRP Checklist - Section V, Finance).	Notify USPFO for ARNG and RSC for USAR to initiate actions to assist and/or complete mobilizing soldier financial readiness processing.	
(9) Process delayed arrival personnel.	a. Identify by individual application and Criteria 1, 14, 17, 18, 19, 22, 32, and 34, of Table 2-1 of this document and process IAW AR 601-25. b. Issue delay letter using format contained in AR 601-25.	
(10) Review appointment memoranda.	Review appointment memoranda (e.g., Morale Support Fund Representative, etc.) and issue new memorandum, if appropriate.	
(11) Update unit and personnel databases.	Ensure that databases (e.g., SIDPERS, CLAS, ARNG unit databases) are updated on a daily basis.	
(12) Activate the unit family support network.	a. Request that the unit family support group leader activate the telephone tree contact roster by contacting all family members. b. Unit family assistance liaison coordinator should provide the STARC Family Program Coordinator family support group information and potential support requirements to assist in setting up a FAC. USAR unit commanders should provide information through their RSC. c. Provide names of non-mobilizing soldiers who could participate in family	

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PERSONNEL AND ADMINISTRATION (PHASE II) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
(13) Update/Verify Soldier financial readiness. (SRP Checklist - Section V, Finance).	assistance programs to the STARC/RSC, as appropriate. a. Ensure that the most recent MMPA is available for each alerted unit member. b. Obtain most recent MMPA for each soldier transferred from other units to fill unit vacancies. c. Notify alerted soldiers to report on the first day of mobilization with documentation to support any changes to their MMPA.	

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OPERATIONS AND TRAINING (PHASE II) STANDARDS			
TASKS	Advance Party	Go/No Go	Remarks
+ (1) Review and update HS activities plan and prepare HS activities schedule.			Refer to 3-I-6 and Annex F, as a minimum, activity schedule should show day, time required, location and responsibility for accomplishment.
(2) Respond to press inquiries.			Respond IAW with STARC/RSC PAO guidance.
(3) Take actions outlined in the mobilization checklist for unit commanders.			Use the mobilization checklist for Unit Commanders at Annex E to ensure required tasks are accomplished during each mobilization phase.
+ (4) Review and finalize Postmobilization Training Plan and PTSR.	Yes		Update all areas of the Postmobilization Training Plan and the PTSR IAW Annex D.
(5) Identify advance party members and brief advance party for movement to MS.			<ul style="list-style-type: none"> a. Assign members of the advance party by name. Ensure that they are knowledgeable and understand what they are to do at the MS. b. Ensure the advance party is prepared to provide the MS items identified in Annex G. c. Ensure that members carrying classified documents have courier orders or a courier card, DD Form 2501, for transporting classified material.
(6) Identify adequate storage for classified documents and/or equipment.	Yes		Coordinate secure storage requirements. Advance party will finalize upon arrival at MS.
(7) Review Unit Status Report (USR).	Yes		Review the USR (DA Form 2715) and begin updating to ensure that it will be completed for advance party to take to MS.
(8) Coordinate arrival of filler personnel as appropriate.			Ensure filler personnel cross-leveled into the unit are provided with appropriate arrival and accommodations.

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LOGISTICS (PHASE II) STANDARDS		Go/No Go Remarks
TASKS	Advance Party	
(1) Make final coordination for HS Logistics Support Plans.		Review, modify as required and make final coordination on lodging and subsistence plans developed in Phase I.
(2) Update contracting requirements and coordinate with supporting contract office.		<ul style="list-style-type: none"> a. Unit will review current plans to mobilize the unit and update any contracting requirements to support the unit at HS. b. Coordinate this information with supporting contract office and negotiate the most effective method of providing these supplies and services to the unit. c. Ensure purchase card (IMPAC) billing statements (invoices) are received by the appropriate (primary or alternate) approving official and processed for payment prior to deployment.
(3) Coordinate requirement for signature cards and delegation authority with mobilization station.		<ul style="list-style-type: none"> a. Coordinate through the chain of command to the MS and identify the different requirements for DD Form 577, Signature Cards, and DA Form 1687, Notice of Delegation of Authority - Receipt of Supplies. b. Begin preparing updated forms with appropriate signatures.
(4) Prepare memorandum to MS Troop Issue Subsistence Activity to establish account.		<ul style="list-style-type: none"> a. Prepare a memorandum for subsistence support to the MS TISA IAW AR 30-21. Unit will include the following information in the memorandum: unit name, UIC, DODAAC, Unit Commander, Food Service Officer, Food Operations Officer and phone number, expected present for duty strength, start date and meal, and proposed menu for field training. b. Coordinate through the chain of command with the MS for additional information.
(5) Prepare to conduct a showdown inspection of OCIE and personal uniforms		<ul style="list-style-type: none"> a. Review and update personal clothing records. Uniform requirements for mobilization are identified in CTA 50-900, Table 1 (Male) and Table 2 (Female) under Active Army - Mobilization (AA-M) allowance. OCIE requirements are in FORSCOM Regulation 700-2 and operational mission guidance. b. Identify shortages by size. Cross level where possible. Prepare requisitions for remaining shortages.
(6) Identify and procure POL packaged product basic load.		<ul style="list-style-type: none"> a. Using mission guidance on operational area, historical records and FORSCOM Regulation 700-2, calculate unit packaged POL basic load. Remaining shortages from operational stocks will be requisitioned or cross-leveled.
(7) Review and update ABL documentation.		<ul style="list-style-type: none"> a. Review and update ABL Recap Listing based on weapon modernization, mission guidance, and cross leveling of equipment. Use FORSCOM

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LOGISTICS (PHASE II) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
		<p>Regulation 700-3 for authorization for new weapons systems and manually update listing.</p> <p>b. Review and update DA 581, Request for Ammunition, based on any changes to the <u>ABL Recap Listing</u>.</p>
(8) Prepare records and begin to conduct inventory of unit property.		<p>a. Review and update the property book and hand receipts of MTOE/CTA/TDA items.</p> <p>b. In the interest of time and efficiency, plan for the inventory inspection to be conducted at the lowest possible hand receipt or supervisory level.</p> <p>c. Inventory will include life support equipment as authorized by CTA 50-909 such as tents, stoves, field desks/tables, water/fuel cans. Unless otherwise specified in mission guidance, all units must be prepared to operate in an austere environment.</p> <p>d. Based on mission guidance on threat, units will inventory chemical defensive equipment against contingency requirements in FR 700-3.</p> <p>e. Verify all assets subject to unique item tracking (DODSASP, CCISP, DODRATTS, IAW AR 710-3, Chapter 4).</p> <p>f. Units that maintain Standard Property Book System - Revised (SPBS-R) accountability for subordinate units will coordinate with RSC/STARC on procedures for transferring records and responsibilities to a non-mobilizing unit/activity.</p> <p>g. Begin cross-leveling and taking other appropriate supply actions once mission guidance is provided and shortages identified.</p>
(9) Review medical item requirements and prepare requisitions for Class VIII.	Yes	<p>a. Prepare requisitions based on listing developed in Phase I.</p> <p>b. Develop list of personnel needing spectacles, optical inserts and hearing aids. Hold requisitions until Phase III.</p>
(10) Review PLL listing, identify shortages and cross level.		<p>a. Unit will review PLL based on peacetime demand supported requirements. Identify shortages from current stocks and cross level with supporting organizational maintenance activity.</p> <p>b. Remaining shortages will be forwarded through the chain of command to the RSC/STARC to either cross level or requisition from the wholesale system.</p>
(11) Coordinate for the transfer of property not to be taken to MS to appropriate activity.		<p>Coordinate with the center/armory custodian to transfer any property currently accountable from mobilizing unit. If no one is available, contact the next higher command to resolve accountability conflict. Begin joint inventory of property prior to transfer.</p>
(12) Coordinate with supporting		<p>a. Coordinate with Area Maintenance Support Activity or Organizational</p>

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LOGISTICS (PHASE II) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
<p>maintenance activities to provide priority service.</p>		<p>Maintenance Shop to prioritize the required maintenance support to include technical inspections, services, application of material work orders and readiness improvement.</p> <p>b. <u>Begin updating Material Condition Status Reporting.</u></p>
<p>(13) Retrieve operational, historical and other maintenance records.</p>		<p>a. Coordinate retrieval with the supporting organizational maintenance activity and any equipment storage activity that maintains operational, historical or other maintenance records.</p> <p>b. Coordinate with the supporting Army Oil Analysis (AOAP) Laboratory and obtain completed oil analysis records for all deploying equipment including any items cross-leveled.</p> <p>c. Identify any printing or MWO requirements that cannot be accomplished prior to M-Day.</p> <p>d. Retrieve and review these records for accuracy and completeness.</p>
<p>(14) Update calibration records.</p>		<p>a. Coordinate with the supporting AMC TMDE/CSMS facility and update all calibrated items.</p> <p>b. Obtain a current copy of the TMDE Instrument Master Record File printout and file on computer disk.</p>
<p>+ (15) Review and coordinate unit Mobilization Movement Plan.</p>		<p>a. Review mobilization movement plans. Make any necessary adjustments. Begin coordination for support (MHE, subsistence and POL en route) with SI/CI/STARC/RSC.</p> <p>b. If commercial transportation is required make initial coordination with RSC/USPFO.</p> <p>c. Verify BBPCT requirements and pass information to MPA/Ordering Officer.</p> <p>d. Ensure supervisor verifies load cards and make adjustments as necessary.</p> <p>e. Ensure adequate time is allocated on the HS unit activity schedule.</p> <p>f. Coordinate advance party movement to MS.</p> <p>g. Prepare a DD Form 1265, Request for Convoy Clearance, and coordinate with the State DMC.</p> <p>h. Ensure plan adequately addresses security and accountability of weapons, COMSEC equipment, and sensitive items during transportation to the MS IAW Chap 7, 8, App A through E, AR 190-11, DOD Regulation 4500.9-R, Volume II, Cargo Movements, and FORSCOM/ARNG Regulation 55-1.</p>
<p>(16) Update COMPASS AUEL/TC ACCIS UEL based on cross-leveling</p>		<p>a. Review current COMPASS AUEL/TC ACCIS UEL and update any outdated information from last annual update.</p>

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LOGISTICS (PHASE II) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
actions and coordinate with supporting TC ACCIS office.		<p>b. Identify any additional cross-leveling actions, both personnel and equipment, and make appropriate changes to the COMPASS AUUEL/TC ACCIS UEL.</p> <p>c. Coordinate with supporting TC ACCIS office to update COMPASS AUUEL/TC ACCIS UEL. If office is not the unit's MS, coordinate the generation of a diskette/cartage with the unit's electronic data and forward to the MS either by the advance party or mail.</p>
(17) Make final coordination and execute equipment retrieval plans.		<p>a. Review plans developed in Phase I and execute.</p> <p>b. Make final coordination with supporting maintenance and storage facility to:</p> <p>(1) Refine specific unit personnel and/or equipment requirements necessary to support the plan.</p> <p>(2) Refine specific support required from facility manager.</p> <p>(3) Request support beyond the unit's or facility capability from the SI/USPFO.</p> <p>c. Execute equipment retrieval plan as soon as personnel and equipment assets become available. Ensure adequate time is available on the HS unit activity plan</p>
(18) Storage of personal property and household goods.		<p>a. Identify soldiers who require storage of personal property including POV IAW AR 55-71 and DOD 4500.34R.</p> <p>b. Coordinate with nearest Transportation Officer to determine appropriate military installation responsible for storage of personal property. The Personnel Property Consignment Instructions Guide (PPCIG) Volume I governs this support.</p>

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Home Station Phase (Phase III)

TASK: Prepare for the unit's entry on active duty and movement to a mobilization station or port of embarkation.

CONDITION: The Reserve Unit is assigned a Mobilization Station and is the required to proceed to that Mobilization Station independently.

STANDARDS: Properly prepare the facility for the activation of the entire unit and the dispatch of the advance party to the mobilization station. Plan for the movement to and the subsequent mobilization activities as required the Mobilization Station Information Packet.

LEGEND:

	Critical Task
+	
Trained: (T)	All critical tasks and subtasks were successfully completed.
Needs Practice: (P)	All critical tasks were performed successfully, but one or more non-critical subtasks were performed unsuccessfully.
Untrained: (U)	One or more critical tasks were completed unsuccessfully.

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PERSONNEL AND ADMINISTRATION (PHASE III) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
(1) Verify arrival status of personnel at the assembly site.		a. Document the arrival. b. Process those personnel who do not report as ordered IAW Criterion 33, Table 2-1.
(2) Initiate SRP check for mobilization.		Follow guidance in AR 600-8-101 and any detailed guidance provided in support of the operation for which the unit is being mobilized.
(3) Identify medically disqualified personnel and screen for medical problems. (SRP Checklist - Section VI, Medical)		Process personnel IAW Criteria 13, 14, 18, 19 or 34, table 2-1 of this document. Soldiers are interviewed (by a military doctor, physician's assistant, or nurse practitioner) regarding medical problems or history which would delay movement or prevent deployment. Soldiers will update Standard Form 93, initiate Report of Medical History, DA Form 8007, and retain updated DD 93 and DA Form 8007 for review by medical in-processing at MS.
+ (4) Verify soldier financial readiness. (SRP Checklist - Section V, Finance)		a. Using the MMPA as the financial SRP checklist, verify all finance data for accuracy with each mobilized soldier. b. Add any other MMPA change documentation to the MMPA for processing by the USPFO or RSC. Forward those requiring change with supporting documentation to the servicing USPFO or RSC. Retain a copy of the annotated MMPA.
(5) Review and update those personnel, medical, dental, and health care provider Practitioner Credentials Files not individually identified in this section.		a. Complete all document requirements IAW applicable regulations. b. Forward updated PCF roster to STARC/RSC for information.
+ (6) Process record of emergency data (DD Form 93), if update is required. (SRP Checklist - Section I, Personnel)		a. Screen for accuracy and completeness IAW AR 600-8-1. b. Prepare new forms as required. Distribute copies as follows: (1) Original . Consolidate with other originals and forward IAW AR 600-8-1. (2) First copy to MPRJ (DA Form 201). (3) Second copy to member. c. For forms not requiring update, the original, which is stored in the MPRJ, will be extracted and forwarded IAW AR 600-8-1
(7) Prepare evaluation reports.		Mobilization is not a reason for a report. Evaluation reports are required only for changes in duty or rater. Complete OER as required IAW AR 600-8-18. Complete NCOER as required IAW AR 623-205.

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PERSONNEL AND ADMINISTRATION (PHASE III) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
		NOTE: Specific guidance will be provided by HQDA for different stages of mobilization. If DA/FORSCOM guidance directs evaluation reports upon completion of mobilization, then departure reports will be prepared.
(8) Complete change of address cards.		Complete three Change of Address and Directory Cards (DA Form 3955) for each member IAW DOD Postal Manual 4525.6-M, Volume II and AR 600-8-3. Provide to the post locator upon unit arrival at MS. (Requirement may be eliminated if the mobilization station is using the PERSLOC application. Unit commanders should coordinate this action with the MS).
(9) Process family member ID cards. (SRP Checklist- Section XII, Family Assistance).		<p>a. When DEERS pre-enrollment has been completed. Provide information noting that family members may take a copy of the individual mobilization orders and their DD Form 1173-1 to any DEERS/Rapids site.</p> <p>b. When DEERS pre-enrollment has not been completed, a DD Form 1172 must be issued.</p> <p>(1) Provide verified copy of Application for Uniformed Services Identification Card DEERS Enrollment (DD Form 1172) to sponsor or family member along with a copy of section IV, annex D.</p> <p>(2) Family members may secure ID Card (DD Form 1173) and be activated in DEERS (transferred from pre-eligible to eligible file) by presenting the verified DD Form 1172 and copy of sponsor's mobilization order to any DEERS/RAPIDS site.</p>
(10) Verify ID Cards and Tags. (SRP Checklist - Section I, Personnel).		<p>a. Verify that each soldier has a valid ID card (Red or Green).</p> <p>b. Verify ID Tags and Medical Alert Tags.</p>
(11) Process Geneva Convention Identity Card, if required and not previously issued. (SRP Checklist- Section I, Personnel).		Initiate, for non-combatants, application for Geneva Convention Identity Card (DD Form 1934) if time and blank forms is available. Otherwise process at MS. (AR 600-8-14).
(12) Security clearance rosters. (SRP Checklist- Section III, Security).	Yes	<p>a. Review security clearance requirements.</p> <p>b. Determine which soldiers do not have the required clearance.</p> <p>c. Initiate required security clearance requests through MS security division.</p>
(13) Prepare claims for travel from home to assembly site and advance party pay.		<p>a. Prepare travel voucher (DD Form 1351-2) IAW AR 37-106 for travel from home to unit assembly site. Submit to finance station during in processing.</p> <p>b. Prepare vouchers for final pay for unit members ordered to AT/ADT in the alert phase to support mobilization activities.</p>

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PERSONNEL AND ADMINISTRATION (PHASE III) STANDARDS			
TASKS	Advance Party	Go/No Go	Remarks
(14) Arrange for legal services. (SRP Checklist - Section IV, Legal)			a. Coordinate JAG support to prepare legal documents (wills, power of attorney) and provide legal advice as necessary. b. See Table 2-3 for detailed guidance.
(15) Provide health, MMPA, and personnel records to MS.	Yes		Soldier health records, MMPA, and personnel records must be provided to MS in time to be available for unit personnel in-processing. However, records will not be hand carried by the soldier or transported in the same vehicle. Health records must be marked and sealed IAW AR 40-66.
(16) Conduct Records Processing for Direct Deploying Units.			The SI and the unit must coordinate to ensure that appropriate records are provided to the SI.
(17) Account for medical emergencies, perform casualty reporting, and complete LODs.			Per AR 600-8-1.
(18) Review incentives and entitlements.			Ensure adequate documentation to support future soldier claims in RC incentives and entitlements (SLRP, MGIB, SRIP). Provide rosters of reassigned incentive recipient to the supporting STARC/RSC.
(19) Provide final personnel report.			Close out DA Form 1379 and provide personnel status report to STARC/RSC and Mobilization Station documenting personnel cross-leveling, status of non-deployable, untrained personnel and other requirements addressed in execution orders. NOTE: Specific requirements will be provided with execution orders, and will depend on the level of mobilization and data required by HQDA and other authorities.

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OPERATIONS AND TRAINING (PHASE III) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
(1) Coordinate with MS on unit's date and time to report.		Make coordination with MS on scheduled date, time and gate for arrival of advance party and main body.
(2) Execute HS activities plan, with activities schedule.		Execute HS activities plan with accompanying activities schedule. Schedule must be posted in a location accessible to unit members.
+ (3) Dispatch advance party to mobilization station.	Yes	<ul style="list-style-type: none"> a. Dispatch advance party to arrive at MS 24 to 48 hours prior to the main body or as directed by MS. b. Upon arrival, begin the process of converting The Postmobilization Training Plan into a unit training schedule. c. Provide MS items IAW Annex G and any additional requirements from the MS information packet.
(4) Conduct an operational/information status briefing.		<ul style="list-style-type: none"> a. Brief unit personnel and spouses, if available, on the current situation and the schedule for move to MS and deployment. b. Provide other information if available (e.g., unit mailing address at MS, nearest family assistance center). c. Advise members of what they can and can not say about the operation. d. Conduct a family member information briefing.
(5) Update USR.	Yes	Complete the update of DA Form 2715, Unit Status Report, and send to MS with advance party.
(6) Prepare classified material for movement.		Coordinate for transportation and ensure proper packaging IAW, Chap VIII, AR 380-5.

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LOGISTICS (PHASE III) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
(1) Provide HS support/services.		<ul style="list-style-type: none"> a. Implement HS lodging and subsistence plans. b. Maintain close coordination with USPFO/SI during HS operations. Keep the USPFO/SI informed of all changes in support required as the operation transitions through each phase of mobilization. c. Notify the USPFO/SI as soon as possible when HS operations are scheduled for termination.
(2) Execute contracts or Mobilization Purchasing Authority.		<ul style="list-style-type: none"> a. Initiate agreements/purchases for identified material through MPA/Ordering Officer or DA Form 3953 through SI/USPFO. b. Ensure purchase card (IMPAC) billing statements (invoices) are received by the appropriate (primary or alternate) approving official and processed for payment prior to deployment
(3) Complete signature cards and delegation authority.		<ul style="list-style-type: none"> a. Prepare appropriate DA Form 1687, Delegation of Authority, for receipt of Supplies, and DD Form 577, Signature Cards. b. Provide to logistical representative of the advance party.
(4) Prepare memo to establish Dining Facility account.		<ul style="list-style-type: none"> a. Submit memo to MS TISA based on mobilization Present for Duty Strength, MS arrival time and planned training. b. Provide to logistical representative of the advance party.
+ (5) Conduct a showdown inspection of OCIE and Personal Uniforms.		<ul style="list-style-type: none"> a. Conduct a showdown inspection of OCIE and Personal Uniforms and identify any remaining shortages after cross leveling and other supply actions. Ensure serviceability and fit during inspection. b. Provide shortage listing and requisitions to logistical representative of the advance party.
(6) Prepare requisitions for shortages of packaged POL.		<ul style="list-style-type: none"> a. Prepare requisitions for shortages of Packaged POL basic load after computation of basic load and fill from operational stocks and cross leveling from supporting maintenance activity. b. Provide requisitions to the logistical representative of the advance party.
(7) Finalize DA Form 581 for ABL.		<ul style="list-style-type: none"> a. Finalize the DA Form 581 with the commander's signature based on any updated requirements. b. Provide to logistical representative of the advance party.
(8) Finalize reconciliation of Property Book and identify shortages after cross leveling.		<ul style="list-style-type: none"> a. Update Property Book and equipment on hand based on inventories, cross-leveling and other supply actions. Update EOH rating for USR reporting. b. Provide property book or printout to logistics representatives of the advance party.
(9) Finalize Class VIII requisitions	Yes	<ul style="list-style-type: none"> a. Complete Class VIII requisitions.

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LOGISTICS (PHASE III) STANDARDS		
TASKS	Advance Party	Go/No Go Remarks
and forward to the Installation Medical Supply Account (IMSA).		<p>b. If the IMSA is located at the MS, hand carry requisitions and listing with the advance party.</p> <p>c. If the IMSA is not located at the MS, forward requisitions and listing by the most expeditious means available.</p>
(10) Finalize PLL/ASL Listing and prepare requisitions for remaining shortages.	Yes	<p>a. On hand PLL/ASL items organic to mobilizing units will accompany units to the MS unless otherwise directed.</p> <p>b. Requisitions for shortages to complete the 15-day PLL and 30-day ASL will be based on makes and models of equipment on hand.</p> <p>c. Requisitions for shortages should be first screened against ASF/OMS/AMSA/USPFO stocks. If the parts are not available, the advance party will submit requisitions to the MS. Additionally, a copy of the PLL/ASL for organic units will be furnished to the MS.</p>
(11) Complete transfer of property not to be taken to the MS.		Transfer property identified as remaining at home station to the appropriate non-deploying unit or activity.
(12) Finalize material condition status report.	Yes	<p>a. Finalize, as appropriate, an "as of" material condition status report (DA Form 2406, DA Form 1352, and /or DA Form 3266-1) for submission to the MS.</p> <p>b. A DA Form 2407/5504 will be taken to the MS for equipment that could not be retrieved from general support maintenance.</p>
(13) Execute Mobilization Movement Plan.		Move IAW the unit movement plan and convoy movement order.
(14) Finalize COMPASS AUEL/TC ACCIS UEL.		<p>a. Complete COMPASS AUEL/TC ACCIS UEL based on cross leveling and updated load plan.</p> <p>b. Provide to logistical representative in the advance party.</p>
(15) Complete transfer of facilities and non-organizational equipment.		<p>a. ARNG units transfer responsibility for custody and security of armory IAW State Plan.</p> <p>b. USAR units transfer responsibility for custodian and security of USAR center IAW RSC Plan.</p> <p>c. Notify local law enforcement agencies and utility companies to change the status of the facility.</p>
(16) Complete storage of personal property.		Complete actions with supporting military installation to store personal property of authorized individuals.

Annex A: (Alert And Assembly Plan) To RC Unit Commander's Handbook

A-1. MASTER NOTIFICATION ROSTERS

Each unit will maintain a dated master alert notification roster. A statement saying, "THIS ROSTER IS FOR OFFICIAL USE ONLY IN THIS UNIT, AND EXCEPT AS REQUIRED BY LAW, WILL NOT BE FURNISHED TO ANY COMMERCIAL ENTERPRISE OR ANY ORGANIZATION OR AGENCY OUTSIDE THE DEPARTMENT OF DEFENSE", will be included on each page of the roster. Upon receipt of new editions, all previous editions become obsolete and will be destroyed.

A-2. ALERT ORDER

- a. The alert will normally be transmitted to units through the peacetime chain of command.
- b. Telephonic alert messages should be authenticated. Authentication will normally be by return call to the issuing headquarters; however, implementation of the notification plan will not be delayed if authentication cannot be obtained immediately.

A-3. PERSONNEL NOTIFICATION

- a. A prioritized list of key personnel authorized to receive the alert order will be designated as shown in Appendix 1. In the event none of the designated personnel can be contacted, the senior soldier will receive the alert order and execute alert notification.
- b. Each member of the unit will be listed in the unit alert notification roster (including INGs of the ARNG). Individuals will report changes as they occur and relayed to the appropriate group leader. Changes to the notification roster will be posted as they occur and will be verified quarterly. Pen and ink changes with a dated signature are sufficient for updated verification.
- c. Quarterly verification will include:
 - (1) Deletion of personnel who are no longer members of the unit (A soldier continues to be a member of the unit until the effective date of transfer or discharge orders).
 - (2) Addition of personnel assigned to unit since last quarterly verification.
 - (3) Changes to addresses and telephone numbers.
- d. Alert notification procedure will be tested annually to update and correct information on the alert roster. All inaccurate or incomplete information will be corrected. Personnel not contacted during the test will be contacted during the next assembly to verify phone and address information. Results of the test alert will be recorded and maintained in the mobilization file.
- e. Upon assignment to the unit, each individual will be briefed on his/her responsibilities in the alert notification system.
- f. Strip maps will be maintained with the unit's notification roster for personnel who do not have an easily identifiable street address. Strip maps are to be simple, practical and may begin from any prominent geographical reference point.
- g. Commercial radio and television will not be used as a primary means for Federal mobilization alert notification.

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A-4 MOBILIZATION EXECUTION/CALL TO ACTIVE DUTY

a. Shortly after receiving an alert notice/order, the unit will normally be ordered to active duty (the normal progression is for units to be alerted and then mobilized however, circumstances may cause some units to be alerted and not mobilized). This will be initiated by an order published by Department of the Army identifying units to be mobilized/called to active duty. Based on this order, CONUSA will publish mobilization execution orders calling to active Federal service those CONUS based RC units identified in the DA order.

b. Telephonic notification of mobilization execution may precede the written order; authentication procedures addressed in paragraph A-2b above will be followed. Once the notification has been authenticated, execution will not be delayed pending written notification.

A-5 NOTIFICATION INSTRUCTIONS

a. A current copy of each group alert notification roster (explained in Appendix 2) will be readily available to all members of the alert group at all times.

b. Upon receipt of an alert message or a mobilization execution message, each group leader (or alternate if necessary) will be required to notify each member of his/her group and give instructions as directed.

c. The following message, modified as necessary to fit the circumstances, will be delivered to each member of the group:

(1) For test/practice alert notification: "This is (GROUP LEADER'S RANK AND NAME) with the (Indicate unit designation). Comply with the following instructions: (Based on instructions provided by those responsible for setting up the test, advise the unit member whether to report in and any other instructions such as what equipment to bring if he is to report in). End of message; do you understand? Do you have any questions?"

(2) For actual Alert: "This is (GROUP LEADER'S RANK AND NAME) with the (Indicate unit designation). Comply with the following instructions: do not come in to the armory/center at this time. Standby either your home phone or your work phone listed in the alert notification roster for further instructions. Do not inform anyone except your employer and immediate family of this notification. This is an official order. End of message; do you understand? Do you have any questions?"

(3) For Mobilization execution/call to active duty: "This is (GROUP LEADER'S RANK AND NAME), (Indicate unit designation) has been ordered to active duty in connection with (specify cause/emergency if unclassified information is available). I say again, "Indicate unit designation) has been ordered to active duty". This is an official order. Comply with the following instructions: You are ordered to report to (unit armory/center) at (date/time). When you report, bring all government property issued to you and whatever personal articles you will need if we have to stay for several days. Do not inform anyone except your employer and immediate family of this notification at this time. End of message; do you understand? Do you have any questions?"

d. The group leader (or alternate) will report to the commander's designated representative the names of all group members not contacted. Names of individuals who cannot be contacted will be consolidated and additional contact attempts will be made from the assembly area.

e. In accordance with STARC/RSC guidance, group leaders and alternates are authorized to make alert notification calls from their homes, chargeable to the unit telephone number.

f. In the event any group member reports that he/she does not have transportation, the group leader will attempt to coordinate transportation with another group member. If this is not possible, report this information to the First Sergeant or the commander's designated representative.

A-6 ALERT AND ASSEMBLY PLAN DEVELOPMENT

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a. Appendix 1, example alert and assembly plan, is provided to assist in the development of alert and assembly plan. Senior commanders in multi-unit armories/centers will coordinate all aspects of the alert and assembly plan.

b. Appendix 2, example alert notification roster, is provided to assist in the development of alert and assembly plan.

c. Appendix 3, example physical security plan, is provided to assist in the development of alert and assembly plan.

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Appendix 1: (Example Alert And Assembly Plan) To Annex A (Alert And Assembly Plan)

Unit
City, State

Date

(Unit) ALERT AND ASSEMBLY PLAN

1. REFERENCES

State Army National Guard Mobilization Plan or RSC Mobilization Plan as appropriate.

2. PURPOSE

a. This plan prescribes actions necessary to provide for the rapid notification of all members of this unit, the assembly and care of personnel, and the occupation and organization of the designated assembly area at the time of call-up. Although primarily designed for use when ordered or called to active Federal duty, applicable portions of this plan will be used by ARNG units for alert and mobilization for State active duty.

b. This plan supplements State/RSC mobilization plans.

3. ALERT OR CALL TO ACTIVE DUTY ORDER/NOTIFICATION

a. Authentication will be verified by calling (specify unit headquarters, normally next higher headquarters) at (enter phone number to call).

b. The alert or call to active duty order will be transmitted to the units by one or more of the following means:

- (1) Telephone (Primary)
- (2) Personal contact
- (3) Messenger
- (4) Telegram
- (5) Letter
- (6) Electronic Mail
- (7) Facsimile

c. The following personnel are authorized to receive the alert or call to active duty order, in the order of priority listed below:

- (1) Commander
- (2) Executive Officer
- (3) Senior Unit Technician/full time manning person
- (4) First Sergeant

4. PERSONNEL NOTIFICATION. Each member of the unit (separate company, platoon or detachment) will be listed in the unit alert notification roster (Section 1).

5. DESIGNATION OF ASSEMBLY AREAS

The assembly area location is (normally the unit armory/center will be listed here) .

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- 6. TRANSPORTATION OF PERSONNEL TO ASSEMBLY AREA. The primary means of transportation will be.
- 7. ASSEMBLY OF PERSONNEL. Explain who will be in charge, actions in the assembly area, (e.g. report to whom, security etc.).
- 8. CLOTHING AND EQUIPMENT. Explain what uniform to wear and what equipment and personal items are required.
- 9. MEDICAL. Explain how sick call and emergencies will be handled.
- 10. COMMUNICATIONS. Explain primary and alternate means of communication.
- 11. SECURITY. Prepare physical security plans for each area.

COMMANDER'S
SIGNATURE BLOCK

- 2 Encls
- 1. Alert notification roster
 - 2. Physical security plan

NOTE: For underlined data, insert correct information.

Appendix 2: (Example Alert Notification Roster) To Annex A (Alert And Assembly Plan)

THIS ROSTER IS FOR OFFICIAL USE ONLY WITHIN THIS UNIT, AND EXCEPT AS REQUIRED BY LAW, WILL NOT BE FURNISHED TO ANY COMMERCIAL ENTERPRISE, COMPANY OR REPRESENTATIVE, NOR ANY ORGANIZATION OR AGENCY OUTSIDE THE DEPARTMENT OF DEFENSE." Upon receipt of new editions, all previous editions become obsolete and will be destroyed. Protection will be given this information as provided in AR 340-17 and AR 340-21.

<u>Unit Member</u> (Name And Rank)	<u>Home Address</u> (Include Area Code)	<u>Phone #</u>	<u>Employer #</u>
BUTLER, HARVEY K. CPT	100 Elm Street Atlanta, GA 30330	404-234-5678	404-567-8901
DONNELL, ED W. SSG	531 Oak Lane Marietta, GA 30068	205-545-1918	NONE
PAYNE, ROBERT O. 1LT	214 Drake Avenue Roswell, GA 30075	904-678-9753	904-678-1980
ROGERS, DAVID A SPC	835 York Blvd Atlanta, GA 30330	404-443-5150	404-467-2358
GREENE, PAUL L. SGT	503 Lane Drive Smyrna, GA 30066	404-766-4329	404-656-8643

NOTES:

1. First individual is further identified as group leader, second is identified as alternate.
2. If member has no home or employer phones, list a relative or neighbor's phone number that can be used to locate the member.
3. If you are unable to notify the group leader, the alternate group leader should be notified and informed to take over the responsibilities of notification.
4. Each soldier should be personally notified. If a soldier can not be contacted directly, leave a name, phone number and a message with the third party for the soldier to call back as soon as possible.

Appendix 3: (Example Physical Security Plan) to Annex A (Alert and Assembly Plan)

(This example should be adjusted to the needs and requirements of the unit.) Appendix __ to 477th Personnel Service Company Alert and Assembly Plan.

PHYSICAL SECURITY PLAN

1. PURPOSE. State purpose of the plan.
2. AREA SECURITY. Define the areas, buildings and other structures considered critical and establish priorities for their protection.
3. CONTROL MEASURES. Define and establish restrictions on access and movement into the Primary Assembly Area (PAA) and Alternate Assembly Areas (AAA).

a. Personnel Access:

(1) Establish personnel access controls pertinent to both PAA and AAA. The commander must list what he considers his critical access areas (arms room, motor pool, etc.) and determine area specific access controls.

(a) Authority for access.

(b) Access criteria for:

1. Unit personnel
2. Visitors
3. Maintenance personnel
4. Contractor personnel
5. Family members
6. Media personnel

(2) Identification procedures. Determine what constitutes proper identification, sign in and out procedures, etc.

(3) Establish guidelines and procedures for use of force.

b. Materiel Control.

- (1) Incoming materiel - should vehicles and cargo be searched for sabotage hazards?
- (2) Outgoing materiel - what documentation is required? Who has authority to release materiel?

c. Vehicle Control.

- (1) What vehicles will be allowed where?
- (2) What is the search policy on POVs?
- (3) Consider use of barriers to assist in vehicle control.

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- d. Issue and control of weapons and ammunition.
 - (1) Establish procedures for weapons and ammunition issue.
 - (2) Establish procedures for daily control and accountability of weapons, ammunition and other sensitive items.

- 4. AIDS TO SECURITY. What physical aids are necessary to enhance your security posture upon mobilization (lighting, securing access doors to restrict entry, etc.)?

- 5. SECURITY FORCES. Detailed instructions such as special orders, SOPs , and use of force should be attached as enclosures to this plan as appropriate. They can be given to the guards when posted. Indicate the guard posts on the map of the PAA/AAAs.

- 6. COORDINATION.
 - a. Security plans should be coordinated with the local police and sheriff's department. Upon mobilization, these agencies are excellent sources on the local threat and can be of assistance in handling problems with the public. The unit Physical Security Officer/NCO should include the Physical Security Threat Statement and Risk Analysis as part of this coordination, and in the preparation of the Physical Security Plan.

 - b. Coordinate with other units using the same armory/ reserve center.

 - c. Coordinate with higher headquarters on THREATCON, to determine proper security measures.

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3 Encls:

- 1. Map of assembly area
- 2. Detailed security instructions for SOG and guards.
- 3. Detailed instructions for countering terrorism and reporting incidents while enroute to the MS.

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Annex B Mobilization Funding Guidance to RC Unit Commander's Handbook

Purpose

To provide broad guidance on resources and funding to support mobilization actions during the alert and home station phases for RC units, and during movement to the mobilization station. Funding support today, focuses on use of IMPAC Cards and support actions from the United States Property and Fiscal Office (USPFO)(for ARNG units) and the Regional Support Command (RSC)(for USAR units). Plans still need to recognize need to appoint purchasing agents for selected units, when need is determined by the mobilization station, USPFO, or RSC.

General

a. On order, FORSCOM mobilizes and deploys forces and equipment to designated theaters of operations to support Combatant CINCs mission requirements. Inherent in the mobilization and deployment of forces is the mission to provide resource management support for mobilization, pre-deployment, and reconstitution operations for FORSCOM units.

b. Funding actions and reimbursement procedures for Reserve Component contingency costs while in a pre-mobilization status depend on capabilities of the RC commands, the RC unit's capabilities, and the specific nature of the cost.

(1) IAW reference a, incremental contingency costs incurred by the Reserve Component as a result of performance of services directed by the Army (to include costs related to mobilized RC units) are properly funded by AC appropriations.

(2) Incremental costs are defined as those operational costs incurred by an activity that would not have been incurred if the operation had not been executed.

(3) Contingency costs not directly associated with active support or mobilized RC units are not chargeable to or reimbursable by the AC appropriations. These costs should be normally funded as part of the unit's program and budgeted mission or should be offset by funding made available through cost avoidance associated with mobilized RC units.

Execution

a. Funding for administrative and logistics support for RC units during peacetime is provided by Operation and Maintenance, Army Reserve (OMAR) appropriations. The USPFO (for ARNG units) or the RSC (for USAR units) controls funds.

(1) IMPAC Cards

(2) Extended HS activities.

b. The Operation and Maintenance, Army (OMA) appropriation funds unit costs incurred on and

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after the date of mobilization. For contingency cost reimbursement, the flow of funding for the RC is from FORSCOM to mobilization stations (MS) to either the USPFO or the RSC.

(1) To obtain access to OMA funds, the USPFO (for ARNG units) and the RSC (for USAR units) will estimate the costs for supplies and services from date of mobilization until arrival at the MS.

(a) The USPFO and RSC will request a DD Form 448, Military Interdepartmental Purchase Request (MIPR) with a reimbursable and a direct fund cite to cover the cost of rations, quarters, fuel, maintenance support, transportation, and travel and per diem for the mobilized unit during this period.

(b) IMPAC Card. Use of the card may be continued based upon guidance and authority from the USPFO or RSC. Issuing USPFO or RSC, in conjunction with the resource manager must ensure fund citation associated with the IMPAC card is changed to reflect OMA funds, as appropriate.

(2) The MS has the funding responsibility until the unit departs the MS for deployment.

c. FORSCOM, Deputy Chief of Staff for Resource and Evaluation (DCSRE) will provide detailed guidance on fund cites for functional areas as part of the operations guidance for each operation.

Purchasing Agent

On occasion, the MS, USPFO, or RSC will determine a need to maintain control of funds and appoint a purchasing authority rather than issue an IMPAC Card. The guidance noted below address mobilization purchasing authority limitations and guidance.

a. When required by the MS, USPFO or RSC, a Mobilization Purchasing Authority designee will be appointed. The unit commander will forward an authenticated DD Form 577 (Signature Card) if required, assumption of command document and appointment document (Appendix 1) to the supporting MS FAO (and USPFO for ARNG).

b. All pertinent instructions as determined by the MS, USPFO or RSC for the individual authorized to make purchases will be prepared in advance and placed in the MPA packet. The MPA kit will contain a copy of the MPA appointment, all pertinent instructions as determined by the unit commander for the MPA designee to make purchases, the unit mobilization order if issued, an authenticated DD Form 577 (Signature Card) if required and a supply of SF 44s. SF 44s are controlled forms and requires security storage, preferably in the unit safe. Instructions concerning preparation of SF 44s are explained on the form. Include two copies of the unit activation order in the MPA.

c. The Mobilization Purchasing Authority designee will --

(1) Provide the services of a purchasing agent when purchasing agents are not available, and there is no other small purchase method available.

(2) Make purchases using SF 44, when all of the following conditions are met:

(a) The purchase does not exceed \$2,500 or \$25,000 for aviation POL. Purchases will not be split to avoid this monetary limitation.

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(b) Supplies or non-personal services are needed immediately.

(c) One delivery and one payment will be made.

d. Authority of the Mobilization Purchasing Authority designee will be temporary and will expire upon arrival of the unit at the MS.

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: (Sample Appointment Memorandum of Mobilization Purchasing Authority) to Annex B (Mobilization Purchasing Authority Guidance)

LETTERHEAD

OFFICE SYMBOL

DATE

MEMORANDUM FOR

SUBJECT: APPOINTMENT OF MOBILIZATION PURCHASING AUTHORITY

1. Under Army FAR Supplement 1.699(b), you are appointed a Mobilization Purchasing Authority for the purposes set forth in paragraph 2. Your appointment shall become effective and remain effective until your organization reports to its mobilization station or permanent station. You are responsible to, and under the technical supervision of, the (enter name of SI) Director of Contracting for your actions as a purchasing authority.

2. Your appointment is subject to the use of the methods of purchase and to the limitations and requirements stated below:

a. The services of the purchasing office named in paragraph 1 are not available and there is no other suitable small purchase method available to meet the needs of our organization.

b. You may make purchases using SF 44 (Purchase Order-Invoice-Voucher) provided all of the following conditions are satisfied:

(1) The aggregate amount of the purchase transaction is not to exceed \$2,500, except for aviation fuel and oil purchases, which will not exceed \$25,000 (DOD FAR Supplement 13.505-3).

(2) Supplies or nonpersonal services are immediately available.

(3) One delivery and one payment shall be made.

c. Items which may be purchased under this appointment include, but are not limited to the following:

(1) Subsistence and lodging.

(2) Transportation costs, such as gasoline and oil for government vehicles; parking, road, bridge, tunnel or ferry fees; roadside repairs; taxicab and commercial bus fares; emergency towing, rental cars used for advanced party travel to MS; blocking, bracing, packing, crating, and tiedown materials.

(3) Emergency telephone calls.

(4) Supplies or services as directed by the unit commander.

(5) Services beyond capabilities of the unit for doctors and prescriptions for unit members who incur minor illnesses or injuries enroute to mobilization station.

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3. You are required to acknowledge receipt of this appointment, in writing, to the agency officer who will make payment for the items purchased by you. A copy of this appointment has been furnished to that agent.

SIGNATURE BLOCK

DISTRIBUTION:

Individual

Servicing FAO

Custodian of Personnel Records

Director of Contracting, (enter name of SI)

(Others as required)

Annex C: Personnel Mobilization Guide to RC Unit Commander's Handbook

General

C-1.

a. Commanders should keep unit members and family members informed of the unit role in support of peacetime military operations and mobilization. Briefings will be given at least annually, during welcome briefings to new unit personnel, and when significant changes occur. Additionally, the briefing will be given during the alert or home station phase and include any operational unique personnel guidance (e.g. , requirements to be able to complete a tour, guidance on non-deployables, additional medical requirements, etc.) The briefing will also be given to any unit member(s) being ordered to active duty voluntarily for a period of 30 days or more in support of an active army mission. As a minimum, the information contained in this guide should be included in the briefing.

b. This guide assists members of the Reserve Components and their family members to understand the soldier's military obligation when transitioned to active duty and to arrange their personal affairs in the event of Federal mobilization. Additionally, it provides information on basic rules and policies that affect the soldier and his or her family while the soldier is deployed, during redeployment and demobilization ,and after release from active duty.

c. To provide unit members the opportunity to begin planning their personal affairs, unit commanders will provide each unit member a copy of Sections II and III of this annex and DD Form 1543, Annual Legal Checkup. Soldiers will be required to provide an address for family members to the family assistance center at the MS.

d. Spaces are left in the guide for the member to record personal notes, instructions provided by the unit commander, and other information.

Notification and Alert

C-2. HOW WILL I BE NOTIFIED?

a. INVOLUNTARY CALL. Our unit has an alert notification system. You will normally be alerted by telephone by an alert group leader. If you cannot be reached by telephone, we will make every effort to locate you. If you hear in the news media of a major mobilization of Reserve Components, but you have not been called, you should contact our unit as soon as possible to find out if we have been alerted. It is essential that you keep the unit informed of your current home and job address and telephone!

b. VOLUNTARY CALL. Many peacetime operations depend on reserve component augmentation. This support is accomplished through the solicitation of volunteers. Normally the peacetime chain of command will provide specific guidance on the need for volunteers, to

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include grade, MOS, length of tour and missions essential data. Your specific release as a volunteer will be dependent on the readiness impact on the unit. The alert roster may be used to contact you with volunteer information.

C-2-A. HOW MUCH NOTIFICATION SHOULD I GIVE MY EMPLOYER? You should notify your employer as soon as possible about the notification of alert, projected or known mobilization or active duty date, and length of the call up. In many contingency operations, or stability and support operations, your reserve command and/or the National Committee for Employer Support to the Guard and Reserve may want to get your employer's address to write a letter thanking them for their support and providing additional information, as necessary.

C-2-B. IF YOU ARE SELF-EMPLOYED. Self-employment does not justify any special alert period or delay in call-up. If you are self-employed or involved in a small business as a partner, you need to plan effectively for how you want the business to function in your absence.

C-2-C. WHAT IF MY REEMPLOYMENT RIGHTS ARE THREATENED OR MY EMPLOYER REQUESTS ADDITIONAL INFORMATION? If you should incur problems with your employer, let your chain of command know immediately. Assistance is available and can be accessed through an ESGR representative. Local representative is _____ . If he/she is not available, contact the National Committee for Employer Support of the Guard and Reserve (NCESGR) at 1-800-336-4590.

C-3. HOW MUCH WARNING (ALERT PERIOD) WILL I HAVE?

a. As a member of the Reserve Components, you can be mobilized in case of war, national emergency, in support of contingency operations, or in support of a Peacetime (Stability And Support Operations) mission. (Examples of recent call-ups are operations in Bosnia, Haiti, and support of Hurricane Andrew). Although every unit has a predesignated wartime mission, you must be prepared for a call to support other operations either voluntarily or involuntarily.

b. Every unit is different. Some units will be mobilized and enter active duty a day or two after being alerted. Other units may be alerted but not actually enter active duty for several weeks. Some operations with a rotational requirement (like JOINT ENDEAVOR/GUARD for Bosnia) allow even longer alert windows to maximize training and readiness improvements.

c. Individual readiness means being prepared to go to our nation's defense in the shortest time practicable. It means planning ahead to take care of personal affairs now, so that problems do not become unnecessary crises during the constrained time of a rapid mobilization. If you are volunteering for active duty, it is even more incumbent on you to have your affairs in order.

C-4. WHAT HAPPENS DURING THE ALERT PERIOD?

A lot will happen. How much will depend on the length of our alert period. You will have many personal affairs to get in order before you enter active duty. Section III lists many of them. Additional training assemblies may be possible after the alert notification. Remember that the

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alert is simply a warning to emplace final personal planning actions. Implementation of these plans should not take place until you receive a mobilization order. The following questions have been asked in almost every operation.

C-4-A. SHOULD I LEAVE MY JOB? WHEN IS THE BEST TIME TO LEAVE MY JOB?

You should not leave your job during the alert period. The alert is a warning that active duty is pending. You should notify your employer that you have been alerted and call-up may be imminent. You will normally have 72 hours to report to active duty after receipt of execute orders (these will normally be individual mobilization orders). You should provide your employer with a copy of your mobilization orders and coordinate a specific time to leave your job.

C-4-B. WHEN IS THE BEST TIME TO CANCEL MY RENT AND MOVE OUT?

You should not cancel a lease or rent agreement during alert, but simply coordinate actions to cancel on receipt of mobilization execution orders. You need to be sure you are aware of the projected length of time of the call to active duty (For this operation we are being ordered to active duty for _____ days) to ensure there is a need to cancel any lease or rental agreement. Additionally, your mobilization orders should specify the authority to move and store household goods. Finally, if the original call-up is only for a short period, you may want to leave a limited power of attorney with a family member or other trusted agent, authorizing them to cancel leases or store household equipment if your orders are amended or a higher level of mobilization (with a longer tour period) is implemented.

C-4-C. WHEN IS THE BEST TIME TO QUIT SCHOOL?

As with your job, you should only quit school on receipt of execution (mobilization) orders. If you have received an alert, you should not register for any school courses.

C-5. WHEN I ENTER ACTIVE DUTY, HOW LONG WILL I STAY AT THE UNIT ARMORY OR RESERVE CENTER?

Current plans indicate that you will enter active duty and remain for only a few days at your unit armory or reserve center before departing for the mobilization station (MS). During those few days, there will be intensive personnel processing, equipment packing and loading, and processing your family members to ensure they receive appropriate active duty benefits. The unit will provide billeting, mess, and medical services for you while you are on active duty at home station (HS). Remember, during this phase you are now on active duty, and subject to all active army regulations and policies.

C-6. WHERE WILL I GO AFTER LEAVING HOME STATION?

Current plans have us moving from home station directly to _____.

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C-7. WHAT HAPPENS AT THE MOBILIZATION STATION?

a. Deploying Units:

They will spend approximately ____ week(s) at the mobilization station for intensive training, assignment of additional personnel and equipment to fill their shortages, and final preparations for deployment. Training will be long and hard. There may be no free time, and except for emergencies, very few leaves or passes will be authorized.

b. Non-Deploying Units:

They will be assigned mission(s) to support and assist Fort _____ in their efforts to receive, house, train and deploy reserve component units and individuals.

C-8. MAY MY FAMILY ACCOMPANY ME TO THE MOBILIZATION STATION?

NO, Speedy mobilization precludes it. Housing and family member services at mobilization stations and in the surrounding community will not be available and the time you are there may be very short. For this reason, the movement of family members and the shipment of household goods to your mobilization station are not authorized. Short duration operations such as Haiti and JOINT ENDEAVOR/GUARD, executed with a PSRC and using temporary change of station, recognize that AC soldiers will be returning in less than a year and their families are authorized to remain in quarters. Once the military situation has stabilized for operations under Partial or Full mobilization involving permanent change of station, it is anticipated that family members of soldiers in CONUS sustaining units will be authorized to join them at their permanent CONUS duty station.

C-9. WHAT HAPPENS AT THE PORT OF EMBARKATION?

You will normally be at a port of embarkation (air or sea) only long enough for loading and departure.

C-10. MAY I TAKE PERSONAL PROPERTY WITH ME?

NO, unless otherwise specified for non-deploying units. You will not be allowed to take your automobile or large items such as televisions and stereos, although a few small personal items like portable radios and cameras will be allowed, within reason. Normally, guidance from the theater will even dictate the military and civilian clothing authorized in the theater. For this operation the following clothing is authorized:

Finally, it must be stressed that you cannot take personal weapons with you.

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C-11. FAMILY ASSISTANCE AND SINGLE SOLDIERS

a. WHO LOOKS OUT FOR MY FAMILY MEMBERS AFTER I LEAVE?

Key is that you, the soldier, are responsible for actions that will ensure your family is cared for. It is important that you identify all your family members and implement pre-enrollment in DEERS. Additionally, you must ensure that your spouse, other family members and anyone with guardianship responsibilities receive a copy of your orders.

(1). We will have a special meeting for you and your family members to discuss the benefits they will be entitled to while you are on active duty, to initiate the necessary paperwork to obtain their identification cards, to explain how they can use their benefits, and to provide them with a point of contact where they can obtain additional information or assistance while you are away. These sessions will be held every year and will address general procedures. The (STARC)(RSC) will coordinate a briefing for family members either during an actual alert phase (time permitting) or after the unit deploys.

(2). If you are a single parent or married to another service member you are expected to have a plan for the custody and care of your family members. Your commander or his designated will counsel you representative and the required forms and legal documents will be filed at the unit.

(3). You and your family members will be encouraged to join the unit family support group. This group is an officially sanctioned organization of officer and enlisted personnel and their family members that provides information and a support network for families and soldiers during their association with the unit, especially during periods of separation (e.g., weekend drills, annual training and/or mobilization). During mobilization, Family Assistance Centers will be established at various locations within each state. These centers act as the link between your family support group and the Army. They will provide continuing advice and essential services, such as ID cards and CHAMPUS forms for your family members after your unit has departed. My family support group leader is _____. Her/his telephone number is _____. The address for the closest Family Assistance Center is _____. The telephone number there is _____.

(4). You and your family members should participate in Family Support Group activities now. Waiting until mobilization occurs is too late. Getting family members to know one another now will make them better prepared to offer mutual support during mobilization or other contingencies.

b. IF I AM SINGLE, WHAT DO I DO ABOUT MY APARTMENT, POV AND HOUSEHOLD GOODS?

AR 37-104-10 and Department of Defense Pay Manual establish criteria for basic allowance and for quarters (to include VHA when orders are for 140 days or more). Orders for this call-up are for ____ days and you (need)(do not need) to ensure you provide copies of lease agreements or

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house payments to support VHA payments. Changes to field conditions could affect the mobilized reservist the same as it affects active army soldiers, dependent on designation of permanent duty station. You may have to request release from lease or rental agreements and store household goods. Pickup and storage of household goods is normally authorized if orders are for more than 90 days or indefinite periods. If authorization is not in basic order, it will require coordination with our support installation or the mobilization station transportation officers. Orders for this call-up (do)(do not) authorize pickup and storage of household goods. There are, no special authorities for storage or care of POVs. You need to coordinate the storage or care of your car with a family member or friend.

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C-12. MAY I BE EXCUSED FROM MOBILIZING WITH MY UNIT?

Basically, no! If you are a member of our unit on the day we receive our official alert notification, you will be required by law to mobilize with the unit. There are some limited exceptions, but if you have not applied for a discharge or exemption from active duty under the provisions of AR 135-133, and the reasons for requesting excusal from mobilization did not occur since your last scheduled drill, you will go with the unit. Table 2-1 in the Reserve Component Unit Commander’s Handbook provides details on identifying soldiers with a condition that would make them a non-mobilization asset. If an operation has a limited strength ceiling or other command unique requirements, Department of the Army or FORSCOM will provide detailed guidance on identification and processing of soldiers who do not meet mobilization standards. For this operation, in addition to guidance in Table 2-1, soldiers in the following categories are not considered as mobilization assets:

Some specific areas that are always questioned are:

a. SOLDIERS WITH A PHYSICAL PROFILE.

Criterion 20, Table 2-1 of the RCUCH applies. If separation or transfer actions have not been approved, you must mobilize and report with the unit. Headquarters DA may establish other policies if the operation is of short duration and has a limited strength ceiling and those changes will be briefed upon execution.

b. FOR SOLDIERS PENDING RETIREMENT, SEPARATION OR DISCHARGE.

Criterion 25, Table 2-1 of the RCUCH applies. If action is required or requested prior to receipt of the alert, it will be effected prior to the unit’s M-date. If effective date is after receipt of the alert, member will enter AD with the unit, unless exemption is authorized in the alert message or by separate guidance from DA.

C-13. WHAT SHOULD I DO IN THE EVENT OF A NUCLEAR ATTACK ON THIS COUNTRY?

a. If it appears that an attack is imminent, Reserve Component forces may be directed to quickly mobilize. In such a case, you will be notified as quickly as possible and given instructions on how, when, and where you and your family are to relocate.

b. If a nuclear attack on this country occurs before we can alert you to relocate, you must consider yourself automatically ordered to Federal active duty. Your first action should be to seek shelter for yourself and your family in accordance with your local community's civil defense shelter plan. As soon as possible after the attack, you must make every attempt to contact your unit, first at the unit armory or reserve center, then at the alternate assembly area, which is located at _____.

Personal Records Checklist

C-14. GENERAL

a. Leaving your family, your home, your employment, and your property can create enormous financial, legal, and personal complications, unless adequate records and documents are established and safeguarded. Maintaining personal records are important to you - not only for mobilization. They should be kept in a safe place, readily available to you, and, in your absence, to your spouse, next of kin, or executor. It is recommended that you use this checklist to record information or list where your documents are kept.

b. For your family members to obtain identification cards and legal benefits, you must provide those documents indicated by an asterisk (*) to your unit upon request or on mobilization. The documents should be located now and kept available at all times.

C-15. RECORDS AND DOCUMENTS

The records and documents listed in the remainder of this section are not all inclusive. Some have short explanations and others are named to assist you and your dependents.

a. Your will and testament. A last will and testament is a legal declaration as to the manner in which you would like to have your property or estate disposed of after your death. This document can also name someone to serve as legal guardian for your minor children. You may consult an attorney (military or civilian) during premobilization legal counseling to determine whether you should have a will. It's important to have a will regardless of your military, financial, or marital status. Remember, wills can usually be changed very easily. You should see your attorney about preparing or changing your will or your spouse's will. If you die or become disabled while in Federal service, your death or disability will most likely occur at some place other than your legal residence. Your attorney and you should consider the effects of your State's laws regarding matters that could cause changes, such as substitute written wills (Holographic) or the so-called "death bed" (nuncupative) changes. Depending on your personal circumstances, your attorney can also advise you in naming someone to carry out your will or instructions, and someone to serve as a legal guardian for minor children.

b. Your spouse's will and testament.

c. Power of Attorney. A power of attorney is a legal instrument, which gives another person the authority to act for you in matters relating to your responsibilities and obligations. You may consult with an attorney during premobilization legal counseling to determine if you should have a power of attorney prepared. This power of attorney may be signed at the time of mobilization giving someone you trust the authority to act for you in your absence in matters relating to your responsibilities and legal obligations. Your attorney can advise you concerning this power of attorney.

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d. * Certified copies of birth certificates for your children. (Preenrollment in DEERS will satisfy this requirement.)

e. * Adoption or legal guardianship documents. (Preenrollment in DEERS will satisfy this requirement).

f. * Certified copies of your marriage license or certificate. (This document is required to obtain dependent ID card.)

g. * If you have an unmarried child over 21, who is incapable of self-support because of mental or physical incapacity that existed before age 21, the following is needed: Statement from a licensed physician certifying medical condition which includes whether condition is temporary or permanent. If temporary, physician should estimate the expected length of incapacity. Documentation must be forwarded to DFAS for determination.

h. * Name and location of places where unmarried children (including adopted or stepchildren) over 21, but under 23 years of age, are enrolled in a full-time course of instruction. (This information will be required to obtain dependent ID cards.) If you are paying tuition for your spouse or family members, you will want to determine what arrangements can be made for tuition abatement or financial assistance. You must also have documentation to verify attendance at the appropriate school/institution. School documentation is a letter from registrar or other official stating student is enrolled full time (12 credit hours per semester for undergraduate, 9 for graduate) and expected date of graduation.

i. * Copy of any court order giving you legal custody of any children from a previous marriage. (This document will be required to obtain dependent ID cards.)

j. * For illegitimate children, copy of a court order naming you the natural parent of the child, a copy of the court decision that you contribute to the child's support, or written admission of parentage by you. (This document will be required to obtain dependent ID cards. Preenrollment in DEERS will satisfy this requirement)

k. * A recent photograph (full face, light background, about 8" x 10" including all of the person's head) for each family member 10 years of age or older. (These photos will be required to obtain dependent ID cards.) Requirement for photograph is applicable only when ID card is applied for through the mail.

l. Full legal names, places and dates of birth, and location of marriage record of your parents.

m. Chronological list of your places of residence (including dates).

n. Names and addresses of schools you attended, with dates of attendance, and graduation or enrollment date.

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o. Proof of citizenship (e.g. Birth Certificate, Passport, Certificate of Naturalization or Alien Registration Card).

p. Copies of divorce or annulment decrees from prior marriages (you and your present spouse) with documents relative to alimony and child support. Decide what effects your orders to duty would have on alimony or child support payments which may or may not have been addressed in divorce, legal separation, annulment, child support, and property settlement decrees and consider amending the decrees as they may pertain to your circumstances upon mobilization.

q. Certified copies of death certificates of members of your immediate family.

r. A list of social security numbers for you, your spouse, children, and other family members. If they don't have a Social Security number, encourage them to apply.

s. A list of all credit card accounts, account numbers, and mailing addresses.

t. Copies of your Federal and State income tax records for the last five years.

u. Copies of insurance policies including life, home, auto, liability, credit life, health, and disability with a list of effective premium dates, agents of record, and the home office address for each insuring company. Keep your policies in one place with a cover list. Check the policies with your insurance advisors and review them to see whether they give adequate coverage, list dates, and provide for payments of premiums upon your mobilization. Certain commercial life insurance policy payments may be covered under Federal law. See paragraphs 5.1 through 5.10, DA Pamphlet 27-166 (Soldiers' and Sailors' Civil Relief Act and the Uniformed Services Employment and Reemployment Rights Act).

v. List of names, addresses, and account numbers of your saving and loan associations, banks, trust or holding accounts, safe deposit boxes, and institutions holding certificates of deposit on file in your name. Upon mobilization, you might consider making joint bank and savings accounts with your spouse or parents, and you should notify the institutions where to send statements.

w. Name and address of employers with a list of employment benefits such as dependent health care, pension, or profit sharing plans. Upon receiving alert for mobilization, you will want to discuss with your employer, your intention to return to work after completion of military duty. Legal reemployment rights are described in DA Pamphlet 135-2 (Briefing on Reemployment Rights of Members of the Army National Guard and the US Army Reserve).

x. Name and address of union or professional association (e.g., Bar Association) and date of union/association membership, together with evidence of membership and status. Upon mobilization, membership dues may be suspended or adjusted.

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y. Names and addresses of fraternal or service organizations, with a list of benefits receivable from membership. Upon mobilization, you may want to arrange suspension of membership dues.

z. All evidence relating to home improvements or real property value enhancement.

aa. Deeds or other title documents to real estate and real property, to include mortgages, deeds of trust, abstracts of title (and the names and addresses of the holders of such deeds and abstracts), title insurance policies, and copies of notes payable relating to the property. It may be wise to have at least your home (and perhaps other property) owned jointly with your spouse for estate and tax purposes. However, you should consult with a lawyer before establishing joint ownership of housing. Under current tax law, if you sell your home and don't acquire another within 18 months, there may be capital gain consequences if your home is valued at more than you paid for it. Be aware that 26 USC 1034 (h) extends this period up to 4 years, with limited exception. Thus, it's important for you to keep all records pertaining to home improvements, modernization, or landscaping, etc., all of which are part of your cost basis.

bb. Certificates of title, registration, warranties, and tax receipts for automobiles, boats, recreational vehicles, and other personal property. The names of the persons entitled to your car should be shown on your certificate of title. You should determine the disposition to be made of your car on your mobilization. If the car is to be kept but not used for business purposes, discuss possible premium reduction with your insurance agent. If, upon mobilization, contract purchase payments cannot be made, see paragraph 4.3, DA Pamphlet 27-166 (Soldiers' and Sailors' Civil Relief Act and the Uniformed Services Employment and Reemployment Rights Act).

cc. All documents relating to your financial obligations concerning the purchase or rental of real property to include leases, rental contracts, purchase contracts, installments, sales contracts, copies of notes payable, and copies of payment and date schedules where appropriate. If you lease your home or business property, upon mobilization you may want to consider canceling the lease or renegotiating it to include subletting options.

dd. Stocks, bonds (together with buy-and-sell orders); certificates of deposit; savings account passbooks; notes receivable; and other evidence of ownership of real, intangible, personal income-producing property should be kept together, identified, and maintained in your safe deposit box or elsewhere as recommended by your lawyer. Coupon bonds should be exchanged for registered bonds, if possible. These items should be matters of discussion in preparing your will. Consider naming a custodian or trustee(s) to handle income, who will determine the purchase or sale of assets for your account, and comply with your instructions relating to keeping you informed of activity.

ee. All copies of bills of sale of major items of personal property not otherwise included in paragraphs u or w, above.

ff. Business agreements to include partnership documents, agency or sales contracts, royalties or residual agreements, and employment contracts. If you're self-employed, active files

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and accounts should be well organized and someone should be named to take over on mobilization. Include Business Care Plans for Health Care Professionals and others owning or partners in a small business. On mobilization, you should consider notifying customers and suppliers of any change of address to which remittance, orders, invoices, etc. will be delivered.

- gg. Evidence of beneficial interest in any business or joint venture.
- hh. Copies of all documents designating you as an executor or a trustee.
- ii. Copies of military and other employment records.
- jj. Record of your health history to include a record of past illnesses or injuries with names and addresses of doctors and hospitals.
- kk. Address of your registrar of voters. After mobilization you will want to arrange for absentee ballots to be sent to your military address by sending the registrar an SF-76 (Application for Absentee Ballot).
- ll. Record the addresses of all taxing authorities (county assessor, IRS, State income tax, motor vehicles, etc.). Upon mobilization you will want to ensure that all taxes are paid to date, and notify the taxing authorities where further tax bills should be sent. Extension of time to pay certain taxes may be granted under the Soldiers' and Sailors' Civil Relief Act and the Uniformed Services Employment and Reemployment Rights Act.
- mm. List the names and addresses of all special persons (family, lawyer, business associates, etc.) who are not listed elsewhere. Upon mobilization you may desire to mail them a change of address notification.
- nn. Record specific instructions regarding the place and manner of burial in the event of your death. Upon mobilization, these instructions should be left with your spouse or family.
- oo. List of documents and items stored in a safety deposit box. You should consult with a lawyer about the advisability of storing important documents and small items in a safety deposit box.
- pp. Maintain DD Form 1543, Annual Legal Checkup, to assist in getting personal legal affairs in order.

Instructions for Obtaining Family Member Identification Cards

(To be maintained as a separate page. Units should make copies for soldiers to provide to family members)

C-16. General

a. The DD Form 1173 (Uniformed Services Identification and Privilege Card) identifies the holder as a family member of a member of the Armed Forces on active duty. This card is necessary to obtain the entitlements for which you are eligible.

b. You may obtain an ID card by reporting to the ID card issuing facility at any installation of any military service or State Family Assistance Center with a verified DD Form 1172 (Application for Uniformed Services Identification and Privilege Card).

c. If you have difficulty getting to a military facility, the following procedures apply:

(1) Mail a verified copy of the DD Form 1172 and a copy of your sponsor's mobilization orders to:

(Mailing address of unit MS or other military facility)

(2) The issuing officer will mail a partially processed ID card to you.

(3) Complete as many items on the card as possible. Don't forget to sign it.

(4) Return the ID card to the issuing office with a 8" x 10" photograph.

(5) Your ID card will be completed and returned to you by mail.

d. While waiting for your ID card to be made, you can use a verified copy of the DD Form 1172, along with a copy of your sponsor's mobilization orders as identification for your family for a period of 180 days. If you do not have a verified copy of DD Form 1172, you may use your DOD Family Member ID Card (DD Form 1173-1) with your sponsor's mobilization orders.

Deployment/Employment Policy

As noted earlier, you are now on active duty and all personnel actions (less pay and promotions) will be implemented following active army policies and procedures. Some of the key areas that always create problems or are addressed as concerns during all operations include:

a. LEAVE. (Theater and Emergency). Guidance in AR 600-8-10 applies. You will earn leave 2.5 days per month while on active duty. Leave while in theater will be determined by the theater commander.

b. EARLY RELEASE FROM ACTIVE DUTY. After M-date at home station (_____ for this operation) you fall under active army regulations. Unless otherwise directed by DA, you will be required to report to the mobilization station and process for separation under AR 635-200 (enlisted) or AR 600-8-24 (officers).

c. MEDICAL EVACUATION. If you are medically evacuated from theater to CONUS, both medical and personnel systems establish accountability to ensure you receive appropriate benefits. Accountability problems can occur when released from the hospital. If asked where your home station is and where you should report to upon release, you should provide the name of the installation where you mobilized. Upon release, you need to report to or coordinate with the appropriate mobilization installation (For this operation your mobilization station is _____) for coordination of leave, return to theater, CONUS assignment or other personnel assignments.

Redeployment and Demobilization

a. LEAVE (Transition). Most soldiers may complete Active Duty with accrued leave. You will have options of taking that leave or being paid for the leave. The maximum allowable leave a soldier may sell back to the Army is 60 days cumulative. Any leave you sold to the Army after previous active duty tours will count against the total.

b. PHYSICAL EXAM/EVALUATION. Guidance on physical examinations or evaluations may change for each operation. Actions could range from a simple screening to a complete examination. It is important that you participate fully in any medical processing to avoid problems with medical issues after release from active duty.

c. EVALUATIONS and AWARDS. Most operations will require that soldiers receive evaluations for their period of active duty. There is no problem on coordinating the signatures for the evaluation if you stay within the same command chain. If there is a change in command or rating schemes, it is critical to ensure that appropriate documents are signed before you leave the theater. Although this is a rating chain responsibility, you need to be aware of who is rating you during the active duty period and support actions to ensure that all forms are signed.

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Similarly, administrative processing for awards should be completed in theater. If you believe you are authorized an award, you should check with your chain of command prior to redeployment.

d. DD FORM 214. This is critical. Each soldier will receive a completed DD Form 214 prior to release from active duty. In the annual review of your personnel files, you should ensure that a copy of the last DD Form 214 you were issued is on file. All soldiers must carefully review the DD 214 prepared at the DMS before signing.

e. FINAL PAY. Under current procedures, you will remain on the reserve pay system. If you aren't already on SURE PAY, processing will be accomplished during in processing. Final pay will continue to be deposited in soldier's account after his/her tour ends. Wherever your account is, that's where you will receive final pay.

f. MEDICAL HOLD AND CONTINUED CARE. You may not be released from active duty at the same time as others. Your release could be delayed because of medical hold. If you are not hospitalized, you may be released from active duty before treatment is complete. If you are released before treatment is complete, you will still be authorized medical care and may be authorized incapacitation pay. It is critical that a line of duty determination be completed, prior to your release, to ensure that benefits and entitlements are authorized.

g. REEMPLOYMENT. Whether you are ordered to active duty involuntarily or voluntarily, you are protected from discharge from employment because of military obligations under the Uniformed Services Employment and Reemployment Rights Act (USERRA), Title 38, Chapter 43 of the US Federal Code. The position you held prior to mobilization must be an "other than temporary" position to obtain protection under the law. Your obligation to the employer under the USERRA is that you provide timely notification (either oral or in writing) of impending orders and report back to work in time frames according to the duration of your military service. Reporting time frames are:

- Service of 1 to 30 days – the beginning of the first regularly scheduled work period that would fall after reasonable travel time and eight hours rest
- Service of 31 to 180 days – within 14 days
- Service of 181 days or more – within 90 days

After reporting back for reemployment, the employer must reemploy within a reasonable period of time – normally a matter of days rather than weeks. You must be ready to go back to work the day you apply for reinstatement. Only in cases where an employer can show cause for termination is not related to an employee's military affiliation would a returning soldier not be protected. For example, a lay-off or termination, which affected a group of personnel (a company), is not related to an employee's military affiliation. If you have problems or seek additional information, contact NCESGR at 1-800-336-4590, or visit their Web Page at www.ncesgr.osd.mil.

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Summary

This briefing has been presented to provide you and your family with basic information on what will happen during a call to active duty. As more detailed information is available, it will be provided to you and your family. Information will be provided by command briefings, pamphlets and the mailing of reserve publications, benefits packages and information letters to your family. Again, it is critical that you provide addresses for your family and employers to the mobilization installation to support the mailing of information packages prior to and during the period you are on active duty.

Annex D: (Postmobilization Training) to RC Unit Commander's Handbook

Section I Postmobilization Training and Support Requirements (PTSR)

D-1. GENERAL.

a. The concept for Postmobilization Training and Support Requirements (PTSR) is to provide for collection and submission of essential information in a standard format to identify what the unit needs from the MS to prepare it to meet deployability criteria once mobilized. The report will be prepared as of 30 September and forwarded, through channels as directed by the STARC/RSC, to arrive at the Mobilization Station assigned by MOBPLANS by 15 December. Also, a copy is updated and hand carried to the MS by the unit's advance party upon mobilization. FORSCOM Form 319-R is available in automated form (Formflow).

b. The purpose of the PTSR is two fold: 1) to allow the unit an opportunity to express its unfulfilled needs, and 2) to give the MS a heads-up on what support it will be expected to provide to the mobilized unit. It is a snapshot in time. The PTSR is designed primarily for deploying units. Requirements should be based on what is needed to bring the unit to the highest level of readiness in all areas. The PTSR will be reviewed at the unit's triennial MS visit.

D-2. REPORT

a. General. As stated previously, Reserve Component (RC) units will prepare the report at least annually, as of 30 September to arrive at the assigned mobilization stations by 15 Dec. Updates are required within 45 days after a major MTOE change/reorganization, significant change in training readiness or change of mobilization station. All blocks should be filled in, either with data, none, or N/A, except those exempted in the following instructions.

b. Instructions for Completion of FORSCOM Form 319-R. Most items are self-explanatory. Instructions/clarification are provided for selected items as follows:

1. Section A - General information.

Item 6 - List all sub-units of your AA UIC that are included in this PTSR. If units with sub-UICs are submitting their own PTSR, they should not be listed here.

Item 7 - Troop Program Sequence Number (TPSN). Units are exempt from reporting this item under the manual system.

2. Section B - Training and Support Plan. Information provided in this section will be based on the unit's approved postmobilization training plan. It should reflect requirements necessary to achieve proficiency in all tasks on the training plan. These tasks will be those that were deferred for postmobilization as well as any pre-mobilization tasks in which the unit is not proficient. Prepare a separate section B page for each week of training at the MS.

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Critical Individual Tasks. List requirements for critical tasks.

Equipment Required. List devices, GTAs, films, audiovisual equipment, etc., needed to complete training. Use Army-wide numbers (DA Pamphlets 25-37, 25-90, 350-9 and 350-100; TRADOC Pamphlet 71-9) to identify requirements.

Ammunition Required. Project ammunition required for postmobilization training only. This ammunition is managed through training channels.

Assistance Required. List other training requirements. Be specific and describe clearly.

Ranges/firing points. List requirements for ranges/firing points/firing tables.

Training areas. List ground maneuver areas, and other training areas.

Issues or Assumptions Affecting Training. Use to amplify or to continue requirements listed above.

Section II Postmobilization Training Schedule

D-3. General

Based on the approved training and support plan and the support provided from the MS as a result of the PTSR, the unit will develop the training schedule to be followed at the MS. This is the next progression in accomplishing the training necessary for the unit to be declared validated for deployment.

D-4. REPORT

The postmobilization training schedule will be refined upon arrival at the mobilization station. The schedule format will be IAW guidance from the MS. Upon arrival at the MS, the unit commander should be prepared to thoroughly articulate his unit's training requirements/shortfalls to the MS commander and his staff.

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Appendix 1 to Annex D (PTSR)

POST MOBILIZATION TRAINING AND SUPPORT REQUIREMENTS (PTSR) (FORSCOM Reg 500-3-3)		<i>Requirements Control Symbol</i> AFOP-366(R5)	
SECTION A - GENERAL INFORMATION			
1. UNIT NAME		2. UIC	3. DATE a. As Of b. Of Last Report
4. STARC/MUSARC FOC (<i>Name, Grade, Tel No</i>)		5. a. MTOE/TDA (<i>No/date</i>)	b. ALO
6. DODAAC LIST OF ALL UNITS MOBILIZING UNDER AA UIC			
UNIT NAME	UIC	DODAAC	ADDITIONAL DODAAC
7. TPSN			
8. HOME STATION (HS) ADDRESS (<i>Street, City, State, ZIP Code</i>)		9. MAILING ADDRESS (<i>If different from HS Address</i>)	
10. TEL NO (<i>List All</i>) COMMERCIAL DSN		11. MAILING ADDRESS (<i>TAG/MUSARC</i>)	
12.			
a. TRAINING SUPPORT BRIGADE (TSB) FOC (<i>Name, Grade, Tel No</i>)		b. TSB FOC VERIFICATION SIGNATURE	
13. MOBILIZATION LOCATION (<i>Station, Army Area, State</i>)		14. COORDINATING INSTALLATION (<i>Mobilization</i>)	
15. SUPPORTING INSTALLATION (<i>Mobilization</i>)		16. MILEAGE (<i>HS to Mobilization Location</i>)	
17.			
COMMANDER'S NAME, GRADE, TEL NO		SIGNATURE	DATE

FORSCOM FORM 319-R, 1 DEC 97

EDITION OF 1 NOV 97 IS OBSOLETE.

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Appendix 1 to Annex D (PTSR) Cont'd

SECTION B - TRAINING AND SUPPORT PLAN	
1. UNIT	2. WEEK NUMBER OF TRAINING
3. PRIORITIZED COLLECTIVE TASKS	
4. CRITICAL INDIVIDUAL TASKS	
5. EQUIPMENT REQUIRED	
6. AMMUNITION REQUIRED	
7. ASSISTANCE REQUIRED	
8. RANGES/FIRING POINTS	
9. TRAINING AREAS	
10. ISSUES OR ASSUMPTIONS AFFECTING TRAINING	

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Annex E: (Mobilization Checklist for Unit Commanders) to RC Unit Commander’s Handbook

This annex contains a checklist to assist unit commander in preparing for their unit’s entry on active duty and movement to a mobilization station or port of embarkation. The list may be modified to accommodate local requirements or conditions. This checklist is organized by phase as indicated under reference and will be used as a reference for developing the HS Activities Plan and schedule. Though the checklist is broken out by phase, within each phase, tasks are not necessarily listed in the sequence that they should be accomplished. Units are encouraged to use this checklist at every opportunity.

PLANNING PHASE (PHASE 1)

	TASK	REFERENCE CHAP/PHASE/TASK OR ANNEX	PERSON ASSIGNED ACTION	DATE/TIME COMPLETED	VERIFIED
(1)	Provide personnel information.	2-I-1			
(2)	Conduct Soldier Readiness Processing (SRP).	2-I-2			
(3)	Maintain MPRJ (DA Form 201)	2-I-3			
(4)	Update and maintain unit data.	2-I-4			
(5)	Screen personnel not available for deployment	2-I-5			
(6)	Complete Family Care Plans	2-I-6			
(7)	Ensure unit members have ID documents	2-I-7			
(8)	Identify and process soldiers with profiles	2-I-8			
(9)	Ensure personnel have a security clearance	2-I-9			
(10)	Provide premobilization legal preparation	2-I-10			
(11)	Maintain soldier’s MMPA	2-I-11			
(12)	Maintain health record (DA Form 3444 Series).	2-I-12			
(13)	Ensure medical exams are current	2-I-13			
(14)	Ensure dental examinations	2-I-14			
(15)	Ensure DNA specimen is completed	2-I-15			
(16)	Ensure unit members are tested for HIV	2-I-16			
(17)	Ensure immunizations are current	2-I-17			
(18)	Identify personnel needing spectacles/hearing/aids.	2-I-18			
(19)	Identify personnel requiring lens inserts.	2-I-19			
(20)	Verify application for DEERS enrollment	2-I-20			
(21)	Establish a Family Support Group (FSG).	2-I-21			
(22)	Screen Practitioner Credentials File .	2-I-22			
(23)	Familiarize administrative personnel in SIDPERS.	2-I-23			
(24)	Appoints/signature cards.	2-I-24			
(25)	Assemble and maintain unit MWR kits.	2-I-25			
(26)	Identify personnel requiring waiver of benefits.	2-I-26			
(27)	Maintain a unit mobilization file	3-I-1			
(28)	Conduct annual review of mobilization file	3-I-2			
(29)	Develop postmobilization training plan	3-I-3			

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	TASK	REFERENCE CHAP/PHASE/TAS K OR ANNEX	PERSON ASSIGNED ACTION	DATE/TIME COMPLETED	VERIFIED
(30)	Develop HS unit activity plan.	3-I-4			
(31)	Test the alert notification plan.	3-I-5			
(32)	Establish liaison with MS.	3-I-6			
(33)	Identify key personnel to be ordered to duty early.	3-I-7			
(34)	Conduct a premobilization briefing	3-I-8			
(35)	Establish COMSEC account.	3-I-9			
(36)	Identify advance party position and mission.	3-I-10			
(37)	Establish liaison with CI/SI.	3-I-11			
(38)	Develop lodging plan for HS.	4-I-1			
(39)	Develop subsistence plan for HS.	4-I-2			
(40)	Identify contracting requirements to the SI /USPFO	4-I-3			
(41)	Identify Class V ABL requirement	4-I-4			
(42)	Identify Class VIII, medical supply requirement.	4-I-5			
(43)	Prepare a unit movement plan .	4-I-6			
(44)	Test unit load plan.	4-I-7			
(45)	Maintain COMPASS AUDEL/TC ACCIS UEL documents.	4-I-8			
(46)	Develop and coordinate unit retrieval plans.	4-I-9			
(47)	Identify property not be taken to the MS.	4-I-10			
(48)	Plan to transfer facility responsibility	4-I-11			

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ALERT PHASE (PHASE II)

	TASK	REFERENCE CHAP/PHASE/TAS K OR ANNEX	PERSON ASSIGNED ACTION	DATE/TIME COMPLETED	VERIFIED
(1)	Coordinate mission related travel.	2-II-1			
(2)	Review and validate receipt of unit orders.	2-II-2			
(3)	Review, coordinate/validate orders	2-II-3			
(4)	Release attached personnel.	2-II-4			
(5)	Screen promotion eligible personnel.	2-II-5			
(6)	Identify personnel who require evaluation reports.	2-II-6			
(7)	Order unit members to active duty.	2-II-7			
(8)	Notify finance of unit's mobilization	2-II-8			
(9)	Process delayed arrival personnel.	2-II-9			
(10)	Review appointment memo.	2-II-10			
(11)	Increase update to unit/personnel databases.	2-II-11			
(12)	Activate the unit family support network	2-II-12			
(13)	Soldier financial readiness.	2-II-13			
(14)	Update HS activities plan.	3-II-1			
(15)	Respond to press inquiries.	3-II-2			
(16)	Take action outlined in the Mobilization Checklist for unit commanders.	3-II-3			
(17)	Finalize postmobilization training plan and PTSR.	3-II-3			
(18)	Identify advance party members.	3-II-4			
(19)	Identify storage for classified material at MS.	3-II-6			
(20)	Review Unit Status Report.	3-II-7			
(21)	Coordinate arrival of fillers.	3-II-8			
(22)	Make final coordination for HS logistics plans.	4-II-1			
(23)	Update contracting requirements.	4-II-2			
(24)	Coordinate requirement for signature cards with MS.	4-II-3			
(25)	Prepare memo to MS to establish account.	4-II-4			
(26)	Prepare to conduct a showdown inspection of OCIE and personal uniforms.	4-II-5			
(27)	Identify and procure POL packaged product.	4-II-6			
(28)	Review and update ABL documentation.	4-II-7			
(29)	Prepare records/conduct inventory of unit property	4-II-8			
(30)	Review medical item, requisition for Class VIII	4-II-9			
(31)	Review PLL listing	4-II-10			
(32)	Coordinate transfer of property not taken to MS	4-II-11			
(33)	Coordinate with maintenance activities	4-II-12			
(34)	Retrieve operational records	4-II-13			
(35)	Update calibration records	4-II-14			
(36)	Review and coordinate unit movement plan.	4-II-15			

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	TASK	REFERENCE CHAP/PHASE/TAS K OR ANNEX	PERSON ASSIGNED ACTION	DATE/TIME COMPLETED	VERIFIED
(37)	Update COMPASS AUDEL/TC ACCIS UEL	4-II-16			
(38)	Execute equipment retrieval plans.	4-II-17			
(39)	Storage of personal property and household goods.	4-II-18			

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HOME STATION PHASE (PHASE III)

	Task	Reference Chap/Phase/Task or Annex	Person Assigned Action	Date/Time Completed	Verified
(1)	Verify arrival status of personnel .	2-III-1			
(2)	Initiate SRP check for mobilization.	2-III-2			
(3)	Identify medically disqualified personnel.	2-III-3			
(4)	Verify soldier financial readiness	2-III-4			
(5)	Review and update individual records.	2-III-5			
(6)	Process record of emergency data.	2-III-6			
(7)	Prepare evaluation reports.	2-III-7			
(8)	Complete change of address cards.	2-III-8			
(9)	Process family member ID cards.	2-III-9			
(10)	Verify ID cards and tags.	2-III-10			
(11)	Process Geneva Convention identity card if required.	2-III-11			
(12)	Security clearance rosters.	2-III-12			
(13)	Prepare claims for travel.	2-III-13			
(14)	Arrange for legal services.	2-III-14			
(15)	Provide health, MMPA, and personnel to MS.	2-III-15			
(16)	Records processing for Direct Deploying Units.	2-III-16			
(17)	Account for medical emergencies/complete LOD.	2-III-17			
(18)	Incentives and entitlements.	2-III-18			
(19)	Provide final personnel report .	2-III-19			
(20)	Coordinate transfer of data to the mobilization station.	2-III-20			
(21)	Coordinate with MS on date/time for reporting.	3-III-1			
(22)	Execute HS activities plan	3-III-2			
(23)	Dispatch advance party to MS.	3-III-3			
(24)	Conduct an operations/information status briefing.	3-III-4			
(25)	Update Unit Status Report.	3-III-5			
(26)	Prepare classified material for movement.	3-III-6			
(27)	Provide HS support/services.	4-III-1			
(28)	Implement contract process.	4-III-2			
(29)	Complete signature cards.	4-III-3			
(30)	Prepare memo to establish Dining Facility account	4-III-4			
(31)	Conduct a showdown inspection.	4-III-5			
(32)	Prepare requisitions for POL.	4-III-6			
(33)	Finalize DA Form 581 for ABL.	4-III-7			
(34)	Finalize reconciliation of Property Book.	4-III-8			
(35)	Finalize Class VIII requisitions.	4-III-9			
(36)	Finalize PLL/ASL listing and prepare requisitions.	4-III-10			

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	Task	Reference Chap/Phase/Task or Annex	Person Assigned Action	Date/Time Completed	Verified
(37)	Complete transfer of property not taken to MS.	4-III-11			
(38)	Finalize material condition status report.	4-III-12			
(39)	Execute Mobilization Movement Plan.	4-III-13			
(40)	Finalize COMPASS AUDEL/TC ACCIS UEL	4-III-14			
(41)	Complete transfer of facilities/property	4-III-15			
(42)	Complete storage of personal property	4-III-16			

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Annex F: (Guidelines for Determining Security Clearance Requirements) to RC Unit Commander's Handbook

F-1. General guidelines to assist the commander in determining clearance requirements are:

a. All officers and warrant officers commissioned after 1 Jan 88 will have a SECRET security clearance prior to commissioning.

b. Need for access to classified information.

c. Certain personnel, because of their MOS, are required by Army regulation to have a security clearance. Refer to AR 611-201 (enlisted), AR 611-101 (officers), and AR 611-122 (warrant officers). Even if the individual does not currently require access, they must maintain the clearance to retain the MOS.

d. All message center, administrative and distribution personnel should have at least a SECRET clearance.

e. All individuals who have unescorted access to unopened official first class mail, accountable mail, bulk shipments or other potentially classified shipments must possess at least a SECRET clearance.

f. All company and battalion administrative personnel should have at least a CONFIDENTIAL clearance.

g. All communications personnel should have at least a SECRET clearance. This includes personnel who operate communications equipment (e.g., the commander's driver and radio operator).

h. All personnel in a chemical or ADP personnel reliability program (PRP) should have appropriate investigations and clearances (AR 50-5, AR 50-6, and AR 380-19).

i. In each situation, operational considerations may dictate a higher degree of security clearance. This must be anticipated and planned for by the commander and his staff.

F-2. Some basic questions the commander and security manager should ask to assist in determining the overall personnel security clearance requirements are:

a. Does the unit have a classified mission during peacetime?

b. Does the unit have a classified mobilization mission?

c. What is the highest level of classification of the unit's mission?

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- d. Does the unit have a support role that may require the unit to handle classified documents or material?
- e. Have clearance problems identified during training been documented? What is required to solve these problems?
- f. Does the unit have classified equipment? Who handles or has access to it? Who repairs it?
- g. Will the unit be issued classified equipment upon mobilization? Who will be required to handle it?
- h. Does the unit have equipment that will be fitted with classified components upon mobilization? Who will be required to use it?
- i. Does the unit possess, or will it be required to possess, classified cryptographic keying material?

F-3. When a determination is made on who requires a clearance and the levels, the following actions are taken:

- a. Annotate the unit manning report indicating the level of clearance required.
- b. Contact the next higher unit in the chain of command for assistance in resolving problems that cannot be handled at the unit level.
- c. Submit the appropriate investigative forms and request for security clearance actions on unit personnel who require a security clearance for your unit IAW established clearance-processing procedures.
- d. Develop a suspense system to follow-up on clearance actions that have been submitted.
- e. Develop a system to ensure quality control of paperwork to avoid costly delays caused by paperwork being returned for correction.

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Annex G: (Required Documents Checklist) to RC Unit Commander's Handbook

G-1. The purpose of this checklist is to standardize the required documents that a unit commander must prepare and take to the mobilization station (MS) upon mobilization or during mobilization exercises. This checklist will not be supplemented. Any recommended additions or deletions may be forwarded to HQ FORSCOM, AFOP-OCM, for consideration.

G-2. The checklist contains all unit requirements to meet mobilization station needs. RC unit commanders will ensure that these documents accompany the advance party, and that members of the party are knowledgeable of them and the requirements of the unit to complete preparations for deployment. If time (accelerated Phase II and/or Phase III) precludes completion, the main body must comply with the provisions upon arrival at the MS. This checklist does not relieve the unit from taking all unit equipment and administrative records and files.

G-3. If the stated requirements are not completed at the home station, they will have to be completed upon arrival at the MS. Every effort will be made to complete all requirements prior to departure from home station, since time is of the essence after arrival at the MS.

G-4. The following checklist is intended to provide a sequential identification of unit mobilization requirement references. A unit organization (Derivative UIC) which is organized at less than full MTOE capabilities will not be required to fulfill full unit requirements, i.e. USR (Item g), PTSR , TAM , etc.

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<u>ITEM</u>	<u>REFERENCE</u>
a. Assumption of command letter	FORSCOM Reg 500-3-3
b. Updated unit Postmobilization Training Plan and revised FORSCOM Form 319-R, Postmobilization Training and Support Requirements (PTSR Hardcopy)	FORSCOM Reg 500-3-3
c. Latest evaluation of Annual Training (TAM) (ARNG only) and latest Compliance Inspection by STARC/RSC	FM 25-100/101
d. Copies of Unit Mobilization Order	FORMDEPS
e. Copy of MTOE/TDA and letters of authorization	
f. Complete Updated Unit Status Report (DA Form 2715 and 2715-R)	AR 220-1
g. Required Memorandums	
1. Dining Facility Account	AR 30-1
2. Verification by S2/Security Manager of a Secret clearance for each Unit Mail Clerk	AR 600-8-3 and DoD 4525.6-M, Volume II
3. Verification by S2/Security Manager of a favorable local files check for each Unit Mail Orderly	AR 600-8-3 and DoD 4525.6-M, Volume II
h. Appointment Orders (Memorandum Format) for:	
1. Mobilization Purchasing Authority	FORMDEPS
2. Claims Officer	
3. Property Book Officer	AR 710-2
4. Army Oil Analysis Program Coordinator and alternate	TB 43-0210
5. COMSEC Custodian/Alternate	FORSCOM Reg 380-41; AR 380-40; TB 380-41-2
6. Security Manager	AR 380-5
7. Safety Manager	AR 385-10
8. Telephone Control Officer	AR 105-23
9. Publications Control Officer	AR 25-30
10. Classified Custodian	AR 380-5
11. ISSO (Information Systems Security Officer)	AR 380-19
	AR 600-8-3 and DoD 4525.6-M, Volume II
	AR 25-1
12 Unit Postal Officer	
13. Information Management Officer	
i. Purchase Order (Invoice/Voucher) SF 44	FORMDEPS
j. Unit Property Book	FORMDEPS
k. DA Form 1687, Delegation of Authority for receipt of supplies and DD Form 577, Signature Card (as required by the mobilization station) prepared for:	FORMDEPS
1. Training aids/Audiovisual	AR 710-2
2. Central Issue Facility	
3. IMPACT Account	AR 710-2
4. IMSA (Class VIII)	
5. Signal	
6. Engineer supplies	
7. TDA/TOE supplies	AR 710-2
8. Real property	AR 710-2
9. Troop Issue Subsistence Activity (TISA)	
10. Ammunition Supply Point (ASP)	

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l. Class II -	
1. DA Form 3645, Organization Clothing & Equipment (record)	
Shortages.	FORMDEPS
2. DA Form 2765-1 for Shortages or DA Form 3161.	
3. DA Form 3078 for personal clothing	
m. Class IV-DA Form 2765-1, Construction and Fortification Shortages (Training Requirements Only)	FORMDEPS
n. Class V - DA Form 581, Request for issue and Turn-in of Ammunition basic load (ABL), AIIQ TAT.	FORMDEPS
o. Class VIII-Medical Supply Requisitions (DA Form 2765-1)	FORMDEPS
p. Class IX- Copy of PLL/ASL and shortage requisitions	FORMDEPS
q. Maintenance	
1. DA Form 2406, Materiel Condition Status Report and/or DA Form 1352, Materiel Condition Report (Aircraft) and/or DA Form 3266-1 Army Missile Readiness Report	FORMDEPS
2. List of items requiring calibration	FORMDEPS
r. Transportation	
1. COMPASS AUDEL/TC ACCIS UEL Update	FORSCOM Reg 55-1
2. Deployment Movement Plan	FORSCOM Reg 55-1
3. Driver Qualifications	FORMDEPS
s. Computerized Unit Manning Roster/Report annotated with:	
1. Roster of Nondeploying personnel with reason why nondeployable	FORMDEPS
2. Roster of AWOLs and no shows (Name, Rank, SSN, Unit Home Address, and Security Clearance.)	FORMDEPS
3. Positions requiring security clearances	
4. Disciplinary actions	
t. Records (NOTE: Records for advance party will not be transported in the same vehicle or aircraft as the personnel)	FORMDEPS
1. Military Personnel Jacket (DA Form 201)	AR 600-8-104
2. Finance (DA Form 2356)	
3. Medical (DA Form 3444 Series)	AR 40-66
4. Dental (SF 603) Paragraph	AR 40-66
5. Health care provider AR 40-68 Practitioner Credentials Files (PCFs) Certified Mail Preferred	
(a) DA Form 4691-R	
(b) Current DA Form 5440-(Specialty)-R	
(c) Current DA Form 5441-(Specialty)-R	
(d) Current DA Form 5754-R	
(e) Current DA Form 537	
(f) Medical school diploma w/primary source verification	
(g) Graduate Medical Education diploma(s)	
(h) Current state license	
(i) Proof of current basic or advanced cardiac life support.	
(j) Any other document that may affect privileging.	
u. Pending Personnel actions: Promotions	
v. DA Form 3955 (Change of Address and Directory Cards)	FORMDEPS
	AR 340-5, DOD 4526.6.M
w. Serious Incident Reports (if applicable)	AR 190-10 & AR 190-11
x. Accident Reports (if applicable)	AR 190-5 & AR 190-9
y. Form 3986, Personnel Asset Inventory	AR 680-31
z. Roster of personnel requiring Identification Tags	FORMDEPS

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- aa. DD Form 577, Signature Cards, as applicable. Prepared for:
 - 1. Classified Courier
 - 2. Morale Welfare Recreation Fund Representative
 - 3. Custodian of Classified Documents
 - 4. Mobilization Purchasing Authority (MPA)
- ab. DD Form 285, Appointment of Military Postal Clerk, Unit Mail Clerk, or Mail Orderly
 - 1. Primary Unit Mail Clerk
 - 2. Alternate Unit Mail Clerk
 - 3. Unit Mail Orderly (Two for each company section)
- ac. Personnel Security Clearance Roster for entrance to EOC
- ad. Roster of Personnel requiring security clearances and appropriate forms necessary to obtain a clearance.
 - 1. CONFIDENTIAL and SECRET clearance
 - (a) Proof of US citizenship.
 - (b) SF 86 (Questionnaire for National Security Positions)
 - (c) FD 258 (Fingerprint Card).
 - 2. TOP SECRET
 - (a) SF 86 (Questionnaire for National Security Positions) [Items 9, 10 & 11 must contain information for past 10 years.]
 - (b) FD 258 (Fingerprint Card).
 - (c) Proof of US Citizenship.
 - (d) DD Form 1879 (Request for Personal Security Investigation).
- ae. Claims for travel from home to assembly site (DD 1351-2)
- af. Mobilization Purchasing Authority (MPA) Procurement Reporting Information
- ag. PS Form 3801 (Standing Delivery Order) for Unit Mail Clerk
- ah. List of ADPE being brought to the mob station to include make/model, memory, disk, processor, network interface type, warranty information, and title and version of all installed software. Include sensitivity of data being processed, i.e., unclassified, confidential, secret
- ai. List of System Administrators (SA) for multi-user server systems (if applicable). Also indicate what specific technical AIS-related training they have received
- aj. Stand-alone and Battlefield Automation System (BAS) accreditations for each computer being brought to the mob station.
- ak. List of remote systems on DOD and commercial networks that you must communicate with while at the mob station. Include IP addresses and help desk phone numbers for these systems/networks, if possible. Describe the function or purpose of each connection. If available, list special Internet services and protocols (i.e., FTP, SMTP, NETBIOS, etc.) that must pass over the DOD or commercial Internet.

FORMDEPS
AR 105-31; AR 380-5

AR 37-103; AR 380-5
FORMDEPS

AR 600-8-3 and DoD 4525.6-M,
Volume II

FORMDEPS

AR 380-67

FORMDEPS

FORMDEPS

FORSCOM Regulation 500-3-3

Annex H: (References) to RC Unit Commander's Handbook

This annex lists the publications and blank forms used as source references for compiling this handbook.

PUBLICATIONS.

<u>NUMBER</u>	<u>TITLE</u>
AR 5-9	Intraservice Support Installation Area Coordination
AR 20-1	Inspector General Activities and Procedures
AR 25-1	The Army Information Resources Management Program
AR 25-11	Record Communications and the Privacy Communications System
AR 25-30	The Army Integrated Publishing and Printing Program
AR 25-51	Official Mail and Distribution Management
AR 27-10	Military Justice
AR 30-1	The Army Food Service Program
AR 30-21	The Army Field Feeding System
AR 37-103	Finance and Accounting for Installations: Disbursing Operations
AR 37-104-4	Military Pay and Allowances Policy and Procedures Active Component
AR 37-104-10	Military Pay and Allowance Procedures for Inactive Duty Training Joint Uniform Pay System, Reserve Components.
AR 37-106	Finance and Accounting for Installations Station and Evacuation Allowances Finance Handbook (Update)
AR 40-3	Medical, Dental and Veterinary Care
AR 40-5	Preventive Medicine
AR 40-15	Medical Warning Tag and Emergency Medical Identification
AR 40-61	Medical Logistics Policies and Procedures
AR 40-63	Ophthalmic Services
AR 40-66	Medical Record and Quality Assurance Administration
AR 40-68	Quality Assurance Administration
AR 40-501	Standards of Medical Fitness
AR 40-562	Immunization Requirements and Procedures
AR 50-5	Nuclear Surety
AR 50-6	Chemical Surety Program
AR 55-71	Transportation of Personal Property and Related Services
AR 55-113	Movement of Units Within Continental United States
AR 135-91	Service Obligations, Methods of Fulfillment, Participation Requirements and Enforcement Procedures - Reserve Components Personnel (Update)
AR 135-133	Ready Reserve Screening, Qualification Records System and Change of Address Reports - Reserve Components Personnel (Update)
AR 135-155	Promotion of Commissioned Officers and Warrant Officers Other than General Officers - Reserve Components Personnel (Update)
AR 135-175	Separation of Officers - Reserve Components Personnel (Update)
AR 135-178	Separation of Enlisted Personnel - Reserve Components Personnel (Update)
AR 135-210	Order to Active Duty as Individuals during Peacetime
AR 145-1	Senior ROTC Program Organization Administration and Training
AR 190-5	Motor Vehicle Traffic Supervision
AR 190-9	Military Absentee and Deserter Apprehension Program
AR 190-11	Physical Security of Weapons, Ammunition, and Explosives - Physical Security Handbook (Update)
AR 190-51	Security of Unclassified Army Property (Sensitive and non-sensitive - Physical Security Handbook (Update)

FORSCOM Regulation 500-3-3

AR 215-1	Nonappropriated Fund Instrumentalities and Morale, Welfare, and Recreation Activities
AR 220-1	Unit Status Reporting (RCS JCS 6-11-2-1-6)
AR 220-10	Preparation for Overseas Movement of Units (POM)
AR 220-45	Duty Roster
AR 310-50	Catalog of Abbreviations and Brevity Codes
AR 340-21	The Army Privacy Program replaced by AR 25-51AR 350-30
AR 380-5	Department of Army Information Security Program Regulation
AR 380-19	Information Systems Security
AR 380-19-1(C)	Control and Compromising Emanation (TEMPEST)
AR 380-40	Policy for Safeguarding and Controlling Communications Security (COMSEC) Material (C)
AR 380-67	Personnel Security Program Regulation
AR 381-12	Subversion and Espionage Directed Against US Army and Deliberate Security Violations (Short Title: SAEDA)
AR 381-26	The Army Foreign Materiel Exploitation Program
AR 385-10	The Army Safety Program
AR 385-40	Army Accident Investigation and Reporting
AR 500-5	The Army Mobilization and Operations Planning and Execution System (AMOPES)
AR 600-8-1	Army Casualty, Memorial Affairs and Investigations
AR 600-8-3	Unit Postal Operations
AR 600-8-6	Personnel Accounting and Strength Reporting
AR 600-8-14	Identification Cards, Tags, and Badges
AR 600-8-101	Personnel Processing (In-and-out and Mobilization), Soldier Readiness Processing (SRP)
AR 600-8-104	Military Personnel Information Management/Records
AR 600-8-105	Military Orders
AR 600-20	Army Command Policy and Procedures
AR 600-43	Conscientious Objection
AR 600-55	The Army Driver and Operator Standardization Program (Selection, Training, Testing, and Licensing)
AR 600-60	Physical Performance Evaluation Systems (AC)
AR 600-110	Identification, Surveillance and Administration of Personnel Infected with Human Immunodeficiency Virus (HIV)
AR 600-200	Enlisted Personnel Management System (Update)
AR 601-25	Delay in Reporting for and Exemption From Active Duty and Active Duty Training
AR 601-210	Regular Army and Army Reserve Enlistment Program Serviceman's Group Life Insurance (SGLI); Veterans Group Life Insurance (VGLI)
AR 600-8-29	Officer Promotions
AR 611-5	Army Personnel Selection and Classification Testing
AR 611-6	Army Linguist Management
AR 611-101	Commissioned Officer Classification System, Military Occupational Classification Structure Handbook (Update)
AR 611-112	Manual of Warrant Officer Military Occupational Specialties, Military Occupational Classification Structure Handbook (Update)
AR 611-201	Enlisted Career Management Fields and Military Occupational Specialty, Military Occupational Classification Structure Handbook (Update)
AR 612-201	Processing , Control, and Distribution of Personnel at US Army Reception Battalions and Training Centers (RCS MILPC-17 [R1]) and Distribution of Trainees (RCS MILPC-17)
AR 614-30	Overseas Service All Ranks Personnel Handbook (Update)
AR 623-105	Officer Evaluation Reporting System Evaluation Handbook (Update)
AR 623-205	Enlisted Evaluation Reporting System Evaluation Handbook (Update)
AR 630-10	Absence Without Leave, Dereliction and Administration of Personnel involved in Civilian Court Proceedings

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AR 690-11	Mobilization Planning and Management
AR 700-84	Issue and Sale of Personal Clothing, Unit Supply Update
AR 710-2	Inventory Management Supply Policy Below the Wholesale Level - Unit Supply Update
AR 710-3	Asset and Transaction Reporting System
AR 725-50	Requisitioning, Receipt, and Issue System
AR 735-5	Policies and Procedures for Property Accountability - Unit Supply Update
AR 750-1	Army Material Maintenance Policies, Maintenance Management Update
DA PAM 25-33	The Standard Army Publications System (STAR PUBS)
DA PAM 25-37	Index of Graphic Training Aids (GTA)
DA PAM 25-380-2	Security procedures for controlled cryptographic items
DA PAM 40-501	Hearing Conservation
DA PAM 350-9	Index and Description of Army Training Devices
DA PAM 350-100	Extension Training Materials Consolidated Catalog
DA Pam 385-40	Army Accident Investigation and Reporting
DA PAM 600-8	Management and Administrative Procedures
DA PAM 600-8-1	Standard Installation/ Division Personnel System (SIDPERS) Battalion S1 Level Procedures (VOL I)
DA PAM 600-8-2	SIDPERS User Manual - Military Personnel Office (Level Procedures)
DA PAM 608-47	A Guide to Establishing Family Support Groups
DA PAM 611-54	Manual for Testing Women Applicants at Reserve Components
DA PAM 611-54-1	Manual for Testing Men Applicants at Reserve Components
DA PAM 710-2-1	Using Unit Supply System Manual Procedures - Unit Supply Update
DA PAM 710-2-2	Supply Support Activity Supply System: Manual Procedures - Unit Supply Update
DA PAM 738-750	Functional User Manual for the Army Maintenance Management System (TAMMS) - Maintenance Management Update
DOD 4500.9-R	Vol II, Cargo Movements
DOD 4500.9-R	Vol III, Mobility
DOD 4500.34-R	Personal Property Traffic Management Regulation
DOD 4525.6-M Vol 1	
DOD 4525.6-M Vol 2	DOD Postal Manual DOD 5040.2-C-1
DA PAM 25-30	Index of Administrative Publications and Blank Forms (Microfiche).
CTA 8-100	Army Medical Department Expendable/Durable Items
CTA 50-900	Clothing and Individual Equipment
CTA 50-909	Field and Garrison Furnishing and Equipment
CTA 50-970	Expendable/Durable Items
FM 14-7	Finance Operations
FM 19-30	Physical Security
FM 25-100	Training the Force
FM 25-101	Battle Focused Training
FM 55-30	Army Motor Transport Operations and Units
FM 55-312	Military Convoy Operations in the Continental United States
FM 100-17	Mobilization, Deployment, Redeployment and Demobilization (MDRD)
FORSCOM/ARNG Reg 55-1	Unit Movement Planning
FR 55-2	Unit Movement Data Reporting and Systems Administration
FR 115-11	Climatic, Hydrological and Topographic Service
FR 135-7	Training Assessment
FR 380-41	Communications Security
FR 500-3	FORSCOM Mobilization and Deployment Planning System (FORMDEPS)
FR 700-2	FORSCOM Standing Logistics Instructions
FR 700-3	Ammunition Basic Load
TB 380-41	Procedure for Safeguarding, Accounting, and Supply Control of COMSEC Material
DOD PAM	A Guide to Reserve Component Families.
TM 746-10	Marking, Packaging, and Shipment of Supplies and Equipment: General Packing

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NGR 310-10	Instructions for Field Units
NGR 600-2	Military Orders
NGR 600-200	Screening of Army National Guard
NGR 614-1	Enlisted personnel management
NGR 635-100	Inactive Army National Guard Administration
NGR 680-2	Formation of Appointment and Withdrawal of Federal recognition
ACP 190 US Suppl 1 (C) -	Automated Retirement Points Accounting System
Guide to Frequency	
Planning	

BLANK FORMS.

DA FORMS:

<u>FORM NUMBER</u>	<u>TYPE</u>	<u>TITLE</u>
2 Series		Personnel Qualification Record Part I
6	CS	Duty Roster
12 Series		Publications and Blank Forms Accounts
17	CS	Request for Publications and Blank Forms
31	CS	Request Authority for Leave
201	FL	Military Personnel Records Jacket, U.S. Army
285-AB-R		U.S. Army Abbreviated Ground Accident Report (AGAR)
330	ST3	Language Proficiency Questionnaire
581	STC6	Request for Issue and Turn in of Ammunition
705	CD	Army Physical Fitness Test Card
1352	CS	Army Aircraft Inventory, Status and Flying Time Report
1380	ST3	Record of Individual Performance of Reserve Duty Training
1687	ST3	Notice of Delegation of Authority-Receipt for Supplies
2062	CS	Hand Receipt/Annex Number
2356	CS	
2397 Series		Technical Report of U.S. Army Aircraft Accident
2406	CS	Materiel Condition Status Report
2407	ST5	Maintenance Request
2715-R		Unit Status Report
2765	TCBX	Request for Issue or Turn-in
2765-1	ST4	Request for Issue or Turn-in
3053	CS	Declaration of Retired Pay Benefits Waiver
3078	ST6	Personnel Clothing Request
3161	ST6	Request for Issue or Turn-in
3266-1	CS	Army Missile Materiel Condition Status Report
3365	CS	Authentication for Medical Warning Tag
3444 Series		Terminal Digit File for Treatment Records
3645	PD50	Organization Clothing and Individual Equipment Record
3964		Classified Document Accountability Record
3685R		JSS-Army Pay Elections
3716		JUMPS/JSS-Army Personnel Financial Records U.S. Army
3953	PD50	Purchase Request and Commitment
3955		Change of Address and Directory Card
4187		Personnel Action
4886	CS	Issue-in-Kind Personal Clothing Record (Enlisted Reserve)
5304 R		Family Care Counseling Checklist

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5504
5960

Maintenance Request
Authorization to Start and Stop BAQ

DD FORM

<u>FORM NUMBER</u>	<u>TITLE</u>
2A	Active Duty Military ID Card
4	Enlistment/Reenlistment Document
93	Record of Emergency Data
137	Application for BAQ with Secondary Dependents
214	Certificate of Release Discharge from Active Duty
285	Appointment of Military Postal Personnel
577	Signature Card
1172	Application for Uniformed Services Identification Card DEERS Enrollment
1173	Uniformed Services Identification and Privilege Card
1173-1	DEERS
1348-6	DOD Single Line Item Requisition System Document
1351-2	Travel Voucher or Subvoucher
1561	Authorization for Family Separation Allowance
1879	Request for Personal Security Investigation
1934	Geneva Convention Identity Card for Medical and Authorized Religious Personnel who serve in or Accompany the Armed Forces
2501	Courier Authorization
2558	Change of Allotment
2559	Savings bond allotment authorization/active duty or retired pay

FORSCOM FORMS

12-R	Request to Establish/Change a FORSCOM Publications Account
149-R	Ammunition Basic Load Computation Sheet
248-R	Request for Motor Transportation
285-1-R	Request for Commercial Transportation
319-R	Postmobilization Training and Support Requirements (PTSR)
900-R	Computerized Movement Planning and Status System (COMPASS)

SF FORM

44	Purchase Order - Invoice Voucher
76	Post Card Application for Absentee Ballot
86	Questionnaire for National Security Positions
601	Immunization Record
603	Dental Record
1199A	Authorization for Deposits of Federal Recurring Payments

NGB FORMS

23A	Retirement Credits-Records
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SGLV FORMS

FORSCOM Regulation 500-3-3

8286 Request for Insurance - SGLI

IRS FORM

W-4 Employee's Withholding Exemption Certificate

FBI FORMS

FD 258 Fingerprint Card

Annex X: (Glossary) to RC Unit Commander's Handbook

SECTION I: ABBREVIATIONS AND ACRONYMS

AASF	Army Aviation Support Facility	AWOL	Absent Without Leave
ABL	Ammunition Basic Load	BBM	Blocking, Bracing Material
AC	Active Component	BBPCT	Blocking, Bracing, Packing, Crating and Tiedown material
ACB	Army classification battery	BFTMS	Battle Focused Training Management System
AD	Active Duty	BLDG	Building
ADP	Automated Data Processing	CARS	Combat Arms Regimental System
ADPE	Automated Data Processing Equipment	CASP	Civilian Acquired Skills Program
ADSW	Active Duty for Special Work	CBS-X	Continuing Balance System- Expanded
ADT	Active Duty for Training	CCISP	Controlled Cryptographic Item Serialization
AEC	Area Equipment Compounds	CHAP	Chapter
AESR	Army Equipment Status Report	CI	Coordinating Installation
AF	Augmentation Force	CNGB	Chief, National Guard Bureau
AFO	Army Finance Officer	CO	Conscientious Objector
AFS	Aviation Support Facility	COMPASS	Computerized Movement Planning and Status System
AG	Adjutant General	COMPO	Component Code
AGC	Adjutant Generals Corps	COMSEC	Communications Security
AGR	Active Guard/Reserve	CONUS	Continental United States
AIQ	Ammunition Initial Issue Quantity	CONUSA	Continental US Army
ALD	Available to Load Date	CPX	Command Post Exercise
ALO	Authorized Level of Organization	CRS	Calibration Recall System
AMC	Army Materiel Command	CSMS	Combined Support Maintenance Shop
AMDF	Army Master Data File	CTA	Common Table of Allowances
AMEDD	Army Medical Department	DA	Department of the Army
AMO	Automation Management Office	DACG	Departure Airfield Control Group
AMOPES	Army Mobilization and Operations Planning and Execution System	DAMPL	Department of the Army Master Priority List
AMSA	Area Maintenance Support Activities	DC	Dental Corps
AOMS	Area Organization Maintenance Shop	DDU	Direct Deployment Unit
APOE	Aerial Port of Embarkation	DEFCON	Defense Readiness Condition
ARCASP	Army Readiness Civilian Acquired Skills Program	DIV (EX)	Division (Exercise)
ARPERCOM	U.S. Army Reserve Personnel Command	DIVARTY	Division Artillery
ARNG	Army National Guard	DMC	Defense Movement Coordinator
ARTEP	Army Training and Evaluation Program	DOD	Department of Defense
ASGD	Assigned	DODAAC	DOD Activity Address Code
ASL	Authorized Stockage Level	DODIC	DOD Identification Code
AT	Annual Training	DODSASP	DOD Small Arms Serialization Program
ATP	Army Training Plan	DPA	Data Processing Activities
ATTN	Attention		
AUEL	Automated Unit Equipment List		

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DPCA	Director, Personnel and Community Activities	ING	Inactive National Guard
DRL	Date Required to Load	IRR	Individual Ready Reserve
EAD	Earliest Arrival Date	ISO	Installation Supply Officer
EAP	Emergency Action Procedures	ITO	Installation Transportation Officer
ECS	Equipment Concentration Site	JAGC	Judge Advocate Generals Corps
E-DATE	Date of Status Change of Unit	JCS	Joint Chiefs of Staff
ED	Effective Date unit enters Federal active duty	JSS	Joint Service System
EDDA	Estimated Departure Date Air	JUMPS	Joint Uniform Military Pay System
EDDS	Estimated Departure Date Sea	LAD	Latest Arrival Date
ESGR	Employer Support of the Guard and Reserve	LIN	Line Item Number
ESR	Equipment Status Report	LRA	Local Reproduction Authorized
ETS	Expiration of Term of Service	MACOM	Major Army Command
EXMOVREP	Expedited Movement Report	MAT	Mobilization Assistance Team
FAD	Force/Activity Designator	MATES	Mobilization and Training Equipment Site
FAO	Finance and Accounting Office	M-DATE	Mobilization Date
FAR	Federal Acquisition Regulation	M-DAY	For Full Mobilization Day
FC	Finance Corps	MC	Medical Corps
FEMA	Federal Emergency Management Agency	MDC	Movement Designator Code
FID	Format Identification Data	MEPS	Military Entrance Processing Station
FMP	FORSCOM Mobilization Plan	METL	Mission Essential Task List
FORMDEPS	FORSCOM Mobilization and Deployment Planning System	MFR	Memorandum For Record
FORSCOM	Forces Command	MHE	Materiel Handling Equipment
FTM	Full-Time Manning	MI	Middle Initial
FTNGD	Full Time National Guard Duty	MILPO	Military Personnel Office
FTUS	Full-time Unit Support	MOBCON	Mobilization Movement Control
FTX	Field Training Exercise	MOBPERS	Mobilization Personnel Processing System
GCCS	Global Command and Control System	MOBTDA	Mobilization Table of Distribution and Allowances
GCCS-A	Global Command and Control System - Army	MOS	Military Occupational Specialty
GEOLOC	Geographical Location Code	MOU	Memorandum Of Understanding
GOCOM	General Officer Command	MP	Mobilization Plan
GSF	General Support Force	MPA	Mobilization Purchasing Authority
GTA	Graphic Training Aid	MPL	Mandatory Parts List
HQ	Headquarters	MPRJ	Military Personnel Records Jacket
HQDA	Headquarters, Department of the Army	MRE	Meal, Ready to Eat
HS	Home Station	MS	Mobilization Station
HSC	Health Services Command	MSAD	Mobilization Station Arrival Date
HSDD	Home Station Departure Date	MSCA	Military Support of Civil Authority
IAW	In Accordance With	MTDA	Modified Table of Distribution and Allowances
ID	Identification	MTMC	Military Traffic Management Command
IDS	Intrusion Detection System	MTOE	Modified Table of Organization and Equipment
IDT	Inactive Duty Training	MUTA	Multiple Unit Training Assembly
IET	Initial Entry Training	NAC	National Agency Check
IMA	Individual Mobilization Augmentee		
IMSA	Installation Medical Supply Account		
INCONREP	Intra-CONUS Movement Report		

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NBC	Nuclear, Biological, and Chemical	REDCON	Readiness Condition
NCESGR	National Committee for Employer Support of the Guard and Reserve	REG	Regulation
NGB	National Guard Bureau	ROBCO	Requirement Objective Code
NGR	National Guard Regulation	ROTC	Reserve Officer Training Corps
NO	Number	RSC	Regional Support Command
NSLI	National Service Life Insurance	RSG	Regional Support Group
NSN	National Stock Number	SAEDA	Subversion and Espionage Directed against the Army
OBC	Officer Basic Course	S-DAY	Day PSRC Mobilization begins
OCONUS	Outside Continental U.S.	SB	Supply Bulletin
OCS	Officer Candidate School	SCIF	Sensitive Compartment Information Facility
OMA	Operations and Maintenance, Army	SDT	Skill Development Test
OMS	Organizational Maintenance Shop	SECDEF	Secretary of Defense
OPCOM	Operational Command	SGLI	Servicemen's Group Life Insurance
OPCON	Operational Control	SI	Support Installation
OPLAN	Operation Plan	SIB	SIDPERS Interface Branch
OSGLI	Office of Servicemen's Group Life Insurance	SIDPERS	Standard Installation/Division Personnel System
PAA	Primary Assembly Area	SMOS	Secondary MOS
PAM	Pamphlet	SMP	Simultaneous Membership Program
PARA	Paragraph	SOMS	State Operated Mobilization Stations
PBO	Property Book Officer	SORTS	Status of Resources and Training System
PCS	Permanent Change of Station	SPOE	Sea Port Of Embarkation
PFR	Personal Financial Record	SRC	Standard Requirement Code
PLASSN	Planning Association	SRP	Soldier Readiness Processing
PLCP	Premobilization Legal Counseling Program	SSAN	Social Security Account Number
PLL	Prescribed Load List	SSI	Specialty skill identifier
PLS	Premobilization Legal Services	SSO	Special Security Office
PMOS	Primary MOS	STARC	State Area Command
PMT	Postmobilization Training	TAG	The Adjutant General
POD	Port Of Debarkation	TALCE	Tanker/Airlift Control Element
POE	Port Of Embarkation	TAM	Training Assessment Model
POL	Petroleum, Oil, and Lubricants	TAT	To Accompany Troops
POM	Preparation for Overseas Movement	TBEP	Training Base Expansion Plan (TRADOC)
POV	Privately Owned Vehicle	TCS	Temporary Change of Station
PPP	Power Projection Platform	T-DAY	Day Partial Mobilization begins
PRP	Personnel Reliability Program	TDA	Table of Distribution and Allowances
PSP	Power Support Platform	TDY	Temporary Duty
PSRC	Presidential Selected Reserve Call-up	TOE	Table of Organization and Equipment
PTSR	Postmobilization Training and Support Requirements	TPSN	Troop Program Sequence Number
PWRS	Prepositioned War Reserve Stocks	TPU	Troop Program Unit
RC	Reserve Component	TRADOC	Training and Doctrine Command
RCAS	Reserve Component Automation System	TSB	Training Support Brigade
RCU	Reserve Component Unit	TSC	Training Support Center
RDYLD	Ready to load date	TTAD	Temporary Tour of Active Duty
		UCMJ	Uniform Code of Military Justice

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UIC	Unit Identification Code
ULMS	Unit Level Management System
UMC	Unit Movement Coordinator
US	United States
USAR	U.S. Army Reserve
USARC	U.S. Army Reserve Command
USPFO	U.S. Property and Fiscal Officer
USR	Unit Status Report
UTA	Unit Training Assembly
UTES	Unit Training Equipment Site
VA	Veterans Administration
WETEP	Weekend Training Equipment Pool
WETS	Weekend Training Site
WMD	Weapons of Mass Destruction
YTP	Yearly Training Program

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SECTION II: TERMS

“AA UNIT:” See Mobilization Entity

ACTIVE DUTY: Full-time duty in the active U.S. military service. A general term applied to all active military service with the active force without regard to duration or purpose.

ALERT: Any form of communication used by Headquarters, Department of the Army, or other competent authority, to notify RC unit commanders that orders to active duty are pending for the units. Simultaneously with the alert, or as soon as possible in the HQDA mobilization order, the unit is given the effective date of entry on active duty, its mobilization station, MTOE, and other basic data as determined by the orders issuing authority

AUTHORIZED LEVEL OF ORGANIZATION (ALO): ALO establishes the authorized strength and equipment level for units. ALO may be expressed in numerically or letter designated levels representing percentages of full manpower spaces (e.g., ALO 1 is 100 percent, ALO 2 approximately 90 percent, ALO 3 approximately 80 percent, ALO 4 approximately 70 percent). The JCS term "Readiness Rating Limitations" is synonymous with ALO for Army unit status reporting.

CALLUP : Procedures by which the President brings all or a part of the Army National Guard into the active Federal service of the United States under Section 3500 and Chapter 25 of Title 10 United States Code.

C-DAY: The unnamed day on which a deployment operation commences or is to commence.

Component Code: Identifies the duty status of a unit (1=Active Army; 2-ARNG; 3=USAR, 4=Unmanned/unequipped).

COMPUTERIZED MOVEMENT PLANNING AND STATUS SYSTEM (COMPASS): A computer assisted activity designated to provide movement-planning aids to Active Component and RC units and activities.

CONTINENTAL U.S. ARMY (CONUSA): Within a geographic area of responsibility, provides direct support to ARNG and USAR units; facilitates, assists and assesses training of RC forces; evaluates

readiness of all forces; and executes operations, mobilization and deployment as directed by FORSCOM.

COORDINATING INSTALLATION (CI): A supporting installation assigned to coordinate specified types of intra-service support within a prescribed geographical area.

CONUS SUSTAINING BASE: Those minimum essential units required on station immediately after mobilization to expand rapidly the training base, to serve as AC backfill and to perform priority tasks in deploying the early force and shipping essential supplies.

D-DAY: The day on which an operation commences or is due to commence. This may be the commencement of hostilities of any operation.

DELAY: The postponement of either the date a member is available to report for his active duty tour or the reporting date specified in orders to active duty.

DIRECT DEPLOYING UNIT: A Reserve Component unit that moves directly from Home Station (HS) to a Port of Embarkation (POE). The unit does not move through a Mobilization Station (MS).

DIRECT REPORTING COMMAND (DRC): A USAR troop program unit, other than a U.S. Army Regional Support Command (RSC). It is commanded by a general officer.

DIRECTED TRAINING ASSOCIATION: A directed training association (DTA) program whereby early deploying units are affiliated with like-type AC units to improve their readiness.

EARLIEST ARRIVAL DATE (EAD): The earliest date a unit should arrive "in theater" in support of a specific operation plan.

EQUIPMENT CONCENTRATION SITE (ECS): A site at which equipment has been placed, with provisions for its maintenance and security, for storage and/or use by USAR units.

EXEMPTION: Total relief from the requirement to report for active duty on the reporting date specified in orders to active duty.

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F-HOUR: The time, specified by the Secretary of Defense, at which the military departments will initiate mobilization.

FORCE ACTIVITY DESIGNATOR (FAD): Each unit in the Army is assigned a number from I to V, which is known as the FAD. The FAD provides guidance for the allocation and distribution of resources such as equipment and personnel. The higher the FAD number, the lower the unit's priority to receive resources.

FULL-TIME MANNING: Full-time military personnel, either ARNG, USAR, or Active Component, assigned to a unit to increase the mobilization readiness of that unit.

HOME STATION (HS): The assigned permanent location or assembly point of ARNGUS and USAR units, or initial active duty station for individuals reporting separately.

INACTIVE NATIONAL GUARD (ING): A continuing military status for those qualified officers, warrant officers, and enlisted persons prevented temporarily from participation in National Guard training. Individuals so assigned continue to be in the Ready Reserve and subject to order to active duty in time of war or national emergency as members of the Army National Guard of the United States.

INDIVIDUAL MOBILIZATION AUGMENTEE (IMA): A member of the Individual Ready Reserve who is pre-selected, pre-trained, and assigned to occupy an authorized active duty position.

LATEST ARRIVAL DATE (LAD): The latest date a unit is projected to arrive at its overseas theater.

M-DAY: The day the Secretary of Defense directs that Full mobilization commence based on a decision by the President, the Congress, or both. All mobilization planning (e.g., alert, movement, transportation, and deployment or employment) is based on this date.

M-DATE: The specific day an RC unit enters active duty.

MOBILIZATION: The act of assembling and organizing national resources to support national objectives in the time of war or other emergencies. The process by which the Armed Forces or part of them are brought to a state of readiness for war or

other national emergency. This includes activating all or part of the Reserve components as well as assembling and organizing personnel, supplies, and materiel. Mobilization of the Armed Forces includes the following categories:

a. **Selective mobilization.** Expansion of the active Armed Forces resulting from action by Congress and/or the President to mobilize Reserve component units, and the resources needed for their support to meet the requirements of a domestic emergency that is not the result of an enemy attack.

b. **Presidential Selected Reserve Call-up (PSRC).** The President may augment the active forces by a call-up of units or individuals of the Selected Reserve, up to 200,000 personnel (all services), for up to 270 days, with additional 90 days, if necessary, to meet the requirements of an operational mission. While the PSRC is not a statutory level of mobilization, it is part of the graduated mobilization response.

c. **Partial Mobilization.** Expansion of the active Armed Forces resulting from action by Congress (up to full mobilization) or by the President (not more than 1,000,000) to mobilize for up to 24 months Ready Reserve component units, individual reservists, and the resources needed for their support to meet the requirements of a war or other national emergency involving an external threat to the national security.

d. **Full Mobilization.** Expansion of the active Armed Forces resulting from action by Congress and the President to mobilize all Reserve component units in the existing approved force structure, all individual reservists, retired military personnel, and the resources needed for their support to meet the requirements of a war or other national emergency involving an external threat to the national security.

e. **Total Mobilization.** Expansion of the active Armed Forces resulting from action by Congress and the President to organize and/or generate additional units or personnel, beyond the existing force structure, and the resources needed for their support, to meet the total requirement of a war or other national emergency involving an external threat to the national security.

MOBILIZATION AND TRAINING

EQUIPMENT SITE (MATES): A site at which a portion of an Army National Guard units authorized equipment is positioned by direction of Chief,

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National Guard Bureau, and maintained to support unit mobilization and training.

MOBILIZATION DEPLOYMENT EXERCISE:

An Army National Guard exercise for units selected to participate in RC Deployment Training Overseas. The exercise evaluates the unit's mobilization planning, completion of all requirements for overseas training, completion of individual records review and update, deployment planning and training, and an assessment of the STARC's/unit's capability to support/execute mobilization procedures.

MOBILIZATION ENTITY (UIC ENDING IN

"AA"): A unit, which is organized under an approved authorization document (MTOE or TDA), implemented by general order, and which mobilizes as one entity. All sub-elements are organic and have a common troop program sequence number and a common Mobilization Station. A battalion with organic companies would be a mobilization entity.

MOBILIZATION STATION (MS): The designated military installation (active, semiactive, or inactive) or mobilization center to which a Reserve Component unit is moved for further processing, organizing, equipping, training, and employing after mobilization.

MOBILIZATION PLANNING APPLICATION, MOBILIZATION PRODUCT LINE (MPAMPL):

Provided for mobilization and deployment planning and execution, which displays the U.S. Army within CONUS, OCONUS, FORSCOM, and USARPAC along with projected mobilization deployment/employment of units.

ORDER: The procedure by which the Reserve Components (ARNGUS and USAR) enter into the active military service of the United States, under Sections 672 and 673 of Title 10 United States Code, or other acts of Congress.

PORT OF EMBARKATION (POE): An air (APOE) or sea (SPOE) terminal at which troops, units, military sponsored personnel, unit equipment, and materiel board and/or are loaded.

READINESS FOR MOBILIZATION EXERCISE

(REMOBE): Army National Guard exercise conducted by STARCs as the formers major subordinate commands for ARNG units within the states. It is an announced exercise designed to examine alert notification procedures, mobilization procedures at HS, load plans, movement plans, and

where feasible, actual unit movement. REMOBE may be conducted in conjunction with an AT move.

READY RESERVE: Units and unit members of the Reserve Components and individuals liable for involuntary active duty in time of war, national emergency as declared by Congress, national emergency declared by the President, or when otherwise authorized by law.

READY TO LOAD DATE (RDYLD): The projected date a unit is capable of starting and sustaining movement from its MS to an assigned POE.

REGIONAL SUPPORT COMMAND: A geographic area command that commands USAR units and is under the combatant command of the appropriate CINC.

REQUIRED DELIVERY DATE (RDD):

- a. The calendar date on which material is required by the requisitioner.
- b. The date a unit is required to arrive at the main battle area in support of a specific operations plan.

RETIRED RESERVE: Consists of those individuals whose names are placed on the Reserve Retired list by proper authority in accordance with law or regulations. Members of the Retired Reserve may, if qualified, be ordered to active duty involuntarily in time of war or national emergency declared by Congress, or when otherwise authorized by law, and then only when it is determined by the Secretary of the Army that adequate numbers of qualified individuals in the required categories are not readily available in the Ready Reserve or in active status in the Standby Reserve.

S-DAY: The day PSRC is declared.

SELECTED RESERVE: That portion of the Ready Reserve consisting of units and individual reservists required to participate in inactive duty training and annual training, both of which are in a pay status. The Selected Reserve also includes persons performing Initial Active Duty for Training 10 USC 268(b).

STANDARD REQUIREMENTS CODE (SRC): A basic set of codes, integral to each current table of organization and equipment for the purpose of expressing each and every possible combination or variation thereof, which, when associated with

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organizational data, is the basis for personnel and supply computations.

STANDBY RESERVES: Those units and members of the Reserve Components (other than those in the Ready Reserve or Retired Reserve) who are liable for active duty only after being certified as available by the Selective Service System when requested by the Secretary of Defense.

STATE ADJUTANT GENERAL: An individual appointed by the Governor of a state or elected by popular vote to administer the military affairs of the state. A state adjutant general may be federally recognized as a general officer, provided he meets the prescribed requirements and qualifications. Otherwise, he will be federally recognized as a general officer, Adjutant General Corps, for tenure of office.

STATE AREA COMMAND (STARC): A mobilization entity within the ARNG that is ordered to active duty when ARNG units in that state are alerted for mobilization. It provides for command and control of mobilized ARNGUS units from HS until arrival at MS. It is also responsible for planning and executing military support for civil defense and land defense plans under the respective area commander.

SUPPORT INSTALLATION (SI): An installation or activity that provides a type of support to off-post units and activities within a specific geographic area.

T-DAY: The day Partial mobilization is declared.

TRAINING ASSESSMENT MODEL (TAM): A standard, comprehensive means for commanders to monitor and assess the current training readiness of their units and soldiers. It incorporates FORSCOM Form 1-1-R, Mission Essential Task List (METL). Guidance for TAM is FORSCOM Reg 135-7.

TECHNICIAN: A full-time civilian employee of the Army National Guard or U.S. Army Reserve, normally a military member of the unit for which employed, retained to provide day-to-day continuity of operations. Technicians provide support in the performance of functions that cannot be performed by unit personnel during the regularly scheduled training periods.

UNIT ("AA" LEVEL): For the purpose of mobilization planning:

a. Any military element of the Selected Reserve whose structure is prescribed by an approved authorization document, such as an MTOE or a TDA.

b. An organizational title of a subdivision of a group in a task force.

UNIT IDENTIFICATION CODE (UIC): A code to identify uniquely each unit of the Active Army, Army National Guard, United States Army Reserve.

UNIT STATUS REPORTING SYSTEM: A system for reporting the current status of Active and Reserve Component units.

UNIT TRAINING ASSEMBLY: An authorized and scheduled training assembly of not less than four hours duration, including roll call and rest periods. One retirement point and one day's pay are authorized for each assigned and attached individual who satisfactorily completes the entire assembly. This type of assembly is mandatory for all troop program units, except USAR schools.

UNIT TRAINING EQUIPMENT SITE (UTES): A consolidation of ARNG organizational equipment at or in close proximity to and serving an authorized weekend training site. Under the UTES concept, such pooling of equipment assets extends existing organizations rather than creating a separate TDA type activity. UTES equipment is derived from and cannot exceed MTOE, TDA or MTDA authorization or HS allowances established by the National Guard Bureau for participating units and accounted for on unit property books. Organizational identity of all pooled equipment is maintained and all units using such equipment provide for normal organizational maintenance and reporting.

WEEKEND TRAINING SITE (WETS): A state operated training site normally used to conduct unit-training assemblies in a field environment. Army approved ranges (except at annual training sites) are WETS.

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Military Reserves Are Falling Short In Finding Recruits

By STEVEN LEE MYERS
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WASHINGTON, Aug. 27— The nation's military Reserves are increasingly struggling to fill their ranks with new recruits, even as the Pentagon relies on them more heavily than ever to conduct operations around the world, according to military officials and Pentagon documents.

In each of the last three years, the Army, Naval and Air Force Reserves have each fallen short of their recruiting goals; last year, the Air Force Reserve missed its objective by nearly 40 percent, signing up only 7,518 of the 11,791 recruits it needed. Only the Marine Corps Reserve has steadily recruited enough new troops in recent years.

The recruiting problems have continued -- with the three Reserve forces unlikely to make their targets by the time the fiscal year ends on Sept. 30 -- even though the active-duty services have turned around their own dismal recruiting record after an infusion of recruiters, increased advertising and enlistment bonuses, according to Pentagon records.

For the first time since 1997, the Army, Navy, Air Force and Marine Corps are all expected to meet their recruiting goals this year, an achievement Secretary of Defense William S. Cohen and other officials have attributed in part to sharper marketing strategies and a string of military pay increases.

But the difficulty in persuading young men and women to sign up as part-time soldiers, sailors and airmen has been a sobering counterpoint. It is also raising questions about the Pentagon's strategy of turning to the 864,000 members of the Reserves and National Guard for humanitarian missions, peacekeeping operations and combat.

In fact, the increased demands on the Reserves, which have resulted in more missions overseas, is one of the reasons cited as an obstacle to filling units that not so long ago required reservists to set aside only a weekend a month and two weeks a year.

The military's readiness -- particularly efforts to recruit new soldiers and re-enlist the ones it has -- has become an issue in this year's presidential campaign, and the latest recruiting numbers could provide fodder for both Vice President Al Gore and Gov. George W. Bush.

While Mr. Gore can point to the recruiting turnaround for the active forces, Mr. Bush can

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emphasize the shortages on the Reserves' side.

"We have the same concerns about morale, recruiting and re-enlistment for the Reserves as we do for the regular forces," a spokesman for the Bush campaign, Ray Sullivan, said on Friday.

The Gore campaign did not respond to questions about Reserve recruiting.

Many of the recruiting challenges facing the Reserves are the same ones that have besieged the entire military in recent years. The economy is thriving, creating more, better-paying alternatives to military service. More and more high school graduates also are heading directly to college, while there has been a steady decline in young people expressing any interest in enlisting in the military.

The Reserves, however, are facing unique problems. Traditionally, the largest pool of Reserve recruits has been made up of people leaving full-time active duty, but as all the services have shrunk from their cold war levels, so has that pool.

There is also evidence that people leaving active duty are less willing to join the Guard or Reserves. In the last three years, the percentage of those leaving the Army who said they would consider continuing to serve part time has declined to 21 percent from 41 percent, according to the Army Reserve.

Officials attribute that at least in part to the increased missions of the Guard and Reserves. Reservists, once described as "weekend warriors," are now serving beside their full-time counterparts in operations from the Persian Gulf to the Balkans. The average Air Force reservist served 58 days last year, while air crews served 110.

"Kids getting off active duty right now are looking at what we're doing and they're saying, 'Whew! I'm not going to join the Reserves or the Guard. I mean you're going where I just came from,'" Maj. Gen. David R. Smith, vice commander of the Air Force Reserve Command, said during an interview earlier this month in his headquarters at Robins Air Force Base in central Georgia.

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pursue that" by opening a formal investigation that could lead to discharge.

Not everyone at the Pentagon agrees. Army Secretary John M. McHugh told reporters Wednesday that he has been gauging troops' sentiment on "don't ask, don't tell" recently. In response, he said, some have volunteered that they are gay. He said he declined to take action against them, reasoning that if he hadn't asked, they wouldn't have told.

"What I'm trying to do is show the troops that, yes, it's okay to talk about this," he said. "I just felt it would be counterproductive . . . to take disciplinary action against someone who spoke openly and honestly."

Supporters of "don't ask, don't tell" also have to walk a fine line.

Lt. Gen. Benjamin Mixon, commander of the U.S. Army Pacific, received a smack-down from the top brass at the Pentagon after he wrote a letter to Stars and Stripes, a newspaper that covers the military, urging service members and their families to lobby elected officials to keep "don't ask, don't tell" in place.

Last week, Gates called Mixon's comments "inappropriate." Adm. Mike Mullen, chairman of the Joint Chiefs of Staff, concurred and said that if

commanders disagree with policy changes, they should not resort to political advocacy but rather "vote with your feet" by resigning.

Since then, however, Mixon appears to have undergone a political rehabilitation. On Wednesday, McHugh said that Mixon had been advised that his letter was "inappropriate" but that he would not receive a formal reprimand.

Another general who has been at odds with Gates and Mullen over "don't ask, don't tell" is James T. Conway, commandant of the Marine Corps. Conway has told Congress that the law should not be changed. Last week, he said that even if it is, he will not force straight Marines to live with gay ones in their military quarters, citing what he called "overwhelming" opposition in the Corps to such an arrangement. Conway, however, has not drawn any official

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rebukes for his views.

Ham said the military could resolve concerns over housing. He said a much tougher challenge would be to determine whether same-sex partners or spouses should receive recognition or benefits, given the fast-changing and conflicting array of state and federal laws regarding gay marriage.

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“Balancing Your Strengths Against Your Felonies”:
Considerations for Military Recruitment of Ex-Offenders

Michael Boucai*

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I. INTRODUCTION

A recent *New Yorker* cartoon wittily, if unwittingly, captures a growing reality of today's job market. Perusing an applicant's résumé, an employer confesses: "I'm trying to find a way to balance your strengths against your felonies."¹ Though merely a punch line to most readers, such tepid words of welcome are taken anything but lightly among the numerous ex-offenders in the nation's workforce. The 600,000 individuals released each year from federal and state prisons face tremendous difficulties finding employment – especially when, like the applicant in the *New Yorker* cartoon, they are honest about their backgrounds.

As those who hide their arrests and convictions well know, the criminal closet is hardly conducive to job retention, performance, or promotion. Nonetheless, secrecy is often the only alternative to unemployment. Echoing a widespread expert consensus, criminologist Joan Petersilia says that "finding a job is critical" to convicts' effective reintegration into society.² Employers' reluctance or outright refusal to hire ex-offenders keeps many of these individuals at the margins of society, increasing their likelihood of recidivism and reincarceration.³

This Article deals with ex-offender employment in one context where the necessity of balancing strengths against felonies is taken very seriously indeed: the U.S. Armed Forces.⁴ It suggests revising the traditional wisdom that the military's "eligibility requirements are for the

¹ Leo Cullum, Cartoon, *NEW YORKER*, Sept. 19, 2005, at 74.

² Joan Petersilia, *Hard Time: Ex-Offenders Returning Home After Prison*, *CORRECTIONS TODAY*, Apr. 2005, at 66, 67 (2005).

³ See, e.g., *Doing More Than Time*, Op-Ed, *CHRISTIAN SCI. MONITOR*, May 4, 2001, at 10, available at 2001 WLNR 1242682 ("True, about 40 percent of former convicts turn to crime again. But that statistic would almost certainly shrink if more businesses looked beyond the question of past felony convictions, and if state corrections departments did more to give inmates an opportunity to prepare for life on the outside.").

⁴ In assessing potential recruits, including those with criminal histories, the military uses a "whole person" standard that entails "evaluating [whether] the applicant's strengths outweigh the reasons for disqualification." Leonard L. Etcho, *The Effect of Moral Waivers on First-Term, Unsuitability Attrition in the Marine Corps*, at 4 (Mar. 1996) (thesis, Naval Postgraduate School), available at <http://stinet.dtic.mil/cgi-bin/GetTRDoc?AD=ADA309309&Location=U2&doc=GetTRDoc.pdf>.

protection of the government, and not for the soldier.”⁵ In a spirit of greater reciprocity, civilian society ought to pay closer attention to whether and how ex-offenders gain access to military employment. Service in the Armed Forces should be cautiously, but seriously and frankly, considered as a potential career path for some of these individuals. Certainly we should continue to ask what former criminals can do for the military; but we should also ask what the military can do for former criminals – and what, in turn, the military can do for the communities in which ex-offenders are expected, and so often fail, to build new and productive lives.⁶

Recent developments at home and abroad make ex-offender enlistment a particularly timely question. First, the issue relates in multiple ways to the Armed Forces’ faltering ability to fill ranks.⁷ As we will see, ex-offenders’ presence in the Armed Forces can be characterized as a cause, effect, or even correction of the military’s apparent recruitment problem. Second, ex-offender enlistment constitutes, in and of itself, a major recruitment trend.⁸ Many readers will be surprised to learn just how many ex-offenders the Armed Services knowingly admit each year – despite a statutory presumption against such accessions, and despite a burden on enlistees to

⁵ *Ex parte Dostal*, 243 F. 664, 672 (N.D. Ohio 1917).

⁶ Norman Mailer’s evocative description of the situation of a convict upon release from prison has lost none of its force or truth:

Then one day they put the convict out the front door, told him today is magic. . . . Now, do it on your own. Go out, find a job, get up by yourself, report to work on time, manage your money, do all the things you were taught not to do in prison. Guaranteed to fail. Eighty percent went back to jail.

NORMAN MAILER, *THE EXECUTIONER’S SONG* 482 (1979).

⁷ See Tom Bowman, *Army Accepts Crime in Recruits to Fill Its Needs, Military Issues Waivers for Some Past Minor Offenses*, BALT. SUN, Feb. 14, 2006, at 1A, available at 2006 WLNR 2554076; Frank Main, *More Army Recruits Have Records: Number Allowed in with Misdemeanors More Than Doubles*, CHI. SUN-TIMES, June 19, 2006, at 3, available at 2006 WLNR 10550175. More general expressions of recruitment-related anxiety, from a mere two-month period in 2005, include Philip Carter, *The Quiet Man*, N.Y. TIMES, July 6, 2005, at A19, available at 2005 WLNR 10629369, Victor Davis Hanson, *Are They in the Army Now? Cries of Shortfall, Exhaustion, and Overstretch*, NAT’L REV., July 4, 2005, at 17, Greg Jaffe, *To Fill Ranks, Army Acts to Retain Even Problem Enlistees*, WALL ST. J., June 3, 2005, at B1, and Greg Jaffe & Yochi R. Dreazen, *Army Might Seek Waivers to Call Guards Back Up*, WALL ST. J., Jan. 7, 2005, at A3.

⁸ The mainstream press has devoted some attention to the significant population of ex-offenders recruited into the Armed Forces. See, e.g., *The Army, After Iraq*, Op-Ed, N.Y. TIMES, Mar. 18, 2007, § 4, at 11, available at 2007 WLNR 5097688 (“You do not have to look very hard these days to see the grave damage the Bush administration’s mismanagement of the Iraq conflict has inflicted on the United States Army. Consider the moral waivers for violent offenders, to meet recruitment targets.” (emphasis supplied)); Bowman, *supra* note 7; Main, *supra* note 7.

prove their qualifications.⁹ Finally, the public has responded to the Abu Ghraib prison abuse scandal,¹⁰ as well as other disturbing instances of servicemember misconduct,¹¹ with heightened concern about the “checkered backgrounds” of some military recruits.¹²

As the public continues to engage the issue of ex-offender enlistment, it should take care to avoid the military’s single-minded focus on “suitability” disparities between ex-offenders and other recruits.¹³ These well-documented differences are important considerations, but others, which look beyond mere numbers, also merit attention: the fact that a substantial majority of servicemembers with criminal histories are successfully integrated into the Armed Forces;¹⁴ the possibility that a problem in military culture, not military recruitment per se, is a more proximate cause of the most disturbing instances of servicemember misconduct;¹⁵ and the more general

⁹ See, e.g., DEP’T OF THE ARMY, ARMY REGULATION 601-210, at 4-2(c) (2005), available at <http://www.usapa.army.mil/pdffiles/r601%5F210.pdf> (“The burden is on the applicant to prove to waiver authorities that he or she has overcome their disqualifications for enlistment and that their acceptance would be in the best interests of the Army.”) [hereinafter ARMY REGULATION 601-210].

¹⁰ James Risen, *G.I.’s Are Accused of Abusing Iraqi Captives*, N.Y. TIMES, Apr. 29, 2004, at A15, available at 2004 WLNR 5501121; Thom Shankner & Dexter Filkins, *Army Punishes 7 with Reprimands for Prison Abuse*, N.Y. TIMES, May 4, 2004, at A1, available at 2004 WLNR 5604118; Tim Golden & Eric Schmitt, *General Took Guantanamo Rules to Iraq for Handling of Prisoners*, N.Y. TIMES, May 13, 2004, at A1, available at 2004 WLNR 5538678.

¹¹ Ryan Lenz, *GIs May Have Planned Iraq Rape, Slayings*, ABC NEWS, July 1, 2006, available at <http://abcnews.go.com/International/wireStory?id=2142323>; John Kifner, *Hate Groups Are Infiltrating the Military, Group Asserts*, N.Y. TIMES, July 7, 2006, at A14, available at 2006 WLNR 11719901.

¹² Ken Silverstein, *Pentagon Alerted to Trouble in Ranks*, L.A. TIMES, July 1, 2004, at A1, available at 2004 WLNR 19762878; see also Kate Zernike, *Three Accused Soldiers Had Records of Unruliness That Went Unpunished*, N.Y. TIMES, May 27, 2004, at A13, available at 2004 WLNR 5482807.

¹³ See *infra* Parts II.A.-B.

¹⁴ See *infra* Parts III.A.-B. It is worth questioning the efficiency, not to mention the fairness, of excluding the whole class of ex-offenders from any and all kinds of military service. A more reasonable, well-tailored solution might be to keep such recruits away from particularly sensitive or consequential tasks (like guarding or interrogating enemy prisoners), or to do so until they have sufficiently demonstrated their reliability in uniform. Of course this is, in some regards, current military practice. See generally U.S. GEN. ACCOUNTING OFFICE, *MILITARY RECRUITING: NEW INITIATIVES COULD IMPROVE CRIMINAL HISTORY SCREENING* (1999) [hereinafter GAO MILITARY RECRUITING], available at <http://www.gao.gov/archive/1999/ns99053.pdf>.

¹⁵ See, e.g., Elizabeth L. Hillman, *Guarding Women: Abu Ghraib and Military Sexual Culture*, in ONE OF THE GUYS: WOMEN AS AGGRESSORS AND TORTURERS 111 (Tara McKelvey ed., 2007); Hank Nuwer, *Military Hazing*, in THE HAZING READER 141 (Hank Nuwer ed., 2004); Carie Little Hersh, *Crossing the Line: Sex, Power, Justice, and the U.S. Navy at the Equator*, 9 DUKE J. GENDER L. & POL’Y 277 (2002) (describing in detail the simulated sex, degradation, and humiliation involved in the Navy’s initiation of sailors upon first crossing the equator).

possibility that the crimes committed by recidivist offenders as civilians are worse in quantity, quality, or effect than those committed by recidivists in uniform.¹⁶

Part II of this Article discusses the legal and empirical aspects of ex-offender enlistment in the U.S. Armed Forces. It begins with the laws, policies, and procedures regarding the “moral waivers” by which individuals with criminal histories are admitted into the military. It then describes the waiver system in action, drawing on original Department of Defense (“DOD”) data furnished directly to the author under the Freedom of Information Act. The startling trends exposed in Part II – from the military’s use of moral waivers to knowingly recruit thousands of persons with criminal backgrounds each year, to its failure to detect the criminal backgrounds of many thousands more – are discussed in light of the competing needs and pressures faced by our contemporary Armed Forces.

Part III describes some of the practical, social, and political considerations that are and should be at play in the formulation and implementation of the Armed Forces’ waiver policy. These include: the characteristics of the American youth population from which recruits are drawn; moral waiver recipients’ performance, retention, and attrition levels; ex-offenders’ employment difficulties and the effect of these difficulties on criminal recidivism; and the social advantages of military service among ex-offenders.

Synthesizing the descriptive information presented in Part II with the policy concerns addressed in Part III, this Article concludes that ex-offender recruitment, currently pursued through a system of winks and nods, should be approached more forthrightly, and perhaps more vigorously, for the good of civilian society *and* the Armed Forces.

¹⁶ See *infra* notes 191-202 and accompanying text. There is evidence, for example, that recidivism rates are lower for those who enter the military with moral waivers and/or criminal backgrounds than for those who do not enter the military at all.

II. THE MORAL WAIVER SYSTEM

A. Substantive Laws and Policies Governing the Moral Waiver System

The Supreme Court has held that “voluntariness and capacity are the only two requirements for a valid enlistment” into the U.S. Armed Forces.¹⁷ Beyond these criteria, the federal government has long been entrusted to “prescribe the requisite qualifications, and insist upon or waive them in its discretion.”¹⁸ Generally, Congress has delegated this authority to the Secretary of Defense, authorizing the Secretary to establish “physical, mental, moral, professional, and age” requirements for enlistment.¹⁹ A notable limitation on the Armed Forces’ power to set their own standards is the statutory exclusion of persons who have been convicted of a felony.²⁰ The U.S. Department of Justice (“DOJ”) cites loss of the “right” to serve in the military as one of the many collateral consequences of a felony conviction,²¹ and it is regularly described as such in judicial opinions.²² Generally speaking, disqualification on the basis of moral character “encompasses individuals under judicial restraint [or] with significant criminal records,” persons “displaying antisocial or other problematic behavior,” and one-time service members whose discharge was less than honorable.²³

¹⁷ *Hodges v. Brown*, 500 F. Supp. 25, 28 (E.D. Pa. 1980) (citing *In re Grimley*, 137 U.S. 147, 151-53 (1890), *aff’d*, 649 F.2d 859 (3d Cir. 1981)).

¹⁸ *United States v. Cottingham*, 40 Va. 615, 631 (Va. 1843).

¹⁹ *See, e.g.*, 10 U.S.C. § 12102(b) (2006) (relating to the Reserves).

²⁰ 10 U.S.C. § 504(a) (2006).

²¹ *See* DEP’T OF JUSTICE, OFFICE OF THE PARDON ATTORNEY, FEDERAL STATUTES IMPOSING COLLATERAL CONSEQUENCES UPON CONVICTION 3 (2000) (citing 10 U.S.C. § 504) [hereinafter COLLATERAL CONSEQUENCES UPON CONVICTION], available at http://www.usdoj.gov/pardon/collateral_consequences.pdf.

²² *See, e.g.*, *Mulloy v. United States*, 937 F. Supp. 1001, 1006 (D. Mass. 1996); *Commonwealth v. Duffy*, 639 A.2d 1174, 1176 (Pa. 1994); *In re Disciplinary Proceedings Against Hyndman*, 638 N.W.2d 293, 300 (Wis. 2002) (Wilcox, J., dissenting) (“The crime that the court glosses over is not a minor one. Such a felony drug conviction would prevent Hyndman from joining the Armed Forces, from becoming a police officer” (footnotes omitted)); *see also* COLLATERAL CONSEQUENCES UPON CONVICTION, *supra* note 21, at 3.

²³ SHEILA NATARAJ KIRBY & HARRY J. THIE, RAND, ENLISTED PERSONNEL MANAGEMENT: A HISTORICAL PERSPECTIVE 66 (1996).

The same statute that disqualifies felons from military service permits the Secretary of Defense to “authorize exceptions, in meritorious cases.”²⁴ Such exceptions are called “moral waivers,” a designation that underscores the military’s use of criminal history as a proxy for moral character.²⁵ Just as the Armed Services may admit recruits who are physically heavier than the rules allow via “weight waivers,” they may admit those with criminal histories – from traffic violations to felony convictions – via moral waivers, which overcome these enlistees’ prior misconduct. Though the procedures and requirements governing their allocation differ from Service to Service, moral waivers are widely used throughout the Armed Forces.²⁶

The military’s nominal ban on ex-offenders – merely nominal because the moral waiver system enjoys widespread observance in the breach – is part of a larger legal and policy framework that particularly discourages criminal behavior among servicemembers. The Uniform Code of Military Justice (“UCMJ”) and the Court of Appeals for the Armed Forces, whose operation is by no means limited to situations where enforcement of civilian laws by civilian courts is impracticable,²⁷ are prominent examples of society’s deference to the military’s need to regulate the discipline and character of its troops. Individuals may be discharged or

²⁴ 10 U.S.C. § 504(a) (2006).

²⁵ Anthony W. Frabutt, *The Effects of Pre-Service Legal Encounters on First-Term Unsuitability Attrition in the U.S. Navy*, at 2-4 (Mar. 1996) (unpublished thesis, Naval Postgraduate School), *available at* <http://www.stormingmedia.us/47/4767/A476703.html> (must purchase for access). Criminal history is an imperfect measure of moral character. As Frabutt explains,

committing a crime does not necessarily equate with low moral character. First, individual circumstances that may not reflect moral character can determine one’s behavior. There may be economic or environmental factors that influence an individual’s actions. Second, one must also take into account remorse, reform, or rehabilitation, . . . as well as the fact that people “pay” for their crimes with legally-defined forms of punishment.

Id. at 4.

²⁶ Thus, it is the policy of “the Military Services” *as a whole* to acquire and use, whenever possible, criminal history records to identify “those who may not be enlisted in the Military Services *unless a waiver is granted.*” 32 C.F.R. § 96.4(b) (emphasis supplied). Notably, this is the “highest” legal reference to moral waivers.

²⁷ *See* 10 U.S.C. § 802 (2006) (listing the persons subject to UCMJ jurisdiction).

dismissed from the military for committing a crime,²⁸ and federal law sometimes ensures that even veterans are subject to special punishment.²⁹

A DOD directive explains that moral character requirements' "underlying purpose" is to screen out individuals "who are likely to become disciplinary cases or security risks or who disrupt good order, morale, and discipline."³⁰ An earlier version of the directive invokes the military's "responsibility to parents," who do not wish to see "their sons and daughters . . . placed into close association with persons who have committed serious offenses or whose records show ingrained delinquency behavior patterns."³¹ In a similar vein, some commentators have suggested that the prohibition reflects concern over the Armed Forces' "public image," because a "criminal element" in the military would affect not only recruiting and retention but also popular support and respect.³²

²⁸ See generally Uniform Code of Military Justice, 10 U.S.C. § 801 *et seq.*; 10 U.S.C. § 804; 10 U.S.C. §§ 816-20.

²⁹ "No [military] pension . . . shall be paid to . . . an individual who has been imprisoned in a Federal, State, [or] local . . . penal institution . . . as a result of conviction of a felony or misdemeanor for any part of the period beginning sixty-one days after such individual's imprisonment begins and ending when such individual's imprisonment ends." 38 U.S.C. § 1505(a) (2006). Nonetheless, the lost pension *may* be paid to the spouse or children of the imprisoned veteran. 38 U.S.C. § 1505(b).

³⁰ DEP'T OF DEFENSE, INSTRUCTION 1304.26 art. E2.2.7 (2005) [hereinafter DOD INSTRUCTION 1304.26], available at <http://www.dtic.mil/whs/directives/corres/pdf/130426p.pdf>. Roughly the same rationales have been articulated from a more empirical perspective. See Frabutt, *supra* note 25, at 1. The primary justifications for excluding ex-offenders include, albeit more credibly, some of the same concerns advanced by those who argue against homosexuals in the military, an association reinforced in DOD's own recruitment literature. See, e.g., William A. Woodruff, *Homosexuality and Military Service: Legislation, Implementation, and Litigation*, 64 UMKC L. REV. 121, 163-64 (1995). The recruitment directive moves directly from the Services' policy on homosexuals to its policy on ex-offenders. The "explanation/determination" guidelines for the Air Force's "Category 1 ineligibility factors" – major offenses "which cannot be waived" – refer in the same breath to persons who admit to engaging in homosexual conduct and persons who have been convicted "of an offense punishable by death." Other Category 1 ineligibility factors are "transsexualism and other gender identity disorders, exhibitionism, transvestism, [and] voyeurism." AIR NAT'L GUARD, INSTRUCTION 36-2002, at 15, 57 (2004), available at <http://www.e-publishing.af.mil/pubfiles/ang/36/angi36-2002/angi36-2002.pdf>.

³¹ DEP'T OF DEFENSE, DIRECTIVE 1304.26 art. E1.2.7 (1993), available at <http://www.dtic.mil/whs/directives/corres/text/d130426p.txt>.

³² See, e.g., Frabutt, *supra* note 25, at 2.

Yet the military’s policy on ex-offenders, and even the statutory disqualification of convicted felons, hardly amounts to a “class-wide” exclusion.³³ The intricate system employed to detect meritorious exceptions, like the widespread use of waivers, demonstrates the Armed Forces’ collective refusal to reject “personnel irrespective of their *individual* suitability.”³⁴ Instead, most applicants benefit from the “whole person” standard.³⁵ Sometimes criticized for its failure to provide concrete guidance to recruiters,³⁶ the “whole person” standard permits consideration of “the circumstances surrounding the criminal violations, the age of the person committing them, and personal interviews” with the applicant and others, as well as a recruit’s other aptitudes, experiences, and characteristics.³⁷

Documents used throughout the DOD refer to a common set of waiver codes, but the offenses encompassed under each code vary by Service, with one or more Services foregoing notation of certain codes – and therefore certain offenses – altogether.³⁸ DOD Form 1966 initially classifies offenses by their time of commission: enlistment waivers for violations that occurred prior to entry into Armed Forces’ Delayed Entry Program (“DEP”) and accession waivers for violations that occurred after entry into DEP but before the formal start of military

³³ Woodruff, *supra* note 30, at 164 (“Within each of [the] broad categories [upon which the military chooses to restrict enlistment,] there may be individuals who could perform well in certain positions in the military. Enlistment qualifications, however, exclude them on a class-wide basis.”). There are, in fact, very few class-wide exclusions.

³⁴ *Id.* (stating that “Congress has imposed a number of restrictions on entry that disqualify personnel irrespective of their individual suitability”) (emphasis supplied).

³⁵ See, e.g., ARMY REGULATION 601-210, *supra* note 9, at 4-2(c) (“Waiver authorities will apply the ‘whole person’ concept when considering waiver applications.”).

³⁶ One study calls for research that would allow the services to “establish guidelines for those who must approve/deny requests for moral character waivers, and provide empirically grounded criteria and standards on which to base those decisions.” DAN J. PUTKA ET AL., EVALUATING MORAL CHARACTER WAIVER POLICY AGAINST SERVICEMEMBER ATTRITION AND IN-SERVICE DEVIANCE THROUGH THE FIRST 18 MONTHS OF SERVICE, at viii-ix (2003).

³⁷ GAO MILITARY RECRUITING, *supra* note 14, at 2.

³⁸ See *id.* at 2-5. Like the Services’ lack of uniformity in the substantive criteria used for granting or withholding moral waivers, this lack of consistency in categorization has been criticized as confusing and inefficient. See PUTKA ET AL., *supra* note 36, at vii (recommending adoption of a “DoD-wide, standard law violation classification framework”).

service.³⁹ The alphabetical code that Form 1966 applies to either kind of waiver is determined first by infraction type (law violation or illegal substance-related admission) and then by a variety of potential factors: the offender’s age (juvenile or adult); the offense’s magnitude (serious or non-serious); the type of offense (traffic violation, non-traffic violation, felony); and/or the substance involved (alcohol, marijuana, or another drug).⁴⁰

In addition to the categories suggested by DOD Form 1066, the Services further distinguish between felonies (e.g., kidnapping, murder),⁴¹ serious misdemeanors (e.g., assault, petty larceny), minor misdemeanors (e.g., discharging a firearm within city limits, removing public property), minor non-traffic offenses (e.g., disorderly conduct, vandalism), serious traffic offenses (e.g., driving with a revoked license), and minor traffic offenses (e.g., speeding).⁴² Even at this level of specificity, there are differences between the various branches’ classification of crimes.⁴³ By far the most important of these are the Army’s decision to ignore – that is, to forgive without granting a moral waiver – pre-service abuse of illegal substances, and the Marine Corps’ requirement of a moral waiver for even onetime marijuana use.⁴⁴

Offense categorization is important because it largely determines whether an enlistee will be eligible for a waiver and, if so, how many other offenses are waivable. Table 1 below, based on information compiled by the U.S. Government Accounting Office (“GAO”), summarizes the extent to which each Service will consider waiving certain kinds of offenses. Evidently, all

³⁹ DEP’T OF DEFENSE, FORM 1966, RECORD OF MILITARY PROCESSING §§ II-17(h), -18(f), *available at* <http://www.dtic.mil/whs/directives/infomgt/forms/eforms/dd1966.pdf>.

⁴⁰ See PUTKA ET AL., *supra* note 36, at 8.

⁴¹ GAO MILITARY RECRUITING, *supra* note 14, at 3; Frabutt, *supra* note 25, at 20. Felonies, generally understood to be offenses whose punishment equals or exceeds one year in prison, encompass a wide range of offenses. As indicated by the earlier reference to the Air Force’s automatic disqualification of individuals convicted of felonies carrying the death penalty, some crimes in this category will be treated more harshly than others.

⁴² GAO MILITARY RECRUITING, *supra* note 14, at 3.

⁴³ “While the standards across the Services are similar, there are minor variations which create Service-specific requirements.” DEP’T OF DEFENSE, OFFICE OF DEPUTY UNDER SECRETARY OF DEFENSE, MILITARY RECRUITING AND WAIVERS 3 (2007) (on file with author) [hereinafter DOD MILITARY RECRUITING AND WAIVERS].

⁴⁴ See GAO MILITARY RECRUITING, *supra* note 14, at 27-28 (explaining that the Army defines pre-service illegal substance use as a medical, not a moral, problem); DOD MILITARY RECRUITING AND WAIVERS, *supra* note 43 at 1.

branches take advantage of their wide discretion to create substantive moral waiver policy. Three of the four Services decline to use one category, “Serious Traffic Offenses,” which the DOD nonetheless employs in its waiver-related operations. The Navy and the Air Force will consider waiving multiple felonies, but the Army and Marine Corps allow no more than one.⁴⁵ Apart from crimes specifically classified as drug offenses, serious misdemeanors (also known as serious non-traffic offenses) account for a majority of all moral waivers⁴⁶ and are treated quite differently from one Service to another – the Navy will waive no more than two such offenses, the Army refuses to waive more than four, the Marine Corps sets its limit at five, and the Air Force imposes no formal numerical restriction whatsoever.⁴⁷

B. Moral Waiver Procedure: The Practice and Efficacy of Character Screening

“Moral character screening” is the process by which recruiters review enlistees’ criminal and substance abuse histories.⁴⁸ Screening procedures are “extensive,” furnishing up to fourteen separate opportunities (involving up to seven different recruiting personnel) for recruits to disclose facts relevant to a moral waiver application.⁴⁹ Although the screening process is different from branch to branch, each Service uses a similar set of methods,⁵⁰ including interviews, briefings, forms,⁵¹ as well as state, local, and federal record checks.⁵² Such persistent

⁴⁵ GAO MILITARY RECRUITING, *supra* note 14, at 4. This should not be taken to mean that the Navy and the Air Force habitually admit individuals who require more than one felony waiver. It is likely that most such individuals are excluded on recruiters’ discretion rather than by automatic disqualification.

⁴⁶ *See infra* tbl.4.

⁴⁷ GAO MILITARY RECRUITING, *supra* note 14, at 4.

⁴⁸ PUTKA ET AL., *supra* note 36, at v.

⁴⁹ GAO MILITARY RECRUITING, *supra* note 14, at 1, 6.

⁵⁰ PUTKA ET AL., *supra* note 36, at 1 (citing J.L. BURNFIELD, K. HANDY, D.E. SIPES & J.H. LAURENCE, MORAL CHARACTER AND ENLISTMENT STANDARDS: DOCUMENTATION, POLICY, AND PROCEDURE REVIEW (1999)).

⁵¹ =xt

Applicants are required to complete the following forms used in obtaining criminal history information: (1) Record of Military Processing – Armed Forces of the United States (DD Form 1966), (2) Personnel Security Questionnaire (SF-86), (3) the Police Record Check (DD Form 369), and (4) the Armed Forces Fingerprint Card (DD Form 2280). These forms elicit information on police record histories, drug and alcohol use and abuse, financial records and delinquencies, and any juvenile arrest or criminal activity.

inquiry is especially important in light of the consequences of dishonesty or non-disclosure: enlistees who intentionally conceal disqualifying information “may be refused enlistment at any point during the recruiting process or, after enlisting, [may be] discharged for fraudulent enlistment.”⁵³

Beginning at the first recruitment interview, an applicant is asked to disclose “*all* arrests or convictions,” regardless of when the incident occurred and, in the case of arrests, regardless of whether the applicant was found guilty.⁵⁴ If a “significant” issue arises, the recruiter and the applicant are expected to discuss all relevant facts and circumstances. In deciding whether to seek a moral waiver, recruiters are guided in part by the offense classification rules described above.⁵⁵ Admission or suspected concealment of a criminal record triggers a more rigorous background investigation than the general national agency check conducted upon admission into DEP.⁵⁶ Although recruits normally enter DEP “[r]egardless of moral character status,”⁵⁷ subsequent participation entails considerable inquiry into their so-called “moral” background.⁵⁸

GAO MILITARY RECRUITING, *supra* note 14, at 8 (footnote omitted). The respective Services will pose similar questions on forms of their own. For example, the Air Force Enlistment questionnaire asks:

1. Have you *ever* been involved, arrested, indicted, or convicted for any violation of civil or military law, including nonjudicial punishment pursuant to Article 15 of the Uniform Code of Military Justice (UCMJ) or minor traffic violations?

. . . .

8. Are you under investigation by military or civilian authorities? . . .

9. Are you under the influence of drugs or alcohol? . . .

10. Have you ever tested positive for an illegal drug/substance?

AIR NAT’L GUARD, INSTRUCTION 36-2002, *supra* note 30, at 36 (emphasis in original).

⁵² GAO MILITARY RECRUITING, *supra* note 14, at 5 (noting that “[e]ach service screens for criminal background information in a similar manner.”).

⁵³ *Id.* at 9.

⁵⁴ PUTKA ET AL., *supra* note 36, at 1 (emphasis in original).

⁵⁵ *Id.* at 1, 2.

⁵⁶ *Id.* at 2; *see also, e.g.,* ARMY REGULATION 601-210, *supra* note 9, at 2-11(b)(2)-(4). This section entitled “Moral and Administrative Criteria,” states that

[a]pplicants who claim no law violations or claims [sic] only minor traffic offenses (except reckless or careless or imprudent driving) will have police record checks, based on current residence, obtained from three levels: (a) City or municipal, military installation law enforcement. (b) County law enforcement. (c) State law enforcement. (3) Applicant who claims law violations other than minor traffic offenses will have police record checks completed where applicant has lived, worked . . . and attended school during the 3 years prior to application into the DEP/DS/DTP; police/court documents where the offense(s) occurred will be obtained from: (a)

At any point during the enlistment process, discovery of information that would render the applicant ineligible for a waiver – for example, a judicial conviction for spousal abuse – automatically terminates the recruitment process.⁵⁹ So long as the applicant’s offense does not entail such immediate disqualification, the first disclosure or discovery of any law violation initiates the moral waiver process.⁶⁰ Recruiters may begin this process at any point in the recruitment schedule.⁶¹ Once a waiver’s necessity becomes apparent, DOD-wide policy requires collection of all possible information “about the ‘who, what, when, where, and/or why’” of the offense at issue, as well as letters of recommendation from “responsible community leaders.”⁶²

Though moral waiver requests may be rejected at any level of the recruitment hierarchy, an offense’s severity is the most important factor determining the level at which a waiver request

City or municipal, military installation law enforcement. (b) County law enforcement. (c) State law enforcement. (d) Court documents. (e) Probation departments. (f) Adult correctional facility. (g) Juvenile correctional facilities. (4) Applicants requiring a moral waiver for any misdemeanor or felony level charge, regardless of disposition, will have police record checks obtained from: (a) City or municipal, military installation law enforcement. (b) County law enforcement. (c) State law enforcement. (d) Court documents. (e) Probation departments. (f) Adult correctional facility. (g) Juvenile correctional facility.

Id. (internal divisions omitted).

⁵⁷ PUTKA ET AL., *supra* note 36, at 2.

⁵⁸

When the [national agency] checks involve fingerprints, the services request a fingerprint verification – a comparison of an enlistee’s fingerprints against FBI criminal records to ensure that they are from the same individual whose name was associated with a possible arrest record identified through [a] descriptive data search. Also, during the [DEP], recruiters are in contact with the enlistees and continue to inquire about their criminal background and any current contact with law enforcement agencies. . . . After the [DEP] period, . . . enlistees are asked again to disclose disqualifying information when they report to basic training, which lasts from 6 to 12 weeks depending on the service.

GAO MILITARY RECRUITING, *supra* note 14, at 8-9.

⁵⁹ The Lautenberg Amendment to the Gun Control Act makes it a felony for anyone convicted of a “misdemeanor crime of domestic violence” to ship, receive, or possess firearms or ammunition, and provides no military or law enforcement exception. *See* 18 U.S.C. § 922(g)(9) (2005). Studies reveal, however, that “a small number of waivers have been granted to individuals convicted of domestic violence-related charges.” DEP’T OF DEFENSE, DEFENSE TASK FORCE ON DOMESTIC VIOLENCE: INITIAL REPORT 53 (2001); *see also* PUTKA ET AL., *supra* note 36, at 2 (“If the recruiter discovers that the applicant is subject to further or pending judicial proceedings, the application process is also terminated immediately.”).

⁶⁰ For a helpful description of the moral character waiver approval process, *see* PUTKA ET AL., *supra* note 36, at 1-2.

⁶¹ GAO MILITARY RECRUITING, *supra* note 14, at 9.

⁶² *See* DOD INSTRUCTION 1304.26, *supra* note 30, art. E2.2.7.2.2.

may be granted.⁶³ Recruiting commanders are responsible for approving waivers of the most serious offenses.⁶⁴ At the other end of the spectrum are disclosures of illegal substance use, which may be excused by low-level recruiters who are otherwise unqualified to grant waivers.⁶⁵ The third letter of an offense’s waiver code signals the required “waiver authority level.”⁶⁶

Clearly, the moral screening process is elaborate. But is it effective? Do a dozen requests for confession make the system airtight, or does such persistence betray a certain lack of confidence in the confessor?

Although the precise failure rate is impossible to measure, the moral screening process, as presently constituted, is fundamentally and drastically flawed. Official background checks for all enlistees – that is, across-the-board criminal history searches – were discarded in 1986 because formal prohibitions on the release of such information constantly thwarted recruiters’ investigations.⁶⁷ Since 1986, however, the same problem continues to arise in a smaller (and, per capita, more problematic) segment of the applicant pool – namely, individuals who have actually confessed to an arrest or conviction or who have otherwise acknowledged the existence of a criminal record.⁶⁸ The special protection that background concealment statutes afford juvenile offenders is particularly frustrating for military recruiters given that seventeen to twenty-one year

⁶³ PUTKA ET AL., *supra* note 36, at 2.

⁶⁴ GAO MILITARY RECRUITING, *supra* note 14, at 9.

⁶⁵ PUTKA ET AL., *supra* note 36, at 1, 8.

⁶⁶ *Id.* at 8. The codes are as follows:

- A: Waiver granted by the highest authority level
- B: Waiver granted by the Recruiting Command Headquarters level
- C: Waiver granted by the USMC Regional Command level
- D: Waiver granted by the USA Brigade, USN Area, USMC District, USAF Group level
- E: Waiver granted by the USA Battalion, USN District, USAF Squadron level, USMC Recruiting Station
- F: Waiver granted by the Coast Guard Recruiting Center

Id.

⁶⁷ ELI S. FLYER, DIRECTORATE FOR ACCESSION POLICY OFFICE OF THE ASSISTANT SEC’Y FOR DEF., RECRUITS WITH A PRESERVICE ARREST HISTORY: IDENTIFICATION, CHARACTERISTICS, AND BEHAVIOR ON ACTIVE DUTY 4-5 (1995).

⁶⁸ *See id.* at 2-3.

olds constitute the primary recruit population.⁶⁹ The DOD and other military voices have complained that such restrictions are a serious defect in the moral screening system.⁷⁰ Anthony Frabutt, for one, urges the military “to investigate ways” to fix this problem, including the repeal or modification of federal,⁷¹ state,⁷² and local policies that bar or restrict official disclosure of criminal histories.⁷³

The Armed Forces’ narrowly constrained use of official criminal records entails almost complete reliance on recruits’ own confessions of wrongdoing.⁷⁴ Because the military is hardly immune from ex-offenders’ tendency to hide their criminal pasts from employers,⁷⁵ many individuals with moral disqualifications are admitted into the Services without even applying for the necessary waiver. The self-preservationist impulse underlying ex-offenders’ reticence is

⁶⁹ GAO MILITARY RECRUITING, *supra* note 14, at 12; *see also* BETH J. ASCH, CAN DU & MATTHIAS SCHONLAU, RAND, POLICY OPTIONS FOR MILITARY RECRUITING IN THE COLLEGE MARKET: RESULTS FROM A NATIONAL SURVEY 1 (2004) (referring to the “military’s traditional recruiting market, namely high school graduates with no immediate plans to attend college”).

⁷⁰ Before publication, the GAO’s report on moral character screening was submitted to the DOD for comment. The GAO devoted a considerable portion of its discussion to criminal record access, a problem discussed in as much or more detail than any other subject covered in the report. Nonetheless, the DOD noted that “the report does not fully address [its] need for timely local and state criminal history information at a reasonable cost.” GAO MILITARY RECRUITING, *supra* note 14, at 36.

⁷¹

DOD policy states that the military services shall obtain and review criminal history record information from the criminal justice system and Defense Security Service to determine whether applicants are acceptable for enlistment and for assignment to special programs. However, under the Security Clearance Information Act (5 U.S.C. § 9101), criminal justice agencies are required to provide this information to DOD only when an individual is being investigated for eligibility for access to classified information or sensitive national security duties. These agencies, which include federal, state, and local agencies, are not required to provide this information for determining basic eligibility or suitability for enlistment (i.e., employment).

Id. at 11 (footnote omitted).

⁷² Many states, and indeed many municipalities, charge fees for releasing information. A Navy Recruiting Command survey found that “33 states charged fees ranging from \$5 to \$59.” *Id.* at 12. The effect of such fees varies depending on the particular Service:

The Army has a policy to request local and state record checks for all applicants, but will not pay these fees, and therefore, does not obtain information from states that charge fees. The other services request these record checks only if an applicant admits to a criminal history. Navy and Marine Corps policy allows recruiters to pay for the checks; Air Force policy requires applicants to obtain the checks and pay any fees associated with the checks.

Id.

⁷³ *Id.* at 2. *See generally*, Frabutt, *supra* note 25, at 50.

⁷⁴ Frabutt, *supra* note 25, at 3.

⁷⁵ *See infra* Part III.B.2.

hardly incomprehensible in light of honesty's often harsh consequences, and a decision to heed that impulse may be particularly understandable when it is so easy to get away with lying.⁷⁶ Sometimes, however, recruiters themselves may be responsible, in whole or in part, for an applicant's perjury – they might suggest or imply that a recruit keep certain facts hidden, or they might conceal information on their own initiative.⁷⁷

Whatever their motive, cover-ups do happen: “[I]n reality, there are many enlistees in the military today with a concealed criminal history.”⁷⁸ The criminal closet apparently pervades the Armed Forces. Of course, its exact prevalence is impossible to measure for the same reason that detection is difficult in the first place – namely, widespread restrictions on access to criminal records. What research exists is not encouraging. A 1995 study found that the majority of Navy recruits with an arrest history did not seek, let alone receive, a moral waiver.⁷⁹ Another Navy study conducted one year later found a non-disclosure rate of thirty-one percent for non-felony convictions and ninety-one percent for felony convictions; in the juvenile sample, the figures were even higher for both offense categories.⁸⁰ And while it is true that among a sample of more than 48,000 Navy recruits, only thirty-eight percent of those with a documented “prior legal

⁷⁶ To emphasize how irresistible lying may seem to an ex-offender, consider again that an “applicant is instructed to divulge” information about any offense even “if [the] records were sealed or expunged.” PUTKA ET AL., *supra* note 36, at 1.

⁷⁷ See Frabutt, *supra* note 25, at 23-24; see also Damien Cave, *Army Recruiters Say They Feel Pressure to Bend Rules*, N.Y. TIMES, May 3, 2003, at A23, available at 2005 WLNR 6894465 (“Several [recruiters] spoke of concealing mental-health histories and police records. . . . [One recruiter said] he has been ordered [by his superiors] to conceal police records and minor medical conditions . . .”).

⁷⁸ See Frabutt, *supra* note 25, at 10.

⁷⁹ See Miguel A. Lake, *Navy Personnel with In-Service Criminal Records: Characteristics of Offenders and Career Implications*, at 7 (Dec. 1996) (unpublished M.S. thesis, Naval Postgraduate School), available at <http://handle.dtic.mil/100.2/ADA326534> (citation omitted).

⁸⁰ Juvenile convictions were disclosed at a rate of sixty percent for non-felonies and three percent for felonies. See Jeffrey W. Connor, *The Effects of Pre-Service Criminal History on Recruit Performance in the U.S. Navy*, at 31 (Mar. 1997) (unpublished M.S. thesis, Naval Postgraduate School), available at <http://handle.dtic.mil/100.2/ADA331671>.

encounter” entered the service without the appropriate waiver,⁸¹ this relatively encouraging figure was offset by the discovery that convicted felons had a two percent disclosure rate, compared with seventy-nine percent for recruits convicted of misdemeanors.⁸² Based on these findings, the study concluded that “the Navy’s current system for providing moral waivers and reviewing the background of applicants for enlistment is ineffective in identifying persons with a pre-service arrest history.”⁸³

C. Moral Waivers: The Numbers

Although we cannot determine precisely how many ex-offenders enter the military, even the drastically deficient official figures – i.e., the number of moral waivers granted each year – establish that a startling percentage of servicemembers have criminal histories. Moreover, although many waivers excuse either minor offenses or admitted-but-unpunished illegal substance use, about one-third relate to what the DOD calls “serious non-traffic offenses.”⁸⁴ Such offenses do *not* include felonies, which constitute a separate, significant, but relatively small class of crimes for which moral waivers are routinely granted.

Table 2 provides the number of moral waivers each Service bestowed, and the number the Armed Forces as a whole bestowed, for fiscal years 1990 through 1997.⁸⁵ The GAO compiled this data based on the Defense Manpower Data Center’s enlistment and separation

⁸¹ Frabutt, *supra* note 25, at 23. Moral waivers are not required for mere “encounters” with the law (e.g., arrests that do not result in conviction), even though applicants are required to confess such encounters. Pre-service convictions are a good indicator of moral character for screening purposes. But as Frabutt observes, using “convictions instead of arrests to evaluate moral character . . . holds well with the values of American society, whose justice system is based on the concept of a person’s innocence ‘until proven guilty.’ . . . [A]n arrest does not equate to guilt . . . [and] there is no reason to assume that the individual has broken the law.” *Id.* at 3-4.

⁸² *Id.* at 27.

⁸³ *Id.* at 49.

⁸⁴ See DOD MILITARY RECRUITING AND WAIVERS, *supra* note 43, at 4; DEP’T OF DEFENSE, OFFICE OF FREEDOM OF INFORMATION & SEC. REV., MORAL WAIVER DATA, REF. 05-5-0960 (on file with author) [hereinafter DOD FOIA 05-5-0960].

⁸⁵ Throughout this section, references to years indicate fiscal, not calendar, years. For a summary of moral waiver trends prior to 1990, see generally ELI S. FLYER, DIRECTORATE FOR ACCESSION POLICY OFFICE OF THE ASSISTANT SEC’Y FOR DEF., CHARACTERISTICS AND BEHAVIOR OF RECRUITS ENTERING MILITARY SERVICE WITH AN OFFENSE HISTORY (1990).

figures.⁸⁶ Table 3 provides the number of moral waivers the Armed Forces granted for fiscal years 2003 through 2006; this data represents primary data obtained directly from the DOD for use in this Article.⁸⁷ Although the DOD was unable to provide reliable data for fiscal years 1998 through 2002,⁸⁸ it is likely that these years witnessed an increase in waiver rates given “the difficult recruiting experience of the late 1990s.”⁸⁹

Beyond formal, internal policy changes in the classification and treatment of offenses, the Armed Forces have had difficulty accounting for fluctuations in moral waiver rates.⁹⁰ In fact, such policy changes drastically obscure more salient variables relating to overall trends in recruit numbers and quality.⁹¹ Nearly all military standards will reflect these fluctuations,⁹² but waiver

⁸⁶ GAO MILITARY RECRUITING, *supra* note 14, at 26.

⁸⁷ See DOD MILITARY RECRUITING AND WAIVERS, *supra* note 43, at 2.

⁸⁸ In February 2005, the author submitted a Freedom of Information Act (FOIA) request to the DOD, seeking a variety of information regarding ex-offender enlistment in the Armed Forces between fiscal years 1998 and 2004. E-mail from Michael Boucai, Author, to Defense Manpower Data Center, Freedom of Information Act Officer, Undersecretary of Defense, DOD (Feb. 8, 2005) (on file with author). Although the author received a partial response to that request in October 2005, see DOD FOIA 05-5-0960, *supra* note 84, the DOD eventually disclaimed the data it provided in that response. In January 2007, the DOD furnished numbers pertaining to fiscal years 2003 through 2005, explaining that “data issues” – coding and compilation errors – made it “just too difficult to go back [as] far” as “originally requested.” Email from Dennis J. Drogo, DOD, to Michael Boucai, Author (Jan. 19, 2006) (on file with author).

⁸⁹ Christopher Jehn, *Sustaining the Force: Introduction*, in THE ALL-VOLUNTEER FORCE: THIRTY YEARS OF SERVICE 55-56 (Barbara A. Bicksler et al. eds., 2004); see also RICHARD J. BUDDIN, RAND, SUCCESS OF FIRST-TERM SOLDIERS: THE EFFECTS OF RECRUITING PRACTICES AND RECRUIT CHARACTERISTICS 7 (2005) (“In FY1998 and FY1999, the civilian economy boomed, and Army recruiting struggled, accepting more low-quality recruits to satisfy requirements.”).

⁹⁰ GAO MILITARY RECRUITING, *supra* note 14, at 28 (“The services could not explain the reasons for these trends.”).

⁹¹ Annual recruitment cohorts, like grape vintages, become known for their size and quality. 2000 through 2003 are known in the Army as “strong recruiting years,” a “success . . . related to a weak economy and, possibly, the patriotic fervor for the war against terrorism.” BUDDIN, *supra* note 89, at 1. These years stand in contrast to the “difficult recruiting experience of the late 1990s.” Jehn, *supra* note 89, at 56. Examining more long-term trends, Armor and Sackett noted that “there have been substantial variations in recruit quality over the past 20 years, from unprecedented lows in the late 1970s to record highs in the early 1990s.” David J. Armor & Paul R. Sackett, *Manpower Quality in the All-Volunteer Force*, in THE ALL-VOLUNTEER FORCE: THIRTY YEARS OF SERVICE, *supra* note 89, at 90.

⁹²

Minimum standards for acceptance into the military were established early in military history but generally these standards, as Eitelberg et al. . . . point out, act as “flexible gates that open and close in reaction to the shifting needs of national defense and manpower recruitment Certain circumstances, such as a recruiting drought or a need for mass mobilization, typically necessitate less stringent physical standards, lower education and ability criteria, and more lenient eligibility requirements in other areas. Conversely, during periods of peace when the standing army is streamlined to function as a ‘caretaker,’ or during periods of high unemployment when military

rates – moral and otherwise – should be one of the first manifestations of general recruitment developments, precisely because waiver systems, rather than outright bans, provide flexibility for dealing with the vicissitudes of supply and demand. In years when recruitment is flagging or when a good civilian job market attracts many well-qualified workers – developments that tend to coincide – recruiters, anxious to fill enlistment quotas, generally will accept more individuals who require waivers, and they will grant waivers for more serious offenses than they would in times of plenty.⁹³ As one study concluded, moral waivers are “utilized by the services to fill immediate manpower needs.”⁹⁴

But recruiters’ willingness to pursue a moral waiver for their enlistees does not always or necessarily ensure the triumph of quantity over quality. Moral waivers are regularly used to bolster the candidacy of otherwise good prospects. Several studies indicate that recruiters are more likely to grant moral waivers to recruits who excel in areas other than character, a practice that military policy researchers have explicitly recommended.⁹⁵ A 1988 study focusing on

‘jobs’ are relatively more attractive to the youthful workforce, the Armed services are usually able to be more selective and the qualitative barriers to entry are strengthened.”

KIRBY & THIE, *supra* note 23, at 66 (citing MARK J. EITELBERG ET AL., SCREENING FOR SERVICE 7 (1984)) (footnote omitted).

⁹³ Lake, *supra* note 79, at 5 (explaining that a 1990 Eli S. Flyer study concluded “that the differences between services were likely due to differences on pressure on recruiters to fill enlistment quotas.”). Referring to the Marine Corps, Leonard Etcho stated outright that “[t]he granting of moral waivers is often driven by the supply of applicants. It is necessary for the Marine Corps to grant moral waivers in order to meet first-term enlistment requirements.” Etcho, *supra* note 4, at 4. In a similar vein, responding to a “dwindling” supply of troops, Army field commanders were recently instructed to “retain soldiers they had been intending to discharge for drug and alcohol abuse.” Philip Carter, *The Quiet Man*, N.Y. TIMES, July 6, 2005, at A19, available at 2005 WLNR 10629369.

⁹⁴ Martin F. Wiskoff & Norma E. Dunipace, *Moral Waivers and Suitability for High Security Military Jobs*, DEF. PERSONNEL SEC. RESEARCH AND EDUC. CTR., Dec. 1988, at 14; see also Carter, *supra* note 7; Jaffe, *supra* note 7 (“To keep more soldiers in the service, the Army has told battalion commanders, who typically command 800-soldier units, that they can no longer bounce soldiers from the service for poor fitness, pregnancy, alcohol and drug abuse or generally unsatisfactory performance. . . . Instead, the battalion commanders must send the problem soldiers’ cases up to their brigade commander, who typically commands about 3,000 soldiers.”).

⁹⁵ See generally JANICE H. LAURENCE, JENNIFER NAUGHTON & DICKIE A. HARRIS, U.S. ARMY RESEARCH INST. FOR THE BEHAVIORAL & SOCIAL SCIENCES, ATTRITION REVISITED: IDENTIFYING THE PROBLEM AND ITS SOLUTIONS (1995); PUTKA ET AL., *supra* note 36, at 27 (“the Services may benefit from requiring higher standards on other selection criteria (e.g., being a high school diploma graduate, having higher AFQT scores) from recruits who require [moral waivers] for entry into Service. Using such factors in a compensatory manner for recruits who require [moral

servicemembers assigned to sensitive occupations found that seventy percent of those who received a moral waiver performed in the upper half of the Armed Forces Qualification Test (“AFQT”) and were, compared to those who enlisted without a waiver, more likely to be high school graduates.⁹⁶ The authors surmised that “the services are willing to take some risks in accessing personnel [by granting moral waivers] . . . if the personnel have higher aptitude levels.”⁹⁷

Focusing on Navy enlistees from California over a seven-year period, Frabutt determined that seventy-six percent of recruits who received a misdemeanor waiver and sixty-eight percent of those who received a felony waiver were in the middle AFQT category or higher.⁹⁸ Frabutt also investigated whether the tendency to grant waivers to individuals with compensatory qualities results in higher rates of criminal history non-disclosure among recruits with lower AFQT scores. He found that recruits with a prior legal encounter (“PLE”) in the lower AFQT categories have “a hidden PLE percentage level” nine points higher than those with a PLE in the upper AFQT categories.⁹⁹ Recruiters’ tendency to be more lenient with higher-quality applicants was documented even more dramatically in Leonard Etcho’s study of moral character screening in the Marine Corps. In 1991, Etcho found that approximately sixty-four percent of moral waiver applicants in the highest AFQT category were approved, compared to approximately twenty-nine percent of those in the lowest AFQT category.¹⁰⁰

waivers] for entry into Service would likely help to bring attrition rates among such individuals more in line with attrition rates for those Servicemembers that don’t require waivers for entry.” (internal citation omitted)).

⁹⁶ See Wiskoff & Dunipace, *supra* note 94, at 9-10.

⁹⁷ *Id.*

⁹⁸ Frabutt, *supra* note 25, at 25.

⁹⁹ However, Frabutt also found that moral waiver recipients were less likely to have graduated from high school, which he considered puzzling in light of the fact that the Navy “carefully screen[s] to enlist only those who possess ‘desirable’ characteristics.” *Id.* at 26, 32.

¹⁰⁰ Etcho, *supra* note 4, at 28.

Numbers are not everything, though. In some respects, the absolute quantity of moral waivers granted in a given year is less important than the substantive offenses underlying those waivers. Etcho’s study recognized this possibility, distinguishing between the thousands of waivers granted for minor drug and traffic offenses and the “small percentage” – at the time of Etcho’s writing, approximately 500 per year – related to felony convictions. The latter, he argued, “cannot be excused as typical ‘youth mischief,’”¹⁰¹ and neither can the “serious non-traffic offenses” that, as Table 4 shows, currently account for about one-third of the Armed Services’ moral waivers.¹⁰²

Available data ultimately leave us with a dramatic but woefully incomplete picture of ex-offender enlistment in the Armed Forces. On one hand, it is clear that the Services have admitted tens of thousands of recruits via moral waivers. On the other hand, the number of waiver recipients falls far short of the actual amount of enlistees with criminal histories. The next section examines whether, why, and to what extent these trends matter.

III. POLICY CONSIDERATIONS FOR MILITARY RECRUITMENT OF EX-OFFENDERS

A. *Ex-Offender Enlistment, Recruit Quality, and Servicemember Attrition*

“‘Attrition’ is typically defined in the military as the separation or discharge of a person, for any reason, prior to the completion of the first term of enlistment.”¹⁰³ In addition to diminishing force size and troop morale, attrition entails the considerable expense of recruiting,

¹⁰¹ *Id.* at 25.

¹⁰² The data contained in Table 4 was obtained directly from the DOD for use in this study. See DOD MILITARY RECRUITING AND WAIVERS, *supra* note 43, at 4. In the moral waiver context, felonies basically retain their legal definition (and therefore include crimes like arson, cattle rustling, criminal libel, grand larceny, housebreaking, kidnapping, and murder); “serious non-traffic offenses,” previously called “serious misdemeanors,” include offenses like assault and petty larceny; discharging a firearm within city limits and removing property from public grounds are examples of “minor misdemeanors”; the category of “minor non-traffic” offenses encompasses infractions like disorderly conduct and vandalism, driving with a revoked license is an example of a “serious traffic” offense, while speeding is an example of a “minor traffic” offense. GAO MILITARY RECRUITING, *supra* note 14, at 2-3.

¹⁰³ Frabutt, *supra* note 25, at 7.

training, and then replacing lost servicemembers.¹⁰⁴ Attrition is increasingly a major problem throughout the military.¹⁰⁵ In the Marine Corps, for example, approximately one-third of recruits attrite before completing their first term of service.¹⁰⁶

Unsuitability is by far the most common reason for servicemember attrition.¹⁰⁷

Unsuitability attrition usually reflects a recruit's failure to meet basic standards of performance or behavior.¹⁰⁸ When a servicemember separates for unsuitability reasons, the assumption tends to be that he or she should never have been recruited in the first place – i.e., that the system failed to detect a fatal, inherent flaw in the applicant. Frequently, the undetected flaw is believed to reside in the recruit's moral character.¹⁰⁹

Nearly all research on the relationship between offense history and unsuitability attrition points to the unsurprising conclusion that recruits with criminal backgrounds are more likely to

¹⁰⁴ In 1998, the DOD estimated that it costs \$35,532 to recruit and train each enlistee. U.S. GEN. ACCOUNTING OFFICE, *MILITARY ATTRITION: BETTER DATA, COUPLED WITH POLICY CHANGES, COULD HELP THE SERVICES REDUCE EARLY SEPARATIONS 3* (1998), available at <http://stinet.dtic.mil/oai/oai?&verb=getRecord&metadataPrefix=html&identifier=ADA354034>. Recruitment expenses alone account for a substantial portion of this figure. A publication released in 2005 by the RAND Corporation reported that “it costs the U.S. Army about \$15,000 to recruit one soldier, and it must recruit 80,000 to 90,000 each year.” BUDDIN, *supra* note 89, at xiii (footnote omitted).

¹⁰⁵ “One recent memorandum from a senior Army personnel official branded the problem ‘a matter of great concern.’” Jaffe, *supra* note 7; see also DON BOHN & EDWARD SCHMITZ, COMMANDER, NAVY RECRUITING COMMAND, *RESEARCH REPORT, WAIVER POLICY AND ATTRITION 2-3* (1996) (discussing Naval attrition); PUTKA ET AL., *supra* note 36, at 1; David A. Anderson, *First-Term Attrition: Perception Versus Reality*, MARINE CORPS GAZETTE, Feb. 1998, at 47-48 (discussing Marine Corps attrition).

¹⁰⁶ See Anderson, *supra* note 105, at 47.

¹⁰⁷ See, e.g., Frabutt, *supra* note 25, at 24 (“12,535 recruits, 26 percent of the California sample in this study, received an unsuitability discharge before completing their first term of service. An additional 10.2 percent of this group were discharged for reasons other than unsuitability, making the total attrition rate 36.2 percent. This suggests that 71.8 percent of all first-term attrition results from unsuitability.”).

¹⁰⁸ *Id.* at 7 (“Unsuitability discharges include personnel discharged prior to completion of their first time of enlistment under interservice separation codes . . . 60 through 87 and 101-102. These codes are defined by the Department of Defense. . .”).

¹⁰⁹ See Anderson, *supra* note 105, at 47 (describing observers within the Marines who “are convinced that the root of the [attrition] problem is the type of young men and women the Marine Corps is recruiting. This perceived problem originates in the inordinate number of young men and women who enter the Marine Corps with drug or moral waivers”); cf. BUDDIN, *supra* note 89, at xvi (factors listed that “make[] a difference” on first-term attrition from the Army – “Time in DEP [Delayed Entry Program]; Gender and education; FTU [fitness training unit] participation; BCT [basic combat training] base/time; Occupation [in Army]; ACF [Army College Fund], bonus, enlistment length; Recruiting environment; Recruiter characteristics” – contains no reference to moral waivers or criminal history).

be discharged prematurely than those without such backgrounds. As early as 1965, a study of approximately 13,000 Air Force members found higher unsuitability discharge rates for recruits with multiple, concealed, or serious arrest history records.¹¹⁰ Similarly, a series of studies conducted in various branches throughout the 1980s found a positive correlation between unsuitability attrition and receipt of a moral waiver.¹¹¹ The 1990s saw sustained research on the relationship between criminal history, moral waivers, and servicemember attrition.¹¹² In all relevant studies, the important question was how much – not whether – pre-service criminal history correlates with poor in-service performance and unsuitability attrition.¹¹³ A GAO report covering 1990 to 1993 revealed that 20.6% of individuals with a moral waiver, compared to 13.3% of individuals without a moral waiver, separated from the Armed Forces due to “misconduct.”¹¹⁴ Similarly, researchers have discovered significant correlations in studies relating to the Army,¹¹⁵ the Navy,¹¹⁶ and the Marines.¹¹⁷

¹¹⁰ Lake, *supra* note 79, at 3.

¹¹¹ *Id.* at 4.

¹¹² Eli S. Flyer is especially responsible for bringing research attention to moral waiver policy. Flyer’s work even spurred the Navy to form a working group especially devoted to these issues. See EDWARD SCHMITZ & JOHN HOPPER, U.S. NAVY RECRUITING COMMAND: THE NAVY MORAL WAIVER STUDY (1996), available at <http://www.ijoa.org/imta96/paper30.html>; see also BOHN & SCHMITZ, *supra* note 105, at 2-3 (crediting Flyer with inspiring research interest regarding this subject within the Navy).

¹¹³ “The big question” in all these studies “is the severity of the difference in attrition rates for recruits with moral waivers versus those without.” Lyle D. Hall, Analyzing Success of Navy Enlistees with Moral Waivers, at 11 (Sept. 1999) (unpublished M.S. thesis, Naval Postgraduate School) (on file with the Naval Postgraduate School, Monterey, California).

¹¹⁴ GAO MILITARY RECRUITING, *supra* note 14, 31-32. Servicemembers without a moral waiver were also almost twice as likely to reenlist as servicemembers with a moral waiver – seventeen percent of the former category compared to nine percent of the latter. *Id.*

¹¹⁵ In 1994, Flyer’s Army study identified “a high correlation between moral waivers . . . and pre-service and in-service criminal activities.” Lake, *supra* note 79, at 6-7.

¹¹⁶ A 1995 Navy study, examining the relationship between pre-service and in-service criminal behavior, determined that “28 percent of male offenders were granted a moral waiver for entry into the Navy. Approximately 14 percent of female offenders were also granted a moral waiver. These proportions are higher than for their non-offender counterparts: 22.6 percent of male offenders and 10 percent of female non-offenders.” See Lake, *supra* note 79, at 30. Flyer’s own work regarding Naval recruitment in California, published in 1996, found that recruits with an arrest history had a much greater unsuitability attrition rate (41.8%) than recruits with no arrest history (22.9%). Of course, the military counts convictions – not arrests – as the basis of moral waiver requirements; but Flyer also found an attrition rate of 41.4% among members with a moral waiver. BOHN & SCHMITZ, *supra* note 105, at 3. These findings were supplemented that same year by Naval research that used a smaller sample but included more extensive and accurate information about the subjects’ criminal histories. This research ascertained a discharge rate

Time and again, enlistees who receive (or should have received) moral waivers are shown to be less suitable than recruits with no prior offense history. But does this mean, as some commentators suggest, that the weaker group “should be screened out by tougher recruiting standards”?¹¹⁸ Not necessarily. Even if ex-offenders are poorer long-term investments than other recruits, the price of their inclusion in the Armed Forces must be weighed against its multiple benefits. Though rarely discussed or even acknowledged in the attrition-related literature, some of these advantages – to the military, society, and ex-offenders themselves – are nonetheless always implicit in the very data used to make the case for more stringent enlistment and screening standards.

First, the effect of a criminal record appears to be statistically significant but hardly overwhelming. Although each of the studies cited above found a positive correlation between pre-service criminal history and unsuitability attrition or in-service misconduct, the difference between ex-offenders and non-offenders was almost always less than ten percent.¹¹⁹ Thus, there is no reason to expect that attrition rates would plummet, or even substantially decrease, if the

of almost fifty-percent for members with a felony history, “about 30 percentage points higher than the discharge rates for recruits” with no offense record whatsoever. Frabutt, *supra* note 25, at 24. A 1997 study of the effects of pre-service criminal history on in-service Naval personnel performance focused on enlistees from Illinois and Florida during the 1980s, covering six and four recruitment cohorts respectively. Individuals with any kind of felony history (arrest *or* conviction) had a discharge rate that was, in the Florida sample, approximately seven percentage points higher than the rate for individuals without a criminal history and, in the Illinois sample, approximately twelve percentage points higher. Connor, *supra* note 80, at 39-40. Emphasizing that attrition rates are not the only measure of in-service performance, this report also observed that recruits with a criminal history “are less likely to be promoted . . . , less likely to be reenlistment eligible, and less likely to remain in the Navy beyond their first term.” *Id.* at 56. Finally, a study released the following year involving sailors discharged from the U.S.S. Eisenhower from 1991 to 1997 found that individuals who received moral waivers were eight percent more likely to be discharged for misconduct than those without; individuals with criminal waivers (i.e., waivers for actual criminal convictions) were twelve percent more likely to be discharged for misconduct. Hall, *supra* note 113, at 8 (citing DON BOHN, EVALUATION OF THE NAVY’S MORAL WAIVER POLICY: A CASE STUDY OF THE USS EISENHOWER (1998)).

¹¹⁷ A 1996 study found that recruits who enlisted in the Marines with moral waivers in 1988 were slightly more likely (by over six percentage points) to be discharged for unsuitability. Etcho, *supra* note 4, at 33-34.

¹¹⁸ BUDDIN, *supra* note 89, at xxii.

¹¹⁹ See, e.g., Hall, *supra* note 113, at 61.

Armed Forces ceased granting moral waivers or ceased admitting individuals who have criminal backgrounds.¹²⁰

Furthermore, the vast majority of individuals who enter the Armed Forces with a criminal background, even a felony conviction, are not ultimately unsuitable for military service. The rate of ex-offender attrition never reached fifty percent in any study, and in most cases the attrition rate was substantially lower.¹²¹ In fact, the GAO's DOD-wide report found that moral waiver recipients, though more likely to be discharged for unsuitability, were *more* likely than individuals without moral waivers to complete their term of service.¹²² In light of a forty percent overall criminal recidivism rate,¹²³ the trajectory of ex-offenders who enter the military may be more accurately characterized as a success story.

Finally, many studies showing a correlation between attrition and criminal history found that other variables were considerably more significant. Challenging the usual spin on ex-offender performance and attrition, one team of researchers discovered that “the importance of a waiver is not as great as that associated with race, education, AFQT, or even time in DEP.”¹²⁴ Another study found that unsuitability discharge rates correlate much more strongly with high school graduation status than receipt of a moral waiver.¹²⁵ Thus, unless we are prepared to say

¹²⁰ As researchers Don Bohn and Edward Schmitz concluded, “[e]xcluding applicants requiring waivers will reduce attrition” by a few percentage points “but the savings will be far outweighed by the cost to recruit additional qualified applicants.” BOHN & SCHMITZ, *supra* note 105, at 9.

¹²¹ See, e.g., Hall, *supra* note 113, at 61.

¹²² GAO MILITARY RECRUITING, *supra* note 14, at 31. The key distinction here is between attrition generally and attrition by dint of unsuitability. A 1983 study focusing on the former determined that moral waiver accessions are not much more likely than non-waiver accessions to separate from service for failure to meet behavioral or performance standards. See Connor, *supra* note 80, at 8. One factor that probably serves to counteract ex-offenders' greater likelihood of unsuitability attrition is their lack of feasible employment alternatives should they fail in military service – there is a positive correlation between offense history and unemployment in the civilian sector, see *infra* Part III.B.2, and also a positive correlation between unemployment at time of military enlistment and likelihood of completing one's first term of service, see BUDDIN, *supra* note 89, at 10-11.

¹²³ See *Doing More Than Time*, *supra* note 3, at 10.

¹²⁴ BOHN & SCHMITZ, *supra* note 105, at 6.

¹²⁵ Wiskoff & Dunipace, *supra* note 94, at 20; see also JAMES R. HOSEK & MICHAEL G. MATTOCK, RAND, LEARNING ABOUT QUALITY: HOW THE QUALITY OF MILITARY PERSONNEL IS REVEALED OVER TIME 3 (2003) (“High

that, across the board, non-graduates make bad troops, we should not say that ex-offenders cannot make good ones.

B. Social Policy Considerations

This section treats what the existing literature and research, surveyed above, consistently fails to take into account: the interests of civilian society per se in the question of ex-offender recruitment into the Armed Forces. Though military researchers have produced numerous studies on this topic,¹²⁶ their work focuses almost exclusively on ex-offender attrition and in-service performance. Civilian society has hardly picked up the slack. Criminal corrections experts and public policymakers seem wholly unaware of the “military option” that many ex-offenders actually choose and that so many more might do well to consider.¹²⁷

The term “ex-offender” as used in this section does not refer to persons convicted or fined for petty offenses like littering or parking in a tow-away zone. Rather, it refers to individuals who are serving or have served prison sentences, including convicted felons. This focus is neither radical nor unwarranted. As noted earlier, thousands of felons have been knowingly admitted into the military, and serious misdemeanors constitute the single largest offense category for which moral waivers are actually granted each year. Nevertheless, in recommending that ex-offenders be considered more seriously – and candidly – for military recruitment, this Article contemplates only so-called “moral” qualifications. Offenders, especially more serious cases, are more likely than the general population to have intellectual,

school diploma graduates are far more likely than high school dropouts to complete their first term of service” (citation omitted)).

¹²⁶ See *supra* Part III.A.

¹²⁷ For example, during recent congressional hearings on offender recidivism and rehabilitation, no one on either side of the aisle even mentioned the possibility, actual or imagined, of ex-offender recruitment into the Armed Forces. See generally *Confronting Recidivism: Prisoner Re-entry Programs and a Just Future for All Americans: Hearing Before the House Comm. on Gov’t Reform*, 109th Cong. (2005) [hereinafter *Hearings*].

mental, and even physical limitations that would hinder their enlistment, regardless of criminal history.¹²⁸

1. THE RECRUIT POOL

In 2001, the U.S. prison population exceeded two million inmates for the first time.¹²⁹ Since this “unprecedented event in the history . . . of liberal democracy,”¹³⁰ the number of Americans behind bars has remained relatively constant,¹³¹ while the percentage imprisoned for violent crime continues to rise.¹³² According to the DOJ, “[o]verall, the United States incarcerated 2,267,787 persons at [year-end] 2004,” and “[t]he rate of incarceration in prison at [year-end] 2004 was 486 sentenced inmates per 100,000 U.S. residents.”¹³³ The proportion of African-American men who are incarcerated is simply astounding: 3,218 for every 100,000.¹³⁴

Of course, the prison door is rarely a one-way passage. Hundreds of thousands of people exit prison, as well as enter it, each year. Record incarceration rates have produced record release rates.¹³⁵ In 2003 alone, more than 600,000 inmates – approximately the population of Washington, D.C. – were returned to civilian society: about 1,600 people per day.¹³⁶ This

¹²⁸ “The National Adult Literacy Survey established that 11 percent of inmates, compared with 3 percent of the general U.S. population, have a learning disability, and 3 percent are mentally retarded.” Petersilia, *supra* note 2, at 66.

¹²⁹ David Garland, *The Meaning of Mass Imprisonment*, in MASS IMPRISONMENT: SOCIAL CAUSES AND CONSEQUENCES 1 (David Garland ed., 2001).

¹³⁰ *Id.*

¹³¹ See *Hearings*, *supra* note 127, at 6 (testimony of Rep. Cummings).

¹³² PAIGE M. HARRISON & ALLEN J. BECK, BUREAU OF JUSTICE STATISTICS BULLETIN, PRISONERS IN 2002, at 10 (2003), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/p02.pdf> (“As a percentage of the total growth [in State inmates between 1995 and 2001], violent offenders accounted for 63% of the growth”)

¹³³ PAIGE M. HARRISON & ALLEN J. BECK, BUREAU OF JUSTICE STATISTICS BULLETIN, PRISONERS IN 2004, at 1 (2005), available at <http://www.ojp.usdoj.gov/bjs/abstract/p04.htm>.

¹³⁴ This is compared to 1,220 Hispanic male inmates per 100,000 Hispanic males and 463 white male inmates per 100,000 white males. *Id.* at 8.

¹³⁵ “Never before in U.S. history have so many individuals been released from prison.” Petersilia, *supra* note 2, at 66.

¹³⁶ *Id.* 630,000 was the figure Representative Cummings used before Congress in 2005. See *Hearings*, *supra* note 127, at 6 (testimony of Rep. Cummings).

represents more than a fourfold increase in annual prison releases since 1980.¹³⁷ Recognizing this drastic challenge, President Bush recently pleaded for compassion toward the hundreds of thousands of people annually “released from prison back into society.”¹³⁸

For many prisoners, the prison door is a revolving one.¹³⁹ Approximately forty percent of ex-convicts in the U.S. are reincarcerated.¹⁴⁰ Part of what makes ex-prisoner recidivism so distressing is the demonstrable failure of the “corrections” system to accomplish its nominal purpose, not to mention the immense waste of resources inherent in such failure. Thus, it is no surprise that, with the specific goal of reducing recidivism rates, “policymakers, correctional system administrators, and other concerned parties are looking for ways to more successfully reintegrate ex-offenders.”¹⁴¹

The extent of incarceration and prison release is important here because, first, these trends have a significant impact on the military recruitment pool. According to the DOJ, more than 50 million Americans – twenty-nine percent of the adult population – have an arrest record.¹⁴² This number has doubled since a decade ago,¹⁴³ meaning that young people and especially young men, the most likely to commit crimes and the most eagerly sought military

¹³⁷ In 1980, almost 150,000 inmates were released from prison. U.S. GEN. ACCOUNTING OFFICE, REPORT TO CONGRESSIONAL COMMITTEES, PRISONER RELEASES: TRENDS AND INFORMATION ON REINTEGRATION PROGRAMS 3 (2001) [hereinafter GAO PRISONER RELEASES].

¹³⁸ *Hearings, supra* note 127, at 32 (testimony of Rep. Davis). For “most of those released from prison today,” the extent of the help they need is exacerbated by serious social and medical problems. More than three-fourths of the inmates scheduled for release in the next year report a history of drug and/or alcohol abuse. One-fourth have histories of injection drug use and 16 percent report a mental condition. Yet less than one-third of exiting inmates received substance abuse or mental health treatment in prison.

Petersilia, *supra* note 2, at 66.

¹³⁹ GAO PRISONER RELEASES, *supra* note 137, at 3 (discussing how “releasees are often subsequently reincarcerated”).

¹⁴⁰ *Id.* at 3.

¹⁴¹ *Id.* at 1-2.

¹⁴² Petersilia, *supra* note 2, at 68.

¹⁴³ *Id.*

recruits, have increasingly problematic criminal histories.¹⁴⁴ More than 13 million Americans are ex-felons – six percent of the adult population, eleven percent of the adult male population, and more than thirty percent of the adult African-American male population.¹⁴⁵

Clearly, potential recruits with spotless records become harder to find each year, both proportionally and in absolute numbers. But criminal activity does not always entail a criminal record. If enlistees in the Armed Forces were as honest with recruiters as they are with researchers who ensure confidentiality, it is likely that the vast majority of recruits would require moral waivers. Criminologists have found that a large percentage of males will be arrested at least once for something more serious than a traffic infraction; and an even larger percentage, approximately ninety percent, commit at least one criminal offense (whether arrested or not) in their lifetime, most often in their youth.¹⁴⁶ The correlation between youth, male gender, and criminality is astounding.¹⁴⁷ Nearly seventy percent of persons arrested for serious crimes are under the age of twenty-five,¹⁴⁸ and men are anywhere from five to fifty times more likely than women to be arrested.¹⁴⁹ The effect of such trends on would-be recruits is as unsurprising as it is inevitable: increased difficulty of meeting the military's moral character standards.¹⁵⁰

2. WHY ENLIST? – THE EX-OFFENDER'S SITUATION

A seasoned recruiter recently told the *New York Times* that “[t]he only people who want to join the Army now have issues. . . . They’re troubled, with health, police or drug

¹⁴⁴ See *infra* notes 146-50 and accompanying text.

¹⁴⁵ Petersilia, *supra* note 2, at 68. By “ex-felon,” Petersilia means persons who “had been convicted of a felony and served or are currently serving a felony probation, parole, prison, or jail sentence.”

¹⁴⁶ JAMES Q. WILSON & RICHARD HERRNSTEIN, *CRIME AND HUMAN NATURE* 146 (1985).

¹⁴⁷ MICHAEL R. GOTTFREDSON & TRAVIS HIRSCHI, *A GENERAL THEORY OF CRIME* 123-153 (1990).

¹⁴⁸ DEP’T OF COMMERCE, ECONS. & STATISTICS ADMIN., BUREAU OF THE CENSUS, *STATISTICAL ABSTRACT OF THE UNITED STATES* 199 (1993), available at <http://www2.census.gov/prod2/statcomp/documents/1993-01.pdf>.

¹⁴⁹ WILSON & HERRNSTEIN, *supra* note 146, at 104.

¹⁵⁰ REBECCA M. KILBURN & JACOB A. KLERMAN, RAND, *ENLISTMENT DECISIONS IN THE 1990S: EVIDENCE FROM INDIVIDUAL-LEVEL DATA* 25 (1999).

problems.”¹⁵¹ However hyperbolic his rhetoric,¹⁵² the recruiter’s statement refers to a very real dilemma. Not only has increased criminality among young men made acceptable recruits harder to find, individuals who have been arrested are “significantly” more likely to enlist than attend college.¹⁵³ This increased propensity exists *despite* the probable deterrent effects of the military’s nominal disqualification of felons, its attempts to conduct criminal history investigations, and its extensive moral waiver procedures.¹⁵⁴

As with any recruit pool, ex-offenders’ increased probability of enlistment strongly relates to their overall employment situation. Ex-offenders must overcome tremendous obstacles to finding and maintaining a job. These obstacles sometimes arise from social or intellectual limitations that preceded, and are relatively unrelated to, their criminal conduct. Most inmates lack “marketable skills or sufficient literacy to become gainfully employed;”¹⁵⁵ and because they have little pre-prison experience as productive members of the workforce,¹⁵⁶ they do not know the mechanics of finding post-prison employment.¹⁵⁷ Thus, as Robert Taggart explained in *The Prison of Unemployment*, a criminal conviction only exacerbates these individuals’ earlier employment woes.¹⁵⁸

If ex-offenders have comparatively less to offer employers by way of skills and capabilities, it is at least equally true that employers offer – and choose to offer – precious few opportunities to ex-offenders. Customarily, once “paroled or released, [the ex-convict] is

¹⁵¹ Cave, *supra* note 77 (internal quotations omitted).

¹⁵² This recruiter’s actual percentage of enlistments who were known to have “a problem that [either] needed concealing” or a moral waiver was one-third. *Id.*

¹⁵³ KILBURN & KLERNAN, *supra* note 150, at xvi-xvii.

¹⁵⁴ Similarly, Kilburn and Klerman found “that having been arrested or having a friend who has been arrested raises the likelihood of enlisting, which is surprising given that this variable was expected to proxy for having difficulty meeting the moral requirements for enlistment.” *Id.* at 59.

¹⁵⁵ Petersilia, *supra* note 2, at 66.

¹⁵⁶ One-third of inmates were unemployed at the time of their most recent arrest. *Id.*

¹⁵⁷ DEP’T OF LABOR, EMPLOYMENT INFORMATION HANDBOOK FOR EX-OFFENDERS 1 (2005).

¹⁵⁸ ROBERT TAGGART III, THE PRISON OF UNEMPLOYMENT: MANPOWER PROGRAMS FOR OFFENDERS 2 (1972).

excluded from a number of jobs and given little help in finding his way back into the world of work.”¹⁵⁹ As onetime prisoner Errol Craig Sull observed in *The Ex-Inmate’s Guide to Successful Employment*, “[a]most anyone who has spent time in prison has some story to tell about his or her quest for a job (and a fresh start) . . . and how his or her prison record” thwarted that quest.¹⁶⁰ And the more serious one’s crime, the more difficult it is to find and maintain employment. In the recent words of D.C. Congressional Delegate Eleanor Holmes Norton, “a felony conviction is close to a death sentence in the job market.”¹⁶¹

Increasingly, legislatures are the bodies imposing this job market “death sentence” by statutorily barring ex-felons from one occupation after another. Even as prisons reduce employment-related services to present and former inmates,¹⁶² a generation’s worth of punitive state and federal laws have narrowed the range of jobs open to ex-offenders.¹⁶³ At the federal level, in addition to an extensive array of outright restrictions imposed upon ex-offenders’ employability,¹⁶⁴ certain kinds of work licenses are revoked or withheld from individuals convicted of various crimes.¹⁶⁵ Also, judges have significant latitude to impose occupational prohibitions as part of criminal sentencing.¹⁶⁶

¹⁵⁹ *Id.*

¹⁶⁰ ERROL CRAIG SULL, *THE EX-INMATE’S GUIDE TO SUCCESSFUL EMPLOYMENT*, at vii (4th ed. 2003).

¹⁶¹ *Hearings, supra* note 127, at 18.

¹⁶² *Petersilia, supra* note 2, at 67.

¹⁶³ *Id.*

¹⁶⁴ *See* COLLATERAL CONSEQUENCES UPON CONVICTION, *supra* note 21, at 2-8.

¹⁶⁵ *Id.* at 4-5.

¹⁶⁶ For example,

under 18 U.S.C. §§ 3563(b)(5), 3583(d), and the United States Sentencing Guidelines, the sentencing court may impose certain occupational restrictions as a condition of probation or supervised release. Restrictions are authorized when a “reasonably direct relationship” exists between the defendant’s occupation and the offense conduct, 18 U.S.C. § 3563(b)(5), U.S.S.G. § 5F1.5(a)(1); and the conditions are “reasonably necessary to protect the public because there is reason to believe that, absent such restriction, the defendant will continue to engage in unlawful conduct similar to that for which the defendant was convicted.” U.S.S.G. § 5F1.5(a)(2). If such an occupational restriction is imposed, it must be imposed “for the minimum time and to the minimum extent necessary to protect the public.” U.S.S.G. § 5F1.5(b).

COLLATERAL CONSEQUENCES UPON CONVICTION, *supra* note 21, at 4.

It has been argued that legal impediments to ex-offenders' employability support a regime of "invisible punishment" because their "effectiveness, impact, [and] implementation" are often hidden from the public eye and are difficult to measure.¹⁶⁷ This invisibility is reinforced by the fact that private individuals, not legislatures or courts, are primarily responsible for the job market "death sentence." Even when hiring policies do not explicitly exclude individuals convicted of a crime, the same result is often achieved more subtly.¹⁶⁸ About sixty-five percent of employers of unskilled workers in five major American cities would not "knowingly hire an ex-offender (regardless of the offense)," and almost forty percent actively investigate new hires' criminal records.¹⁶⁹

As one employment manual warns, individuals found guilty of felonies must "answer 'yes' to THAT question ('Were you ever convicted of a felony?')." ¹⁷⁰ However, as we saw earlier in the military context, many applicants who technically should answer "yes" decide, for obvious reasons, to say "no." Prevarication of this sort is so widespread – and indeed, so understandable – that even the Department of Labor merely *suggests* that ex-offenders respond honestly when asked about their criminal histories.¹⁷¹ It nearly goes without saying that ex-offenders are discouraged from ever volunteering such information.¹⁷²

¹⁶⁷ Jeremy Travis, *Invisible Punishment: An Instrument of Social Exclusion*, in *INVISIBLE PUNISHMENT: THE COLLATERAL CONSEQUENCES OF MASS UNEMPLOYMENT* 15, 16 (Marc Mauer & Meda Chesney-Lind eds., 2002).

¹⁶⁸ TAGGART, *supra* note 158, at 84.

¹⁶⁹ Petersilia, *supra* note 2, at 68.

¹⁷⁰ SULL, *supra* note 160, at iv.

¹⁷¹ "To tell or not to tell. It's up to you, but we recommend honesty." The authors continued, "[o]n the application put 'will discuss in interview' rather than a lengthy explanation of past convictions. In an interview, keep explanations short and stress what you learned in prison and what your skills and assets are. Be positive!" DEP'T OF LABOR, *supra* note 157, app. B. Interestingly, the Institute of Criminal Law and Procedure at Georgetown University Law Center used almost exactly the same language – "To lie or not to lie" – in a report on ex-offender employment published many years earlier. HERBERT S. MILLER & GEORGETOWN UNIV. LAW CTR. INST. OF CRIMINAL LAW AND PROCEDURE, *THE CLOSED DOOR: THE EFFECT OF A CRIMINAL RECORD ON EMPLOYMENT WITH STATE AND LOCAL PUBLIC AGENCIES* v (1972) (prepared for the Manpower Administration, U.S. Department of Labor, under research contract number K 81-09-70-02, authorized by Title I of the Manpower Development and Training Act.).

¹⁷² DEP'T OF LABOR, *supra* note 157, app. B (emphasis supplied).

The drastically reduced range of occupational possibilities available to known ex-offenders has created a veritable criminal closet.¹⁷³ “Many ex-offenders have never honestly answered the question, ‘[h]ave you ever been convicted of a crime?’”¹⁷⁴ Eve Sedgwick’s observation that the “double bind” of disclosure/non-disclosure is one of the hallmarks of the contemporary regime of the closet,¹⁷⁵ as the word is usually understood, is certainly true of the ex-offender’s experience.¹⁷⁶ “As individuals with [criminal] records so frequently find out, you are either damned if you do and damned if you don’t.”¹⁷⁷ Petersilia explains that “[i]f parolees are truthful about their backgrounds, many employers will not hire them. If they are not truthful, they can be fired for lying if the employer learns about their conviction.”¹⁷⁸

Given the formidable barriers to finding work, the military’s evident willingness to grant moral waivers makes it an appealing option for many ex-offenders.¹⁷⁹ But the quantity of available work is not the only factor explaining the demonstrated propensity of ex-offenders to enlist; quality also matters. When “the only available jobs are often undemanding, unattractive, and unrewarding, offering the offender little inducement to turn [away] from criminal

¹⁷³ Note the title of a very recent *Mother Jones* article detailing an ex-convict’s employment search woes. Sara Catania, *Freedom = Silence*, MOTHER JONES, Sept.-Oct. 2005, at 16-17 available at http://www.motherjones.com/news/outfront/2005/09/freedom_silence.html?welcome=true.

¹⁷⁴ DEP’T OF LABOR, *supra* note 157, app. B.

¹⁷⁵ EVE KOSOFKY SEDGWICK, EPISTEMOLOGY OF THE CLOSET 54 (1990) (referring to “the double binds” that make “the stakes in matters of definitional control [so] extremely high”).

¹⁷⁶ As David J. Harding observed in *Jean Valjean’s Dilemma*, ex-offenders must carefully “manage their deviant identities in the labor market. Institutional limitations imposed by both the labor market and the criminal justice system as well as subjects’ interpretations of stigma play important roles in determining how they choose to present themselves to others.” David J. Harding, *Jean Valjean’s Dilemma: The Management of Ex-Convict Identity in the Search for Employment*, DEVIANT BEHAVIOR, Nov.-Dec. 2003, at 571.

¹⁷⁷ MILLER ET AL., *supra* note 171, at v.

¹⁷⁸ Petersilia, *supra* note 2, at 68; *see also* DEP’T OF LABOR, *supra* note 157, app. B (“Ex-offenders may be fired for falsifying information on their job application.”).

¹⁷⁹ “Potential recruits to the military face a choice among further education, the civilian workforce, working at home, and enlisting in the military. Potential recruits balance the advantages and disadvantages of each alternative to choose the most attractive life choice for themselves.” MICHAEL P. MURRAY & LAURIE L. McDONALD, RECENT RECRUITING TRENDS AND THEIR IMPLICATIONS FOR MODELS OF ENLISTMENT SUPPLY 2 (1999). Since further education and the civilian workforce are unlikely possibilities for most ex-offenders, there may be no genuine alternative (other than less desirable private sector employment) to military enlistment.

behavior,”¹⁸⁰ the opportunities that military service affords must appear especially attractive. Although “patriotic considerations” may be at play in some individuals’ enlistment decisions, “self-interested considerations” tend to be primary for most of those who actually enter the Services.¹⁸¹ These considerations – which include benefits such as technical training, an array of long-term career opportunities, and the inculcation of “endurance, self-reliance, and self-discipline”¹⁸² – are bound to be particularly impressive to ex-offenders with a desire to restart their lives. Moreover, in such a “low-caste” population, certain symbolic rewards accompany the more material advantages of military service.¹⁸³ These include pride, social respect, and even “official government encouragement or approval.”¹⁸⁴

3. WHY RECRUIT? – BENEFITS TO SOCIETY

We have seen why enlistment is good for ex-offenders, and earlier we explored why ex-offender enlistment may be good for the military.¹⁸⁵ Now we will consider why such enlistment may be good for society. Ultimately, the same reasons that have been offered to encourage military recruitment of “disadvantaged Americans” may apply, perhaps even more strongly, to ex-offenders: “[M]ilitary service may complete the[ir] integration . . . as productive, self-respecting, and patriotic citizens. By ameliorating the deplorable social conditions of which

¹⁸⁰ TAGGART, *supra* note 158, at 83.

¹⁸¹ Adrian M.S. Piper, *The Rationality of Military Service*, in CONSCRIPTS AND VOLUNTEERS: MILITARY REQUIREMENTS, SOCIAL JUSTICE, AND THE ALL-VOLUNTEER FORCE 126, 127 (Robert K. Fullinwider ed., 1983) (“Patriotic considerations are addressed less frequently to those who are to be convinced to enlist in the All-Volunteer Force itself. To those young men and women who are adjudged to be the most capable of making a contribution to this country’s welfare through their military defense of it (rather than, say, through their technical or professional skills within the civilian sector, their roles as parents, or their anticipated roles as educated and productive citizens upon completion of their education), appeal is more often made to self-interested considerations. These considerations represent military life as the most attractive option available for pursuing personal aspirations.”)

¹⁸² *Id.* at 126-27.

¹⁸³ Stephen Cohen, *The Untouchable Soldier: Caste, Politics, and the Indian Army*, in RECRUITING, DRAFTING, AND ENLISTING: TWO SIDES OF THE RAISING OF MILITARY FORCES 167-68 (Peter Karsten ed., 1998).

¹⁸⁴ *Id.*

¹⁸⁵ *See supra* Parts III.A-.B.

most civilian institutions have apparently washed their hands, military service may have further positive consequences for society at large.”¹⁸⁶

The job market’s widespread exclusion of individuals who have served their sentences is not only unfair;¹⁸⁷ by impeding ex-offenders’ reintegration and rehabilitation, it is also tragically unwise. This isolation has a “profound” impact on these individuals’ subsequent criminal trajectories.¹⁸⁸ Finding gainful employment “is critical to successful reintegration. Employment helps ex-offenders become productive, take care of their families, develop valuable life skills, and strengthen their self-esteem and social connectedness.”¹⁸⁹ In the face of constant employment rejection, “too many ex-inmates give up, think they can’t work within the system, and go back to . . . surviving the only way they think can work for them – illegally. The usual result? Back to prison for a longer time . . . or worse.”¹⁹⁰

Although it is hardly necessary to justify society’s interest in reducing criminal recidivism, it should be noted that this necessity becomes only more pressing each year. As one congressman recently observed, “rehabilitating and reintegrating prisoners back into society continues to loom as one of the great needs of our day.”¹⁹¹ This Article’s primary concern is to suggest that ex-offender recruitment may be, and should be, considered by policymakers as one way of addressing this need.

¹⁸⁶ Piper, *supra* note 181, at 137.

¹⁸⁷ Travis eloquently suggested that this practice is *very* unfair:

In this brave new world, punishment for the original offense is no longer enough; one’s debt to society is never paid. Some commentators, seeing parallels with practices from another era when convicts were sent to faraway lands, refer to this form of punishment as “internal exile.” Others liken this extreme labeling to “the mark of Cain,” and the effects of these sanctions as relegating the offender to the status of “non-citizen, almost a pariah.” The National Council on Crime and Delinquency summarized the effects this way: “Even when the sentence has been completely served, the fact that a man has been convicted of a felony pursues him like Nemesis.”

Travis, *supra* note 167, at 19 (internal citations omitted).

¹⁸⁸ Petersilia, *supra* note 2, at 67.

¹⁸⁹ *Id.*

¹⁹⁰ SULL, *supra* note 160, at vii.

¹⁹¹ *Hearings*, *supra* note 127, at 32 (statement of Rep. Davis).

The hypothesis that proactive military recruitment of ex-offenders could have a positive effect on recidivism is mainly based on two rationales: “(1) that the military environment removes the opportunity to commit crime; and/or (2) that military training teaches responsibility and discipline, thereby deterring future crime.”¹⁹² With regard to these rationales, “[o]ne potentially corrective influence is the drastic change in lifestyle required when entering the military.”¹⁹³

Although the relationship between criminality and is not extensively documented,¹⁹⁴ some existing studies confirm an inverse relationship between the two.¹⁹⁵ Some of these studies have quite an impressive vintage. A recent analysis of research conducted in the 1930s through the 1950s found that juvenile delinquents were “much more likely” to be dishonorably discharged than non-delinquents, but that entry into the military was a positive “turning point” for some in the former category.¹⁹⁶ A 1979 study found that recidivism was less prevalent among men paroled into the Army during the Second World War and the Korean War than for those who were paroled into civilian society,¹⁹⁷ and subsequent research involving Vietnam veterans found that among white ex-offenders, desistance occurred earlier in those who had “military experience” than among those who never enlisted.¹⁹⁸ More recently, a 1999 study found that drug use declined after military enlistment, even more than for individuals who started

¹⁹² Leana Allen Bouffard & John H. Laub, *Jail or the Army: Does Military Service Facilitate Desistence from Crime?*, in AFTER CRIME AND PUNISHMENT: PATHWAYS TO OFFENDER REINTEGRATION 129, 130 (Shadd Maruna & Russ Immarigeon eds., 2004) (“The military . . . actively seeks to instil[I] structure and discipline with the initial basic training experience and with continued rigorous training throughout the military career. It is commonly thought that this disciplined environment will encourage a responsible lifestyle and discourage criminal behaviour.”).

¹⁹³ *Id.*

¹⁹⁴ *Id.* at 146.

¹⁹⁵ *Id.* at 133-34.

¹⁹⁶ *Id.* at 132 (discussing the work of Sampson and Laub in 1993 and 1995).

¹⁹⁷ See Bouffard & Laub, *supra* note 192, at 132 (discussing this 1979 study).

¹⁹⁸ Bouffard & Laub, *supra* note 192, at 132-33 (discussing Rand’s 1987 research).

fulltime work or entered college.¹⁹⁹ Finally, an “exploratory” study conducted in 2004 indicated that “the military may produce desistence from crime, especially for the most serious offenders.”²⁰⁰

Of course, desistence usually does not simply mean the absence of crime. In the case of ex-offenders recruited into the military, the majority of whom successfully complete their terms of service, desistence comes along with positive contributions to society. Taggart lamented that,

all too frequently, especially in the case of those who are arrested, found guilty, and sent to jail, their economic and social potential is squandered by them and by society. . . . From start to finish, the picture is one of wasted human resources – of skills and abilities which are underdeveloped and underutilized.²⁰¹

Concerted recruitment of ex-offenders would acknowledge the very real potential these individuals possess, and it might often yield some very real contributions.²⁰²

V. CONCLUSION

Earlier in this Article, we saw how an extensive moral waiver system undermines the Armed Forces’ ostensibly stringent policy on ex-offender enlistment and permits thousands of known criminals to enlist each year. Relatedly, we explored a character screening process that fails to detect the criminal backgrounds of approximately half of those who should receive a

¹⁹⁹ Jerald G. Bachman et al., *Changing Patters of Drug Use Among U.S. Military Recruits Before and After Enlistment*, 89 AM. J. PUB. HEALTH 672 (1999).

²⁰⁰ Bouffard & Laub, *supra* note 192, at 147.

²⁰¹ TAGGART, *supra* note 158, at 1-2.

²⁰² The possibility of using military enlistment to advance such policy ends, to the mutual benefit of the Armed Forces and civilian society, is one that has been recognized and implemented before in the United States. For example,

Secretary of Defense Robert S. McNamara initiated “Project 100,000” in response to President Johnson’s War on Poverty under which men who would have been disqualified because of failure to meet mental standards or easily correctible physical defects were allowed to enlist. Generally referred to as the “New Standards” men, about 320,000 such recruits entered the military between 1967 and 1971, when the program was abandoned because of decreased manpower requirements. The DOD report describes the rationale behind the program: “We were convinced that a very high proportion of these men would qualify as fully satisfactory servicemen exposed to the modern instructional techniques used in the Armed Forces. As a by-product, their service would prepare them for more productive lives when they returned to civilian life.”

KIRBY & THIE, *supra* note 23, at 67 n.6 (internal citation omitted).

waiver. Then, looking at ex-offenders' in-service performance, we learned that such recruits are somewhat (perhaps only slightly) less likely than non-offenders to be satisfactory servicemembers, while most ex-offenders admitted into the Armed Forces perform well enough to at least complete their contractual term of service. Finally, we examined some of the social policy issues at stake in this question, including the increasing proportion of ex-offenders in the military recruitment pool, the relative attractiveness of a military career to ex-offenders – many of whom face significant difficulties finding employment in any field – and the potential benefits to society of military service among ex-offenders.

This Article has aimed to elucidate rather than weigh these various considerations. Even so, it is hardly possible to reiterate each of the major points raised in the preceding pages without noticing that a current, *de facto* ex-offender recruitment policy exists within the U.S. Armed Forces. But because this practice is characterized as an exception rather than the rule, and is accomplished through a system of winks and nods, almost no resources have been devoted to the development of strategies that would maximize the various interests at play – those of the military, ex-offenders, *and* civilian society.

Aside from admittedly serious ethical concerns – such as forcefully maintaining the line between recruitment and conscription – it is easy to see why ex-offenders and civilian society would probably benefit from a more forthright implementation of this recruitment practice.²⁰³ It is important to emphasize that the military might also benefit – potentially in ways that are directly responsive to the attrition rates and performance defects lamented in the existing literature on ex-offender recruitment. A full, candid acknowledgement that such individuals serve in the military's ranks would allow for the development of programs, both pre- and post-enlistment, designed specifically with these recruits in mind. Ultimately, if the Armed Forces

²⁰³ See *supra* Part III.

were more forthright and proactive in balancing recruits' strengths against their felonies, there is reason to think we might all be stronger.

Table 1. Criteria for Requiring Moral Waivers by Offense and Service²⁰⁴

Offense Level	Number of Offenses Requiring Moral Waiver			
	Army	Navy	Marines	Air Force
Felony	1; no waiver allowed for more than 1.	1 or more.	1; no waiver allowed for more than 1.	1 or more.
Serious Misdemeanor	2; no waiver allowed for 5 or more.	1 or 2; no waiver allowed for 3 or more.	1 to 5; no waiver allowed for 6 or more.	1 or more.
Minor Misdemeanor	Category not used.	3 to 5; no waiver allowed for 6 or more.	Category not used.	1 or more.
Minor Non-Traffic	3 or more; 3 convictions for a combination of misdemeanors and minor non-traffic offenses.	3 to 5; no waiver allowed for 6 or more.	2 to 9; no waiver allowed for 10 or more.	Depending on seriousness of offense: 1 or more; 2 in the last three years; or 3 or more in a lifetime.
Serious Traffic	Category not used.	Category not used.	2 or more; no waiver for 6 or more.	Category not used.
Minor Traffic	6 or more where fine exceeded \$100 per offense.	Within three years prior to enlistment, 6 or more in any twelve-month period or 10 or more in total.	5 or more.	Depending on seriousness of offense: 2 in last three years, or 3 or more in a lifetime; 6 or more minor traffic or five minor traffic and one minor non-traffic offenses in any one-year period within the last three years.

²⁰⁴ GAO MILITARY RECRUITING, *supra* note 14, at 4.

Table 2. 1990-1997 Waiver Grant Figures

Fiscal Year	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>
Army Moral Waivers	5,989	5,648	5,186	4,301	3,304	3,203	2,260	2,394
Percentage of Enlistments	6.7	7.2	6.7	5.6	4.9	5.1	3.1	2.9
Navy Moral Waivers	11,890	9,016	7,244	8,028	5,759	6,248	7,323	6,554
Percentage of Enlistments	18.6	18.2	16.7	16.2	16.2	17.3	18.8	14.7
Marine Corps Moral Waivers	20,451	17,610	15,791	10,162	6,997	5,205	4,076	2,992
Percentage of Enlistments	61.2	59.2	49.7	29.3	22.0	16.2	12.4	11.7
Air Force Moral Waivers	712	850	1,672	2,269	1,883	2,093	1,945	1,868
Percentage of Enlistments	2.0	2.9	4.8	7.2	6.2	6.7	6.3	6.2
DOD Waivers	39,042	33,124	28,893	24,760	17,934	16,749	15,604	14,808
DOD Total Enlistments	222,567	187,156	187,146	193,029	164,921	161,707	175,466	190,464
Percentage DOD Enlistments	17.5	17.7	16.0	12.8	10.9	10.4	8.9	7.8

Table 3. 2003-2006 Waiver Grant Figures

Fiscal Year	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
Army Moral Waivers	4,918	4,529	5,506	8,129
Percentage of Enlistments	7.1	6.3	8.5	11.7
Navy Moral Waivers	4,207	3,846	3,467	3,502
Percentage of Enlistments	10.4	9.8	9.2	9.7
Marine Corps Moral Waivers	19,195	18,669	20,426	20,750
Percentage of Enlistments	49.6	50.7	52.5	54.3
Air Force Moral Waivers	2,632	2,530	1,123	2,095
Percentage of Enlistments	7.3	7.5	5.6	6.8
DOD Total Moral Waivers	30,952	29,574	30,522	34,476
DOD Total Enlistments	184,847	182,051	160,685	174,509
Percentage DOD Enlistments	16.7	16.2	19.0	19.6

Table 4. 2003-2006 Waiver Grant Figures by Offense Category

Fiscal Year	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
Felony	824	638	1,163	1,605
Serious Non-Traffic	10,324	9,235	10,523	13,895
Minor Non-Traffic	1,824	2,533	1,840	2,446
Serious Traffic	1,699	1,413	929	466
Minor Traffic	1,564	1,587	1,369	1,086
Drug	14,717	14,168	14,698	14,978



From: SP Pol Service Conditions Equal Opportunities 2
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XXXXXXXXXXXXXX XXXXXXXXXXXXXX XXXXXXXXXX XXXXXXXXXXXXXX XXXXXXX	Your Ref: Our Ref: FOI Request 20-03-2007-073852-002 Date 18 May 2007
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Dear XXXXXXXXXXXXXXXX,

REQUEST FOR INFORMATION

Thank you for your FOI request dated 19 March 2007 regarding information concerning impact studies that were conducted by the MoD following the lifting of the ban on homosexuality in HM Forces, including statistics of resignations as a result of the ban being lifted.

The information enclosed with this letter is:

Service Personnel Board Paper 12/02, entitled "*Tri-Service Review of the Armed Forces' Policy on Homosexuality and Code of Social Conduct*".

This is the most recent study that has been conducted.

I should add that the Armed Forces have made great strides in recent years to support diversity and inclusion and have robust policies in place. The Armed Forces regard sexual orientation as a private life matter and Service personnel are free to choose whether or not to disclose their sexual orientation.

If you are unhappy with this response or you wish to complain about any aspect of the handling of your request, then you should contact me in the first instance. If informal resolution is not possible and you are still dissatisfied then you may apply for an independent internal review by contacting the Director of Information Exploitation, 6th Floor, MOD Main Building, Whitehall, London, SW1A 2HB (email Info-XD@mod.uk). Please note that any request for an internal review must be made within 40 working days of the date on which the attempt to reach informal resolution has come to an end.

If you remain unhappy following an internal review, you may take your complaint to the Information Commissioner under the provisions of Section 50 of the Freedom of

DG SP Pol



INVESTOR IN PEOPLE

Information Act. Please note that the Information Commissioner will not investigate the case until the internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, <http://www.informationcommissioner.gov.uk>.

Yours sincerely,

XXXXXXXXXX

SPB 12/02

MINISTRY OF DEFENCE

SERVICE PERSONNEL BOARD

**TRI-SERVICE REVIEW OF THE ARMED FORCES POLICY ON
HOMOSEXUALITY AND CODE OF SOCIAL CONDUCT**

(A Paper by D SP Pol SC)

This paper reviews the Armed Forces policy on homosexuality and the introduction of the Armed Forces Code of Social Conduct in the light of thirty months' experience since both were introduced in Jan 00. It concludes that there has been no discernible impact on operational efficiency and that the Armed Forces Code of Social Conduct has been well received. It considers that no further review of the Armed Forces policy on homosexuality is currently judged necessary, as sexual orientation is now increasingly an integral part of the policy on diversity. However, Service personnel staffs will need to remain watchful for any reversal of current attitudes of toleration. It further recommends that the guidelines for applying the Armed Forces Code of Social Conduct require some refinement.

INTRODUCTION

1. Following the ECHR judgement against the MOD at Strasbourg on 27 Sep 99, and the subsequent change of policy on homosexuality in the Armed Forces, the lifting of the ban on homosexuals serving in the Armed Forces was announced by the Secretary of State in Parliament on 12 Jan 00.

AIM

2. The aim of this paper is to review the revised policy on homosexuality and the introduction of the underpinning Armed Forces Code of Social Conduct within the three Services, in the light of thirty months' experience following the change of policy.

SCOPE

3. The three Services were asked to examine and report on the following main areas:

(a) To provide the views of COs on the change of policy on Homosexuality and the Armed Forces Code of Social Conduct.

(b) Single-Service reactions to the policy change.

- (c) Identify the most commonly held concerns.
- (d) To highlight any practical difficulties and details of any alleged cases of redress, victimisation or harassment following the policy change.
- (e) Single-Service handling and reaction to homosexual re-enlistments.
- (f) Offer feedback from the Tri-Service Equal Opportunities Training Centre.
- (g) The implications for diversity policy.

BACKGROUND TO THE REVIEW

4. The change in policy was reviewed in the light of experience in the Services during the first six months of operation. The conclusions of the review were reported to Ministers¹ and the House of Commons Defence Committee (HCDC) and are included at Annex A for ease of reference. Although the handling of the announcement and the subsequent change in policy was generally hailed a success, and no real problems of harassment or victimisation were reported following its introduction, it was acknowledged that this may not have fully reflected that the change in policy did not command the universal approval of all Service personnel. It was recommended that there should be second review to reflect a further two years of operating the change in policy, which would be reported to Ministers and the HCDC.

VIEWS OF COMMANDING OFFICERS (COs) ON THE CHANGE OF HOMOSEXUALITY POLICY

HOMOSEXUALITY

5. COs views for each Service are as follows:

a. **The Naval Service.** When first announced the change in policy was not openly welcomed by many, but reaction was generally muted. Since then it has been widely agreed that the problems initially perceived have not been encountered, and for most personnel sexual orientation is a 'non-issue'. It is thought that such changes were inevitable and logical as they reflect the society in which Armed Forces serve.

b. **The Army.** The general message from COs is, that there appears to have been no real change since the new policy was announced. It appears that few homosexuals have decided to declare their sexual orientation and that they would prefer to keep their orientation private. However feedback from focus groups is that this may well be a subject that is dormant at present, but may need to be further considered when personnel are on operations.

¹ D/SP Pol SC/50/1 dated 24 Aug 02.

c. **RAF.** The overwhelming view of RAF COs is that the change in policy was overdue and represented recognition of the diverse culture in which we all live. All COs agreed that there had been no tangible impact on operational effectiveness, team cohesion or Service life generally. There had been no 'pink crusades' or rushes of 'coming out'. One CO commented that same sex relationships had caused some initial concern, but that the situation had been ably managed.

THE ARMED FORCES CODE OF SOCIAL CONDUCT

6. **The Naval Service.** The revised code has been well received and it is considered that it puts homosexuality neatly into context, as it does not just cover homosexual relationships but instead provides clear guidance on all forms of relationships.

7. **The Army.** There has been a varied response from the COs and can be summarised as being:

a. The Code has been welcomed by all.

b. While the Code provides useful and balanced criteria against which to assess social conduct, concern was raised at how the policy is implemented. The need for consistency is viewed as essential. This may be difficult to achieve given that each incident will need to be judged on its own merits and the likelihood that different parts of the Services may apply different emphasis. The need for equity in enforcement is seen as a particular challenge.

c. A lack of understanding and education, mainly with those who have transgressed, of why Values and Standards are necessary.

8. **RAF.** Whilst the majority of comments were positive, they ranged from the negative (caused problems in interpretation, highly subjective, not prescriptive enough), through the neutral (little impact at Station level), to the positive (excellent tool that ensures parity of treatment, a sensible and pragmatic approach and an identifiable baseline against which to measure social conduct). It should be noted that the RAF uses the Service Test as a yardstick for all types of personnel casework, not just for social misconduct.

SINGLE-SERVICE REACTION TO THE CHANGE IN ARMED FORCES POLICY ON HOMOSEXUALITY

THE NAVAL SERVICE

9. **Officers.** The majority view is that the new policy has not made any significant change to Service life. It was thought that, if asked, some would express disapproval of the change but many, particularly younger officers, would be neutral or positively welcoming of the change.

10. **Senior Rates and Warrant Officers and SNCO.** This stratum of naval society is considered to be one of the most traditional and, correspondingly, there remains some disquiet in the Senior Ratings' Messes concerning the policy on homosexuality within the

Service. This has manifested itself in a number of personnel electing to leave the Service, although in only one case was the policy change cited as the only reason for going. Nonetheless, homosexuality is not a major issue and, to put the effect of the policy change into context, the introduction of Pay 2000 and pay grading caused a far greater reaction.

11. **Junior Rates and Ranks.** The general feeling is that Junior Rates and ranks are more accepting of homosexuality, as the majority have friends/acquaintances who are homosexual, although some were polarised in their views. There was a mixed reaction as to whether homosexuals should be allowed to serve; some cannot understand why homosexuality is an issue at all, whilst others feel that the Service has created a difficult and volatile situation for them to deal with.

THE ARMY

12. **Officers.** There is general acceptance of the change amongst officers with many agreeing that the impact of the policy will have no significant impact upon units. There is a view that officers who have attended university have developed a more tolerant attitude to homosexuality and some officers also expressed a view that the effect of the changes introduced will only be noticed over a prolonged period.

13. **Warrant Officers and SNCOs.** Some reluctance amongst Warrant Officers and SNCOs to accept the change has been noted and there has been one recent incident of a homosexual WOs' & Sgts' Mess member 'coming out' and this generated much discussion. A general view is that most soldiers still have very little direct experience of working alongside, or socialising with, homosexuals, and find the notion distasteful. However, the general attitude is that social acceptability is more dependent on character and personality rather than sexual orientation, and those with direct experience of serving with homosexuals are more inclined to be tolerant.

14. **Junior Ranks.** Views amongst Junior Ranks were more diverse with some reluctant to accept the policy change whilst the majority recognise the need to adapt. In general, Junior Ranks tend to be more liberal than their older colleagues although many have expressed particular concern over room sharing. One CO expressed a view that there is a resigned acceptance amongst Junior Ranks concerning the Army's homosexual policy, though there remains a continued sentiment across Junior Ranks that homosexuality undermines unit/team cohesion. This view was particularly prevalent within the Infantry.

15. **General Reactions.** The overwhelming consensus is that this policy change appears to have had little impact. The general impression is that there has been little change in attitude with those who were homophobic remaining so, albeit less overtly, whilst the views of more tolerant individuals is unchanged. Regardless of policy, homosexuals are not yet readily accepted by all, and this may influence an individual in deciding whether to expose his or her sexual orientation. More senior groups felt that the policy had little practical impact and was not a contentious issue; team dynamics are much more dependent on personality than on the sexual orientation of the individual, whereas more junior groups were more likely to feel threatened by the change in policy. Overall there is recognition that the change in policy is a response to European law, and there is little (or nothing) that can be done about it although

the policy change is unlikely to change people's views on homosexuality. It is interesting to note that at a recent Infantry COs' Conference, the message came out clearly that 18 year olds joining the Infantry, whilst not accepting homosexual behaviour, were largely indifferent to it.

RAF

16. **Officers**. Represented by COs views above (see Para 5.c.).
17. **Warrant Officers and SNCOs**. There was some evidence that a small minority of individuals – mainly SNCOs – privately believed that homosexuals had no place in the Service, but that they nevertheless adhered to the guidelines. The majority of COs believed time and education would resolve this minor issue.
18. **Other Ranks**. The issue of homosexuality is old news and a non-issue with other ranks. This group tends to be younger and reflects greater societal acceptance of homosexual issues.
19. **General Reactions/Key Observations**. The general reaction to the change of policy was muted. There remains a small minority who have not been receptive to the change in policy, most of whom appear to be senior NCOs. This is not unexpected given their age and length of service. Younger personnel of all ranks have apparently accepted the change easily. Most of those consulted during this review agreed that acceptance would improve with time and that Equal Opportunities (EO) and Diversity training would play a significant role in the process.

SERVICE REACTION TO THE INTRODUCTION OF THE ARMED FORCES CODE OF SOCIAL CONDUCT

THE NAVAL SERVICE

20. **Officers**. Comments received were mostly positive and the Code has been welcomed as a positive benefit. Its introduction was seen as a timely, considered and sensitive change to address a new climate in terms of relationships and issues of personal behaviour and sexuality. It has created an overall understanding of the importance of all relationships, especially in the need to respect, value and protect the rights of others. The Code is seen as a good guide and regulator for all relationships, and brought maturity to personal behaviour across the board. It has created a climate within which harassment, exploitation and sexism can be challenged and dealt with.
21. **Senior rates and Warrant Officers and SNCO**. No substantive comment.
22. **Junior Rates and ranks**. No substantive comment.

THE ARMY

23. **Officers.** Officers have a more active role in the application of the Code of Social Conduct and in the main considered it a positive development. The Service Test is regarded by most as a valuable clarification, although some officers did, however, express concern that the Service Test might be too vague and open to broad interpretation. They felt that this might result in its effectiveness being undermined. This applied particularly to issues of social misconduct.

24. **Warrant Officers and SNCOs.** Warrant Officers and SNCOs' considered the guidance, sanctions and criteria to be helpful. There were strong feelings amongst this group that young soldiers should be taught the Armed Forces view on values and standards, as they are not inherent within the pool from which the Armed Forces recruit. There is a perception that commanders are not applying the Code with sufficient confidence and this could undermine its effectiveness.

25. **Junior Ranks.** Junior ranks generally accepted the Code on the basis that the Armed Forces needed to have values and standards that are more prescriptive than those in civilian society. Many JNCOs reflect the attitudes of society today, though they display greater understanding of the needs of the Service than might be assumed. This group did not necessarily reflect Armed Forces standards when joining, but they do have an awareness that a firm framework of conduct exists and that it should be maintained. A perception does exist that officers and WOs/SNCOs frequently breach the Code without action being taken against them.

RAF

26. **Officers.** Represented by CO views above (see Para 8).

27. **Warrant Officers and SNCOs.** No substantive comment.

28. **Other Ranks.** No substantive comment.

29. **General Reactions.** The introduction of the Code of Social Conduct was generally considered to be a positive step by all levels of RAF personnel. Nevertheless, there was some concern expressed that the guidelines were open to interpretation and subjective decision making, resulting in inequitable application across the Service of the policy and any resulting sanctions. This view was, however, in the minority and the RAF already has in hand a review of the administrative system of warnings and special reports to ensure equitable treatment irrespective of rank.

MOST COMMONLY HELD CONCERNS

30. **The Naval Service.** There are a few commonly held concerns, and none that is significant in the minds of naval personnel. The most important concern is the lack of privacy on board a ship or submarine, particularly in the confined living conditions in single sex messes, and anxiety over having to take communal showers.

31. **The Army.** Generally, there has been an acceptance of the need for change and,

notwithstanding the fact that so far there has been no strong test of the policy, it is simply no longer regarded as a major personnel issue. One unit commented on the fact that the policy had given serving homosexuals more confidence, in that there was not a culture of harassment and unacceptability with regard to their lifestyle. Nevertheless, many COs commented that homosexuals would not necessarily 'come out'. There are some commonly held concerns, which include:

- a. Heterosexuals do not want to share rooms with homosexuals.
- b. Privacy should be mutually respected and soldiers should not be compelled to share accommodation with persons of a different gender or sexual orientation.
- c. There is a strong feeling that toilets and showers should be separated as per male and female arrangements (a concern that should be overcome with Single Living Accommodation).
- d. A perception that operational effectiveness might be undermined if living in close proximity with homosexuals on operations.
- e. The eventual policy on partners' entitlement (with the homosexual dimension) to pensions and quartering is viewed as more socio-political, rather than a military initiative, and will require careful management if it is not to be divisive.

32. **RAF.** It was generally felt that concerns over change would continue to fade over time. However, the greatest concern expressed by married personnel was the possibility that, at some stage, same sex couples would occupy SFA and gain access to the same benefits and entitlements as married personnel. To a certain extent, these concerns ('impressionable' children growing up next door to a same sex couple and the erosion of family values) has been brought to the fore by the debate on unentitled partners. By way of balance, it was also recognised by some personnel, however, that this reflected the diverse society from which the RAF seeks to recruit. Nevertheless, given the number of Stations that have raised the issue of same sex partners and their inclusion in the wider RAF community, it was felt these concerns should be highlighted in this review. The RAF Chaplaincy Services have suggested that, whilst there may be some heterosexuals expressing discomfort about the change in policy, there has been a decrease in homosexual personnel presenting with problems. There is a strong impression that life is now easier for homosexual personnel.

**PRACTICAL DIFFICULTIES AND DETAILS OF ANY ALLEGED CASES OF
REDRESS, VICTIMISATION OR HARASSMENT FOLLOWING THE POLICY
CHANGE ON HOMOSEXUALITY**

THE NAVAL SERVICE

33. No practical difficulties have been encountered, although it has been suggested that training in interrogation involving strip-searching might cause difficulties. There has been a

low level of incidents investigated by the SIB that involved activity that might be regarded as homosexual (in the context of assaults and threats), but this has not caused any statistical increase compared to earlier years.

THE ARMY

34. There have been no practical difficulties experienced by most COs; nearly all observed that the policy had yet to be fully tested. The lifting of the ban was generally unwelcome at the time, however it has now been accepted that it has made little or no impact. There have been isolated incidents with accommodation; prior to the policy soldiers asked to be moved to different accommodation for 'personality clash' reasons but since the change of policy there has been greater openness. For example, there has been an incident where a soldier asked to be moved because he did not get on with a known homosexual in a two man room. When he moved to another room, the unit was faced with seeking another volunteer to share the room. To have placed another homosexual in the room would have given rise to 'partner issues' and leaving the homosexual in a room on his own would have been seen as preferential or discriminatory treatment.

35. **Bullying/Victimisation/Harassment.** Other than one serious case in 2001 concerning sexual assault, the unanimous response to the question on bullying was that it has not occurred, though one CO did make the point that this is a subject that soldiers will not readily discuss.

RAF

36. The general issue of accommodation was of some concern within the RAF, but comments related also to mixed sex accommodation, which was felt to be of equal importance to mixed sexuality sharing.

37. There had been one complaint of an unwanted homosexual approach that had been swiftly and effectively dealt with at unit level. There had also been one instance of complaint, following the breakdown of a same sex relationship, but this was resolved amicably. There had been no reported instances of harassment on grounds of sexual orientation.

SERVICE HANDLING/REACTION TO HOMOSEXUAL RE-ENLISTMENTS

38. **The Naval Service.** It is known that two officers and one rating have rejoined the RN, and all are now progressing well. Another application from an officer is currently being staffed. Shortly after the Lustig-Prean decision, staff recalled several telephone enquiries from personnel who had been discharged. The focus of these enquiries appeared to be to gain information to assist in a loss of earnings claim. Those who did make an application to re-join, were generally more concerned about the effects of their previous service, whether their seniority would count, training and their future employment. Their sexual orientation was a very minor issue, and has been a non-issue from the appointing drafting perspective. It was suggested that, provided individuals are fit and able to carry out their duties in full, they should be encouraged to rejoin or remain in the Service.

39. **The Army.** Although COs reported no known re-enlistments, the Army Personnel Centre were able to report that up to a dozen homosexuals who were discharged during the ban on homosexuality had applied for re-enlistment. Of these, only one had actually accepted the offer to rejoin, and it can be concluded that the others were simply testing the policy.

40. **The RAF.** The RAF set out to treat re-entrants to the Service after being discharged on grounds of homosexuality in exactly the same way as all other candidates for entry and re-entry. Sexual orientation was not an issue in considering applications, unless the applicant raised the subject. There is, therefore, no formal record of such re-entrants and such knowledge as exists is based on collective corporate memory. It is known that two individuals successfully applied to re-join the RAF; also that another individual was refused entry because his former trade was in surplus. Min(AF) directed that this criterion for re-entry should be waived, but it was subsequently discovered, during the normal recruitment process, that the individual was below the required medical standard for re-entry. Min(AF) therefore accepted a recommendation that he should not re-enter the RAF. Those units that have received re-enlisted personnel reported no adverse reaction.

TRI-SERVICE EQUAL OPPORTUNITIES TRAINING CENTRE (TSEOTC).

41. The MoD policy on homosexuality is discussed during Senior Officers' Seminars and EO Advisers courses. The overwhelming majority of attendees now see homosexuality within the Armed Forces as a non-issue and are content with the policy and the management implications. Occasionally, personal reservations are expressed in discussion, but such views are not representative of the majority. There have been very few management or disciplinary problems highlighted by attendees, and it is evident that in the vast majority of units across the services, sexual orientation is viewed as irrelevant. The Armed Forces Code of Social Conduct is regarded as a sensible and pragmatic management tool and the concept of behaviour, rather than sexual orientation, being the key factor is a widely accepted principle.

IMPLICATIONS FOR DIVERSITY POLICY

42. **Recognition of the Armed Forces Lesbian and Gay Association (AFLAGA).** The Services are agreed that there is no harm in engaging with organisations such as AFLAGA in a Centre-led dialogue when the need arises. However, official Departmental recognition of AFLAGA would set a precedent and potentially open the door to a range of other minority and special interest groups to seek similar recognition. The Services feel, therefore, that official recognition for such groups should be resisted.

43. **Positive Recruitment in the Gay press.** Service attitude varied as follows:

- a. **The Naval Service.** The Naval Service consider that current recruitment policies and practices are adequate. In view of the general press interest in Armed Forces

issues, and the activities of certain pressure groups, homosexuals are now generally aware that the three Services are fully committed to diversity and that they are welcome to apply for recruitment. A greater recruiting profile in the 'pink press' might run the risk of upsetting the generally balanced attitude towards recruitment within the Naval Service and generate unhelpful coverage in the more salacious newspapers.

b. **The Army.** In terms of recruitment, the Army feel there is a need to target resources for the greatest impact. The Army are intending to conduct a wide-ranging scoping study to determine the size of the potential recruiting pool and the general attitudes prevalent in society towards service in the Armed Forces before deciding whether it would be worthwhile actively recruiting from the homosexual population. The issue remains sensitive, and the Army would have to consider the wider ramifications of adopting such a policy.

c. **RAF.** The RAF feel there may be some merit in placing recruiting advertisements in the gay press just as, for example, they advertise through various media aimed at ethnic minority communities

On balance, there is muted enthusiasm and little need to target male or female homosexual personnel in recruitment efforts. The Services diversity policy sends a clear message that the Armed Forces do not discriminate on the grounds of sexual orientation.

Provision of Specialist Welfare Support

44. Service views are as follows:

a. **The Naval Service.** The change in policy had not been an issue for the Naval Personnel Family Services (NPFS), and the transitional arrangements went remarkably well. NPFS observes non-discriminatory practices, and co-operated in distributing and displaying AFLAGA posters. Since the change in policy, of 4000 general referrals to NPFS(West)'s office, there has been only one approach from a serving person who sought advice about the policy on homosexuality. The Naval Support Line also receives very few calls from personnel seeking advice about homosexual issues. Of the 2952 questions dealt with by staff since the service began in May 1999, only 14 related to gender issues, a category under which questions about homosexuality would have been recorded. However, this category is not restricted to homosexual issues, and it is not possible to provide data specifically about questions relating to homosexuality. In light of this evidence, it is considered that there is no requirement for specialist welfare support purely for homosexual personnel.

b. **The Army.** It is assessed that there is no requirement to provide any additional welfare support for homosexuals. The Army are confident that existing provision is adequate, without the need to single out any minority group.

c. **RAF.** In the recruiting context, there have been no reported instances of candidates asking for advice on welfare support available to homosexual personnel. Within the Service, there is no data available to confirm or deny a specific need for any social support provision over and above that which already exists. The RAF has adopted a socially inclusive view of its community and, as such, the provision of social support is for everyone regardless of sexual orientation or status. As part of the overall support package, the Community Support Website has a direct link to the AFLAGA Website. The general view is that, in the absence of evidence to the contrary, there is no requirement for specialist welfare support for homosexual personnel.

SUMMARY OF SERVICE VIEWS

THE NAVAL SERVICE

45. The overall response appears to be a positive one, particularly to the Armed Forces Code of Social Conduct. Initially, there was a mixed reaction to the change of policy, but the change has been accepted with few problems experienced. The personal experiences of Service homosexuals, however, is that in general they still feel isolated and unsupported by an organisation which has no real understanding of their particular needs and no conviction to reinforce policy by providing practical support to homosexual personnel. It is believed that continued education and time will resolve these issues.

THE ARMY

46. **Homosexuality.** The change in policy on homosexuality has been accepted by the majority of ranks, although many remain suspicious of homosexuality in general. The actual impact of the change has been very low, due largely to maintenance of the status quo, and the anticipated consequences of change being exaggerated. Accommodation is a sensitive subject and causes concern amongst those in vulnerable situations, and in units where combat teams may operate in isolation, such as the Infantry, whereas units from the supporting Arms seem more able to tolerate the inclusion of homosexuals. Many feel that the policy has still to be fully tested, and that there is a possibility of greater problems arising during High Intensity Operations. Some officers have suggested that homosexuality should be discussed as part of the EO programme if we are to gradually increase the willingness to integrate homosexuals into the Army. The Armed Forces Code of Social Conduct has provided timely assistance in dealing with issues associated with homosexual misconduct, while ensuring that they are judged on the same criteria as any other form of unacceptable social behaviour.

47. **Introduction of the Armed Forces Code of Social Conduct.** The Armed Forces Code of Social Conduct has been welcomed by all as the 'line in the sand' that is there for all to see. Everyone is in agreement that the practical and common application of the Code is critical to the maintenance of operational standards and Service ethos in the face of changing social conditions. The inherent strength of the Code is its application too all with complete diversity whatever colour, creed, gender or sexual orientation. Not all see its application as equitable or consistent.

RAF

48. Within the RAF, the general view was that the change in policy was inevitable and is 'yesterday's news'. The response to the Armed Forces Code of Social Conduct and its Service Test was mixed, but the amendments to the RAF system of warnings and special reports should rectify a number of underlying concerns. A small minority of staff remain unconvinced about homosexuals serving in the RAF, but are not overt in their views and this is felt to be largely a generational issue. Finally, the need to highlight the concerns of the wider RAF community with regard to the possible future integration of same sex couples into Service Families Accommodation (SFA) was a strongly held opinion. This could be a major source of concern when the partners issue is openly debated and there is a need to be prepared for a reaction if same sex couples are included.

CONCLUSIONS

49. COs of all three Services generally concur that there has been no tangible impact on operational effectiveness, team cohesion or Service life as a result of lifting the ban on homosexuals serving in the Armed Forces.

50. The Armed Forces Code of Social Conduct has been well received. Some concerns were expressed that guidance notes for COs may not be prescriptive enough and may, therefore, lead to some inconsistency in its application.

51. All personnel have accepted that a change in policy was inevitable and has had little impact on Service life. Whilst sexual orientation remains a private matter, little difficulty for the future is foreseen. Team dynamics were deemed to be more dependent on personality than sexual orientation.

52. Reported cases of bullying or harassment involving activities that might be regarded as homosexual are very rare.

53. Those few personnel previously discharged because of their sexual orientation who have since rejoined the Armed Forces have been re-assimilated into Service life with little difficulty.

54. No specific homosexual issues have been raised by Senior Offices or students attending EO briefings or courses at TSEOTC.

55. Concerns have been registered that, should same sex couples be granted the same entitlements as married heterosexual couples (in particular to SFA), there may be significant educational and presentational issues to be addressed to avoid a homophobic reaction from other SFA residents.

56. No further formal review of the Armed Forces policy on homosexuality is currently judged to be necessary as sexual orientation is increasingly part of Armed Forces diversity business. However, Service personnel staffs should remain watchful for any reversal of current toleration.

57. No special welfare provisions are required for homosexual personnel – the existing welfare infrastructure provides an inclusive service for all.

RECOMMENDATIONS

58. It is recommended that the SPB:

- a. Notes the conclusions of the Review.
- b. Agrees that tri-Service work is put in hand to review the guidance notes to COs in applying the Armed Forces Code of Social Conduct.
- c. Agrees that the conclusions of the Review are reported to Ministers and the HCDC.

Annex:

A. Conclusions of the Aug 00 review of the Armed Forces Policy on Homosexuality and Code of Social Conduct.

ANNEX A TO
SPB PAPER 12/02

CONCLUSIONS OF THE AUG 00 REVIEW OF THE ARMED FORCES POLICY
ON HOMOSEXUALITY AND CODE OF SOCIAL CONDUCT

1. The results were reported to be encouraging. The principal conclusions were as follows:
 - a. The change of policy has been introduced smoothly and with fewer problems than might have been expected.
 - b. Commanding officers have not reported any significant issues and the revised policy has been assimilated into Service life without any perceived adverse impact or effect on operational effectiveness.
 - c. The new Code of Social Conduct for the Armed Forces, with its associated Service test, has been well received and is proving a useful tool for commanders in dealing with issues of personal behaviour.
 - d. The success of the Departmental communications strategy re-affirmed the need to treat the presentational aspects of potentially controversial policy decisions or announcements as an integral part of the overall policy process.
 - e. No changes to the revised policy on homosexuality or the Code of Social Conduct are considered necessary at the present time.
 - f. No further action is required on the content of the Service education or training courses at the present time.
 - g. A further low key review, based on tri-Service management assessments, is recommended to take place in two years time.

Effects of the 1992 Lifting of Restrictions on Gay and Lesbian Service in the Canadian Forces: Appraising the Evidence

**Report Prepared For:
The Center for the Study of Sexual Minorities in the Military**

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I. EXECUTIVE SUMMARY

A new study of gays and lesbians in the Canadian military has found that after Canada's 1992 decision to allow homosexuals to serve openly in its armed forces, no negative consequences occurred. The study, titled "Effects of the 1992 Lifting of Restrictions on Gay and Lesbian Service in the Canadian Forces; Appraising the Evidence", was sponsored by the Center for the Study of Sexual Minorities in the Military at the University of California, Santa Barbara.

Key findings are as follows:

- Lifting of restrictions on gay and lesbian service in the Canadian Forces has not led to any change in military performance.
- Self-identified gay, lesbian, and transsexual members of the Canadian Forces contacted for this report who have served since the ban was lifted describe good working relationships with peers in supportive institutional environments where morale and cohesion are maintained.
- The percent of military women who experienced sexual harassment dropped 46% after the ban was lifted. While there were several reasons why sexual harassment declined, one factor was that after the ban was lifted women were free to report assaults without fear that they would be accused of and subsequently discharged for being a lesbian.
- Before Canada lifted its gay ban, a 1985 survey of 6,500 male soldiers found that 62% said that they would refuse to share showers, undress or sleep in the same room as a gay soldier. After the ban was lifted, however, follow-up studies found no increase in disciplinary, performance, recruitment, sexual misconduct, or resignation problems.
- None of the 905 assault cases in the Canadian Forces from November, 1992 (when the ban was lifted) until August, 1995 involved gay bashing or could be attributed to the sexual orientation of one of the parties.

The study was written by Aaron Belkin and Jason McNichol. Belkin is Director of the Center for the Study of Sexual Minorities in the Military and Assistant Professor of Political Science at the University of California, Santa Barbara. McNichol is Doctoral Candidate in Sociology at the University of California, Berkeley and Director of ELM Research Associates, a non-partisan research firm located in Berkeley. The research was funded by the Compton Foundation, located in Menlo Park, California.

II. INTRODUCTION

Prior to 1988, gays and lesbians were prohibited from serving in the Canadian Forces (CF).¹ Openly gay recruits were prevented from enlisting, and soldiers who were discovered to be homosexual were dismissed. Any personnel who suspected another member of being gay was required to inform his or her commanding officer. This policy was relaxed slightly in 1988 by removing the order to inform, and by declining to dismiss soldiers who were discovered to be gay.² Those soldiers who did not quit, however, were denied access to promotions, security clearances, transfers, and re-enlistment. Canada's Department of National Defence argued that the special mission of the Forces necessitated an exclusionary policy. Military personnel feared that gay and lesbian soldiers would compromise operational effectiveness, as well as damage "cohesion and morale, discipline, leadership, recruiting, medical fitness, and the rights to privacy of other members" (NDRI 1993: 76).

This report draws together prior research on gay military issues, press coverage, Canadian Forces data, and interviews with senior officers, academic observers, policy experts, and enlisted personnel to provide a multi-method appraisal of how the Canadian Forces have been affected by the 1992 decision to allow equal and unrestricted participation by sexual minorities. Eight years after the policy was finally overturned, there is no evidence that any of the outcomes feared by proponents of the ban have occurred. The policy change has not resulted in increased levels of sexual misconduct, human rights violation complaints, or rates of sexual harassment. Further, the range of data collected for this study provides strong systematic and interview evidence that the lifting of restrictions on gay and lesbian service in the Canadian Forces has not led to any identifiable change in military performance. To the degree that the current evidence does suggest any trend, it would be toward more effective individual and unit

¹ Original research and analysis conducted for this report were furnished by ELM Research Associates, an independent, non-partisan research consultancy.

² For overviews, see Kinsman (1996), Park (1994), and Rayside (1998).

performance as sexual minorities focus more on their work and new conflict resolution programs improve pre-existing tensions over racial, gender-related, and other interpersonal problems in the Forces more generally.

III. METHODOLOGY

Information collected for this report was systematically gathered from publicly available primary and secondary sources relevant to an understanding of military outcomes associated with homosexual service in the Canadian Forces. Sources and methods included: identification, retrieval, and analysis of all prior research bearing on homosexual service in the Canadian Forces conducted by governmental, academic, and policy-focused organizations in North America; content analysis of Nexis/Lexis search retrievals for all North American news articles and wire service dispatches relating to homosexual service in the Canadian Forces before and after the ban was lifted (1987-1999; n=172 articles); interviews undertaken with relevant Canadian Forces units and their senior representatives (n=10 individuals); snowball identification and interviewing of major academic, non-governmental, and policy observers familiar with gay-military issues in Canada since the ban was lifted (n=10 individuals); and interviews with sexual minority participants in the Canadian Forces who were located through the cooperation of leading non-governmental and military human rights organizations (n=9 individuals). Canadian Forces representatives were chosen by asking academic, non-governmental, and policy experts for suggested contacts who were knowledgeable about the military's policy on homosexuality, and then using snowball identification techniques to identify other interview subjects.

This report relies on a multi-method approach to compare and synthesize evidence provided by a variety of sources in order to draw conclusions. Whenever possible, independent observations from multiple sources are compared to draw out common findings that are consistent among observers in different sectors (e.g., military, academic, non-governmental). During the interview process, we also sought to ensure that the universe of sources drawn upon

for the study was complete by repeatedly asking expert observers from different sectors for recommendations of additional sources of information. While it is possible that additional confidential information on outcomes not documented in this report may be maintained by the CF,³ senior officials contacted for this study were not aware of any additional data. The final compilation of sources that informs this report thus reflects an exhaustive inventory of relevant data and opinions.

IV. HISTORICAL CONTEXT

A. Canadian Forces Policy Towards Homosexuals Before 1988

The policy of the Canadian Forces before 1988 was outlined in regulation CFAO 19-20, entitled “Homosexuality-Sexual Abnormality-Investigation, Medical Examination and Disposal.” This administrative order stated that, “Service policy does not allow homosexual members or members with a sexual abnormality to be retained in the Canadian forces” (Vienneau 1989). The Canadian Forces would not permit openly homosexual men and women to enlist, and any soldiers discovered to be gay or lesbian were to be dismissed. The order further required other personnel to inform on fellow service members who they suspected were homosexual. The military handled investigations of suspected service members’ sexual orientation through its Special Investigations Unit.⁴

³ A senior official within the CF told one of the study authors that she believed additional longitudinal data on recruitment patterns might exist, but she was unable to verify the possibility (Beaton, personal communication, February 10, 2000).

⁴ For an overview of the history of military policy towards homosexuals in Canada, see Kinsman (1996) and a discussion of Kinsman’s work in Bronskill (98). For an overview of the history of homosexuality in Canada, see Adam (1993).

B. Legal And Political Pressure For Change

The CF policy on homosexual service members came under increasing judicial and political scrutiny after the passage of the Canadian Human Rights Act (CHRA) in 1978 and the Canadian Charter of Rights and Freedoms in 1985.⁵ While the Canadian Human Rights Act did not explicitly cover sexual orientation, it required employers to justify exclusionary or restrictive policies. The Canadian Charter of Rights and Freedoms, considered analogous to the U.S. Bill of Rights, also did not include sexual orientation in its enumerated list of prohibited grounds of discrimination. Section 15 of the Charter did, however, enable the restriction of other forms of discrimination if so ruled by the courts (Park 1994).

A review of federal regulations in 1985 by the Justice Department determined that the Canadian Forces were potentially in violation of the equal rights provisions of the Charter in a number of areas, including its discrimination against gays and lesbians (Gade et al. 1996).⁶ In response to the Justice Department's findings, the Department of National Defence conducted a survey of 6,580 soldiers to assess the potential impact of a removal of the ban on homosexual soldiers. The survey found that military personnel, particularly men, were strongly against removing the ban. Service members expressed concern about all aspects of serving with gays and lesbians; 62% of male soldiers stated that they would refuse to share showers, undress or sleep in the same room as a gay soldier, and 45% declared that they would refuse to work with gays. Many also stated that they would refuse to be supervised by a gay or lesbian soldier (Zuliani 1986). The Department of National Defence's Charter Task Force recommended in its Final Report that the exclusionary policy toward homosexuals be retained, arguing that the unique character and purpose of the Armed Forces necessitated the restriction of gays and lesbians. Given the aversion toward homosexuals in the military, the report concluded that the "the

⁵ While the Charter became part of the Canadian Constitution in 1982, Section 15 came into effect in 1985 to give the different legislatures and government bodies time to adapt to the change. See Rayside (1998).

⁶ See also Park (1994).

presence of homosexuals in the CF would be detrimental to cohesion and morale, discipline, leadership, recruiting, medical fitness, and the rights to privacy of other members.” It further declared that “the effect of the presence of homosexuals would [lead to] a serious decrease in operational effectiveness” (NDRI 1993: 76).⁷

C. Development Of An Interim Policy

In response to the Final Report, a new Minister of Defence announced his intention in January 1988 to modify the existing policy only slightly. Under the change, the Canadian Forces would not knowingly enroll homosexuals. If servicemen or women were discovered or announced themselves to be gay, they would be asked to leave, but they would not be dismissed. Those who chose to stay would not be eligible for training courses, security clearances, transfers, promotions or reenlistment.⁸ The Canadian Forces had already removed the obligation of service members to report on suspicions that another soldier may be homosexual (Park 1994).⁹

In spite of the measures taken by the Department of National Defence, pressure to change the policy on homosexuals continued to increase. As court decisions¹⁰ extended the rights of gays and lesbians under both the Charter of Rights and Freedoms and the Human Rights Act, Michelle Douglas¹¹ and four others filed separate suits against the Canadian Forces that directly challenged its policy toward homosexuals. In August 1990, the Security Intelligence Committee ruled that

⁷ See the Gazette (1992) for Canadian-wide attitudes about homosexuality.

⁸ See Farnsworth (1991), Ulbrich (1993), and Lancaster (1992).

⁹ According to Department of National Defence statistics, 60 homosexual service personnel were discharged between 1986 and the removal of the ban, and an additional 15 servicemen and women had restrictions placed on their advancement because of sexual orientation (Hustak 1993).

¹⁰ See Walsh (1992) and Rayside (1998) for a detailed discussion of other court cases.

¹¹ See Bindman (1990, 1990a, 1992, 1992a) and *Toronto Star* (1990, 1990a) for details of the Michelle Douglas case.

the military ban against homosexuals violated the Charter and found in Ms. Douglas' favor (Bindman 1990). The Committee concluded that the military had not established that Ms. Douglas' sexual orientation made her a security risk; instead, a "simple association" with a suspected lesbian was enough to make her "a potential threat to the security of Canada." (Toronto Star 1990). The Committee also criticized the military's "deplorable" conduct in its investigation against Ms. Douglas (Bindman 1991a).¹²

In preparing its appeal in the Douglas case, the Department of National Defence concluded that it could not meet the standard of proof required for a "reasonable limitation" argument under Section 1 of the Charter (NDRI 1993). While the Chief of the Defence Staff General John de Chastelain privately informed members of Parliament that the ban was about to be lifted late in 1991, the federal government delayed in the wake of an adamant refusal by some Conservative MPs to support the policy change (Harper 1991).¹³ Finally, facing a case it knew it could not win and lacking the leadership needed to defend its policy, the Department of National Defence agreed to settle the case against Michelle Douglas in October of 1992. In so doing, the military acknowledged that its policy of exclusion violated the Charter of Rights and Freedoms, and it consented to the immediate repeal of that policy (U.P.I. 1992; Bindman et al. 1992).

¹² For an extensive discussion of the relevant legislative and judicial history, see (Rayside 1998). See Wintemute (1995) for an in-depth analysis of the Canadian Charter of Rights and Freedoms as it relates to sexual orientation. See Pugliese (1992) for further court decisions.

¹³ See "Tory MP's Revolt Scuttled Statement," in *The Vancouver Sun*, October 26, 1992, quoted in Pond (1993), for a full quotation of the General's suppressed press statement. See also Watson (1991), Bindman (1991), Harper (1992) and *The Ottawa Citizen* (1991).

V. REMOVAL OF THE BAN AGAINST HOMOSEXUAL SOLDIERS

The policy change in October 1992 concerning gay and lesbian soldiers in the Canadian military was less an affirmative order than a dismantling of existing policy. General de Chastelain issued a press report that declared:

The Canadian Forces will comply fully with the Federal Court's decision. Canadians, regardless of their sexual orientation, will now be able to serve their country without restriction.¹⁴ (cited in NDRI 1993: 77)

In a communiqué entitled "Homosexual Conduct," the Chief of Defence revoked CFAO 19-20 and all related interim policies. The military would henceforth make no distinction between its heterosexual and homosexual soldiers. He expressed his "full support" of the Federal Court's decision and stated his expectations of support of the policy change within the chain of command. General de Chastelain also declared that "inappropriate sexual conduct by members of the forces, whether heterosexual or homosexual", was unacceptable (cited in NDRI 1993: 78; see also Park 1994).

National Defence Headquarters issued a "Questions and Answers" sheet for use within the CF that explained the change in policy. This message included likely concerns and emphasized that homosexual and heterosexual soldiers would be held to the same standards of behavior:

Q31: Will such activities as dancing, hand holding, embracing between same/sex members be accepted at mess social functions?

A31: Standards of conduct for homosexual members will be the same as those for heterosexual members. Common sense and good judgement will be applied and required of all members. (cited in NDRI 1993: 78)

No accommodation exceptions for homosexual or heterosexual troops were allowed, since it was decided that gay and heterosexual service-people could share living quarters (Swardson 1993). A "Post-Announcement Action" was issued by the Assistant Deputy Minister of Personnel to provide military leaders with guidance to "communicate the rationale for the change, encourage

¹⁴ See also Greenway (1993).

its acceptance, and respond to the personal concerns of the CF members” (cited in NDRI 1993: 78), and a CF Personnel Newsletter was also disseminated that described the policy change.

Because the courts provided the impetus for change, senior leaders endorsed the change and encouraged the members’ sense of duty. Senior political and military leaders believed that reliance on equal standards for the conduct of gays and heterosexuals was the best chance for success of the policy, since it focused on behavior rather than a transformation of individual values or beliefs. The military made no effort at the time to change individual members’ attitudes about homosexuality. Instead, the CF promoted the policy change through unequivocal answers to specific questions about appropriate behavior (Park 1994).

In December 1992, the CF issued a new regulation (CFAO 19-36) entitled “Sexual Misconduct.” CFAO 19-36 was to be used with an amended version of personal harassment regulations to detail what constituted inappropriate sexual conduct for both homosexual and heterosexual soldiers. Sexual misconduct was defined as “an act which has a sexual purpose or is of a sexual or indecent nature and which ... constitutes an offence under the Criminal Code or the Code of Service Discipline” (cited in NDRI 1993: 423). Under the personal harassment regulations (CFAO 19-39), sexual harassment was defined as “... a type of personal harassment that has a sexual purpose or is of a sexual nature including, but not limited to, touching, leering, lascivious remarks, and the display of pornographic material” (cited in NDRI 1993: 431).

The revocation of the ban on openly gay and lesbian soldiers did not, however, settle the issue of the soldiers that had been dismissed or denied promotions because of the former policy. Each case was reviewed separately by the Canadian Forces.

VI. EVOLUTION OF THE POLICY CHANGE SINCE 1993

A. SHARP Anti-Harassment Program

The Canadian Forces did not institute a separate program to handle same-sex sexual harassment or personal harassment based on sexual orientation. The Standards for Harassment and Racism Prevention (SHARP) program was implemented by the Department of National Defence in 1996 to increase general awareness among its civilian and military workforce about harassment and racist conduct, including harassment based on sexual orientation. The program was mandatory for all personnel and included separate courses for employees, those in leadership and managerial positions, and investigators and mediators. The program provided information and exercises designed to effectively prevent, recognize, and handle harassment and racist conduct.

The SHARP phase of harassment awareness has been completed, and the CF has now entered the second phase of its anti-harassment effort. The second phase of the program, which focuses more extensively on skills to handle harassment situations, is being developed by the Directorate of Gender Integration and Employment Equity and is due sometime during the summer of 2000.¹⁵

The SHARP materials provide a useful window into how issues of same-sex harassment have been incorporated into the CF anti-harassment policy. The SHARP workbook lists sexual orientation in its explanation of prohibited grounds of harassment. It further states that:

...harassment on the grounds of sexual orientation and hazing are not specified in DND's civilian policy although both these behaviours are clearly prohibited. It is

¹⁵ The Canadian Forces 1998 survey on harassment found that the SHARP training program had substantially increased awareness of the harassment policy. In 1998, 97% of the CF personnel surveyed stated that they were aware that the CF has a harassment policy, compared to 84% of women and 80% of men in 1992. The survey further revealed that three-quarters of the CF respondents had a harassment advisor for their unit (Adams-Roy 1999).

more important to recognize a behaviour as harassment than attempt to categorize it. (SHARP 1996: 9)

In its discussion of systemic harassment, which is defined as "...behaviours which could constitute harassment yet which are considered acceptable behaviour (normalized) in the workplace" (SHARP 1996: 10), the SHARP workbook and companion video use an example related to sexual orientation. It provides snippets of dialogue among four subordinates, including such comments as "He's the best sergeant I ever had. He can't be no fag," and "He could be a fag; he's got those big ears so a guy could hold him from behind." The workbook then asks a series of questions related to the dialogue, followed by a declaration of the prohibition against harassment based on sexual orientation:

This video shows not only how systemic harassment is perpetuated, it also depicts examples of harassment based on sexual orientation. Despite how you feel about someone's sexual orientation, you do not have the right to harass them at work. There is no reason why one's sexual orientation would affect job performance. However, harassment negatively affects the job performance of a gay, lesbian or bisexual.

Every member of an organization has to feel that he or she is a valued member of the group. If an employee does not feel valued, then that employee will not produce at his or her highest level. Regardless of one's sexual orientation, everyone deserves an "even playing field." Skill and ability should be the only criteria upon which people are judged. (SHARP 1996: 11)

The SHARP section on sexual harassment and sexual misconduct uses gender- and orientation-neutral terms in describing specific behavior that would be classified as harassment or misconduct. Examples such as leering, requests for sexual favors, derogatory name calling and sexually suggestive gestures are listed without regard for the gender of either the harasser or the target. Sexual harassment by someone of the same sex, or abusive comments about one's sexual orientation, fall under the general sexual harassment framework. The sexual harassment exercises include an example of same-sex interaction and anti-gay comments. In the answer section for this example, the workbook highlights the problem of comments which "perpetuat[e]

the myth that all homosexual men will make sexual advances toward them” (SHARP 1996: 47).

It further emphasizes that sexual harassment is not limited by sexual orientation.

Sexual harassment can be exhibited by anyone, regardless of their sexual orientation. Unfortunately, the men in this video do not recognize that the behavior they fear from the homosexuals is the same behavior that they exhibit toward the females. (SHARP 1996: 47)

B. Extension of Benefits

On June 13, 1996, a Canadian federal human rights tribunal ordered the federal government and federally-regulated companies to provide the same medical, dental and other benefits¹⁶ to gay and lesbian couples as heterosexual common-law couples. The tribunal further ordered the government to review its statutes and regulations within 60 days to identify any provisions that discriminated against same-sex couples. The Treasury Board announced in July that it would not appeal the ruling, although it did seek judicial review of the time period allotted for review of the statutes (May 1996; May and Bindman 1996).¹⁷

The CF Human Resources Office distributed a memo in December 1996 outlining the policy of granting same-sex partner benefits to Canadian Forces personnel. Same-sex partner benefits were to include: compassionate leave, leave without pay for spousal accompaniment, military foreign service regulations, isolated post regulations, and relocation regulations. Same-sex partners would also be entitled to dental care and health care plans as dependents. Compassionate leave and leave without pay for spousal accompaniment were immediately implemented at this time, since the expansion of these benefits could be achieved through a broader application of existing regulations. Other benefits required formal changes in the Queen’s Regulations and Orders and are still in the process of being implemented.

¹⁶ The tribunal case did not cover pension benefits.

¹⁷ See also Maclean’s (1996) and the *Toronto Star* (1995) for a discussion of other court decisions.

The December 1996 memorandum stated that same-sex partners would be considered dependents for the purpose of benefits. To be entitled to benefits, a same-sex relationship would be recognized if:

...for a continuous period of at least one year, a member has lived with a person of the same sex in a homosexual or lesbian relationship, publicly represented that person as his/her life partner and continues to live with that person as his/her life partner. (Canforgen 1996: 2)

Canadian Forces members with same-sex partners could obtain benefits by completing a form similar to that used for common-law spouses. These forms, included in a January 1997 memorandum, required service personnel to inform the CF of their request for recognition of the relationship; to provide their names, ranks and addresses; and to “solemnly declare” that: 1) the partners are of the same sex; 2) that they have resided together “in a homosexual or lesbian relationship” for a continuous period of at least one year; 3) that they publicly represent each other as life partners; and 4) that they continue to live together as life partners. The Canadian Forces also provide forms for the notification of a change in relationship status due to death, separation or cessation of co-habitation, and for the reinstatement of a relationship that had been officially terminated (Hurl 1997).

In April 1999, a report by the National Defence revealed that 17 claims for medical, dental and relocation benefits for gay and lesbian partners of soldiers had been filed in 1998. All of the requests were made by women. The first claims were made in 1997, although figures for that year are not available (*The Edmonton Sun* 1999). The number of requests appears low even given the military’s own estimates that 3.5% of its service personnel were gay and bisexual even before the ban was lifted (Wenek 1995). Michelle Douglas, whose suit against the Canadian Forces precipitated the lifting of the remainder of the ban, suggested that the low figures were likely due to a hesitancy by service members to out themselves by requesting benefits. She declared that “[Gays and lesbians] have operated in a climate that has not been very inviting to them, nor encouraging, nor supportive, for a very long time” (*The Edmonton Sun* 1999).

In June 1999, the federal government agreed to settle cases before the Canada Pension Plan appeals board to allow same-sex partners to receive survival benefits, including military pensions. Ten days earlier, Canada's Supreme Court declared that the Ontario Family Law Act was unconstitutional because it limited the term "spouse" to heterosexual partners (*The Gazette* 1999). More recently, members of the CF Legislative and Regulatory Service have been at work with legislators on the language for Bill C-23. The bill, if passed, would require that same-sex partners be considered common-law partners under the law. This would enable the military to handle all common-law relationships, whether heterosexual or homosexual, with the same paperwork. All remaining benefits relating to 'dependents' in the existing military regulations could also be extended to same-sex partners (LaBelle, personal communication, February 24, 2000).¹⁸

VII. EVIDENCE OF OUTCOMES FOR THE CANADIAN FORCES

A. Initial Evaluations

The Canadian military itself did not undertake an initial assessment of the implementation of its new policy concerning homosexuals. Because the idea of allowing gays to openly serve in the military became an issue in the United States soon after Canada's removal of the ban, however, several analyses were conducted by organizations on behalf of the U.S. Congress and military. These included studies by the National Defense Research Institute (RAND) and the GAO, as well as a report by a retired Canadian corporal for the U.S. Army Research Institute. These analyses, as well as journalistic accounts, suggested that the transition was a smooth one. Despite concerns that service members would resign, harassment would

¹⁸ Only a few minor benefits, such as those related to transfers, have not yet been made available to same-sex couples. The military has not been able to make changes in its regulatory language without permission from the federal government.

increase, and morale would suffer, the reports could find no evidence that any aspect of military life had been negatively affected. While many heterosexual service members were unhappy with the removal of the ban, they responded professionally in the months following the policy change. Few homosexual soldiers, however, took the opportunity to explicitly state their sexual orientation during this time.

1. RAND's National Defense Research Institute Report¹⁹

RAND researchers conducted interviews with Canadian military personnel several months after the removal of the ban on gay and lesbian soldiers. They found no evidence that the policy change had had any appreciable effect on any aspect of military life or performance. The officials with whom researchers spoke:

... kn[e]w to date of no instances of people acknowledging or talking about their homosexual relationships, no fights or violent incidents, no resignations (despite previous threats to quit), no problems with recruitment, and no diminution of cohesion, morale, or organizational effectiveness. (NDRI 1993: 79)

Canadian officials offered several reasons for the smooth transition. First, the military leadership had acknowledged the inevitability of the change in policy. Because the process had occurred over time, the military had been able to acculturate itself to the idea of including openly homosexual soldiers. Second, the military adopted a conscious leadership strategy in the implementation phase. Highest priority was give to ensure compliance with the policy change. Military leaders decided that it was not appropriate to try to change the beliefs or attitudes of individual personnel; they did, however, prioritize acceptance of the policy to minimize possible friction. Third, military officials emphasized the fact that the implementation had been accomplished in a low-profile fashion, without numerous public pronouncements or media scrutiny. Finally, officials cited the content of the policy itself as a reason for the smooth

¹⁹ RAND's report was begun at the request of U.S. Secretary of Defense Les Aspin sometime after January 29, 1993 and completed before July 19, 1993.

change. Officials pointed out that the policy change itself did not formally institute a policy on gay and lesbian conduct; rather, it established new equitable policies that applied to homosexuals and heterosexuals alike (NDRI 1993).

2. The U.S. GAO Report

A U.S. General Accounting Office (GAO) analysis of the first six months of Canada's new policy also found no problems associated with the change. In their interviews with members of Parliament, gay advocacy groups, a veterans' umbrella group, the Canadian Human Rights Commission, the Department of National Defence, and the Department of Justice, the researchers could find no one who had received any reports of resignations, lower recruitment, morale or cohesiveness problems, or gay-bashing incidents. In addition, the GAO found no reports of open displays of homosexual behavior.

CF officials reported that the greatest advantage of the change in policy was that gay and lesbian soldiers no longer had to fear being discovered and discharged from the armed forces. These officials felt, however, that many gay and lesbian soldiers would not publicly express their orientation because they would see no advantage in doing so. The military leadership's public support for the removal of the ban and its unified front were cited as significant reasons for the smooth transition (U.S. GAO 1993).

3. U.S. Army Research Institute Research Report

At the request of the Deputy Chief of Staff of the U.S. Army, the U.S. Army Research Institute for the Behavioral and Social Sciences issued a report in January of 1994 authored by an outside consultant evaluating early outcomes of the lifting of the ban in Canada. The report surveyed all publicly available literature to describe the original impetus to lift the ban as well as

the consequences of the 1992 policy change on a broad array of performance outcomes in the Canadian Forces. In its summary of findings, the report states:

The impact of the policy change has been minimal. Negative consequences predicted in the areas of recruitment, employment, attrition, retention, and cohesion and morale have not occurred in the 6-month period since revocation of the exclusionary policy. (Pinch 1994: vii-viii)

The report author also speculated that, to the degree that long-term implications of the removal of the ban may become apparent in the future, problems would more likely have to do with questions of compensation and benefit support for same-sex families than any problems with “cohesion, morale, and effectiveness” (Pinch 1994: 46).

4. U.S. Congressional Testimony

Testimony on allowing gays to serve in the U.S. military before the Senate Armed Services Committee included a session on the policies of other nations. At this session, professors Charles Moskos, David Segal, and Judith Stiehm spoke about research on foreign militaries’ policies concerning gays in the military. Moskos did not discuss the Canadian case. Segal²⁰ and Stiehm briefly touched on Canada. Both stated that the removal of the ban in Canada had not caused any problems with resignations, recruitment or harassment. Stiehm stated:

Granted in [Canada and Australia], the bans have been lifted for less than one year. But, if mass resignations were to occur, we would have seen them by now. If codes of conduct were being blatantly violated, we would have heard about it. If known gay people had been beaten up, we would know. (Senate Armed Services Committee 1993: 394)

Lt. Gen. (Ret.) Calvin Waller, who had commanded troops during Desert Storm, also testified at the Armed Services Committee hearing about the policies of other nations. With respect to Canada, Lt. Gen. Waller pointed out that the policy change occurred after Canada’s

²⁰ Dr. Segal also testified at the House Armed Services Committee hearing that occurred on May 4 and 5, 1993.

engagement in Kuwait had ended. Because Canada had not been involved in armed conflict since the enactment of the new policy, “we really do not know what those results are going to be” (Senate Armed Services Committee 1993: 399).

The record for this hearing also included a report on a comparative survey of foreign military polices on homosexual service. From a review of secondary literature, the report concluded: “The reality is that a majority of the military most likely did not like the fact that the ban was lifted but that its lifting was simply no big deal” (Pond 1993: 82). Pond further elaborated on the elements of the policy change in Canada:

Despite threats and warnings about mass resignations or military unwillingness to put the new policy into effect, nothing of the like happened. Even soldiers unhappy with the change saw it to be disloyal not to effectuate the change and MAKE [emphasis his] it work. (Pond 1993: 84)

5. Journalistic Accounts

Like official reports prepared on the policy change, journalistic accounts and citations of commentaries by soldiers offered no indications of any resignations, problems with morale, violence, or harassment due to the policy change. In the several months following the removal of the ban, Canadian officials publicly declared that the transition was going smoothly. Captain Marc Rouleau, a spokesman for the Canadian Armed Forces, said that “[o]ur indication is that the implementation has gone very well. There have been no indications of any physical abuse” (*The Washington Times* 1993). Captain Brett Boudreau, a Department of National Defence spokesman, stated, “We have had no resignations to date [at the end of January] as a result of the policy. We also have had nobody standing up and declaring their sexual preference.” He added:

I think people have come to the realization that a change in policy doesn’t mean the floodgates are open and that homosexuals will be coming en masse into the military. ... There has been no noticeable impact on our operational effectiveness or anything else. (Ulbrich 1993)

Major Donald Oullette declared that the policy change had had no effect on his base in St. Jean. “Morale on the base is the same. No one’s quit, no one’s complained, no one has been harassed,

no one has come out of the closet. There's been absolutely no difference" (Hustak 1993). In addition, eight months after the ban was lifted, Rear Admiral Richard C. Waller, the commander of the West Coast naval forces in Canada, stated on the record that he had "heard of no harassment cases on one side or another" (Schmitt 1993).

While press coverage following the lifting of the ban portrayed an uneventful transition, several pieces illustrated that not everyone in the military welcomed the change. An anonymous Black Watch (RHR) officer in Montreal was quoted as stating:

There are a lot of guys in uniform who hate homosexuals, and don't want them around in the service. A lot of men are disgusted with the court ruling, but they have to live with it. They don't want to speak up. They're just keeping their heads down. (Hustak 1993)

Lt. Col. Susan Rodgeman, an administrative officer for the Petawawa base, thought that about 75% of her fellow officers on the base had concerns about admitting gay soldiers, but the base had not experienced any anti-gay incidents (Swardson 1993).

The clear-cut policy directive from the military leadership did appear to have a strong effect on the behavior of those opposed to the policy change. Master Cpl. Mike Simic, who felt that gays and lesbians could disrupt the critical teamwork necessary in the military, kept his opinions to himself. "My attitude is, grin and bear it. There's a lot in the military that's out of your hands. The policy is very clear" (Swardson 1993). Finally, Captain Dave Folkins, of the Royal Montreal Regiment, admitted that the policy change was a sensitive issue with personnel in the months after the removal of the ban. He argued, however, that "[t]he Americans have blown it all out of proportion. They're making such a big deal for such a small minority" (Hustak 1993).

B. Recent Assessments And Observations: An Emerging Consensus

To date, the Canadian Forces have still not formally evaluated the effects of the full removal of the ban on gay and lesbian service in 1992. Officials that were contacted for this

report offered several reasons for the lack of formal analysis. First, senior officers repeatedly stated that, for all the concern, the actual policy change had not been very eventful. Because very little of note actually occurred, there was not much to study.²¹ Further, CF officials felt that making any distinction between homosexual and heterosexual soldiers, even for the purposes of data collection, would itself be a violation of the CF policy of treating everyone equally without regard to sexual orientation. A gay soldier reflected on this concern:

... [T]hey were afraid if they did do any tracking, it would be considered potentially discriminatory. Because there's been other backlashes in other segments of the community as a whole where someone has tracked. ... I think part of it has been that we're very sensitive about doing this stuff. (Forget, personal communication, February 8, 2000)

Finally, substantial budget cuts precluded any possible study of the integration of gays and lesbians in two ways: 1) the department that studied longitudinal data on the Forces was disbanded; and 2) a multitude of changes in the CF, as described below, have dramatically obscured the sexual orientation issue.

Despite the lack of formal analysis conducted by the CF, however, additional resources do exist that shed light on longer-term consequences of the full lifting of the ban. The following section brings together the quantitative and interview evidence available on the long-term effects of the Canadian Forces' removal of the ban on gay and lesbian soldiers. Like the initial reports, the data provide no evidence of any ill effect of the policy on the Canadian Forces. There have not been any reported problems with harassment, violence, resignations, or recruitment associated with the policy since its inception.

²¹ Academic and public opinion experts contacted for input into this report also made the same observation (see below).

1. 1995 Briefing Note on Removal of Ban

Although the Canadian military has never undertaken a formal assessment of the policy change toward sexual minorities, a briefing note on the removal of the ban was written by the Section Head for Human Rights Policy (a bureau of the Canadian Department of National Defence) in 1995. Two and one half years after the removal of the ban, the note still could not find any indication that the policy change had had a negative effect on the Canadian Forces. The 1995 note was originally prepared in response to a request for information by U.S. lawyers defending a discharged Navy lieutenant under the U.S. military's policy on homosexuals. Although the CF official was ultimately prohibited from offering an affidavit for the U.S. case, he took the opportunity to share data he had gathered with the CF command. He wanted to let them know that, "Despite all the anxiety that existed through the late 80s into the early 90s about the change in policy, here's what the indicators show – no effect" (Director of Policy Analysis and Development, personal communication, January 20, 2000).

The briefing note examined all available behavioral data related to possible policy effects. A search of the military police staff's database indicated that none of the 905 assault cases from November 1992 to August 1995 could be identified as involving "gay bashing" or be attributed to the sexual orientation of one of the parties. Of the 544 cases of sexual misconduct between December 1992²² and August 1995, 22 involved same-sex conduct.

The Canadian Human Rights Commission reported that three of the 213 complaints reported between November 1992 and August 1995 concerned sexual orientation. Of these three, two pertained to differential treatment and release before the policy change. The third complaint dealt with the eligibility of same-sex couples for financial benefits. Those responsible for military grievances at National Defence Headquarters did not have an accurate count of grievances involving sexual orientation, since grievances are not categorized in a way that would allow retrieval of such information. They were, however, fairly confident that no more than a

²² Statistics were first collected at this time.

dozen of the approximately 2,000 grievances handled between from the removal of the band until August of 1995 included sexual orientation as a significant factor.

The briefing note also cited a 1993 attitudinal survey on quality of life issues which asked members, among other items, to describe how satisfied they were with the Canadian Forces' policy on sexual orientation.²³ Out of 3,202 respondents, 43.3% were either satisfied or very satisfied with the policy, 24.4% stated they were neutral, 28.5% were either dissatisfied or very dissatisfied, and 3.8% had no opinion. The 1995 note compared these findings to a question on employing women in all units and occupations. In response to the question on female involvement, 44.1% stated they were either satisfied or very satisfied, 21.0% were neutral, 32.9% were either dissatisfied or very dissatisfied, and 2.1% had no opinion. The Human Rights policy officer noted that acceptance of the military's policy toward gays and lesbians was quite similar overall to attitudes about the inclusion of women. Analysis of the 1993 survey further revealed that female service members were generally more accepting than males of the sexual orientation policy (although no figures were provided), and senior officers were overall the most dissatisfied (37.5%) and junior non-commissioned officers were the least dissatisfied (25.7%) with the policy.

In his conclusion to the 1995 brief, the CF officer declared that "behavioral and conduct data ... yield little or no evidence to suggest that allowing homosexuals to serve in the Canadian Forces has been problematic, either in terms of their behavior or their treatment by other members" (Wenck 1995: 3). He qualified his statement, however, by noting that no information was available to estimate the extent to which gay and lesbian service personnel were actually disclosing their sexual orientation.²⁴ The concluding note went on to add:

It is assumed that homosexual members generally refrain from making their sexual orientation known, in which case behavioural and conduct indicators

²³ The survey did not specify or describe the policy.

²⁴ Taking data from anonymous large-sample surveys of Canadian Force personnel in 1986 and 1991, the note estimated that, in the years leading up to the lifting of the ban, 3.5% of the members disclosed that they were bisexual or homosexual.

might not be reliable and the effect of the policy change on such variables as unit cohesion and morale would be extremely difficult if not impossible to measure. (Wenek 1995: 3)

2. 1998 Personal and Sexual Harassment Data²⁵

More recent statistical information is available for harassment data generally, since the Canadian Forces conducted research in 1998 to assess the effectiveness of its harassment policy.²⁶ When compared with information from a 1992 study, this data reveals changes in harassment levels before and after the removal of the ban.²⁷ The data strongly suggest that fears of a substantial increase in personal²⁸ or sexual harassment due to the policy change were unwarranted, since the rate of self-reported harassment²⁹ actually decreased overall during this period (Adams-Roy 1999). The percentage of service members who reported experiencing

²⁵ Results of the 1998 follow-up study are detailed in Adams-Roy (1999).

²⁶ The 1992 survey was administered to 5,642 service members, with a 72.7% response rate (Hansen 1993). The 1998 survey sampled 2290 service members and got a 48% response rate. The author of the 1998 study notes that sample sizes for sexual harassment were small given relative infrequency. Sexual harassment figures therefore have higher margins of error and “should be interpreted with caution” (Adams-Roy 1999: 9).

²⁷ The study was conducted in October 1992. The survey, like the 1998 survey, asked service personal about harassment experiences during the prior 12 months. The 1992 study therefore provides data for the year prior to the removal of the ban.

²⁸ Under the CF definitions of harassment, “gay-bashing” or other abuse directed at someone because of their sexual orientation falls under personal, rather than sexual, harassment. Personal harassment includes all harassment directed at a person because of an identifying characteristic, such as race or gender. See Adams-Roy (1999: 8) for the complete list.

²⁹ The Canadian Forces breaks harassment down into four categories: abuse of authority, personal harassment, sexual harassment, and hazing.

sexual harassment in the previous 12 months declined from 11% in 1992 to 6% in 1998.³⁰ Self-reported personal harassment rates decreased from 24% in 1992 to 18% in 1998³¹.

With respect to sexual harassment, the greatest change occurred among women. Among service women, 14% reported in 1998 that they had experienced sexual harassment within the past 12 months. This is a decrease of 12 percentage points from 1992 levels, when 26% of those surveyed reported incidents of sexual harassment. Rates for men remained quite low, rising from 2% in 1992 to 3% in 1998. While the categories used to measure types of sexual harassment are not identical, an examination of comparable categories³² suggests that the overall distribution of types of sexual harassment has not substantially changed over time; teasing, jokes and remarks remain the most common form of sexual harassment, and actual or attempted rape of sexual assault was reported as the least common type of sexual harassment in both surveys (Adams-Roy 1999; Hansen 1993).

Because the 1992 survey did not specifically include sexual orientation in its break-down of types of personal harassment, rates of harassment due to sexual orientation cannot be compared over time. Of those who had experienced personal harassment in the year prior to the

³⁰ A study of reserve forces, who were not surveyed in 1992, was also conducted in 1998. While a comparison over time is therefore not possible, sexual harassment rates were lower for reserve forces as compared to regular forces. One percent of men and 11% of women reported that they had been sexually harassed during the last 12 months. The question on incidence of harassment was answered by 687 men and 254 women (Adams-Roy 1999a).

³¹ Harassment rates for service members as a whole are derived from incidence rates broken down by sex. (Adams-Roy 1999: 13)

³² Data based on type of sexual harassment is not identical in the two studies, since the question in the 1992 survey asked whether a type occurred, while the 1998 study asked how frequently a type has occurred. The classification of type of behavior is also not identical.

1998 study,³³ sexual orientation ranked 13th out of 14 listed types³⁴ for men and 9th out of 14 for women in terms of frequency. Nine percent of the men and 10% of the women who reported experiencing personal harassment had been harassed about their sexual orientation.³⁵ In comparison, 48% of the men and 50% of the women reported harassment based on physical characteristics, 32% of the men and 28% of the women complained of harassment due to their age, and 92% of the women who reported personal harassment had been harassed because of their sex.

Five percent of the service men who reported personal harassment had experienced harassment rarely or occasionally due to their sexual orientation. Four percent reported frequent/often harassment based on sexual orientation. Among service women, 7% reported rarely or occasionally experiencing harassment due to their sexual orientation, while 3% reported that they faced harassment frequently or often due to their sexual orientation (Adams-Roy 1999).³⁶

Neither the 1992 nor the 1998 survey divided harassment responses and outcomes down by type of harassment.

³³ This included 96 men and 73 women.

³⁴ The list of types of personal harassment included: physical characteristics, mannerism, age, national or ethnic origin, marital status, disability, other personal characteristics, family status, race, sex, religion, skin color, sexual orientation, and conviction or offense for which a pardon has been granted.

³⁵ Individuals could report more than one type of harassment.

³⁶ Among reserve personnel, sexual orientation ranked 14th out of 15 for men and 9th out of 15 for women among types of personal harassment experienced. Six percent of the men who reported personal harassment had rarely or occasionally been harassed because of their sexual orientation, and none mentioned frequent harassment. Twelve percent of the women who reported personal harassment had been harassed for their sexual orientation rarely or occasionally, and 4% experienced harassment based on sexual orientation frequently or often (Adams-Roy 1999a).

3. Assessments And Observations Of Senior CF Officials

The CF officers and personnel with whom we spoke repeatedly (all listed below in the bibliography) stated that the policy change had had minimal impact. No one could name any incidents of recruitment or other problems related to the issue of sexual orientation. And while the officers could think of no way to measure morale or cohesion, they had no reason to believe that the change has affected the efficacy of working relationships. Officers were matter-of-fact in their assessment of the removal of the ban:

It's not that big a deal for us [including gays and lesbians in the military].... On a day-to-day basis, there probably hasn't been much of a change. People who were typically high performers before are typically high performers now. (Leveque, personal communication, February 4, 2000)

Another CF official emphasized the continuity in the policy change: "The actual transition was relatively quiet. People realized that there had always been gays in the CF. They certainly didn't make an issue of it before, and they don't make an issue of it now" (MacKay, personal communication, January 18 and February 28, 2000).

Further, senior CF officials we contacted agree that the removal of the ban is minor compared with other transformations of the recent past. Like most Western militaries, the Canadian Forces has undergone substantial changes since the end of the Cold War. The CF has experienced a reduction of size and a reconceptualization of its mission that has resulted in deep changes throughout the organization. As one official stated:

...[T]here are so many changes that have been occurring in the last fifteen years, with massive downsizing and so on, that incidents like these changes in policy have been greatly overshadowed by budget cuts, downsizing, changes in operational roles, operational tempo. This issue of the acceptance of homosexuals into the forces pales into insignificance ... it's a non-issue. (Wenek, personal communication, January 20, 2000)

This official went on to use the experience of a conservative British review team to underline the smooth transition of the Canadian Forces to its anti-discriminatory policy. The British Ministry of Defense sent reviewers in 1996 to study a number of militaries that allowed homosexual

soldiers to actively serve. While the reviewers seemed to the CF official to arrive with a negative attitude toward the possibility of removing their own restrictions, their interaction with CF personnel soon changed their minds:

One team came here, and of course they exhibited the kinds of attitudes I guess that reflected their official policy mind. ... One of the things they asked to do was speak with commanding officers or people who had been in commanding officer roles since the policy had changed, and also people who had been in senior non-commissioned member roles in line unit ... So essentially they did focus groups with these two groups of people, and they just asked them about their experiences and their opinion had anything happened and so on. Anyway, as a result of this process, those people who were part of that team ... said, "We believe we could change our policy, based on your experience, and what we heard in terms of candid comments from former commanders." (Ibid)

The British team informed the CF official, however, that they did not believe a more inclusive policy would be politically salable at home.³⁷

CF officials also emphasized the difference between attitudes and behavior. Professional behavior was expected of all service members, regardless of sexual orientation. This did not mean that everyone had to agree with one another, or like each others' personal choices. One CF official addressed the attitudinal cleavages among heterosexual service members:

The 1986 survey showed among other things that there was a group of members who had deeply-held attitudes against homosexuality. They couldn't accept it, and they were unlikely to change. Another group had been socialized into stereotypes, but this group could change. (MacKay, personal communication, January 18 and February 28, 2000)

In general, older service members were more likely than younger members to have strong moral objections to homosexuality. While training promoted a more tolerant military culture for some younger soldiers, the beliefs of those with strong feelings on the subject would not be imposed upon. Service members could work together in spite of those differences by showing respect for each other as individuals, and by deferring to the rule of law:

The issue of following the law is important in the military, and it comes up in many instances. But in this case, it is also a deeply moral issue and that is a real

³⁷ Although we attempted to reach the reviewers who conducted the British study, we were not able to speak with them. We therefore cannot confirm the CF official's assessment of their attitudes.

complication. I think the issue of fear of the unknown, more than moral outrage, has been prevalent in some people's minds in regard to homosexuals in the armed forces. But our experience did not justify such apprehension. ... Within the Forces people have been generally considerate of others' feelings and privacy. What we had in the past was a matter of institutional discrimination. Even though some have found it difficult, loyal members changed their behavior when the institution changed. (MacKay, personal communication, January 18 and February 28, 2000)

The ability to work professionally even with persisting differences is borne out by the experience of those working specifically in military directorates that deal with harassment and conflict resolution. These officials report that sexual orientation is not an area of concern for them. A Manager in the Executive Directorate on Conflict Resolution, when asked if mediation cases involving sexual orientation issues presented more or less of a problem than other types of cases, responded:

I can't answer that, because we haven't seen any. ... Now, we ... don't see all of the cases that get dealt with. We see a good chunk of them, but we don't see all of them. But we have our finger on the pulse of what else is going on in the department. To my knowledge there haven't been, and if there have been they've been very, very few. And I had a look of our [nation-wide] data of types of cases that we've dealt with the other day, and there certainly [are] no ... sexual orientation issues. (Leveque, personal communication, February 4, 2000)

The former head of the SHARP training program³⁸ argued that the removal of the ban on gays and lesbians has been a good move for the CF in terms of its recruitment efforts. Because the overall population base is getting smaller, opening recruitment to homosexuals allows the Forces to find qualified service members who previously would have been excluded. He stated:

From a long-term recruiting perspective, I think this was a necessary step for us, as were all of our other cultural types of initiatives in terms of recruiting, because the population base that we're working with in terms of recruiting is shrinking. So by broadening the ... population base and making things more acceptable, with some of our social policies, what we're doing in effect is preserving the long-term quality of the Canadian Forces, because there are only so many white, Anglo-Saxon males that you can recruit. (Leveque, personal communication, February 4, 2000)

³⁸ This is the same person as the present Training and Operational Development Manager in the Executive Directorate of Conflict Management.

4. Observations from Scholars, NGOs, and Political Observers

As is the case with Canadian Forces data, scholarly and policy investigations that directly measure performance outcomes associated with the lifting of the ban are scanty. Longstanding observers of Canadian politics and military issues argue that his lack of information is a consequence of the very low salience of gay military concerns in both public and political circles since the change in policy (personal communications with Leebosh, February 10, 2000; Rayside, January 19, 2000; Kinsman, February 5, 2000; and Fisher, February 2, 2000). However, a number of these scholars and policy observers have continued to monitor press releases, governmental activity, and feedback from Canadian Forces personnel since the ban was fully lifted.

For purposes of this study, two of the most cited scholars of gay-military issues in Canada were interviewed to assess their opinions regarding outcomes associated with the lifting of the ban.³⁹ Both professors described concern over the policy change as a short-lived and fairly minor event in the context of broader Canadian political debates and conflicts. When asked about their appraisal of any consequences that may have arisen as a result of the new policy, neither could identify any problems since 1992 related to performance issues. As Professor David Rayside of the University of Toronto commented regarding concerns raised before the ban was lifted: “There has not been since that day [when the ban was lifted] a suggestion from any quarter, including the military, in public, that this change has damaged morale” (Rayside, personal communication, January 19, 2000). Because a number of organizations and individuals

³⁹ The two professors, David Rayside of the Department of Political Science at the University of Toronto, and Gary Kinsman of the Department of Sociology/Anthropology at Laurentian University, have each produced academic monographs and studies relating to gay-military issues in Canada widely cited by other experts contacted for this study and in the media (e.g., Kinsman 1996, Rayside 1998). Both scholars have also been retained by private and public parties to provide additional expertise for national surveys or major court cases relating to sexual minorities in the military (see, for instance, Rayside, 1990)

highly antagonistic to the ending of the remaining ban would most certainly seek to publicize any deleterious consequences associated with the policy change, both scholars are reasonably confident of their assessments.

While both scholars noted that several problems bearing on performance and morale remain evident in the Forces, they emphasized that these problems have been centered almost exclusively around racial tensions and treatment of women, not homosexuality. Informal and possibly institutional forms of discrimination against homosexual members do still exist, but the ending of the remaining limitations by itself has not contributed to an undermining of military performance. Gary Kinsman, of Laurentian University, believes that:

...[I]n terms of however you might want to work it out, performance evaluation or operational efficiency of the military, the change in 1992 has not led to any detrimental consequences. The Canadian Forces actually has a number of its own internal problems, in terms of fiascoes, in terms of racism, what it did in Somalia....[But] all of the evidence points out that there haven't been problems in terms of recruitment or whatever on this basis. They may have had other problems with recruitment, but certainly...ending that policy [limiting homosexual service] has not led to any detrimental consequences. (Kinsman, personal communication, February 5, 2000)

When pressed by the interviewer to identify other problems that might have emerged from the policy change, both scholars noted that the evolution of additional policy developments arising from the lifting of the ban, such as the extension of spousal benefits, has not been entirely smooth. They emphasized that these difficulties relate to formal and public resistance to the extension of equality rights rather than to military performance.

The director of EGALE, the premier national organization in Canada focusing on federal equality rights for gays and lesbians, made similar observations (Fisher, personal communication, 2000). While he believes that general social attitudes toward equality rights for gays and lesbians in Canada are still mixed, he is confident that fears over performance outcomes raised by opponents of the policy change have not come to pass:

I'm quite confident that , in the six to seven years since the policy was changed, had there been anybody that said it was a problem, we certainly would have heard about it, and EGALE would have been one of the first groups that would

have been made aware if there were concerns as a result of the public policy change. It's been a complete non-issue for us. (Fisher, February 2, 2000)

Mr. Fisher also observed that virtually all media coverage and inquiries regarding morale and cohesion in the Canadian Forces during the past five years has focused on inappropriate heterosexual behavior or racial misconduct, not gay service issues.

Interviews conducted with leading public opinion analysts and political observers paint a similar picture. While none of these individuals was aware of specific information relating to military performance issues after the ban on homosexual service was lifted, they all observed that recent debates over military performance and cohesion have had nothing to do with the lifting of the ban. As Derek Leebosh, a longstanding observer and survey expert on public opinion issues, remarked:

We heard all sorts of stories. Canada had all sorts of soldiers in Bosnia and Kosovo, [and] I never saw a single article that said this [homosexual service] was an issue. I've never heard a single story, I've never heard anything. I just think there's so many other issues that are more of a problem. There's probably been more threats to unit cohesion and efficacy of the armed forces just because their pay is so low. That would be much more of an issue. (Leebosh, personal communication, February 10, 2000)

When asked to conjecture based on his expertise why the lifting of the ban has been so unremarkable, Mr. Leebosh suggested that changing attitudes among younger generations, combined with an understanding that personal discomfort does not justify failing to do one's job, have helped make working alongside sexual minorities a relative "non-issue" in the military.

Comments made by staff representatives of Members of Parliament and other prominent citizens historically involved with gay military issues reinforce the lack of problems associated with the removal of the ban. Senior staff members for MP Svend Robinson, who was at the center of the Parliamentary debate over the military ban in the 1980s and early 1990s, have not received nor are aware of any disclosures or reports that military performance has been affected, either for the better or for the worse, as a result of the lifting of the remaining ban (Siksay, personal communication, February 10, 2000). Other observers active in military or para-military

public policy matters concur (Pepper, D., personal communication, February 10, 2000; Cousens, C., personal communication, February 5, 2000).

5. Perspectives of Sexual Minorities Who Have Served in the Canadian Forces

While formal assessments of senior CF officials and other experts provide a dispassionate and consistent appraisal of outcomes associated with the policy change, the experiences of enlisted personnel who identify themselves as sexual minorities provide additional insight to the real-world effects of the policy implementation. For purposes of this study, we interviewed nine current and former active CF personnel who identify themselves as gay, lesbian, or transsexual. Six of these individuals have served in the CF since the remainder of the ban was lifted in October of 1992, while three left the service shortly before the policy change. The six recently serving members include a gay captain currently stationed at the National Defence Headquarters (NDHQ) in Ottawa, an a gay staff sergeant seaman with a current posting at the NDHQ, a post-operative male-to-female transsexual technical communications specialist, a reserve major, a recently retired lesbian sergeant and candidate for promotion to warrant officer at the Canadian Forces Logistics School, and a gay staff sergeant who has served with the Royal Air Force, NORAD, and United Nations ships. The three former personnel include a retired major, a former captain in a security position who was discharged in 1979 for being a homosexual, and the former air force lieutenant (Michelle Douglas) whose suit led to the removal of the ban.

The six members who have served since the new policy was implemented have described diverse personal experiences, reflecting differences in the time and place of their service; personal decisions about how, when, and where to come out; and gender identity and orientation. While most of them have encountered situations where particular individuals have either accidentally or deliberately made derogatory remarks in their presence, all six reported a generally positive and

unremarkable experience navigating work and relationships with peers and superiors.^{40 41}

Common to all of their stories was an emphasis on how military culture in general, and the implementation of the new policy in particular, places paramount importance on “getting the job done” and respecting the chain-of-command, regardless of one’s opinion of others. As one member put it:

If you can do your job and do it properly, well there you go, that is what matters. When there’s a combat situation and you have to defend a position, or you have to go on patrol or whatever, then the most important thing here is to be able to achieve the order you receive. The sexual orientation doesn’t have anything to do with that. Not for one fraction of a second. ... When an order is issued, you’re going to follow it. You have to. The job has to be done, you have to do your job, and that’s the end of it. (Durand, personal communication, February 5, 2000)

The six recently-serving members all acknowledged that homophobia and personal discomfort around gays is no doubt still present among their peers, but they firmly believe that shared military values about fulfilling one’s duties have prevented any occasional dislike from affecting performance. One captain remarked:

I do suspect there are more people who are uncomfortable about us, but they’re professional enough to keep their opinions to themselves. ... If you don’t like it, that’s fine, I don’t have to like you to do my job either. The bottom line is that the job gets done, and let’s get on with it. (Forget, personal communication, February 8, 2000)

⁴⁰ One member we contacted described her experience with other personnel in a training class as they watched news footage of the announcement regarding the lifting of the ban. Seen on television was Michelle Douglas, alongside her female attorney. Remarking on her classmate’s reactions to seeing Ms. Douglas with the other woman, the interviewee commented, “There were no negative comments in the classroom. The only thing some people said was, how does she get a girlfriend who looks that good? It was her lawyer, but of course no one in the class knew that, except for myself. It was actually quite ironic.” (Kelly, personal communication, January 26, 2000)

⁴¹ Both lesbians interviewed about their experiences after the ban was removed commented that, while they do not believe their sexual orientation has affected their work environment or evaluations, they have both occasionally experienced continued incidents of gender-based discrimination or harassment. Interestingly, both believe these incidents would still occur even if they were heterosexual.

Supporting the claims made by CF officials regarding the policy's success, the personnel interviewed also repeatedly pointed to the relatively pro-active positions taken by higher-level officers and administrators to ensure that discriminatory or disruptive conduct be minimized. The SHARP program, coupled with the steady expansion of benefits accorded to gay and lesbian personnel through federal legislative change, has helped create a relatively safe working environment where social anxieties and tensions have eased. The expansion of benefits has also led most of the personnel we interviewed to speculate that their work performance, as well as that of their peers, may have improved as a result of the lifting of the ban. Without the fear of "being found out" on their minds, and with greater access to support services (such as bereavement leave and counseling), sexual minorities feel they can better concentrate on their jobs. The four service personnel interviewed who served in years prior to the policy change agreed with this sentiment, noting that the anxiety and stress they experienced before the ban was lifted was morally, psychologically, and even physically disabling.

While the service-members we spoke with all identify themselves as sexual minorities, all nine also described their "public" personas as professional, relatively private, and discrete. In other words, while many still serving in the Forces have availed themselves of new liberties, such as confiding in close friends without fear of reprisal, or inviting their partners to military functions, they nonetheless do not feel the need to "out" themselves in any formal way. Most of the respondents remarked that their lower-profile public position reflects a dedication to simply doing a good job and minding one's own business. As Michelle Douglas commented regarding fears among prior supporters of the ban over a possible flood of conspicuous homosexual activity: "It just doesn't happen—gay people have never screamed to be really, really out. They just want to be really safe from not being fired" (Douglas, personal communication, January 23, 2000). That being said, most of the currently serving members we spoke with believe that at least some members of their units know of their status as sexual minorities.

VIII. CONCLUSION

The CF removal of the ban on gay and lesbian soldiers occurred only after a number of years of judicial and political struggles. Senior Department of National Defence personnel and a sizable number of heterosexual soldiers worried that a change in policy would seriously compromise the mission of the Canadian Forces. Fears of sexual harassment by homosexual soldiers, increasing rates of gay-bashing, resignations, and refusals to work with homosexuals spurred continuing support for exempting the military from the protections proscribed under the Charter of Rights and Freedoms. Because the CF is entrusted with the fundamental task of putting soldiers' lives on the line to protect the interests of Canadian citizens, both at home and abroad, military personnel were wary of a policy change that they felt could compromise the operational effectiveness of the armed services.

Once the demise of the ban was imminent, however, Chief of Defence General Chastelain and other military leaders took decisive steps to create a smooth transition. They dissolved any distinction in the regulations between heterosexual and homosexual soldiers. They made it clear that the policy change had the full support of the CF leadership. The Department of National Defence outlined the standards of behavior that would be expected of all military personnel, regardless of sexual orientation, and it widely distributed both those standards and the changes in regulations. Perhaps most importantly, the military leadership emphasized the distinction between beliefs and behavior. The personal attitudes and decisions of individual soldiers would be respected, but soldiers would be expected to put personal feelings aside to accomplish military objectives and to uphold the law.

In the years since the removal of the ban, the CF has continued to move forward in its full integration of gay and lesbian soldiers, and it has done so as part of a larger effort to reduce harassment and discrimination of all types among its personnel. In these efforts, sexual

orientation has been neither singled-out nor ignored as a potential source of conflict. Among other objectives, the SHARP program strove to overturn common stereotypes about gays and lesbians, and the CF is now developing more sustained anti-harassment training. In keeping with federal mandate, the military has also been amending its regulations to ensure equivalent benefits for same-sex soldiers.

The success of these steps has been borne out by all of the available evidence. An examination of all of the studies conducted in the year after the removal of the ban revealed not a single reported case of resignation, harassment, or violence because of the change in policy. Follow-up with the officials in charge of sexual harassment, sexual misconduct, and human rights complaints have reported few if any incidents related to sexual orientation. Sexual and personal harassment rates have actually decreased between 1992 and 1998, and a conflict management official has declared that he knows of no recently filed cases related to sexual orientation. CF officials, military scholars, involved non-governmental and political leaders, and gay soldiers have all concurred that the removal of the ban has had, to their knowledge, no perceivable negative effect on the military. The issue of gay and lesbian soldiers in the Canadian Forces has all but disappeared from public and internal military debates.

While the removal of the ban may not be universally liked among heterosexual soldiers, it does appear to be universally accepted. Despite potential differences, personnel appear to be able to get their jobs done in a manner that does not compromise their effectiveness. For sexual minorities who serve, the change has been less about publicly declaring their sexual or transgender orientation than about being able to do their work well without fear of “being found out” or losing their jobs. The removal of the ban has resulted in a decrease of fear and anxiety and improved access to personnel support systems for soldiers who self-identify as sexual minorities. For the military as a whole, the non-discrimination policy has also increased its potential pool of qualified recruits.

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Bigotry That Hurts Our Military

By Alan K. Simpson
Wednesday, March 14, 2007

As a lifelong Republican who served in the Army in Germany, I believe it is critical that we review -- and overturn -- the ban on gay service in the military. I voted for "don't ask, don't tell." But much has changed since 1993.

My thinking shifted when I read that the military was firing translators because they are gay. According to the Government Accountability Office, more than 300 language experts have been fired under "don't ask, don't tell," including more than 50 who are fluent in Arabic. This when even Secretary of State Condoleezza Rice recently acknowledged the nation's "foreign language deficit" and how much our government needs Farsi and Arabic speakers. Is there a "straight" way to translate Arabic? Is there a "gay" Farsi? My God, we'd better start talking sense before it is too late. We need every able-bodied, smart patriot to help us win this war.

In today's perilous global security situation, the real question is whether allowing homosexuals to serve openly would enhance or degrade our readiness. The best way to answer this is to reconsider the original points of opposition to open service.

First, America's views on homosexuals serving openly in the military have changed dramatically. The percentage of Americans in favor has grown from 57 percent in 1993 to a whopping 91 percent of 18- to 29-year-olds surveyed in a Gallup poll in 2003.

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Military attitudes have also shifted. Fully three-quarters of 500 vets returning from Iraq and Afghanistan said in a December Zogby poll that they were comfortable interacting with gay people. Also last year, a Zogby poll showed that a majority of service members who knew a gay member in their unit said the person's presence had no negative impact on the unit or personal morale. Senior leaders such as retired Gen. John Shalikashvili and Lt. Gen. Daniel Christman, a former West Point superintendent, are calling for a second look.

Second, 24 nations, including 12 in Operation Enduring Freedom and nine in Operation Iraqi Freedom, permit open service. Despite controversy surrounding the policy change, it has had no negative impact on morale, cohesion, readiness or recruitment. Our allies did not display such acceptance back when we voted on "don't ask, don't tell," but we should consider their common-sense example.

Third, there are not enough troops to perform the required mission. The Army is "about broken," in the words of Colin Powell. The Army's chief of staff, Gen. Peter Schoomaker, told the House Armed Services Committee in December that "the active-duty Army of 507,000 will break unless the force is expanded by 7,000 more soldiers a year." To fill its needs, the Army is granting a record number of "moral waivers," allowing even felons to

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enlist. Yet we turn away patriotic gay and lesbian citizens.

The Urban Institute estimates that 65,000 gays are serving and that there are 1 million gay veterans. These gay vets include Capt. Cholene Espinoza, a former U-2 pilot who logged more than 200 combat hours over Iraq, and Marine Staff Sgt. Eric Alva, who lost his right leg to an Iraqi land mine. Since 2005, more than 800 personnel have been discharged from "critical fields" -- jobs considered essential but difficult in terms of training or retraining, such as linguists, medical personnel and combat engineers. Aside from allowing us to recruit and retain more personnel, permitting gays to serve openly would enhance the quality of the armed forces.

In World War II, a British mathematician named Alan Turing led the effort to crack the Nazis' communication code. He mastered the complex German enciphering machine, helping to save the world, and his work laid the basis for modern computer science. Does it matter that Turing was gay? This week, Gen. Peter Pace, chairman of the Joint Chiefs, said that homosexuality is "immoral" and that the ban on open service should therefore not be changed. Would Pace call Turing "immoral"?

Since 1993, I have had the rich satisfaction of knowing and working with many openly gay and lesbian Americans, and I have come to realize that "gay" is an artificial category when it comes to measuring a man or woman's on-the-job performance or commitment to shared goals. It says little about the person. Our differences and prejudices pale next to our historic challenge. Gen. Pace is entitled, like anyone, to his personal opinion, even if it is completely out of the mainstream of American thinking. But he should know better than to assert this opinion as the basis for policy of a military that represents and serves an entire nation. Let us end "don't ask, don't tell." This policy has become a serious detriment to the readiness of America's forces as they attempt to accomplish what is arguably the most challenging mission in our long and cherished history.

The writer was a Republican senator from Wyoming from 1979 to 1997.

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Department of Defense INSTRUCTION
NUMBER 1332.14

SUBJECT: Enlisted Administrative Separations

ENCLOSURE 3

REASONS FOR SEPARATION

8. HOMOSEXUAL CONDUCT

a. Basis

(1) Homosexual conduct is grounds for separation from the Military Services under the terms set forth in subparagraph 8.a.(2) of this enclosure. Homosexual conduct ~~is includes engaging in, attempting to engage in, or soliciting another to engage in a~~ homosexual act or acts, a statement by a Service member that he or she is a homosexual or bisexual, or words to that effect~~demonstrates a propensity or intent to engage in homosexual acts~~, or marriage or attempted marriage to a person known to be of the same biological sex~~homosexual marriage or attempted marriage~~. ~~A statement by a Service member that demonstrates a propensity or intent to engage in homosexual acts is grounds for separation not because it reflects the Service member's sexual orientation, but because the statement indicates a likelihood that the Service member engages in or will engage in homosexual acts.~~ A Service member's sexual orientation is considered a personal and private matter, and is not a bar to continued service under this paragraph unless manifested by homosexual conduct in the manner described in subparagraph 8.a.(2) of this enclosure.

(2) A Service member shall be separated under this paragraph if one or more of the following approved findings is made:

(a) The Service member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts, unless there are approved further findings that the Service member has demonstrated that:

1. Such acts are a departure from the Service member's usual and customary behavior;
2. Such acts under all the circumstances are unlikely to recur;
3. Such acts were not accomplished by use of force, coercion, or

intimidation;

4. Under the particular circumstances of the case, the Service member's continued presence in the Armed Forces is consistent with the interest of the Armed Forces in proper discipline, good order, and morale; and

5. The Service member does not have a propensity or intent to engage in homosexual acts.

(b) The Service member has made a statement that he or she is a homosexual or bisexual, or words to that effect, unless there is a further approved finding that the Service member has demonstrated that he or she is not a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts. A statement by a Service member that he or she is a homosexual or bisexual, or words to that effect, creates a rebuttable presumption that the Service member is a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts. The Service member shall be advised of this presumption and given the opportunity to rebut the presumption by presenting evidence demonstrating that he or she ~~does not~~ is not a person who engages in, attempts to engage in, has ~~ave~~ a propensity to engage in, or intends to engage in homosexual acts. Propensity to engage in homosexual acts means more than an abstract preference or desire to engage in homosexual acts; it indicates a likelihood that a person engages in or will engage in homosexual acts. In determining whether a Service member has successfully rebutted the presumption that he or she is a person who engages in, attempts to engage in, or has a propensity or intent to engage in homosexual acts, some or all of the following may be considered:

1. A statement under oath by the Service member that he or she is not a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts;

~~2~~. Whether the Service member has engaged in homosexual acts;

~~2. The Service member's credibility;~~

3. Testimony from others about the Service member's past conduct, character, and credibility;

4. The nature and circumstances of the Service member's statement;

5. Any other evidence relevant to whether the Service member is likely to engage in homosexual acts. (This list is not exhaustive; any other relevant evidence may also be considered.)

(c) The Service member has married or attempted to marry a person known to be of the same biological sex (as evidenced by the external anatomy of the persons involved).

b. Burden of Proof. See subparagraphs 8.d.(5) and 8.d.(6) of this enclosure for guidance as to the burden of proof and when a finding regarding retention is required.

c. Characterization or Description. Characterization of service or description of separation shall be in accordance with the guidance in paragraph 3 of Enclosure 4. When the sole basis for separation is homosexual conduct, a characterization under other than honorable (OTH) conditions may be issued only if such a characterization is warranted under paragraph 3 of Enclosure 4, and if there is a finding that during the current term of service the Service member attempted, solicited, or committed a homosexual act. Circumstances that warrant consideration of an OTH include a finding that the Service member attempted, solicited, or committed a homosexual act as follows:

- (1) By using force, coercion, or intimidation.
- (2) With a person under 16 years of age.
- (3) With a subordinate in circumstances that violate customary military superior-subordinate relationships;
- (4) Openly in public view.
- (5) For compensation.
- (6) Aboard a military vessel or aircraft.
- (7) In another location subject to military control under aggravating circumstances noted in the finding that have an adverse impact on discipline, good order, or morale comparable to the impact of such activity aboard a vessel or aircraft.

d. Procedures. The Administrative Board procedure under paragraph 3 of Enclosure 6 shall be used, subject to the following guidance:

(1) Separation processing shall be initiated if there is probable cause to believe separation is warranted under subparagraph 8.a.(2) of this enclosure. For purposes of making this probable cause determination, the standards set forth in subparagraphs 2.c-f of Enclosure 5 are applicable.

(a) Only a commander in the Service member's chain of command, in the grade of O-7 or higher, is authorized to initiate separation proceedings on the basis of

alleged homosexual conduct.

(b) Procedures for inquiries into homosexual conduct are outlined in Enclosure 5.

(2) The Administrative Board shall follow the procedures set forth in subparagraph 3.e. of Enclosure 6, except with respect to the following matters:

(a) If the Board finds that one or more of the circumstances authorizing separation under subparagraph 8.a.(2) of this enclosure is supported by a preponderance of the evidence, the Board shall recommend separation unless the Board finds that retention is warranted under the ~~limited~~ circumstances described in that paragraph.

(b) If the Board does not find that ~~there is sufficient evidence that~~ one or more of the circumstances authorizing separation under subparagraph 8.a.(2) of this enclosure ~~has occurred~~ is supported by a preponderance of the evidence, the Board shall recommend retention unless the case involves another basis for separation of which the Service member has been duly notified.

(3) ~~In any case in which characterization of service under other than honorable conditions is not authorized, the separation authority may be exercised by an officer designated under subparagraph 2.d.(1) of Enclosure 6. The separation authority disposing of the case shall be a general or flag officer, of equal grade or senior to the commander initiating a fact-finding inquiry or separation proceeding, in the Service member's chain of command or serving as a Service-designated centralized separation authority.~~

(4) The separation authority shall dispose of the case according to the following provisions:

(a) If the board recommends retention, the separation authority shall take one of the following actions:

1. Approve the finding and direct retention; or

2. Forward the case to the Secretary concerned with a recommendation that the Secretary separate the Service member under the Secretary's plenary authority in paragraph 15 of this enclosure.

(b) If the board recommends separation, the separation authority shall take one of the following actions:

1. Approve the finding and direct separation; or

2. Disapprove the finding on the basis of the following considerations:

a. There is insufficient evidence to support the finding; or

b. Retention is warranted under the ~~limited~~ circumstances described in subparagraph 8.a.(2) of this enclosure.

(c) If there has been a waiver of Board proceedings, the separation authority shall dispose of the case in accordance with the following provisions:

1. If the separation authority determines there is not sufficient evidence to support separation under subparagraph 8.a.(2) of this enclosure, the separation authority shall direct retention unless there is another basis for separation of which the Service member has been duly notified.

2. If the separation authority determines that one or more of the circumstances authorizing separation under subparagraph 8.a.(2) of this enclosure ~~is supported by a preponderance of the evidence~~~~has occurred~~, the Service member shall be separated unless retention is warranted under the ~~limited~~ circumstances described in that subparagraph.

(5) The Service member shall bear the burden of proving throughout the proceeding, by a preponderance of the evidence, that retention is warranted under the ~~limited~~ circumstances described in subparagraphs 8.a.(2)(a) and 8.a.(2)(b) of this enclosure.

(6) Findings regarding whether or not retention is warranted are required if the Service member clearly and specifically raises such ~~limited~~ circumstances as described in subparagraph 8.a.(2) of this enclosure.

(7) Nothing in these procedures:

(a) Limits the authority of the Secretary concerned to take appropriate action in a case to ensure compliance with this issuance;

(b) Requires that a Service member be processed for separation when a determination is made in accordance with regulations prescribed by the Secretary concerned that:

1. The Service member engaged in acts, made statements, or married or attempted to marry a person known to be of the same biological sex for the purpose of avoiding or terminating military service; and

2. Separation of the Service member would not be in the best interest of the Armed Forces.

(c) Precludes retention of a Service member for a limited period of time in the interests of national security as authorized by the Secretary concerned;

(d) Authorizes a Service member to seek Secretarial review unless authorized in procedures promulgated by the Secretary concerned;

(e) Precludes separation in appropriate circumstances for another reason in this Instruction; or

(f) Precludes trial by courts-martial in appropriate cases.

ENCLOSURE 5

GUIDELINES FOR FACT-FINDING INQUIRIES INTO HOMOSEXUAL CONDUCT

1. RESPONSIBILITY

a. Only a ~~Service member's~~ commander in the Service member's chain of command, in the grade of O-7 or higher, is authorized to initiate fact-finding inquiries involving homosexual conduct. A commander may initiate a fact-finding inquiry only when he or she has received credible information that there is basis for discharge. Commanders are responsible for ensuring that inquiries are conducted properly and that no abuse of authority occurs.

b. A fact-finding inquiry may be conducted by the commander personally or by a person he or she appoints, but the appointee must be in the grade of O-5 or higher, or civilian equivalent. ~~†The inquiry~~ may consist of an examination of the information reported or a more extensive investigation, as necessary.

c. The inquiry should gather all credible information that directly relates to the grounds for possible separation. Inquiries shall be limited to the factual circumstances directly relevant to the specific allegations.

d. If a commander has credible evidence of possible criminal conduct, he or she shall follow the procedures outlined in Reference (o) and implementing regulations issued by the Secretaries of the Military Departments concerned.

e. The guidelines in this enclosure do not apply to activities referenced in DoDI 5505.8 (Reference (t)).

2. BASIS FOR CONDUCTING INQUIRIES

a. A commander will initiate an inquiry only if he or she has credible information that there is a basis for discharge. Credible information exists when the information, considering its source and the surrounding circumstances, supports a reasonable belief that there is a basis for discharge. A determination is made based on articulable facts, not just a belief or suspicion.

b. A basis for discharge exists if:

(1) The Service member has engaged in, attempted to engage in, or solicited

another to engage in a homosexual act or acts.

(2) The Service member has ~~said~~ made a statement that he or she is a homosexual or bisexual, or ~~made some other statement that indicates a propensity or intent to engage in homosexual acts words to that effect~~; or

(3) The Service member has married or attempted to marry a person known to be of the same biological sex.

c. Credible information does not exist, for example, when:

(1) The individual is suspected of engaging in homosexual conduct, but there is no credible information, as described, to support that suspicion; or

(2) The only information is the opinions of others that a Service member is homosexual; or

(3) The inquiry would be based on rumor, suspicion, or capricious claims concerning a Service member's sexual orientation; or

(4) The only information known is an associational activity such as going to a gay bar, possessing or reading homosexual publications, associating with known homosexuals, or marching in a gay rights rally in civilian clothes. Such activity, in and of itself, does not provide evidence of homosexual conduct.; or

(5) The information does not come from a reliable person.

d. Credible information exists, for example, when:

(1) A Service member states to a person of senior grade and authority within his or her chain of command that he or she is a homosexual or bisexual, or words to that effect; or

~~(2)~~ A reliable person states, under oath, that he or she observed ~~or heard~~ a Service member engaging in, attempt to engage in, or solicit another to engage in a homosexual act or acts, ~~or saying that he or she is a homosexual or bisexual or is married to a person of the same sex~~; or

~~(3)~~ A reliable person states, under oath, that he or she was told by heard, observed, or discovered a Service member that he or she is a homosexual or bisexual, or words to that effect ~~make a spoken or written statement that a reasonable person would believe was intended to convey the fact that he or she engages in, attempts to engage in, or has a propensity or intent to engage in homosexual acts~~; or

(4) A reliable person states, under oath, that a Service member has married or attempted to marry a person known to be of the same biological sex.

~~(3) A reliable person states that he or she observed behavior that amounts to a non-verbal statement by a Service member that he or she is a homosexual or bisexual; i.e., behavior that a reasonable person would believe was intended to convey the statement that the Service member engages in, attempts to engage in, or has a propensity or intent to engage in homosexual acts.~~

e. A “reliable person” is someone who would be expected, under the circumstances, to provide accurate information. Examples of a person who may not be a “reliable person” are:

(1) A person with a prior history of untruthfulness or unreliability; or

(2) A person with a motive to seek revenge against or to cause personal or professional harm to the Service member specifically, or to cause personal or professional harm to persons suspected of being homosexual generally; or

(3) A person with a prior history of conflict with the Service member.

f. The following information shall not be considered evidence of or be used for purposes of fact-finding inquiries or separation proceedings regarding homosexual conduct, unless the Service member consents in writing that the information may be used:

(1) Information considered privileged pursuant to Rule 502 (“Lawyer-client privilege”), Rule 503 (“Communications to Clergy”), or Rule 513 (“Psychotherapist-patient privilege”) of the Military Rules of Evidence;

(2) Information provided by a Service member to a medical professional in furtherance of medical treatment, or to a public health official in the course of a public health inquiry;

(3) Information provided by a Service member in the course of seeking professional assistance for domestic or physical abuse sustained by the Service member or by a member of his or her household;

(4) Information about a Service member’s sexual orientation or conduct obtained in the course of a personnel security investigation, in accordance with and to the extent protected by DoD 5200.2-R (“Department of Defense Personnel Security Program”).

3. PROCEDURES

a. Informal fact-finding inquiries and administrative separation procedures are the preferred method of addressing homosexual conduct. This procedure does not prevent disciplinary action or trial by courts-martial when appropriate.

b. Commanders shall exercise sound discretion regarding when credible information exists. They shall examine the information, the source of the information, and the circumstances under which the information was obtained and decide whether an inquiry is warranted or whether no action should be taken.

c. Commanders or appointed inquiry officials shall not ask, and Service members shall not be required to reveal, whether a Service member is a heterosexual, a homosexual, or a bisexual. However, upon receipt of credible information of homosexual conduct (as described in paragraph 2 of this enclosure) commanders or appointed inquiry officials may ask Service members if they engaged in such conduct after advising Service member of the DoD policy on homosexual conduct and their rights under Article 31 of the UCMJ, Appendix 2 of Reference (o), if applicable. Should the Service member choose not to discuss the matter further, the commander should consider other available information. No negative inference may be drawn from a Service member's decision not to discuss the matter. Nothing in this provision precludes questioning a Service member about any information provided by the Service member in the course of the fact finding inquiry or any related proceeding, nor does it provide the Service member with any basis for challenging the validity of any proceeding or the use of any evidence, including a statement by the Service member, in any proceeding.

d. At any given point of the inquiry, the commander or appointed inquiry official must be able to clearly and specifically explain which grounds for separation he or she is attempting to verify and how the information being collected relates to those specific separation criteria.

~~e. A statement by a Service member that he or she is a homosexual or bisexual creates a rebuttable presumption that the Service member engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts. The Service member shall be given the opportunity to present evidence demonstrating that he or she does not engage in, attempt to engage in, or have a propensity or intent to engage in homosexual acts.~~

~~f. The Service member bears the burden of proving, by a preponderance of the evidence, that he or she is not a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts.~~

4. LEGAL EFFECT. The procedures in this enclosure create no substantive or procedural rights.

GLOSSARY

bisexual. A person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual and heterosexual acts.

commander. A commissioned or warrant officer who, by virtue of rank and assignment, exercises primary command authority over a military organization or prescribed territorial area that, under pertinent official directives, is recognized as a “command.”

convening authority

The separation authority; or

A commanding officer who has been authorized by the Secretary concerned to process a case except for final action and who otherwise has the qualifications to act as a separation authority.

discharge. Complete severance from all military status gained through enlistment or induction.

entry-level status. Upon enlistment, a Service member qualifies for entry-level status during:

The first 180 days of continuous active military service; or

The first 180 days of continuous active service after a service break of more than 92 days of active service. A Service member of a Reserve Component who is not on active duty or who is serving under a call or order to active duty for 180 days or less begins entry-level status upon enlistment in a Reserve Component. Entry-level status for such a Service member of a Reserve Component terminates as follows:

One hundred eighty days after beginning training if the Service member is ordered to active duty for training for one continuous period of 180 days or more; or

Ninety days after the beginning of the second period of active duty training if the Service member is ordered to active duty for training under a program that splits the training into two or more separate periods of active duty. For the purposes of characterization of service or description of separation, the Service member’s status is determined by the date of notification as to the initiation of separation proceedings.

homosexual. A person, regardless of sex, who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts.

A “homosexual act” means any bodily contact, actively undertaken or passively permitted, between a Service member and another person of the same sex for the purpose of satisfying sexual desires and any bodily contact (~~for example, hand holding or kissing, in most circumstances~~) that a reasonable person would understand to demonstrate a propensity or intent to engage in such an act.

A “statement that a Service member is a homosexual or bisexual, or words to that effect,” means language or behavior that a reasonable person would believe was intended to convey the statement that the Service member is a person who engages in, attempts to engage in, ~~or~~ has a propensity to engage in, or ~~intent~~ intends to engage in homosexual acts. This may include statements such as “I am a homosexual,” “I am gay,” “I am a lesbian,” “I have a homosexual orientation,” and the like.

A “homosexual marriage or attempted marriage” is when a Service member has married or attempted to marry a person known to be of the same biological sex.

“Propensity to engage in homosexual acts” means more than an abstract preference or desire to engage in homosexual acts; it indicates a likelihood that a person engages in or will engage in homosexual acts.

~~homosexual conduct. Engaging in, attempting to engage in, or soliciting another to engage in a homosexual act or acts; a statement by the Service member that he or she is a homosexual or bisexual, or words to that effect; or marriage or attempted marriage to a person known to be of the same biological sex.A homosexual act, a statement by the Service member that demonstrates a propensity or intent to engage in homosexual acts, or a homosexual marriage or attempted marriage.~~

Service member. An enlisted or officer Service member of a Military Service.

military record. An individual’s overall performance while a Service member of a Military Service, including personal conduct and performance of duty.

release from active duty. Termination of active duty status and transfer or reversion to a Reserve Component not on active duty, including transfer to the IRR.

respondent. A Service member who has been notified that action has been initiated to separate the Service member.

separation. A general term that includes discharge, release from active duty, release from custody and control of the Armed Forces, transfer to the IRR, and similar changes in Active or Reserve status.

separation authority. An official authorized by the Secretary concerned to take final

action with respect to a specified type of separation.

sexual orientation. An abstract sexual preference for persons of a particular sex, as distinct from a propensity or intent to engage in sexual acts.

HEARING TO RECEIVE TESTIMONY RELATING TO THE “DON’T ASK, DON’T TELL” POLICY

THURSDAY, MARCH 18, 2010

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The committee met, pursuant to notice, at 9:51 a.m. in room SH-216, Hart Senate Office Building, Senator Carl Levin (chairman) presiding.

Committee members present: Senators Levin, Lieberman, Ben Nelson, Webb, Udall, Hagan, Burris, Kaufman, McCain, Sessions, Chambliss, Thune, and Collins.

Committee staff members present: Richard D. DeBobes, staff director, and Leah C. Brewer, nominations and hearings clerk.

Majority staff members present: Jonathan D. Clark, counsel; Gabriella Eisen, counsel; Jessica L. Kingston, research assistant; Gerald J. Leeling, counsel; and Roy F. Phillips, professional staff member.

Minority staff members present: Joseph W. Bowab, Republican staff director; Michael V. Kostiw, professional staff member; Diana G. Tabler, professional staff member; Richard F. Walsh, minority counsel; and Dana W. White, professional staff member.

Staff assistants present: Jennifer R. Knowles, Christine G. Lang, and Breon N. Wells.

Committee members’ assistants present: James Tuite, assistant to Senator Byrd; Christopher Griffin, assistant to Senator Lieberman; Nick Ikeda, assistant to Senator Akaka; Ann Premer, assistant to Senator Ben Nelson; Patrick Hayes, assistant to Senator Bayh; Gordon I. Peterson, assistant to Senator Webb; Jennifer Barrett, assistant to Senator Udall; Roger Pena, assistant to Senator Hagan; Lindsay Kavanaugh, assistant to Senator Begich; Roosevelt Barfield, assistant to Senator Burris; Halie Soifer, assistant to Senator Kaufman; Lenwood Landrum and Sandra Luff, assistants to Senator Sessions; Clyde A. Taylor IV, assistant to Senator Chambliss; Jason Van Beek, assistant to Senator Thune; Chip Kennett and Meghan Simonds, assistants to Senator Collins.

OPENING STATEMENT OF SENATOR CARL LEVIN, CHAIRMAN

Chairman LEVIN. Good morning, everybody.

We’re going to come to order, but we’re then going to recess for 10 minutes, until 10 o’clock, and—for the benefit of colleagues, because we have an order of speaking, here, as to who’s actually here when the gavel bangs. This will count. So, this will be the order

(1)

we'll establish, and we'll pick up that order at 10 o'clock, when we will begin our hearing.

But, we are going to recess now until 10 o'clock or a few minutes thereafter.

And we will stand in recess.

[Recess.]

Chairman LEVIN. Committee will come to order.

We meet this morning to continue to receive testimony on the "Don't Ask, Don't Tell" policy on gays in the military.

The Secretary of Defense testified before this committee, on February 2nd, that he supported the President's decision to work with Congress to repeal the law known as "Don't Ask, Don't Tell," and said that, quote, "The question before us is not 'whether' the military prepares to make this change, but 'how' we best prepare for it."

At the same hearing, Admiral Mullen, the Chairman of the Joint Chiefs, expressed his personal belief that allowing gays and lesbians to serve openly could be the right thing to do. He said, quote, "No matter how I look at this issue, I cannot escape being troubled by the fact that we have in place a policy which forces young men and women to lie about who they are in order to defend their fellow citizens. For me, personally," he said, "it comes down to integrity, theirs as individuals and ours as an institution."

Today, we will hear testimony from witnesses who do not represent the Department of Defense, although each of them has served with distinction in the military.

We welcome General John Sheehan, United States Marine Corps, retired. While on Active Duty, General Sheehan served in various command positions, ranging from company commander to brigade commander in both the Atlantic and Pacific theater of operations. General Sheehan's combat tours included duty in Vietnam and Desert Shield/Desert Storm. His last assignment was as Supreme Allied Commander, Atlantic and Commander in Chief, U.S. Atlantic Command.

Michael Almy served as an Active Duty Air Force officer for 13 years before he was discharged in 2006 under "Don't Ask, Don't Tell." He deployed to the Middle East four times during his Active Duty career, serving in Operation Desert Fox, Operation Southern Watch, and Operation Iraqi Freedom. He was named Officer of the Quarter and Officer of the Year several times throughout his career, and in 2005 was named the top communications officer for the Air Force in Europe and was recommended for promotion to lieutenant colonel prior to his discharge in 2006.

Jenny Kopfstein, a Naval Academy graduate, served on Active Duty in the Navy for nearly 3 years. She revealed her sexual orientation to her commanding officer during her first shipboard assignment. Apparently, knowledge of her sexual orientation had no impact on her duty performance, as she was sent on a second deployment in support of Operation Enduring Freedom. She earned several awards and honors, and was promoted during her service. Significantly, two of her commanding officers testified at her separation hearing that, while they understood she was a lesbian, she was an excellent officer who should remain in the Navy. Despite

that testimony, Ms. Kopfstein was discharged under “Don’t Ask, Don’t Tell” in 2002.

Cases like this make it clear to me that we should repeal this discriminatory policy. I do not find the arguments used to justify “Don’t Ask, Don’t Tell” convincing, I did not find them convincing when it took effect in 1993, and they are less so now, as made evidence by the experiences of Mr. Almy and Ms. Kopfstein and so many like them. What matters is a willingness and an ability to perform the mission, not an individual’s sexual orientation.

In the latest Gallup poll the American public overwhelmingly supports allowing gays and lesbians to serve openly in the military. Sixty-nine percent of Americans are recorded as supporting their right to serve, and many gays and lesbians are, in fact, serving in our military.

As former Chairman of the Joint Chiefs, General John Shalikashvili, who supports ending the policy, has pointed out, the majority of troops already believe they serve alongside gay or lesbian colleagues. It’s hard to know for sure, but one recent study estimated that 66,000 gays and lesbians are serving today, forced to hide their orientation, at a constant risk of losing the chance to serve.

Supporters of the current “Don’t Ask, Don’t Tell” policy argue that allowing gays and lesbians to serve openly would damage unit cohesion and morale, crucial factors in building combat effectiveness. But, there is no evidence that the presence of gay and lesbian colleagues would damage our military’s ability to fight. Gay men and women are serving now, and their fellow servicemembers often know that they are serving with them. Their service is not damaging unit cohesion and morale.

Other nations have allowed gay and lesbian servicemembers to serve in their militaries without discrimination and without impact on cohesion or morale. The most comprehensive study on this was conducted by RAND in 1993. RAND researchers reported on the positive experiences of Canada, France, Germany, Israel, the Netherlands, and Norway, all of which allowed known homosexuals to serve in the Armed Forces. We’ve asked the Department to update that 1993 report.

Mr. Almy and Ms. Kopfstein were discharged, not because of their duty performance, not because their presence interfered with unit cohesion, and not because their sexual orientation compromised the military mission; they were discharge solely on the basis of who they are, what their sexual orientation is.

Senator Lieberman has introduced the Military Readiness Enhancement Act of 2010, of which I am cosponsor, that would replace the current policy concerning homosexuality in the Armed Forces with a policy of nondiscrimination on the basis of sexual orientation.

I hope we can move quickly and deliberately to maximize the opportunity for all Americans to serve their country. We can and should do that in a way that honors our Nation’s values while making us more secure.

The committee has received many statements for the record. Some of them are from the American Veterans for Equal Rights, the Center for American Progress Action Committee, the Associa-

tion of the Bar of the City of New York, Service Members United, the Human Rights Campaign, and the Service Members Legal Defense Network. They and other statements that are relative to this subject—relevant to this subject will be made part of the record.

[The information referred to follows:]

Chairman LEVIN. Senator McCain.

STATEMENT OF SENATOR JOHN MCCAIN

Senator MCCAIN. I thank you, Mr. Chairman.

And I join you in welcoming our witnesses, thanking each of them for their military service and their willingness to share their views with us today.

As we all know, the committee's focus today is on the "Don't Ask, Don't Tell" policy, which, since 1993, has not barred gay and lesbian individuals from serving in the Armed Forces. It has not barred gay and lesbian individuals from serving in the Armed Forces, but it's prevented them from doing so openly. We will hear testimony for and against the policy based on our witnesses' military experience. I look forward to listening with an open mind, and learning from each of them. I urge all my colleagues to do the same.

Since early February, our committee has received testimony on this issue from Secretary Gates and the Service Secretaries, echoing the desire of the President, a campaign commitment, to have Congress repeal the "Don't Ask, Don't Tell" policy. We've also heard the moving personal views of Admiral Mullen and several of the combatant commanders during their posture-hearing testimony.

Finally, we've heard from the Service Chiefs, who have responsibility under law for the organization, training, and overall readiness of their forces, and for providing their best military advice to the President on matters that might affect their ability to ensure sufficiently trained and ready forces. Each of the Service Chiefs has expressed his support for the comprehensive high-level review that Secretary Gates has directed. However, each has indicated that he is not prepared to support a repeal of the "Don't Ask, Don't Tell" policy at this time. Each has also testified that he opposes your suggestion, Mr. Chairman, of a moratorium on discharges while the review is being conducted.

Based on their testimony, I urge my colleagues to await the completion of the review in order to give the Service Chiefs the information they have asked for before any attempt is made to legislate a change for political reasons that our military leaders will be required to implement.

I will strongly oppose any attempt to change the current law based on an incomplete and inadequate review of this policy. And I appeal to all my colleagues to take this approach in the interest of national security.

With respect to the review itself, I have expressed my concerns about its focus and scope. Unfortunately, in his testimony to this committee, Secretary Gates described the mandate as a, quote, "A review of the issues associated with properly implementing a repeal of the 'Don't Ask, Don't Tell' policy. The guiding question," as Secretary Gates put it, "should not be—should be not whether the military prepares to make this change, but how we best prepare for

it.” This is consistent with the President’s goals, but it gets things backwards.

The current Pentagon review should be an objective study of the relevant military issues, not an implementation plan. This issue that Congress must decide, and the issue the Service Chiefs should be asked to give their best military advice about, is whether the “Don’t Ask, Don’t Tell” policy should be repealed. We should ask that question to our service personnel at all levels, and their families and genuinely consider their views in our debate. Clearly there are many policy and logistical challenges that would have to be overcome if the law is repealed, but that should not be the primary focus of this review.

I will continue to insist that we use the next 8 months to study not “how” to implement a change to the current policy, but “whether” and “why” the men and women of the Armed Forces—the generals, the officers, the NCOs, and the privates—support or oppose such a change. I would then expect, and I think the American people have every right to expect, the views of the Service Chiefs to incorporate this critically important information.

As I have stated before, I am proud and thankful for every American who chooses to put on the uniform of our country and serve this Nation, particularly in this time of war. The “Don’t Ask, Don’t Tell” policy is not perfect, but it reflects a compromise achieved with great difficulty that has effectively supported military readiness. However imperfect, the policy has allowed many gay and lesbian Americans to serve their country. I honor their service. I honor their sacrifices. And I honor them. We should not change the current policy until we are confident, from a military standpoint, with the informed advice of the Service Chiefs, that such a change is consistent with military effectiveness.

I would ask, also, without—for unanimous consent, that copies of a—recently passed resolutions from the American Legion, the largest veterans service organization, with a membership of 3 million veterans, the Veterans of Foreign Wars of the United States, with a membership over 1,500,000, recommending against repeal of the current law, to be included in the record.

Chairman LEVIN. They will be made part of the record.

[The information referred to follows:]

Senator MCCAIN. Finally, in summary, and I would say to my colleagues, we have the best-trained, best-equipped, best—most professional military that I have known in the many, many years I’ve had the honor of serving and knowing men and women in the United States military. Retention and recruitment—it is an all time high in the history of the All-Volunteer Force. We are in two wars. And before we implement a change in policy that clearly, by objective indicators, seems to have given us a best military that we have had in the history of this country, that we ought to have a careful and thorough review, not only of the views of the men and women in the military who serve at the top, but the views of the men and women who are serving today in harm’s way.

I thank you, Mr. Chairman.

[The prepared statement of Senator McCain follows:]

[COMMITTEE INSERT]

Chairman LEVIN. Thank you very much, Senator McCain.

We'll now turn—first, General Sheehan.

**STATEMENT OF GENERAL JOHN J. SHEEHAN, USMC (RET.),
FORMER SUPREME ALLIED COMMANDER, ATLANTIC, AND
FORMER COMMANDER IN CHIEF, U.S. ATLANTIC COMMAND**

General SHEEHAN. Mr. Chairman, thank you very much. And if you have no objections, I'd like to read my statement—

Chairman LEVIN. That'd be fine. Is your mic on?

General SHEEHAN. It is. Yes, sir.

Chairman LEVIN. Thank you.

General SHEEHAN. First, thank you for the opportunity to testify before this committee on a very complex issue. I'm here not out of any political conviction, because I was by this committee to share my views as part of the debate in this issue. From my previous experiences with this committee, I know this committee is charged with an awesome responsibility that is, in part, shared with the Commander in Chief, but the Constitution commits, exclusive to the Congress and this body, the responsibility to raise and regulate this Nation's Armed Forces.

My point of view and convictions were formed from my experience during 35 years of service as a Marine Corps infantry officer who has served in combat, led a platoon, three companies, and infantry battalion, and an infantry regiment. My career also includes command of units from 26 different nations.

My basic belief is that everyone can and should serve this great country in some way. We also know and agree that not everybody is qualified or eligible to serve in the military, for a variety of reasons, including age, health, education, and so on.

The 1993 review, which resulted in the adoption of Section 654, arrived at a number of findings. The most important in my mind, that there is not constitutional right to serve in the Armed Forces. The findings of 1993 also confirmed something that my family and I already knew and accepted, which is that military life is fundamentally different from civilian life, and that military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior that would not be accepted in normal civilian life.

I can acknowledge that popular culture has changed in many ways. However, the nature and requirements of military life have changed very little. Military culture is deliberately developed and structured to mold individuals from all walks of life into a coherent group that willingly sacrifices self for the strength of the unit. In fact, the cohesion of a unit is predicated, in part, on the lack of individuality of its members. No special accommodations need to be afforded to anyone of them. To the degree possible, we try to make marines interchangeable. This makes the military a unique institution within the broader American society. It asks—no, it really demands—that individuals put aside individual interests and behavior for the good of the unit. Self-sacrifice is the cornerstone of the unit cohesion that builds effective combat organizations.

The "Don't Ask, Don't Tell" policy, however awkward and difficult, reinforces the critical maxim that, first and foremost, you are a soldier, sailor, airman, or marine. Your preferences and desires

are not relevant. Effectiveness in training and mission accomplishment on the battlefield are the standards that you judge them by.

Because the military is a human institution, it is, by definition, imperfect, and there are some who fail to maintain their eligibility after entry, thus rendering them ineligible for further service. The past good work of servicemembers who are attracted to the same sex is an indication of only one thing: that they have been able to serve well prior to becoming ineligible.

To my knowledge, nobody's making the argument that a man or woman being attracted to the same sex debilitates them, either intellectually or physically. The question under review is whether the behavior of a person who openly declares a sexual attraction to the same sex directly or indirectly contributes to the—or detracts from—military cohesion. Make no mistake, this is not about consideration being given to someone who wants to serve in the military despite being attracted to the same sex, this particular argument has to do with the supposed right to declare oneself to be sexually attracted to a particular segment of the population, and insist on continuing to live in the most intimate proximity with them.

If this committee were able to clearly demonstrate that this change would improve military effectiveness, then the change should be implemented. But, if someone were to insist on implementation because of an ulterior motive other than clear evidence and there was an uncertainty about the effect it would have on the unit cohesion, then that is a risk I would not recommend or support in today's environment.

As we sit here today, U.S. Forces are deployed in Iraq and Afghanistan, fighting an armed enemy sworn to destroy our way of life. Our enemies respect and fear the United States combat capability. Unfortunately, our enemies, especially the extremists, do not care how enlightened or progressive our culture may be. The only thing that matters is the effectiveness on the battlefield.

For over 200 years, the Marine Corps and other elite combat formations, like Special Forces, Airborne, and Ranger units, have developed training and performance-based systems that breed success in the battlefield. Effective units need to act as a coherent unit. As the law says, military life is fundamentally different from a civilian life. This is a difficult reality to accept for individuals who have never served or had such exposure to our Armed Forces. It goes well beyond just wearing a uniform to work on a daily basis. More than once, during my military career, the unacceptable behavior of one selfish marine has created a single point of failure for his unit and endangered lives. In every instance unit polarization occurred because of this selfish behavior.

I also know that some will argue that the circumstances of warfare are different. I would argue that, in many ways, they're very similar. Selfish behavior in Vietnam, Khafji, Fallujah can affect entire units and detract from the success of combat missions. To state the obvious, warfare is difficult, ugly business. Congress should not impose more uncertainty in a battlefield that is already complex enough.

Each member of this committee must, in his or her own mind, feel absolutely certain that the change of the current law will improve this Nation's combat effectiveness and minimize the risks our

young men and women face in today's battlefield. The change must also reduce the current environment of a hostile workplace that exists and is increasing today.

Thank you very much for the opportunity to testify.

[The prepared statement of General Sheehan follows:]

Chairman LEVIN. Thank you very much, General.

Mr. Almy.

STATEMENT OF MICHAEL D. ALMY, FORMER MAJOR, U.S. AIR FORCE

Mr. ALMY. Thank you. Good morning, Mr. Chairman.

Chairman LEVIN. Make sure your mic is on, if you would.

Mr. ALMY. Good morning, Mr. Chairman, Senator McCain, Senators.

My name is Mike Almy. I served as an officer in the United States Air Force for 13 years and attained the rank of major, until I was discharged under "Don't Ask, Don't Tell." I'm honored to be here this morning to tell you a little of my story.

I come from a family with a rich history of military service. My father is a West Point graduate, taught chemistry at the Air Force Academy, flew helicopters in Vietnam, and ultimately retired as a senior officer from the Air Force. One of my uncles retired as a master gunnery sergeant from the Marine Corps, with service in World War II, Korea, and Vietnam. Another one of my uncles, also with service in Korea, retired from the Army.

My family's military service inspired me to follow suit. When I was growing up, I didn't really know what civilians were, I just knew I would always follow in my father's footsteps and become a military officer. As such, I joined Air Force ROTC in 1988, and shortly thereafter earned a scholarship through ROTC. In 1991, I went through Army Airborne training at Fort Benning and earned my jump wings. In 1992, I graduated from ROTC in the top 10 percent of all graduates nationwide. In 1993, I came on Active Duty, just as "Don't Ask, Don't Tell" was becoming a law, and was stationed in Mississippi. Following this I was stationed in Texas, Illinois, Oklahoma, where I was named the top officer of my year—top officer of my unit for the year, out of a group of about 1,000 people. Following this, I was one of six officers from the entire Air Force selected to attend Professional Military Education at Quantico Marine Corps Base, Virginia. After this, I was stationed in Germany for 4 years, where I led the communications directorate of an air control squadron.

During my career, I deployed to the Middle East four times in support of our efforts in Iraq. In my last position in the Air Force, I led a team of nearly 200 men and women, whose mission was to operate and maintain the systems used to control the airspace over Iraq. On this deployment, we came under daily mortar attack, one of which struck one of my airmen and also caused significant damage to our equipment. Towards the end of this deployment, I was named one of the top officers in my career field for the entire Air Force.

During my time in Iraq, the Air Force restricted access to all private emails. Therefore, we were authorized to use work emails for personal and morale purposes. Shortly after I left Iraq, someone in

the unit that had replaced mine was conducting a routine search and discovered my personal emails written to family and friends from the stress of a combat zone. The file was clearly labeled personal, and, as such, there was no military or work-related reason to search these emails. The commander in Iraq, during the height of the insurgency, ordered a search of my personal emails solely to determine if I had violated "Don't Ask, Don't Tell," and to gather whatever evidence could be used against me.

These emails were forwarded to my commander back in Germany. He next called me into his office and demanded that I give him an explanation for these emails. I refused to discuss the nature of these emails, because I considered them personal and private. And I told my commander I would not make a statement until I had first consulted with a lawyer.

I was relieved of my duties, leading nearly 200 airmen; my security clearance was suspended; part of my pay was terminated. Even as my commander was relieving me of my duties, he assured me that this was in no way a reflection of performance or my abilities as an officer.

After that day, I was in limbo for 16 months. I was still in the Air Force, but I was given a meaningless make-work job, while the process slowly ground forward. In my discharge, proceedings several of former troops and one the squadron commanders that I had served with there on the base all wrote letters on my behalf, urging that I be retained in the Air Force. They expressed the greatest respect for me as an officer, they all wanted me back on the job as their leader, and they were all horrified at how the Air Force was treating me.

Ultimately, after 16 months, I was discharged from the Air Force. The severance pay that I received from the Air Force was half what I would have received had I been discharged for any other reason.

As a final insult, on my last day of Active Duty, I was given a police escort from the base, as if I were a common criminal or a threat to national security.

"Don't Ask, Don't Tell" failed me, despite the fact that I upheld my end of this law by never disclosing my private life. Never once, in my 13-year career, did I make a statement to the military that violated "Don't Ask, Don't Tell," despite pressure from my commander to do so.

The law also failed the Air Force. There was considerable disruption to my squadron's unit cohesion after I was fired and replaced by a more junior officer with less experience. This had a negative effect on morale and unit cohesion, and the mission suffered as a result.

Approximately a year after I was relieved of my position, my wing commander recommended that I be promoted to lieutenant colonel, even as the Air Force was actively pursuing a discharge against me.

Being relieved from my duties as a 13-year career officer, and during a 16-month administrative legal proceeding, and finally being discharged, was completely devastating to me. I felt betrayed by my country and treated as a second-class citizen, even as I had repeatedly risked my life on foreign soil. I understood the con-

straints of living under “Don’t Ask, Don’t Tell,” and never imagined that I would become a statistic, since I abided by its basic premise of never disclosing any aspect of my private life.

My DD-214 discharge paperwork from the military categorizes the reasons for my separation as “homosexual admission.” I refused to sign this, because I never acknowledged anything to the military. Anytime I have applied for a Federal job, potential employers now see this on my record. I am now considered unfit for military service at a time when our Nation has actively recruited convicted felons, drug abusers, and high school dropouts. As a result of “Don’t Ask, Don’t Tell” and how the Air Force discharged me, I am now forced to reveal aspects of my private life to complete strangers, or once again lie about why I left the military.

I only recently decided to come forward with my story as an example of a career of service to our country cut short by this discriminatory law. Multiply my story by nearly 14,000, and you begin to understand the magnitude of this law. Since I’ve gone public with my story, I’ve received emails thanking me for my service, my story, and, more importantly, for giving a voice to those who have none on this issue. Some of these servicemembers are currently serving in harm’s way.

My greatest desire now is to return to the Air Force as an officer and a leader, protecting the freedoms of a Nation that I love, freedoms that I myself was not allowed to enjoy while I was serving in the military. This is my calling in life. I hope that you will allow this to happen.

Thank you.

[The prepared statement of Mr. Almy follows:]

Chairman LEVIN. Thank you very much, Mr. Almy.

Ms. Kopfstein.

**STATEMENT OF JENNY L. KOPFSTEIN, FORMER LIEUTENANT
JUNIOR GRADE, U.S. NAVY**

Ms. KOPFSTEIN. Good morning, Mr. Chairman, Senator McCain, Senators.

My name is Jenny Kopfstein. I joined the Navy in 1995, when I entered Naval Academy. At the Academy, I majored in physics, and I was commissioned in 1999. I served openly as a lesbian officer for 2 years and 4 months before I was discharged under “Don’t Ask, Don’t Tell” in 2002.

The Naval Academy teaches you about honor and integrity. It places a special emphasis on these values. On the very first day, they give you uniforms, shoe polish, Brasso, and begin teaching you about the Academy’s Honor Concept. The Honor Concept starts out, “Midshipmen are persons of integrity. They do not lie, cheat, or steal.”

When I was a senior midshipman, I was an investigator for the Honor Staff. I investigated midshipmen who were accused of violating the Honor Concept. This experience brought home to me the importance of integrity and just what it means not to lie.

I graduated from the Naval Academy and became a surface warfare officer. I received orders to the cruiser U.S.S. Shiloh. I was excited and happy to go serve on a combatant ship.

It was difficult being on the ship and having to lie, or tell truths to my shipmates. Under “Don’t Ask, Don’t Tell,” answering the simplest questions can get you kicked out. If a shipmate asks what you did last weekend, you can’t react like a normal human being and say, “Hey, I went to a great new restaurant with my partner. You should try it.” An answer like that would have gotten me kicked out of the Navy. But, if you don’t interact like that with your shipmates, they think you’re weird and it undermines working together as a team.

So, after being on the ship for a while, and feeling deeply conflicted between the requirements of “Don’t Ask, Don’t Tell” and the Navy’s core values, I wrote a letter to my commanding officer and told him I was a lesbian, because I felt like I was being forced to lie. I didn’t want to get out of the Navy, and I said so in my letter. I wanted to stay and serve honorably, and to maintain my integrity by not lying about who I was.

After I wrote the letter, I continued to do my job on the ship to the best of my ability. We went on a 6-month deployment to the Middle East. I qualified as Officer of the Deck, and was chosen to be Officer of the Deck during general quarters. It is a great honor.

During all this time, I’m proud to say, I did not lie. I had come out in my letter officially, and I came out slowly over time to my shipmates. I expected negative responses. I got none. Everyone I talked to was positive, and the universal attitude was that “Don’t Ask, Don’t Tell” was dumb. I served openly for 2 years and 4 months.

One thing that happened during that time was the captain’s choosing me to represent the ship in a ship-handling competition. I was the only officer chosen from the ship to compete. My orientation was known to my shipmates by this time. Nobody griped about the captain choosing someone being processed for discharge under “Don’t Ask, Don’t Tell” to represent the ship. Instead, a couple of my fellow junior officers congratulated me and wished me luck in the competition. I competed by showing the admiral my ship-driving skills, and won the competition.

During the time I was serving openly, I earned my Sea Service Deployment ribbon, and my Surface Warfare Officer pin. During my pin ceremony, the captain took his own pin off his uniform and pinned it on mine. That was one of my proudest moments.

My open service had a positive impact on the ship’s morale. I was able to treat my shipmates like human beings, and we could interact on a personal level. One time I was walking down the passageway on the ship and the senior chief petty officer stopped me and asked, “Ma’am, may I speak to you for a minute?” And my first thought was, “Uh-oh, what is this going to be about?” We stepped into an empty room, and he pulled out his wallet. He showed me a picture of a teenage boy, “This is my son, and he’s gay. And I’m really proud of him.” I was so shocked I didn’t know what to say. Finally, I said, “Wow. Thank you, Senior Chief.” We could not have had that interaction if I was not out. Normal people interact and talk about their families.

My commanding officer wrote, in my fitness report in 2002, that my sexual orientation has not disrupted good order and discipline onboard the U.S.S. Shiloh. “Don’t Ask, Don’t Tell” has long been

defended as necessary to preserve good order and discipline. It seems to me that the captain of a ship in the United States Navy is the most qualified judge of good order and discipline among his crew.

On my assignment after I left the ship, my new commanding officer awarded me the Navy and Marine Corps achievement medal, which is an individual award. He knew about my orientation from the first moment I arrived at his command, but it made no difference to him.

During my service on the ship, I had two captains, because there was a change of command while I was there. Even though they were four grades above me, both of them came and testified at my "Don't Ask, Don't Tell" discharge hearing to say they were opposed to kicking me out.

So, 2 years and 4 months after coming out in my letter and serving openly, I was discharged under "Don't Ask, Don't Tell." I should not be forced to hide who I am. When I was closeted, the pain ate away at the core of my being. The crew of my ship was my extended family, and being in the military is not a 9-to-5 job. A lot of the time, when stationed on board a ship, going home is not even an option. I lived, worked, ate, slept, and went on liberty with that crew. Keeping parts of my life secret and separate was an incredible burden. It is an unnecessary burden, and no American soldier or sailor should be forced to bear it.

I made a commitment to the Navy when I joined, to serve 5 years after graduation from the Naval Academy. I've only gotten to serve 3 and a half so far. I want the opportunity to live up to my commitment and serve out the rest of my time with honor. The way I see it, I owe the Navy a year and half more.

There are 66,000 lesbian and gay soldiers, sailors, airmen, and marines who are currently serving this country in our Armed Forces. They couldn't be here today, because they are forced to be silent. I am here before you as living proof that this law is wrong and being forced to serve in silence is wrong. It's time for a change. I love the Navy. And I would still be serving, but for this law.

Thank you.

[The prepared statement of Ms. Kopfstein follows:]

Chairman LEVIN. Thank you very much, Ms. Kopfstein.

Let's try a—what, 7 minutes? Okay? Let's try a 7-minute first round.

We thank all of you for your testimony.

Mr. Almy, should somebody be forced to be silent about their sexual orientation in their—in the military?

Mr. ALMY. In my opinion no, Senator. I think the "Don't Ask, Don't Tell" law is inherently in conflict with the Services' core value, as Admiral Mullen reflected in his testimony before this hearing a month ago.

The principal core value of the Air Force is, "Integrity First." And "Don't Ask, Don't Tell" says that gays and lesbians can serve in the military as long as they're not who they are; as long as they lie about who they are. And to me, personally, that was in direct violation of the core values of the Air Force.

Chairman LEVIN. So, while you were willing to keep that—your orientation private, you don't feel it is the right policy or a fair policy. Is that correct?

Mr. ALMY. Correct, Senator.

Chairman LEVIN. Now, would you like to return to the military, if you could?

Mr. ALMY. Absolutely. It's my greatest desire. I'd—it's—

Chairman LEVIN. All right.

Mr. ALMY.—it's my calling in life, and I miss the military considerably.

Chairman LEVIN. General, you've been a NATO Supreme Allied Commander, and I assume that, as NATO Commander, that you discussed the issue with other military leaders of our allies. Is that correct?

General SHEEHAN. Yes, sir. I have.

Chairman LEVIN. Did you—or, did they tell you—those allies who allow open service of gay and lesbian men and women, did they tell you that they had unit cohesion or morale problems?

General SHEEHAN. Yes, sir, they did. And if you don't—beg the indulgence.

Chairman LEVIN. Sure.

General SHEEHAN. Most of this committee knows that current militaries are a product of years of development. They reflect societies that they're theoretically paid to protect. The European militaries today are a product of the collapse of the Soviet Union. Nations, like Belgium, Luxembourg, the Dutch, et cetera, firmly believed there was no longer a need for an active combat capability in their militaries. As a result, they declared a peace dividend and made a conscious effort to socialize their military. That included the unionization of their militaries. It included open homosexuality, demonstrated in a series of other activities, with a focus on peace-keeping operations, because they did not believe the Germans were going to attack again or the Soviets were coming back.

That led to a force that was ill-equipped to go to war. The case and point that I'm referring to is when the Dutch were required to defend Srebrenitsa against the Serbs. The battalion was understrength, poorly led, and the Serbs came into town, handcuffed the soldiers to the telephone poles, marched the Muslims off, and executed them. That was the largest massacre in Europe since World War II.

Chairman LEVIN. And did the Dutch leaders tell you it was because there were gay soldiers there?

General SHEEHAN. It was a combination—

Chairman LEVIN. But, did they tell you that? That's my question.

General SHEEHAN. Yes.

Chairman LEVIN. They did.

General SHEEHAN. They included that as part of the problem.

Chairman LEVIN. That there were gay soldiers—

General SHEEHAN. That their—

Chairman LEVIN.—among—

General SHEEHAN. The combination—

Chairman LEVIN.—the Dutch force.

General SHEEHAN.—was the liberalization of the military, a net effect of, basically, social engineering.

Chairman LEVIN. The—you said that no special accommodations should be made for any member of the military.

General SHEEHAN. Yes, sir.

Chairman LEVIN. Are members who are straight, who are heterosexual, allowed, in our military, to say that they are straight and heterosexual? Are they allowed to say that without being discharged?

General SHEEHAN. Are they allowed to—

Chairman LEVIN. Yeah.

General SHEEHAN.—declare the sexuality?

Chairman LEVIN. Yes. Are they allowed to say that, “Hey, I’m straight. I’m heterosexual”? Can you say that without being discharged?

General SHEEHAN. There’s no prohibition, to my knowledge.

Chairman LEVIN. Is that special accommodation to them?

General SHEEHAN. I wouldn’t consider it special accommodation.

Chairman LEVIN. Why would it be a special accommodation, then, to someone who’s gay, to say, “Hey, I’m gay”? Why do you call that “special”? You don’t call it “special” for someone heterosexual or straight. Why do you believe that’s a special accommodation to somebody who is gay?

General SHEEHAN. I think the issue, Senator, that we’re talking about really hasn’t a lot to do with the individuals. It has to do with the very nature of combat. Combat is not about individuals, it’s about units. We’re talking about a group of people who declare, openly, sexual attraction to a particular segment of the population, and insist and continue to live in the intimate proximity with them. That, by law—

Chairman LEVIN. But, you allow that for heterosexuals.

General SHEEHAN. Yes.

Chairman LEVIN. You don’t have any problem with that.

General SHEEHAN. Don’t have a problem with that.

Chairman LEVIN. You don’t have—

General SHEEHAN. But, that—

Chairman LEVIN.—any problem with men and women serving together, even though they say that they’re attracted to each other.

General SHEEHAN. That’s correct.

Chairman LEVIN. That’s not a special accommodation.

General SHEEHAN. No.

Chairman LEVIN. Okay. But, it is special to allow—

General SHEEHAN. It is, because it identifies a group as a special group of people who, by law, make them ineligible for further service.

Chairman LEVIN. But, the whole issue is whether it ought to be—they ought to be ineligible. Whether we ought to keep out of—from our—

General SHEEHAN. That—

Chairman LEVIN.—service—

General SHEEHAN. That’s the debate. The current—

Chairman LEVIN. Right.

General SHEEHAN.—the current law clearly says—

Chairman LEVIN. I know what the law says. The question is whether we ought to change the law.

General SHEEHAN. My recommendation is no.

Chairman LEVIN. No, I understand. And can you tell us what Dutch officers you talked to who said that Srebrenitsa—

General SHEEHAN. I—

Chairman LEVIN.—was in part caused because there were gay soldiers in the Dutch Army?

Chairman LEVIN. The Chief of Staff of the Army, who was fired by the Parliament because they couldn't find anybody else to blame.

Chairman LEVIN. I mean, what—and who was that?

General SHEEHAN. Hank Von Bremman.

Chairman LEVIN. Pardon?

General SHEEHAN. Hank Von Bremman.

Chairman LEVIN. All right. Why is the burden to end a discriminatory policy based on people who would end the discriminatory policy? Why do you say that people who want to end the policy have to show that it would improve combat effectiveness? If we're satisfied it would not harm combat effectiveness, and for many who would be allowed to serve, that it—they would be then permitted to serve without discrimination and without harm, why is that not good enough for you?

General SHEEHAN. Because the force that we have today is probably the finest fighting force in the world.

Chairman LEVIN. And maybe we could have an equally fine or even a better force, but if it's—

General SHEEHAN. No—

Chairman LEVIN.—equal—

General SHEEHAN.—I think the—

Chairman LEVIN.—if it's equally—

General SHEEHAN.—burden of—

Chairman LEVIN.—fine—if we're—if you could be satisfied that there would be no harm to combat cohesion or effectiveness, would that be satisfactory to you?

General SHEEHAN. No, I think it has to be demonstrated, Senator.

Chairman LEVIN. That it's—that there be an actual improvement.

General SHEEHAN. That we are—an actual improvement.

Chairman LEVIN. "No"—

General SHEEHAN. The reason—

Chairman LEVIN.—"harm" wouldn't be good enough for you.

General SHEEHAN. No, the reason I—

Chairman LEVIN. Pardon?

General SHEEHAN.—the reason I say that, Senator, is because we've gone through this once before during our lifetime—you were in the Senate at the time; it was called "The Great Society"—when it was deemed that we could bring into the military Category IVs and Vs, and help the military out, and make it part of a social experiment. Those Category IVs and Vs almost destroyed the military.

Chairman LEVIN. I don't know what that has to do with this issue.

General SHEEHAN. Well, it has to do with the issue of being able to demonstrate that the change in policy is going to improve things. We were told that this was going to help out combat strength—

combat deployable strength. It didn't. It did just the opposite. It drove people out. So, I think the burden has to be on demonstrating that something is going to become better, not hoping that it'll become something better.

Chairman LEVIN. Yeah. Well, I think the burden of people—burden to maintain a discriminatory policy is on the people who maintain the policy, not on the people who want to end it.

Senator McCain.

Senator MCCAIN. Thank you, Mr. Chairman.

And I thank the witnesses.

I'd like to ask all three witnesses, Do you have any objection to a thorough, complete review of the present implications of the issue, as to whether it's working or not, and whether it needs to be changed, and, if so, how?

Do you have a problem that—with—Ms. Kopfstein?

Ms. KOPFSTEIN. No, Senator. I don't have a problem with a review. I think it's clear that the law does need to be changed, because it's unevenly—

Senator MCCAIN. But, you don't have a problem with a review.

Ms. KOPFSTEIN. No, sir.

Senator MCCAIN. Mr. Almy?

Mr. ALMY. Senator McCain, actually I do. From the standpoint that this—

Senator MCCAIN. You have a problem with a thorough review—

Mr. ALMY. I have problem with—

Senator MCCAIN.—conducted—let me finish the question, if I could—the thorough review, taking the input of the men and women in the military, the views of the Service Chiefs, as to whether it will enhance battle effectiveness or harm battle effectiveness, whether it should be maintained or not. You have a problem with that review.

Mr. ALMY. I do, Senator. From the stand—

Senator MCCAIN. Thank you. Go ahead.

Mr. ALMY. From the standpoint that we've not done this on any other issues of change with the military, as far as, most recently, putting women in submarines, women at the Service Academies. We did not survey the forces then, under those issues. And the military is not a democracy. I don't see this issue as any different, Senator.

Senator MCCAIN. Thank you.

General, let me get to the heart of the question here that's being posed by those who want this policy—this law reversed. Why isn't it sufficient to argue that sexual orientation is irrelevant to combat skills, and that, with proper training and leadership, openly gay or lesbian soldiers or marines can be relied on to perform as well as any other soldier or marine?

General SHEEHAN. Senator, in my experience, homosexual marines create problems on the battlefield. Let me give you a case and point.

Early years of Vietnam, 9th Marines, West of Da Nang, rifle company on a ridgeline combat outpost, the intelligence was that the North Vietnamese were going to attack, that night. The unit was put on 50-percent alert, which meant one slept, one stood on

watch. About 1 o'clock in the morning, a fight broke out in a foxhole because the young marine was being molested by his squad leader. To the right of that foxhole, there was a machinegun section that opened up and almost killed a combat patrol that was out in the front.

Now, the natural question is, "Okay. Well, fine, don't you have rules that deal with assault?" and the answer to that's yes.

The real issue, though, was that, after we sorted this whole thing out, the sergeant—the squad leader essentially said, "Look, I was just adjusting his equipment, waking him up because the—I thought there was something out to the front." He denied it happened. The young PFC, who was new to the organization, said, "Wait a minute. This really happened to me. He was molesting me." The unit took sides, naturally. The squad leader was a popular person, been around for a while. The PFC was a new kid. For about 3 days, that unit divided down the middle—those that supported the popular squad leader, those that kind of thought the new kid might be believable.

The only reason we sorted the issue out was because the sergeant committed the offense about 3 days later. But, the real tragedy of this story is, the young PFC continually insisted, for a long period of time, that nobody in his organization believed it happened. He lost faith in his chain of command.

So, I would argue the case that, if you look at—and you can say that I'm some old guy that's been around for a while, and been—probably been around for too long. But, I read—

Senator MCCAIN. You're not the only one that—

General SHEEHAN. Well—but, I read the Defense Department's recently released sexual assault report. And the thing that really bothers me about this issue is that the report says—and this is last year's report—there's been an overall 11-percent rise in sexual assaults in the military; 16-percent rise in Afghanistan and Iraq; 32—over 3200 cases of sexual—we're not talking about sexual harassment, we're talking about sexual assault. Seven percent of those—that's about 226—male on male assaults, where rape and sodomy took place. And the Department of Defense will clearly indicate that that's an underreporting.

I would stipulate that, from my days in Vietnam in the early '60s, when I had this sergeant that almost got a combat patrol killed, that a—226 male soldiers and marines who are molested—that there's something wrong with our sexual behavior policy.

Senator MCCAIN. Thank you, General.

Mr. Almy and Ms. Kopfstein, each of you was commissioned at a time of—the "Don't Ask, Don't Tell" policy was in effect. While I understand you disagree with the policy and its effect, do you think you were confused about its meaning and potential applicability to you at the time you began your service?

Mr. ALMY. Senator, when came in on Active Duty in 1993, I will admit, I think there was a lot of confusion, on a personal level, for myself, as well for the Nation and the military as a whole. I don't think—

Senator MCCAIN. There was confusion about the—

Mr. ALMY. I think—

Senator McCain:—"Don't Ask, Don't Tell" policy?

Mr. ALMY. I think the policy, when it was first implemented in 1993, was not well understood. And I think there are still issues where it's not.

Senator MCCAIN. And did you understand it later on?

Mr. ALMY. After I was relieved of my duties. Yes, Senator.

Senator MCCAIN. No. Did you understand it in the—

Ms. Kopfstein, did you? Were you confused or misled about the meaning and applicability of "Don't Ask, Don't Tell" at the time you began your service?

Ms. KOPFSTEIN. No, Senator. I thought that I would be able to live under "Don't Ask, Don't Tell." Unfortunately, I found out otherwise, because of the conflict between the core values of the Navy—honor, courage, and commitment—and the Navy teaching me how wrong it is to lie. To be an officer with integrity means that you tell the truth, and you tell the whole truth, even if it's unpopular.

Senator MCCAIN. Thank you. Although no one—my understanding of the "Don't Ask, Don't Tell" policy is, you are not asked. But—

Well, Mr. Chairman, my time is up. But, what I am confused about here is why there seems to be an objection to a complete, thorough, objective review conducted not just on the basis of how repeal the law, which seems to be what the Secretary of Defense stated, and what seems to be some sentiment here, but—we're in two wars. I wonder why anyone would object to a thorough, complete review as to assess the impact on our military, on our battle effectiveness in two wars, and then allow the Service Chiefs to render their best judgment. And to continue to suggest a, quote, "moratorium," which is basic to repeal, before that review is conducted is something, frankly, that I do not understand in a time that we are in two wars.

I will continue to argue and fight and do whatever I can to make sure that we have a thorough and objective review of the impact on the military of a change of this law. I think the men and women who are serving in the military deserve nothing less.

I thank you for the time. I yield.

Chairman LEVIN. Thank you, Senator McCain.

Senator LIEBERMAN.

Senator LIEBERMAN. Thanks, Mr. Chairman.

I want to thank the three witnesses before us today, because I think that the testimony you've given and the different points of views you have on the proposal that I'm privileged to cosponsor with others, to repeal "Don't Ask, Don't Tell," really helps to elucidate the differences here. And so, it's been a—to my way of thinking, a constructive discussion.

I've said before in different places, and I'll say here, that it seems to me that, at a time in our country when some of the great institutions of country are held in disrespect—government, business, even, to some extent, religious institutions—the military continues to earn and get great respect. Part of it is because of the call to service, the bravery, the success of our military. But, also, a big part of it is that the American military is a unique institution which really lives, probably more than any other institution I know of in our society, by values. Nobody's perfect, so people within the

military break those values, violate them periodically, and they're held to account, under military discipline—good order and discipline standards and procedures.

One of the values is integrity. We've talked a lot about that. It seems to me that one of the other values, which the American military has historically embraced is "e pluribus unum"—you know, one out of many. The common cause, in defense of our security and freedom, is the goal that overcomes every diversity. Because the American people are inherently diverse. And so, over our history, immigrant groups and, more recently—well, a little bit further back, racial differences—were overcome in our military. There was a time that there were great fears about what it would mean if African Americans served next to Caucasian Americans in our military; or women served next to men.

Today, any of us who've been privileged to visit bases or battlefields know that the distinctions are gone, for the major reason—I'd quote from General Sheehan, "Military culture is intentionally structured to mold individuals from all walks of life into members of a unit willing to sacrifice themselves for shared tasks," end of quote.

And that, I think, is what we're trying to do here with repeal of "Don't Ask, Don't Tell." It's to have gay and lesbian Americans who want to serve their country, and incidentally are not being asked—I say this respectfully General Sheehan—like those Category IVs and Category Vs to go into the military as some kind of social experiment. They have been held, and they will be held, to the same high standards. In fact, as Major Almy said, maybe higher standards in a lot of cases, than others who are applying for the military.

But, the point I want to get to—and this, I think, is key, and I think the various leaders of our military, civilian and uniformed, that have come before us have made this point—that repeal of the current "Don't Ask, Don't Tell" policy and law must maintain—it can only happen if it maintains the high standards of unit cohesion and personal conduct that makes our military so effective.

So, Major Almy, Lieutenant Kopfstein, they're not asking for special treatment. They're asking to be treated like every other soldier, basically the way they perform in uniform.

And so, here's the question I want to get to. The episode you gave of the sexual assault, General Sheehan, between—with one man assaulting another man—could have course easily, and unfortunately does, happen more with a man assaulting a woman in uniform. And, in fact, by your numbers, in—a 3200-cases increase in sexual assaults last year in our military—you said 7 percent of them were homosexual. That means 93 percent were heterosexual.

And so, I know there may be fears that if we repeal "Don't Ask, Don't Tell," there'll be behavior inconsistent with good order and discipline, including sexual assault. But, if that happens they'll be held to the same account and discipline.

So, I wanted to ask all three of you to react to that statement, that all the rules of conduct in the military will apply, except that they'll not be forced to live a life of lies. They'll be held accountable, as every other marine, soldier, sailor, Air Force person is held accountable.

General Sheehan, why don't you start first.

General SHEEHAN. Senator, that's a very thoughtful question. And my only answer, not—that I would have to give you is that when you talk about the integration of forces—and I used the current DOD statistics; I haven't seen the details, because all I've seen is the summary—I think you have to keep in mind that there is a combat exclusion for women. We do not put women in a combat situation—foxholes, bunkers, and whatever have you. And so, if we're talking about a 7-percent male-on-male type of a problem—and as you say, the remainder is male-on-female—and we put that whole group into a combat environment, I think those numbers would significantly increase. That's my speculation, based on my experience.

So, I think we need to be very careful about moving to somewhere that we don't know what the outcome is. We do know that the incident rate of assault—sexual assault, not just harassment—is on the increase. I think we need to clearly understand why those assaults are taking place.

Senator LIEBERMAN. Right.

General SHEEHAN. Something is fundamentally different today in the military, and I don't know why. I don't know whether it's because the people who are coming in don't know what their boundaries are. I don't know whether it's the educational system that we're putting people through. But, clearly when you have 16-percent increase in—

Senator LIEBERMAN. Yes.

General SHEEHAN.—sexual assault, there's something that needs to be fixed.

Senator LIEBERMAN. Well, look—it's—obviously, it's a very important question. It may have to do with the stress of battle. But, I agree with what you said, just to come back to the bottom line. We've got the best military in the world. We probably have the best military we've ever had. And if—I don't think, respectfully, there's any basis for saying that, if we repeal “Don't Ask, Don't Tell,” the number of homosexual assaults will go up. You may be right, but if it goes up, they'll be disciplined.

My time is up, but I wonder if I could just, Mr. Chairman, ask for a quick response from Major Almy and Lieutenant Kopfstein, to my general premise here.

Mr. ALMY. There is no place in the military today for inappropriate conduct—harassment, assault—straight or gay. And that won't change once “Don't Ask, Don't Tell” is repealed. I—I've seen very similar scenarios to what the general described between men and women—in fact, probably far more so—and they were dealt swiftly and appropriately and with discipline and punishment. And repealing “Don't Ask, Don't Tell” will have absolutely no effect on that.

Senator LIEBERMAN. Lieutenant Kopfstein?

Ms. KOPFSTEIN. I agree with Major Almy. The Uniform Code of Military Justice applies to everyone, gay and straight. And misconduct and inappropriate behavior is dealt with in the military.

Senator LIEBERMAN. Thank you.

Thanks, Mr. Chairman.

Chairman LEVIN. Thank you Senator Lieberman.

Senator Chambliss.

Senator CHAMBLISS. Thank you, Mr. Chairman.

General Sheehan, Mr. Almy, and Ms. Kopfstein, I'd first like to thank each of you for being here today and appearing before the committee. This is an issue that is very sensitive, and, frankly, it takes courage for all three of you to be here to talk about this in public. And as this debate continues, it'll be imperative that we hear from many other folks who share the same thoughts as each of you do. Again, thank you for coming. Thank you for your service to our country. And the fact that all of you served honorably should not be lost in this discussion.

Mr. Chairman, you alluded, earlier, to some polling numbers of the general public in America. Let me share with the committee, and enter into the record, some polling numbers of United States military members.

The Army Times, in February of 2010, just last month, published a poll of a survey conducted in November. Here's what they found: 54 percent of military members thought the current policy was effective in maintaining order and discipline; 21 percent thought it was ineffective—a 33 percent differential. Fifty-three percent of military members thought the current policy was effective in maintaining unit cohesion; 22 percent thought it was ineffective—again, a 31 percent differential. Fifty percent of military members said they would be uncomfortable sharing a small tent or combat outpost with openly homosexual soldiers; 36 percent said they would be comfortable. Fifty-two percent of military members said they would be uncomfortable sharing a barracks room with openly homosexual soldiers; 35 percent said they'd be comfortable. Fifty-two percent of the military members said they would be uncomfortable sharing the bunk above or below an openly homosexual soldier; 34 percent said they would be comfortable.

In today's political world, anyone who wins by 10 percent is considered to have had a landslide victory. And on each one of those questions asked to the military, the people that truly count in this equation and on this issue, the margin of distinction is obviously significantly different.

Let me ask a question to each one of you. I'd like to give you an opportunity to answer this. My fundamental argument against repealing this policy has been that it will likely negatively affect morale, unit cohesion, good order and discipline, and readiness.

Let's start with you Ms. Kopfstein. What's your opinion on that particular aspect of service to our military?

Ms. KOPFSTEIN. Well, Senator, I'm not an expert on polling, but I do know the Army Times poll was conducted in a nonscientific way.

I'll give you an example from my personal experience. When I was on the ship, I had two captains; there was a change of command. So, we had a change-of-command party at my first captain's house. And he came into the wardroom, he announced the party, and he said, "Everyone's invited—every officer is invited and everyone is allowed to bring their spouse or date." And I didn't think too much of that at the time. I was open at that point—I was serving openly, because I had already come out, and he specifically—the captain of my ship specifically came up to me, after making that

announcement in the wardroom, and said, “Ordo,” because I was the ordinance officer, “you’re allowed to bring whoever you want to bring to the party at my house.” And I was stunned. But, since it came right out of the mouth of my commanding officer, I took my partner to that party. When we arrived at the front door, the captain and his wife were standing at the door, greeting each guest as we came in. And they greeted us warmly. We went inside, got a plate of food and a cocktail, and all of my fellow officers and their spouses were very pleased that we were there. Not all of them had met my partner at that point. They all wanted to talk to us. And, frankly, we were the life of the party. [Laughter.]

I met my new commanding officer at that party, and he was very happy to meet me and my partner. And it was a very normal cocktail party. And that was my experience. My shipmates were very accepting of me.

Senator CHAMBLISS. Thank you.

Mr. Almy?

Mr. ALMY. Senator, in my experience, what had a far more negative effect in my unit was when I was relieved of my duties.

Senator CHAMBLISS. I’m sorry. Can—could you just—talk just a little louder, please?

Mr. ALMY. Yes, Senator. What had a far greater effect—negative effect on my unit was when I was relieved of my duties. Subsequently—while it’s true that I was not “out” to my entire unit, subsequently, afterwards, when I had some of troops write letters of reference for me, it was a complete nonissue for my troops. They all wanted me back on the job as their leader, and didn’t care one bit.

The young men and women that are coming into the military today, fresh out of high school or college, have grown up with gay and lesbian characters on TV, have—know gays and lesbians in their schools, in their communities, on their sports teams, and most assuredly in their military. Nearly everyone in their 20s and 30s today serving in the military know of at least someone who’s gay or lesbian in their unit, and oftentimes these people are serving openly, with no negative or detrimental effects to their unit.

Senator CHAMBLISS. Okay.

General.

General SHEEHAN. You know, Senator, as I have testified, from personal experience in leading units in combat, this is a very risky proposition of an—including openly gay homosexual people in combat organizations.

Senator CHAMBLISS. Do you have any reason to believe that that is unique to the Marine Corps, versus other branches of the military?

General SHEEHAN. I used to be the—what they call, 2IC, second in charge, Whiskey Company, O1 Commando, Royal Marines, and I was a physical fitness instructor with Special Operations at Fort Bragg, North Carolina. And I can assure you, those two organizations, from personal experience, share my views.

Senator CHAMBLISS. Yeah. General, in my view, many of our potential military recruits come from traditional families whose religious and moral beliefs likely conflict with practice of homosexuality. If the military allows open homosexual service in the core

group of our military, who, by and large, have a traditional world view, are now pressured to accept such conduct, and conduct it in—in conduct it—consider it normal, and accommodate it within the military, what effect might that have on recruiting and retaining individuals from that core group?

General SHEEHAN. Senator, I can't comment on hypothetical situations. I know that speculative people have talked about mass exodus, et cetera, but I have no data to say that. My instincts say that there is an element of truth in your statement, but I have no hard data that would indicate I could give you a number or—but I do know it not—it would not sit well. But as the Major has indicated, there is an increasing acceptance of homosexuals in the military. People do know homosexuals. The real issue is not about the individuals; it's the effect on combat cohesion and performance in the battlefield.

Senator CHAMBLISS. Yeah.

Well, my time is up.

Major Almy, I would simply say to you that you came in the military knowing what the rules were, and you tried to abide by the rules, and it's unfortunate that, as you were trying to abide by the rules, that, because of personal intrusion—or intrusion into your personal email account, this arose; otherwise, you probably would still be serving, under current law, very valiantly.

And, again, to all of you, thank you for your service.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Chambliss.

Senator Hagan.

Senator HAGAN. Thank you, Mr. Chairman.

And I, too, want to just thank you for your testimony today, and your service.

Mr. Almy and Ms. Kopfstein, although the policy is referred to as "Don't Ask, Don't Tell," as the law is currently written, members of the Armed Forces are involuntarily separated, regardless of how their sexual orientation is disclosed. And under existing law, the quality of your service does not serve as the criteria for retention due to a presumed disruption to unit cohesion and discipline. During your discharge proceedings what impact did the impact recommendations from your leadership within your chain of command have on the decision to involuntarily separate you from your service? And I think, Mr. Almy, you were speaking about that.

Mr. ALMY. Thank you, Senator. To my knowledge, it made absolutely no effect whatsoever on the Air Force's decision to retain me. I had commanders that I had served with. I had superiors, peers, and subordinates, all alike, who knew my record, who knew my achievements as an officer, and supported me, and, even though they knew the full story, still wanted me retained in the Air Force, and still wanted me back as their leader. And, to my knowledge, that had zero affect on the Air Force's decision whether or not to retain me.

Senator HAGAN. Ma'am?

Ms. KOPFSTEIN. Senator, in my case, I was honored and lucky that both of my commanding officers came to my discharge board. They were not required to do so. They took time out of their busy schedules to come and testify on my behalf.

The board—under “Don’t Ask, Don’t Tell,” its hands were basically tied. I had made an admission. And despite the vociferous recommendations of both of my commanding officers, two O6s, the board’s hands were tied and they had to vote to discharge me.

Senator HAGAN. Mr. Almy, in your earlier discussion, I think you were talking about almost like a generational feeling of acceptance, more from the younger generation than the older generation, for homosexuals in the military. Do you—can you elaborate on that?

And, Ma’am, too.

Mr. ALMY. Senator, I think you probably hit the nail on the head there. I—in my mind, in my personal experience, this is a generational issue. I have great respect for General Sheehan, for his leadership and his sacrifice to our Nation. From what I’ve seen, a lot of senior officers, senior military leaders from that generation, are the one that are holding on to maintaining “Don’t Ask, Don’t Tell,” with notable exceptions—Admiral Mullen, General Powell, General Shalikashvili.

In my experiences, and that of my peers, the young men and women coming into the military today, the 20-somethings and most of the 30-somethings, which is the large demographic in the military—for that group of people, this is largely a nonissue. There—obviously there are some exceptions, but, as I stated earlier, that generation of men and women are far more comfortable with gays and lesbians, because chances are that they know one.

Senator HAGAN. General Sheehan, do you have any feelings on the generational attitudes?

General SHEEHAN. I absolutely admit that I am old—

[Laughter.]

Senator HAGAN. We all are.

General SHEEHAN.—and that my views are formed by 35 years of leadership in a multinational environment, U.S. troops, all services. And I think that, to say that those points of view count less than a younger generation, doesn’t really look at the issue in its totality. I think that the points that Senator McCain made, about the necessity for a real, true review—a true review of what—this issue—would be very helpful, because there are an awful lot of opinions. Some of my opinions are exactly what they are, they’re my opinions, based on experience, but they don’t, in all cases, reflect what reality really is.

So, I think that, as we go through this process, as I said in my remarks, if you can demonstrate this, that it would improve combat capability, clearly demonstrate, then change the law. But, it ought to be based on fact. And—

Senator HAGAN. Ma’am?

General SHEEHAN.—those facts come from junior people, senior people, especially people at the company gunnery sergeant, first sergeant level, who lead these kids on a day-to-day basis.

Senator HAGAN. Ma’am?

Ms. KOPFSTEIN. Senator, I agree with Major Almy. The younger generation definitely has a different view on this issue.

And I’ll give you a personal story. And I certainly don’t have the General’s experience, but, on September 11th, 2001, my ship was in port, in Seal Beach, California, when this—when we were attacked. And I was standing in the wardroom, watching the tele-

vision, watching events unfold. And one of the young petty officers that worked for me ran into the wardroom and said, "Ma'am. Ma'am. Request permission to load the guns." I was the ordnance officer, so I was responsible for our anti-aircraft and self-defense weapons. So, I turned to the captain, and I said, "Sir, request permission to load the guns." And he said, "Permission granted." And we did. And I can tell you, for a fact, in that moment, neither my captain nor the petty officer that worked for me cared one whit about my sexuality.

Senator HAGAN. Thank you.

The phrase "Don't Ask, Don't Tell" implies a mutual agreement, where the services would not inquire about the sexual preferences of our members, and the military personnel would not publicly articulate your sexual orientation. However, under "Don't Ask, Don't Tell," we still have instances of a—very capable servicemembers being involuntarily separated due to investigations initiated on tips provided by third parties.

And this—Mr. Almy, in your situation, do you believe that private correspondence, via email, while deployed constitutes a breach of the existing policy? Or do you believe that your case serves as an illustration of how the policy is flawed?

Mr. ALMY. Senator, I think it's probably a little of both. I didn't tell, the Air Force asked. And I refused to answer the question. So, I think, while it's true I never made a personal—or a public statement to the military, I was still thrown out, I think that illustrates a flawed implementation of the current law. And my understanding of what Secretary Gates has called for review, as far as the so-called "third-party outings," would have had a direct bearing on my case. In all likelihood, I would still be on Active Duty.

Beyond that, I think it also illustrates that this law is just making our Nation and our military weaker by discharging qualified men and women who are patriotic and whose only crime happens to be that they might be gay or lesbian. All the while, we're actively recruiting people who are under-qualified to fill some of those vacancies.

Senator HAGAN. Thank you, all of you.

Chairman LEVIN. Thank you, Senator Hagan.

Senator Thune.

Senator THUNE. Thank you, Mr. Chairman.

I want to thank all of you for your distinguished service to our country and for your willingness to appear today in front of us and give us your thoughts on this very important matter.

I think it's a—as has already noted, we are fighting two wars. We have to, I think, be very concerned about readiness, combat effectiveness, cohesion, recruitment, retention all those issues. And this does, of course—would, of course, represent very significant change from a policy that's been well established for some time, and by all indications, with some exceptions, has worked quite well. And so, it's something that I think needs to be very carefully considered before any sort of a change is made.

And I would ask this question of you, General Sheehan. Secretary Gates, last month, established this—as we all know, a high-level working group within DOD to review the issues associated with properly implementing a repeal of "Don't Ask, Don't Tell."

And the working group is to produce its findings and recommendations in the form of an implementation plan by December 1 of this year. And Secretary Gates subsequently provided what he called “the terms of reference” for this working group. And I don’t know how familiar you are with those, but do you believe that “the terms of reference” that are provided by the Secretary will permit a fair review of the issue, or are there elements that, in your opinion, are missing from “the terms of reference,” that should be included?

General SHEEHAN. Senator, I have not read “the terms of reference” for that particular report. My only comment would be is, on an issue that is this serious, it clearly has to be a fair, honest, open evaluation.

The second comment I would make is that, as this report comes close to finalization, that there be a genuine dialogue between the Service Chiefs, this committee, and the Secretary, so this doesn’t become a sensationalized event. This is too serious an event to be left to a political event.

So, number one, the report has to be absolutely scrupulously above-board, not biased. And as—and, again, I have to assume that Senator McCain’s correct, because he usually is in most of these issues—is that if the report is biased toward “how to,” then I think it’s flawed to begin with.

Senator THUNE. Yes.

Let me direct this question to the entire panel. And Admiral Mullen has made it clear that he supports the repeal of “Don’t Ask, Don’t Tell,” but we’ve also heard from some of the Service Chiefs that they want the current policy to remain in place. General Conway, who’s the Commandant of the Marine Corps, said, in testimony before this committee, that, and I quote, “My best military advice to this committee, to the Secretary, and the President, would be to keep the law such as it is,” end quote. General Schwartz, Chief of Staff of the Air Force, has said that, and I quote, “This is not the time to perturb a force that is stretched by combat operations in Iraq and Afghanistan, and important missions elsewhere, without due deliberation,” end quote. And General Casey has also weighed in on that issue in that direction.

And I guess the question I would ask of all of you is, How should we weigh the fact that there isn’t a consensus among the Service Chiefs with regard to the issue of repealing “Don’t Ask, Don’t Tell”?

And, General, if you want to start—

General SHEEHAN. I think that’s the value, Senator, of having this unbiased report. That starts the basis of a real dialogue. And, as I said before, I would hope that as the report becomes final, that it becomes a real discussion between this committee, the Service Chiefs, and the secretariat. And so, I would hope, out of that process, you would then be able to make an informed decision that’s based on fact, not opinion.

Senator THUNE. Thank you.

Major?

Mr. ALMY. Senator, and—my understanding is that Secretary Donley, the Secretary of the Air Force, has basically contradicted General Schwartz and said that now is the time for repeal. And I understand that there is some disagreement among the Service Chiefs, among the Secretaries. Secretary Gates and Admiral

Mullens have both called for repeal, as well as for the study of how to repealing “Don’t Ask, Don’t Tell.”

From my own limited understanding of this, there’s been ample research, both within the military and academia, from the militaries of foreign nations that have dealt with this issue, and they all showed that this was basically a nonissue. If you talk to the leadership of foreign militaries that have already dealt with this and have implemented repeal, they will all tell you that it was a great success. And I think that to say that America is any less, that we have a less capable military of dealing with this issue, or a less professional force, I just think it’s simply not true. I think we—clearly we have the greatest military in the world, and I think that this is an issue that we can deal with. And, quite frankly, I think it’s going to be—a few years from now we’re going to look back on this and say, “What was all the fuss about?”

Senator THUNE. Ms. Kopfstein.

Ms. KOPFSTEIN. Senator, I agree that our military is the most professional, most capable military in the world. This—repeal of this law will be a nonevent. The Service Chiefs have recommended repeal, and there may be some division, but Congress is the final decisionmaker. The law is wrong, and it’s unevenly applied. And we’re Americans too, and we just want to serve.

Senator THUNE. Well, I think the Service Chiefs have—as I have noted here, are—there’s consensus among the Service Chiefs that it should not be repealed. And there may be others in the administration, I know I’m aware of, that have a different view of that, but that’s—I think, is an important consideration obviously we have to weigh too as we evaluate this.

General, at the same time that Secretary Gates has stood up this working group to study the—how to implement repeal of “Don’t Ask, Don’t Tell,” he’s also asked DOD lawyers to come back in 45 days with proposed changes on how to, within existing law, enforce this policy in a more humane and fair manner. That is a sort of different approach to this issue, and that is, that we should be seeking ways to update or improve “Don’t Ask, Don’t Tell,” rather than throw it out. Are there any approaches that we, as Congress, could take to improve the “Don’t Ask, Don’t Tell” statute, rather than taking what would be a very significant and dramatic departure from existing policy and repeal it altogether?

General SHEEHAN. Senator, I think that, because of the scope of the responsibility of this committee, you have a lot of opportunities, in various bills and things that come before this committee, to do three things. First, I think that, as we’ve discussed, and in this “terms of reference” for this study, to make sure it’s absolutely scrupulously honest and organized.

Second is that “Don’t Ask, Don’t Tell,” as a policy, is very, very imperfect. I think the Congress recognized that when it passed the 1993 law. They knew there were going to be ambiguities, and they knew that is was going to led to be—led to be—problems, and that’s why it didn’t include it in the law.

Over the last 5, 10 years since it was passed, there has been being built, in the public’s mind, a perception of inevitability that this law is going to get changed. That, I think, in turn, leads to young men and women who think they’re going to come into the

military and the law's going to be changed on their watch. It may ultimately be changed, but not necessarily on their watch. And that puts them in a very difficult position, because they come in with the expectation that this law is going to change.

And I think that one of the things this committee could do is take a neutral position that says, "We're examining this law" that says, "It should be"—or not—or that it—"to investigate whether it is—should be changed," not that "is going to be changed," because you're creating, in the minds of young Americans, a—not a false expectation, but a hope that may not be realized.

The last comment I would make is that, in order to understand sexual behavior in the military, you can't do that in just the isolation of the "Don't Ask, Don't Tell" clause. As I said earlier in my remarks, there is something that—going on within the American military today that is fundamentally flawed, when you have a 16-percent increase in sexual assaults in a combat zone. I don't know what the cause of that is, but as you investigate—all of things kind of come together in one pot. So, if you try to parse this out and just deal with this, deal with this, deal with this, I think you'll come up at an imperfect solution.

I think this committee has a tremendous responsibility and a tremendous opportunity to rise above the political debate and do something that is really helpful to the American military.

And so, I would recommend those three things: one, a clear statement of what the purpose of this study is; two, tampen down the expectations what allows young kids to come in, thinking that something's going to be different tomorrow morning, when it may not be; and three, understand—truly understand where we're going with the sexuality in the American military, because it is a problem, a real problem.

Senator THUNE. Well—and we need as candid and honest of assessments as we can possibly get about the impacts. In my judgment, bottom line is readiness, effectiveness, all those issues is—as we evaluate this.

So, we appreciate your—all of your candor, and you're here today.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Thune.

Senator Burris.

Senator BURRIS. Thank you, Mr. Chairman.

I want to add my thanks to all three witnesses, who certainly have served this country well, and protected us. And I just want to try to raise some questions.

General, I'm—will challenge you and the rest on age. I'm pretty much your age. If you've served 35 years in, I think that you have—

General SHEEHAN. Sir, I'll concede to you.

Senator BURRIS. I'm sorry?

General SHEEHAN. I will concede age to you.

[Laughter.]

Senator BURRIS. Thank you. And I can remember, General, when I was attorney general of my State, how difficult it was for me to make a change. But, on my staff there were—there was a young lesbian lady who would sit down with me each day and explain to

me the problems, of persons who were lesbian or gay, that never occurred to me because I grew up in a different era. We talked about them, we laughed about them. It was something, "Eh, djib, djib, djib, djib, djib," you know, it was all these derogatory terms that we used to use.

And, General, it also deals with the racial question. Do you know a fellow named Jackie Robinson? You ever heard of him? You talk about the bright and the best. We don't know if we've got the bright and the best serving in our military service until we let everyone serve with their best distinction, best ability. The bright and the best may not be.

You hear of a fellow name—a couple tennis players named the Williams Sisters? You ever heard of the young man who had a little personal problem called Tiger Woods? We didn't know how golf really could be until a black person got into the competition. They were all eliminated from the game of golf. They were all eliminated from the game baseball, General. They were all eliminated from type of sports which was for whites only. Now, we're saying the military is for straits only.

General, I think that we need, you know, to put a moratorium on this situation right now. Don't let anyone be discharged from the military because of their sexual orientation until we can change this law, which I'm certainly supporting, a cosponsor on Senator Lieberman's bill to change the law.

But, General, could you give me a little insight of your background. Did you ever command black soldiers under your command?

General SHEEHAN. Sir, the American military has been integrated since President Truman was a President of the United—
Senator BURRIS. 1947, by executive order, sir.

General SHEEHAN. I have never commanded a unit that there were not Hispanics, blacks, whites, and Orientals. At one time during the Vietnam war, as both Senator Lieberman and the Chairman will remember, 65 percent of my rifle companies were black. They sustained 40 percent of the casualties in Vietnam. They understand what it means to be in harm's way. So, race in the military is not an issue. This institution that I represent—

Senator BURRIS. Pardon me, General, I have to interrupt you.

General SHEEHAN.—has the finest record of integration than any institution in this country of ours.

Senator BURRIS. Absolutely. How long ago—how long did it take that to take place? What happened in World War II, with my uncles and my uncles-in-laws when they were discriminated against? Prisoners were being brought back from Germany, and the black soldiers that were guarding them couldn't even ride in their cars, they were put back in the back cars, because of the color of their skin. That's far America has come. For you to now command those men, and they're fighting and dying for us, and at one time, because of this, the color of their skin, they could not serve this country. And they fought and clawed to get there, to have an opportunity to serve. These are the same thing with the gay and lesbian people. They want to serve. That's all they're asking.

Continue, General, I'm sorry.

General SHEEHAN. Well, Senator, I think that if you go back to the 1993 discussions and hearings on “Don’t Ask, Don’t Tell,” there’s a very rich history of discussion with Cal Waller, Colin Powell, and the committee about this very issue, when Congressman Pat Schroeder was trying to equate this to a racial issue. Both Cal Waller and Colin Powell objected strenuously to the analogy. And many of the black leaders and the black marines that I was with at the time objected to the concept that their civil rights movement was being hijacked by gays and lesbians. I’m not an expert on this issue. But, I will only defer to both Cal Waller and Colin Powell, and refer this good Senator to their testimony back in 1993.

Senator BURRIS. And do you know what Colin Powell’s position is now on gays serving in the military, General?

General SHEEHAN. Yes, sir, I do. He has said that he thinks it’s time to conduct this review. He has deferred to the Service Chiefs on their position and essentially says, “If they’re—are for changing the law,” he will support that.

Senator BURRIS. I’m sorry. I think we just have correction on the record. My understanding is, the General says that it’s time to end this “Don’t Ask, Don’t Tell” policy. That’s what my understanding of the retired Joint Chief of Staff’s position is. And—but, we can certainly double check that and—

Do you have any statistics, General, on how many homosexual—I mean heterosexual rapes there are in the military?

General SHEEHAN. The last report I saw, Senator, was the numbers that I quoted, that 87 percent of the 330—3,200-something were male-on-female.

Senator BURRIS. And so, then there could be male-on- male or female-on-male. In other words—

General SHEEHAN. The male-on-male is 7 percent of that—

Senator BURRIS. Yeah.

General SHEEHAN.—number. And so—but, again, as DOD says, that’s an underreported statistic, so the number—the actual number may be—

Senator BURRIS. Sure.

General SHEEHAN.—a lot larger.

Senator BURRIS. You’re probably correct. And based on that, General, there are heterosexual rapes in the military, as well as there probably would be if—that takes place under young people as in our natural society. They’re still human beings. God forbid, there will be probably homosexual, unfortunately, rapes in the military. I mean that’s not any reason for them people not to be able to serve openly and forthrightly.

My time is up, but I’m going to hope there’s a second round, Mr. Chairman, because this is something that—

And I want to commend these two brave men and women who put their life on the line and, for no reason of their own, they’re now being discharged from the military because of their sexual orientation. I suggest that we have a stop order issued on anyone else being discharged at this point until this situation is satisfied.

And, very quickly, Major, would you agree to that, that we probably should stop right now, so that none of your colleagues who are being investigated right now should be discharged?

Mr. ALMY. I would agree, Senator. Any further man or woman that's discharged just—under “Don't Ask, Don't Tell”—just because of who they are, I think is an unacceptable loss to our military.

Senator BURRIS. And how would you say, Lieutenant?

Ms. KOPFSTEIN. Senator, I agree. No one should be separated from the military anymore because of this antiquated law, but it does need to be repealed in full.

Senator BURRIS. Thank you.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Burriss.

Senator Webb.

Senator WEBB. Thank you, Mr. Chairman.

General, just—I think the data you just used needs some clarification, in terms of African American casualties in Vietnam. And, with all due respect to everyone who served—and I grew up in the military. I grew up in a—the military at a time when it had been racially integrated. I'm very proud of everybody's service. But, I've done a lot writing and reporting on this issue, including 4 years on the Veterans Committee as a committee counsel years ago. And the statistics that we had at that time were that African Americans were about 13 percent of the age group, about 12 percent of the people in the military, and about 12 percent of the casualties, and about 10 percent of the—those killed in action. So, they certainly did their share, along with everyone else. But, if you're saying 40 percent, you may be talking about one rifle company at one particular piece of time, or something. I don't know where that came from.

General SHEEHAN. No, sir. I was—the 40 percent number comes from a study that was done on those that were inducted into the military during the Project 100,000 era.

Senator WEBB. So, you're talking about—

General SHEEHAN. I'm talking about a specific group of people during that—

Senator WEBB. The Project 100,000—

General SHEEHAN. Project 100,000—

Senator WEBB.—drafted—

General SHEEHAN.—drafted that were brought—

Senator WEBB.—the casualties among that—

General SHEEHAN. Yeah.

Senator WEBB.—group.

General SHEEHAN. Right.

Senator WEBB. Well, now what I'm talking about's the over all—

General SHEEHAN. Yes, sir. I—

Senator WEBB.—casualties. So, now—

General SHEEHAN. Yes—

Senator WEBB.—this is—

General SHEEHAN.—yes, sir.

Senator WEBB.—it's clearly not a hearing about that issue, but in—I know—I think that what you said could have been misunderstood by a lot of people walking out of the room, and—

General SHEEHAN. Okay.

Senator WEBB.—need to be clear on it.

General SHEEHAN. Thank you for—

Senator WEBB. Let me——

General SHEEHAN.—the correction.

Senator WEBB. Let me get into the subject of our discussion today.

First, I'd like to express my appreciation for all of you for your testimony. I think the issues that were being discussed from your two perspectives are very much the issues of integrity, which is what Admiral Mullen was bringing to the table. I've known him since I was 18 years old. I have a great respect for his views on this. And I've known General Sheehan for many years. And I think the validity of discussing the unique culture and environment in the military, and particularly the operational military, is something that really has to be also put on the table here.

And there can be nothing more important, in my view—and I think John McCain and I share this concern—than ensuring that, in this type of a process, that the military be allowed to report to the political side.

And, General Sheehan, you'll recall when you were Deputy Secretary Taft's military aid and I was Secretary of the Navy. I had come under a number of questions, during my confirmation hearing, about my views on women in combat. And I—a big part of my frustration during that period was the political process telling the military how to do its functions—its actual functions. And so, I convened a study: 14 males, 14 females, officer and enlisted, who went out and examined this issue and then reported, not back to me, but through the warfare chiefs, then to the CNO. And all of them reporting—the military reported to the political process. And we opened up more billets to women than any Secretary of the Navy in history. But, we did it in a way where the military itself was invested in the end result.

And that's why I believe that the nature of this survey that has been announced, defining it is so vital to addressing this issue. And I think we need to review the state of play here so that we know where we are on the table.

Secretary Gates and Admiral Mullen, when they announced their decision in front of our committee, they did say they wanted to take this time period to examine the issue and then report to this committee about whether this law should be appealed. That—and I asked them, after they had made their testimony, if that was clear. And the answer was yes, that this was clear.

So, General, your comment about our body, here, ensuring that we would be viewed objectively is very important.

And the other part of this is, the study that was done in 1993 did not really examine attitudes in the military. We've had a lot of anecdotal comments today—and they're valuable, in terms of understanding the issue—but we need the data, we need to be able to see, not in a political way, and not simply as to how this policy would be implemented, but in a way that we can understand the attitudinal characteristics in play—by age, by officer or enlisted, by service; in many cases, I think, by occupational specialties—so we will truly have a matrix here in terms of understanding attitudes in the military.

I don't know where that will go. It may surprise you, General. I—you know, I have no idea where it's going to go. But, it's a vital

piece, in my view, of moving this issue forward in the right way. And based on that, I believe we can come to a considered and intelligent decision. And they may even go into distinctions based on types of units, General, something that you were referring to. I'm not—I don't want to predict at all where this is going to go. I just think that it is vital that we can say to the people in the military, and the American people, that we've been responsible in terms of how a decision has been made.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you very much, Senator Webb.

Senator Udall.

Senator UDALL. Thank you, Mr. Chairman.

Good morning, to all three of you. This is a delicate and sensitive topic. I commend the courage all three of you have shown in coming here today and sharing your point of view.

But, General, before I direct a set of questions at you, and then follow with Mr. Almy and Ms. Kopfstein, I wanted to just make an editorial comment from one Senator. I am in the camp that thinks it's time to repeal "Don't Ask, Don't Tell." It's not whether, it's how and when. And I understand the need to study "Don't Ask, Don't Tell" in order to implement it. But, I share a deep concern that, if we continue the policy that's in place, hearing the stories I've heard today, you have to ask the question who is going to be the last servicemember—maybe I should say patriot, frankly—to be discharged under what I think's an outdated policy. I just want to make that clear for the record.

General, let me turn, as I suggested I would, to you. And—I'm aware of about a dozen studies, that go back at least two decades, to—that show that—no scientific evidence to back the assertion that open service is a detriment to unit cohesion and good order and morale. Are you aware of any reputable scientific study that does? Is there a study out there, to say it another way, from a reputable source, that lays out and gives weight to your belief that gays and lesbians are a threat to the military and its readiness?

General SHEEHAN. Senator, the answer to that is no. My—as I said in my statement, my conclusions are based on combat experience and leadership.

Senator UDALL. You said that we ought to prove that open service improves military effectiveness, and you did also mention this shouldn't be about enlightenment, and there is a different standard to serve in the military than there is, if you will, to be a United States citizen. I agree completely, this isn't, for me, about feeling good or feeling like we're pushing society to be more open. For me, it is that we're in a situation where we have 14,000 Americans who have been discharged, who've served honorably and with great effectiveness.

But, back to my question—so, I was saying you—you were saying we need to prove that open service improves military effectiveness. Has anybody proved that the current law improves effectiveness?

General SHEEHAN. Not that I know of, Senator.

Senator UDALL. I appreciate your frank answer.

Let me turn to the Major and the Lieutenant. Picture of our Armed Forces that General Sheehan paints is a very different one than I see. He's suggesting that the patriotic young Americans who

serve their country are afraid of gay servicemembers and lack the professionalism to focus on the task at hand. As I said, I agree with him that there's no constitutional right to serve, and that some people are excluded, for any number of reasons. Where we differ is that I see all of reasons for exclusion as performance-related, except for sexual orientation. And I believe we're dealing with a generation of people who know the difference between body weight or educational qualifications, for instance, and someone's essence, who they are, at their core.

In your numerous years of service, did you see anything that led you to believe that General Sheehan's view of our Armed Forces is based on today's realities? Lieutenant, maybe I'll start with you, and then turn to the Major.

Ms. KOPFSTEIN. No, Senator. In my experience, I only had positive experiences with my shipmates and the people I served with. Nobody had any complaints about taking orders from me or the quality of my work product or—and no one asked to be moved out of sharing a stateroom with me. All of the feedback I got after I came out was positive. People were happy and thankful that I was being honest with them, and that I could share parts of my life with them, and that we could actually be friends, that there wasn't a wall between us. And that helps teamwork, frankly, because we could communicate with each other on a level that was human and positive.

So, no, I had no negative experiences with anyone in the military.

Senator UDALL. Lieutenant, if I might pursue that before I turn to the Major. Reading your very powerful, moving testimony, and, even more, hearing you deliver it, it seemed to me you were making the case that actually—when you live a lie, morale isn't as high as it could be, not only for you, as the individual involved, but for those with whom you serve, whether they're subordinates or superiors. Is that a fair way to characterize it—

Ms. KOPFSTEIN. Absolutely, Senator.

Senator UDALL.—at least your—

Ms. KOPFSTEIN. Absolutely.

Senator UDALL.—impression?

Ms. KOPFSTEIN. People can sense when you're not being fully honest with them, and they get the sense that you're holding back and that there's something strange about you. And that—not only does that make them curious, but it makes them not necessarily trust you completely. And trust is something that you have to have for unit cohesion and morale. If there is no trust, there is no teamwork.

Senator UDALL. As you've—

Ms. KOPFSTEIN. And under “Don't Ask, Don't Tell,” it is very difficult to have trust.

Senator UDALL. And it undercuts the element of trust which, yeah, as you point out, is really the crucial element, is it not?

Major, I want to make sure I don't run out of time before you can also comment.

Mr. ALMY. Senator, from my own personal experience, “Don't Ask, Don't Tell” is often the subject—it's a bit of a running joke or the subject of mockery, from gays and straights alike in the military,

from the standpoint that everyone knows gays and lesbians are serving in the military today, and oftentimes they are serving openly, they are valued and patriotic members of their units who make tremendous contributions. And I think the general consensus, or the general attitude, among the population, at least the ones that I served, was that they all understand this law is a reflection, not upon an individual's characteristics, their traits, their performance, but solely based upon who they are. And so, as I said, it's a bit of a running joke, because they're—gays and lesbians are already serving.

Senator UDALL. To that point, you served in 13 years of Active Duty, I think, alongside forces that did provide for gay servicemembers.

Mr. ALMY. Correct, Senator.

Senator UDALL. Did that affect the cohesion or morale, in your opinion?

Mr. ALMY. Not at all. And what I've just stated, I found that attitude to be true, not only among the Air Force, but in my time serving with the Marine Corps, the Army, the Navy. I've worked with all four branches. I have served for 4 years in Europe with our allies, who—none of whom have this discrimination anymore. In fact, the U.S. military is a bit of a joke among our allies, solely because of "Don't Ask, Don't Tell," on this issue. It's a complete nonissue for our allies, as well as allies that I have served with over in Iraq.

Senator UDALL. I mean, my time's going to expire, but last question to the two of you. I think it's a yes-or-no answer, but don't let me require that. It's been argued that: "Don't Ask, Don't Tell" is working, so why change? Do you believe "Don't Ask, Don't Tell" is working, Major?

Mr. ALMY. I do not believe "Don't Ask, Don't Tell" is working, because it throws out qualified men and women who just want to serve their country.

Senator UDALL. Lieutenant?

Ms. KOPFSTEIN. It's absolutely not working, Senator.

Senator UDALL. Thank you.

And I know, General, you believe it's working. If it isn't broken, fix it. I appreciate you being here as well, today.

So, thank you, to all three of you, again.

Chairman LEVIN. Thank you very much, Senator Udall.

We'll have a second round now. Why don't we start with about 3 minutes each, if we can, and then we can have a third round, if that's not enough.

General, we now serve with the Dutch in Afghanistan. And you made reference to the Dutch Army a couple decades ago. The Dutch allow their troops to serve openly as—if they're gay or lesbian. We're fighting alongside with them now. Do you know of any problem with that relationship?

General SHEEHAN. I have no firsthand experience of—

Chairman LEVIN. Have you heard of any problem?

General SHEEHAN. I have not.

Chairman LEVIN. Did you ever, when you were NATO Supreme Allied Commander, command gay servicemembers?

General SHEEHAN. I never asked for the sexual—

Chairman LEVIN. But—

General SHEEHAN.—orientation—

Chairman LEVIN.—did you know whether or not you did?

General SHEEHAN. No. I never—I—

Chairman LEVIN. You weren't aware of it.

General SHEEHAN. No.

Chairman LEVIN. Okay.

I just want to read—let me read Secretary Gates's statement, because there was some question here, and Senator Burriss, I think, asked a question, which elicited a response that was not—well, anyway let me read what Secretary Gates has said. "I fully support the President's decision. The question before us is not whether the military prepares to make this change, but how we best prepare for it." So, it's not, in Secretary Gates's view, a question of "whether," but a question of "how." So, I agree with what Senator Burriss was saying, there, in terms of what Secretary Gates's position relative to this is.

And, in terms of General Powell, he basically supports, he said, Secretary Gates's decision. They obviously support a study, but the study is not a study of "whether"; it's a study of "how" we are going to implement a repeal. That's just clarifications for the record.

Senator Lieberman.

Senator LIEBERMAN. Thanks, Mr. Chairman.

Major Almy, I wanted to ask you—perhaps I missed it—but what do you think was the motivation of the individual who went through your personal computer and then found these messages? In other words, was he—did he have a gripe with you about something else, was he antigay, or was he just looking for trouble?

Mr. ALMY. Senator, I really can't—I don't know, for certainty. But, I can speculate that either this person just had a bias against gays and lesbians serving in the military or perhaps he was of the mindset that this was a law, and he was—

Senator LIEBERMAN. Yeah.

Mr. ALMY.—he was being a good a good troop and following the letter of the law.

Senator LIEBERMAN. Yeah. But as—

Mr. ALMY. Maybe a combination of both.

Senator LIEBERMAN. Right. But, did you know him? Or happen to—

Mr. ALMY. Very briefly. This was an individual in the unit that replaced mine in Iraq, so I had a brief overlap with this—

Senator LIEBERMAN. So—but, as far as you know, there was no conflict between you or anything of that kind.

Mr. ALMY. None that I'm aware of, Senator.

Senator LIEBERMAN. Okay.

Let me ask Major Almy and Lieutenant Kopfstein this question. I think we've dealt—when you got a—a policy of discrimination in the United States, the burden has to be on those who are defending it. There've been arguments made about effect on morale, effect on unit cohesion. I think we've dealt with those very well, relevance to military values.

One of the other arguments, which Senator Chambliss referred to, is the effect on recruiting, on the argument that a lot of people coming into the military, perhaps disproportionate number—I don't know what the numbers are—come from areas of the country that

are more conservative, in terms of social values, et cetera. I know you're not expert in this, but you have come out of experience in the military. What's your judgment, the two of you, about what impact a repeal of "Don't Ask, Don't Tell" will have on recruitment?

Mr. ALMY. Senator, I'm not aware of any particular studies or polls on that very question you ask. But, I am aware of the experiences of foreign militaries, and there were similar predictions of gloom and doom on recruiting and retention once they repealed their bans on open service. And none of that came to fruition. In other words, if you talk to all the senior leadership of these militaries today, they will tell you that repealing their ban had absolutely no effect upon their recruiting and retention.

So, I think we can draw similar analogies in our own military. That, as well as—I would like to say that—the military's diverse culture—one of the strengths of our military is, we bring men and—young men and women from diverse backgrounds and bring them together and basically tell them that they have to be professional and work with people that are different from themselves. Oftentimes, these young men and women have never experienced an interaction, professionally, with someone from a different race, from a different background, from a different country of origin. And that's one of the strengths of our military. In fact, our military celebrates in our diversity, and it's true. And I see this as just one more aspect of our diverse military culture.

Senator LIEBERMAN. Thank you.

Lieutenant, do you have a judgment on that?

Ms. KOPFSTEIN. Senator, I believe that repealing this law will actually improve recruiting. I know that there are many patriotic Americans who do not want to work for an organization that discriminates. So, in that respect, I believe that recruiting will be improved. Also, when you're talking about recruiting, you're talking about the 18-to-24-year-old demographic. Today's generation, most likely, are likely to know someone who is gay. And when you know somebody, personally, it's—you're much less likely to fear them. And I think that most discrimination is based on fear.

Senator LIEBERMAN. Thank you very much.

Ms. KOPFSTEIN. So, it's my opinion—

Senator LIEBERMAN. You know, I just remembered something. This was a while back, on another issue, but related. I was talking to an executive of a Fortune 100 company, and he was saying that he felt, when his company goes out to recruit on college campuses—this is to validate your point—that it is a positive to say that they, essentially, have employment nondiscrimination based on sexual orientation.

Thank you.

Chairman LEVIN. Thank you very much.

Senator Burris.

Senator BURRIS. Thank you, Mr. Chairman.

I just want to say for the record that, you know, I'm not trying to base all of my questions on race. It's just a framework to try to get people to start thinking beyond that.

And I'd like to raise a question with General Sheehan. In your 3 years, as you served as Supreme Allied Commander, command of the Atlantic, you oversaw NATO troops from many diverse nations.

Would you say that your chores—your forces bonded and were successful in the missions that they carried out? Did they have any problems in carrying out their missions, General?

General SHEEHAN. The answer to that's no. And the reason why that's no is because NATO clearly understood the U.S. military was present, that we had the capability and the rules of engagement in place to do things that they could not do. You see, still, manifestations of this—withholds or caveats in the use of troops in Afghanistan today—that is still problematic.

Senator BURRIS. And, General, I'm sure that you, over the course of your service, have seen many units bond, with the purpose of working as a cohesive group. Can you tell me how—what parts of Major Almy's service record affected his unit negatively, or affected his readiness? Can you have any—

General SHEEHAN. I do not have a detailed knowledge of Major Almy's record. I do appreciate his service to this Nation. Both of them are to be congratulated for that service.

As I said during my testimony, my experience in a combat environment essentially was that, when a homosexual marine molested another marine, the real problem with the unit, not that it was the discipline to the individual, but what it did to the cohesion of the organization. First off, because the young PFC didn't believe that he was being supported; second, that people took sides. And you cannot afford to take a unit out of combat for 3 to 4 days while you sort out these type of issues. The enemy doesn't allow you the luxury of taking units off the line.

Senator BURRIS. And, Major, would you say your—how was your effectiveness, in terms of your operating—your readiness and your—any negativism under your command?

Mr. ALMY. I would say, Senator, that certainly my being relieved of my duties had a negative impact upon my unit.

Senator BURRIS. So, the release of—the releasing you.

Mr. ALMY. Correct. That had a negative impact on the mission, the unit cohesion. And certainly, as I told some of my troops what was going on, they all—it was a complete nonissue for them, to the point that they all wanted me back on the job as their leader.

Senator BURRIS. And Lieutenant, how about you, in terms of when you said you got the orders—the captain—to load up the batteries, and you said it had no impact, whether you were lesbian or not, as to just what the situation was. Is that correct?

Ms. KOPFSTEIN. That's right, Senator.

Senator BURRIS. Now, did you experience any negative attitude when you came out in open? Was there anything negative that you experienced?

Ms. KOPFSTEIN. No, I only had positive experiences.

Senator BURRIS. For being honest, forthright, and living up to the Navy—

Ms. KOPFSTEIN. Absolutely. I believe my fellow sailors appreciated my honesty.

Senator BURRIS. Thank you, Mr. Chairman.

Chairman LEVIN. Thank you very much, Senator Burriss.

Mr. ALMY. Excuse me, Mr. Chairman, if I could offer one quick comment.

Chairman LEVIN. Sure.

Mr. ALMY. I wanted to go back to your question to the General regarding the Dutch military. I have served alongside the Dutch military, I have been in a field exercise—an exercise in field conditions, in the Netherlands, where my unit served alongside the Dutch military, both officers and enlisted. And the subject of sexual orientation, or “Don’t Ask, Don’t Tell,” was a complete nonissue to both the Americans as well as the Dutch. And that was within the past 5 years.

Chairman LEVIN. Well, I think we all remember Srebrenitsa, but I think that any effort to connect that failure on the part of the Dutch to the fact that they have homosexuals, or did allow homosexuals, I think, is totally off target, and I’ve seen no suggestion of that. I’ve seen the failures that you talk about, General, in terms of their training being peacekeeping and their not being trained to do the kind of work that needed to be done—is accurate. But, in terms of—any attribution to the fact that they had allowed gays in the military is no more on point than the fact that they may have allowed African—Dutch-Africans or women, if there were women. I think it’s just—

General SHEEHAN. My comment—

Chairman LEVIN. And we’ll check it out—

General SHEEHAN. My—

Chairman LEVIN. We’re going to—

General SHEEHAN.—comment was that it was the liberalization that caused—

Chairman LEVIN. I know, but the—I agree with the - - liberalization can—

General SHEEHAN. I am—

Chairman LEVIN.—mean that the—

General SHEEHAN. I am just repeating—

Chairman LEVIN.—you don’t train people to—

General SHEEHAN.—what was told me.

Chairman LEVIN.—engage in combat. You don’t train people to have—to engage in the kind of activity that you have to do to enforce the law. I agree with that. They weren’t good in that respect. They were trained to be peacekeepers, not peace enforcers. I totally agree with that.

But, to slip over—slide over from that into a suggestion that it had something to do with fact that homosexuals were allowed in the Dutch Army suggests that somehow or other homosexuals are not great fighters. And I think that is totally—

General SHEEHAN. I didn’t say—

Chairman LEVIN.—wrong.

General SHEEHAN.—they weren’t great fighters.

Chairman LEVIN. Well—

General SHEEHAN. What I said was the liberalization of the Dutch military was a contributing factor to their failure in Srebrenitsa.

Chairman LEVIN. The Dutch military, as you point out, were peacekeepers and not peace enforcers. I agree with that. But, what the heck that has to do with the issue before us is what mystifies me. It—because I don’t think it has anything to do with the issue in front of us. But, I’ll—

Senator LIEBERMAN. Mr. Chairman, if I may—and I don't want to prolong this, but I just do want to say—look, our closest military allies in the world, the Brits, have a policy by which homosexuals serve openly, and, you know, they've got a great record. The British military, we would work very closely with them. They are side by side with us today in Afghanistan. And, in fact when I was last there, in January, with Senator McCain, we were briefed by British General Carter, who's overseeing his tactical direction of a large number of forces, including marines—U.S. Marines in the south—in Helmand Province, in the south of Afghanistan—so just to offer evidence, with which I would guess that you'd agree, that the British military is a great military, and great allies of ours, notwithstanding their policy on homosexuals serving openly.

General SHEEHAN. Sir, not to prolong the discussion, but—

Senator LIEBERMAN. I did.

General SHEEHAN.—just for the matter of record. The decision, to allow openly homosexual people to serve in British military, was not done by the British government, or by the British people. It was done because the U.N.—or the European Union court imposed it on the British. So, depending on who you talk to within the British—and I lived in London during the time of this process, the—basically, the British military was told just to shut up and accept it. And so, there—it is not an open-and-shut case that there isn't some tension over the issue.

The issue, in terms of working for British general and I—and I—and both of you know this, because we've gone through this discussion on previous times when I've been here—there's a difference—we don't allow, because of incidents like dual-key, American forces to become—under the operational control of non-U.S. commanders. We give them tactical control.

Senator LIEBERMAN. Tactical, right.

General SHEEHAN. And tactical control does not affect much more than just a tactical activity. So, again, these are minor points in the discussion, and I have no problem with your analogy that the Brits are good soldiers.

Senator LIEBERMAN. Thank you.

Chairman LEVIN. And I would add the Canadians and a bunch of other allies to that. I—we visited the Canadians down in southern Afghanistan, in Helmand Province, and they're doing one hell of a job, and they allow people to serve openly regarding their sexual orientation. So, I just think we've got to be careful that you don't stereotype people because they're gay or lesbian, that somehow or other they are lesser fighters. And that was the problem in Srebenitsa, is that you didn't have people there that were fighting to enforce the law against some people who were terrorizing and killing others. It had nothing to do with their sexual orientation; it had to do with their training and their rules of engagement.

Let me close the hearing now with—first of all, with thanks to each of you for your service, as well as for your appearance here today. I think every one of us have thanked you for both your service to our country, as well as your willingness to appear today.

Just one example of how ending this discriminatory policy could contribute to our military's effectiveness—and I think the most important way it'll contribute, it will allow patriots who are willing

to fight and put the uniform on, of this country, to join the cause. And that's, to me, vitally important in this kind of a pluralistic and diverse democracy that we have.

But, we have lost I don't know how many linguists, just to give one example, who speak Arabic and Farsi, who've been forced out of the military because of this policy. And we desperately need those folks. Now, I think we need all people who are willing to put on the uniform, and I use that as just one example. We probably have lost 13,000 or more Americans who are willing to serve, and that, to me, is a real loss of military effectiveness. But, just that one example, maybe, can highlight how we're really damaging our own capabilities and our own effectiveness when we have a discriminatory policy.

I also believe it's unconscionable, when the Commander in Chief and the Chairman of the Joint Chiefs have both said we should repeal a policy, for us to continue to discharge people solely because of their sexual orientation, during a period when there's a study going on as to how to implement that policy. Not "whether" to implement it; if you look at the policy guidance, it's "how" to implement a new policy. And it just violates my conscience.

I'm in favor of repeal, and there's no issue—no doubt about that. I've made that clear. I've cosponsored Senator Lieberman's bill. But, that's, for me—as important as that is, there's this interim problem we have, that people are going to be discharged, apparently, pursuant to this policy, after the Commander in Chief has said they shouldn't be discharged, and after the Chairman of the Joint Chiefs has said they shouldn't be discharged, and while we are having a study underway as to how to implement a repeal. That strikes me as unconscionable and unfair, and I hope we can repeal this policy promptly.

But, in the interim we surely ought to suspend the discharges until the completion of that study. And if we can't get this repealed—and I hope we can—at a minimum, I hope we can suspend the discharges under these circumstances.

Senator LIEBERMAN. Chairman Levin, just from—made me think about what Lieutenant Kopfsstein said at the beginning. We made a big investment in her, and she owes us a year and a half. So, I want to give her—

[Laughter.]

Chairman LEVIN. And we intend to get it back. I want you to know that, too.

[Laughter.]

Ms. KOPFSTEIN. I'm happy to give it, sir.

Chairman LEVIN. Well, no, we are very grateful to all of you for coming forward, and we've had a good, lively discussion. And that's a part of this democracy of ours, too. Hopefully, we cannot only reach the right conclusion, but reach it promptly, and have an interim solution which is fair, as well.

We will stand adjourned, with thanks to everybody.

[Whereupon, at 12:11 p.m., the committee adjourned.]



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CNN NEWSROOM

New Allegation about John Edwards; Nasty Winter Blast in Virginia; Haiti Medevac Flights Suspended; Obama Brings Up Don't Ask, Don't Tell in SOTU; William Cohen Discusses Don't Ask, Don't Tell & China; Window Manufacturer Mentioned in SOTU Address Discusses Business; NFL Fights Over "Who Dat"

Aired January 30, 2010 - 17:00 ET

THIS IS A RUSH TRANSCRIPT. THIS COPY MAY NOT BE IN ITS FINAL FORM AND MAY BE UPDATED.



DON LEMON, CNN ANCHOR: A basketball game turns into a press conference with the president taking charge. And CNN is there.

The Haiti recovery effort hits a serious road block putting people's lives in jeopardy. We're live.

And a major winter storm trampling parts of the country, snow, ice, no electricity, just small parts of the problem.

Hello, everyone, thanks for joining us. We start tonight, though, with revelations about a man who could had been your president, and Washington insiders say could had put the Democratic Party in political jeopardy.

This week, John Edwards former Democratic presidential contender admitted to fathering a child out of wedlock after lying to everyone, the American public, about it. The lurid details, all released today in a book called, "The Politician." It is authored by Edwards' longtime confidant Andrew Young. Young spoke to ABC News about how he, Edwards and Edward's mistress Rielle Hunter had supplanted for young to claim that he was the baby's father.

(BEGIN VIDEO CLIP)

ANDREW YOUNG, FORMER AIDE TO JOHN EDWARDS: There wasn't a lot of time sit back and to contemplate, hey is this logical? Was it logical? No. Was it stupid? Yes. Did we do the right thing morally? No. Absolutely not.

(END VIDEO CLIP)

LEMON: Let's bring in our CNN's Mark Preston. He's our editor here. You know, Mark, here's the interesting thing. Edwards told ABC News that their were lies in the book and he said Young was motivated by money but this is certainly explosive and imagine if Edwards had been either appointed to office or elected to office now it would be a huge fallout.

MARK PRESSOR, CNN POLITICAL EDITOR: It would be huge fallout. And you know something, either Young acknowledges that in fact he is motivated in part by the money. He writes that in the book. He says that John Edwards was going to take care of him financially. That John Edwards' rich friends were going to take care of him financially for taking the fall for saying that he was the father of Rielle Hunter's daughter as well as everything else he had done as John Edwards was pursuing the presidential campaign. However, he says, that John Edwards pulled back and really left him hanging. So in part, he said, he's writing the book for financial gain but also he said, he's trying to write the book to try to spell it out to his children, explain exactly what happened.

LEMON: But here's the interesting thing, too. Also in the ABC interview and in the book, you hear about Elizabeth Edwards, who had cancer at the time during this alleged affair, which I guess I understand admitted to now, that she in some way knew about this and may have known about it more than the American public would have thought or more than they led onto at the time.

PRESTON: And that's a sticking point because Elizabeth Edwards, you know, contends that she did not know all -- all about what was going on with John Edwards and Rielle Hunter during the time he was seeing her in this extramarital affair. However in this book, Andrew Young says, in fact she did know. And that he was the point person that set up these liaisons along the campaign trail while John Edwards was out trying to gain support for that presidential bid.

LEMON: I want to read to you really quickly, Mark, we're getting a statement in here, I'm just getting it here, from Edwards' attorneys and here's what it says. This is from Edwards' attorney says, John Edwards and his wife Elizabeth have legally separated and John Edwards' lawyer release a statement saying that earlier reports about the book indicate that there are problems with Young's accounts while we have not had an opportunity to view the interview or read the book. We urge extreme caution by everyone involved. That's what his attorneys wrote. And again, as I said (AUDIO GAP), Edwards saying, that Young was motivated by money.

But here's the question and I said this to you at the top, what if this man had been? Because not only was he a vice presidential contender, this affair took place after, but he also ran for president. Then there was talk about him possibly being appointed to office or what have you. What mindset and I don't know if you can answer this, would you have to have to believe that this would never come out, that you would have someone do this and get away with it? So unfolding to the American public this would have been some real, real trouble here.

PRESTON: Some real, real trouble and it's amazing that somebody would have that much gall to think that in fact that they could run for president, at the same time carrying on an affair. And by reading this book and I am sure some reporters will look back covering him at the time and say, boy, things were a little bit strange on that campaign trail at the time but what was he thinking that, Don, that in

fact that he could get away with it. You know something I was talking to democratic insiders when he came out and acknowledged having the affair some time ago. They were furious. They said who does he think he is? What if he had won the democratic nomination, he would have torn the party apart. What if President Obama had picked him to be the vice president?

LEMON: That was my next question. Has anyone in the Obama administration said anything about this or even behind the scenes that they acknowledge this? Because I imagine at the time, if they had gotten wind of this, they may have -- they probably were furious.

PRESTON: Well, you know, who knows what they knew during the vetting process anyway when they were actually looking at who they wanted to put on the ticket. But I will tell you at that time talking to some advisers, they were furious about John Edwards. They said that he was selfish. They can't believe he would do that. You know, at this point now, John Edwards' political career is probably over. You know, I don't often say that in politics because you can always reinvent yourself, but let's assume that these allegations are true in this book, very damning.

LEMON: Our Political Editor Mark Preston. Mark, thank you very much. Mark, we know that you've been working on this all night. You read the entire book, you stood up and read the book and then wrote about it on CNN.com. So, thank you Mark. Make sure that you check out CNN.com, it's actually on our home page and it's one of the trending topics there and it's also the trending topic today, Mark, you should know on Twitter. A lot of people are talking about this. Thank you, sir.

PRESTON: Thanks Don.

LEMON: President Barack Obama faces critics head-on in person, and both sides are claiming victory today. Mr. Obama attended a retreat of house republicans yesterday in Baltimore. Taking questions from some of his toughest critics for almost an hour and a half and it was all carried live right here on CNN. As a matter of fact, I was sitting here and Tony Harris as well anchoring and it was amazing to see this taking place in Baltimore and the president standing there in front of his harshest critics and answering the questions. They talked about health care. They talked about the budget, the atmosphere in Washington really was the top topic, talking about the mood there and the tone. It was mostly cordial. At times it was funny and in a few instances it was a little tense. Take a look at how things went on.

(BEGIN VIDEO CLIP)

BARACK OBAMA, PRESIDENT OF THE UNITED STATES: I'm using this as a specific example. So let me answer your question. You asked a question, I want to answer it. There's got to be some test of realism in any of these proposals, mine included. I've got to hold myself accountable and I guarantee you the American people will hold themselves -- will hold me accountable. If what I'm selling doesn't actually deliver.

REP. JEB HENSARLING (R), TEXAS: Your administration proposed a budget that would triple the national debt over the next ten years. Surely you don't believe ten years from now, we will still be mired in this recession and propose new entitlement spending and move the economy -- the cost of government to almost 24.5 percent of the economy. Now very soon, Mr. President, you are due to submit a new budget, and my question is...

OBAMA: Jeb, I know that there's a question in there somewhere because you're making a whole bunch of assertions half of which I disagree with and I'm having to sit here listening to them. At some point, I know you will let me answer them.

When you say that suddenly I've got a monthly budget that is higher than the annual -- or a monthly deficit that's higher than the annual deficit led by republicans, that's factually just not true.

(END VIDEO CLIP)

LEMON: President Obama took in one of his favorite pastimes, check that out. Today in Washington, it was a snowy Washington, D.C. It's a college basketball game between Georgetown and Duke. He even sat down with the TV broadcasting for a short time adding his own analysis for sports fans who were watching it at home, he also talked about meeting with those GOP leaders yesterday in Baltimore. And of course, he's known for being a big basketball fan and he's playing at least a dozen pickup games with friends and members of his staff since becoming president. President Barack Obama at the game today and then going down talking to the commentators as well, taking some tough questions there.

All right. So, make sure that you join us in the newsroom for our political roundtable at 7:00 p.m. Eastern right here in the CNN NEWSROOM.

U.S. Military suspending medical flights out of Haiti. I'll say it again, the U.S. Military is suspending medical flights out of Haiti. Another big story here on CNN. We're going to tell you why it all comes down to an argument over money.

And Toyota says a fix is on the way for millions of recalled cars. We'll tell you when your dealership will get it.

Also, join our conversation tonight, Twitter, Facebook, MySpace or iReport.com. I'm going on right now. Go look at your comment, put some of them on the air.

(COMMERCIAL BREAK)

LEMON: It's always a good evening to spend inside if you are watching us but especially so in the eastern part of the country. Stay inside. An icy blast is slamming much of the region. It's happening right now as we're on the air. Virginia's seeing some of its worst yet. It's a foot of snow expected there. In D.C., officials are telling everyone to stay off the roads. The Carolinas are under an ice storm warning until midnight. And Governor of Beverly Perdue has declared a state of emergency.

Let's move to East from areas like this in Southeast Missouri, it left quite a bit of mess behind. Some parts of Missouri got more than nine inches of snow. And further to the west, we want to look at Oklahoma City. Got a coating of ice. It was so bad, the airport had to shutdown for a while. (WEATHER REPORT)

LEMON: Hey, we have some developing news to tell you about, the U.S. military suspending medical flights out of Haiti. We'll tell you why it all comes down to an argument. It's really over dollars and cents. Who's going to pay for it? Our Susan Candiotti joins us live in just a minute. Just off of the phone with the White House with their reactions, she's going to explain to you next.

(COMMERCIAL BREAK)

LEMON: Some developing news just into CNN. Fredricka Whitfield reported this but there's a new development because the U.S. military suspended flights evacuating Haitians out of Haiti, the quake victims there. It boils down to dollars and cents, flights carrying the injured from Haiti to Miami. It ended on Wednesday after Florida Governor Charlie Crist asked the federal government to help with the expense.

CNN's Susan Candiotti following the story very closely. Susan, the situation is dire. I understand you just got off the phone with the White House?

SUSAN CANDIOTTI, CNN CORRESPONDENT: Yes, it's kind of hard to understand all of this, Don, because obviously I've been down to Haiti. We've seen all of the pictures from there. The situation is very difficult to say the least. There are a lot of people in need and there are only so many doctors to go around but here is what the White House is telling me. The White House said in a statement and this is from a spokesperson telling me that there has been no policy decision by anyone to suspend evacuee flights. The situation arose, this spokesman says, as they started to run out of room. Now, as you indicated, there are flights that had been going. Many people have been flown out so far.

The problem now, according to the military is that they can't take them out because in their words and we have a direct quote here from a spokesperson for the U.S. military, if we can show that to you now. They're telling us that they cannot fly people out if hospitals won't take them. And they said, some states are apparently unwilling to allow entry for Haitian nationals for critical care.

So then, we went back to Florida and say, what is the problem? And the problem, according to Florida Governor Charlie Crist, it's obviously expensive to take care of people in their hospital rooms, in the ER rooms and the trauma rooms and so they're turning to the federal government for help. But Florida Governor Charlie Crist denies that he said, don't send us anymore people. And here's what he said about it just today.

(BEGIN VIDEO CLIP)

GOV. Charlie Crist (R), FLORIDA: They're not stopping coming into Florida. I wrote a letter to Secretary Sebelius expressing that federal assistance would be helpful to us and if we could share that with some of our sister states, it would make a big difference. Obviously, because of Florida's proximity to Haiti, we've really borne the brunt of it but we're happy to continue.

(END VIDEO CLIP)

Candiotti: So, Florida Governor's Crist is asking the federal government's, specifically health and human services to come up with more emergency funding, Don. But fact of the matter is for now, no other Haitians are allowed to go out right now.

LEMON: Susan, I have to ask you this for clarification because when I came to you in New York, I said that it was suspended. It had been suspended starting Wednesday and your statement from the White House says, it hasn't been. So, what's the truth here? What's happening?

Candiotti: Well, it's hard to figure all that out right now, Don.

LEMON: OK. So I imagine you're...

(CROSSTALK)

Candiotti: For now, it is what it is but I guess what the White House is saying, we don't have a policy decision. We're trying to come up with enough beds in the United States if they can, but if not, to try to work out getting more doctors on the ground there to expand the facilities on the "USS Comfort," which is offshore. And to try to get more doctors in, more beds into Haiti, if they can, to try to keep people there as best as they can.

LEMON: All right, Susan, hey, keep working on this because we need to get clarification about what exactly is happening because viewers want to know. There's a lot of interest in this story, as there should be. So let's us know if it is suspended, if it's not, who's telling the truth, the White House, the governor, or Governor Charlie Crist. Susan Candiotti, thank you very much for that.

Meantime, grants, not loans, would help Haiti rebuild debt-free there. This week two U.S. senators unveiled the Haiti reconstruction package. In it and emphasis to help the country rebuild both its infrastructure and its economy. Tad Agoglia was one of our top ten CNN heroes in 2008. He's the founder of a nonprofit organization called First Response Team of America. It is an NGO you're seeing there if you want to donate. He's been in Haiti about a week.

He's joining us live now from Port-au-Prince. You're there to help with the rebuilding, the reconstruction of Haiti, so and then especially around Port-au-Prince.

Since you have been on the ground, we spoke to you last weekend, you were about to go, what have you seen and what have you accomplished?

TAD AGOGLIA, FIRST RESPONSE TEAM OF AMERICA: Well, Don, from being on the ground, you know, we've quickly realized, we're just on the brink of the rebuilding. There are still so many people. There are hundreds and thousands of folks that need food, that need water, that need temporary shelter, that need to get into some safe and secure environment within the next six to nine months, so actually our equipment is going to be used to help get aid into areas.

(CROSSTALK)

LEMON: And I want to say, this is your equipment. We've got video, Tad, of your equipment coming in. How did it get over there, and again, these are pictures, your equipment coming in, so once it got there, take us through what happened.

AGOGLIA: Well, Don, once it's gotten here, we've taken it off of the barge. We've put it into a safe and secure area. We've decided that we're going to bring the equipment to a city called city Saleh, where there's 200,000 people over a 70 percent of the people, were unemployed even before the quake hit. There's a need to get doctors in there and medical supplies and food and water and tents. We've identified a compound where there's a wall that has fallen. We're going to clear that area. Use local workers to build a new wall and then an organization called Samaritans first, is going to set up a medical facility there and bring in the emergency supplies that that community needs.

LEMON: So, Tad, listen, you know, you do disaster recovery. This is your thing. This is why we honored you as a hero here on CNN. Just honestly, personally, what -- when you saw the devastation there, what was your response? What do you think of this? And can it compare to any other disaster that you've seen?

AGOGLIA: Well, it can't compare to any disaster I've seen. The suffering can. I mean, obviously even what we saw in the states in Katrina, suffering is suffering. When people are hurting and when people need help, we've got to respond. We've got to help. But, yes, I'm sure, you know, you've heard it many times, this is just a catastrophic, devastating situation that we're dealing with here. The amount of people that are displaced, the amount of people that are in need of emergency care is -- it's almost hard to wrap your mind around it.

LEMON: Yes. Having done this, give us -- I don't know if you can -- an assessment of how long you think it will take before it at least

has some semblance of normalcy.

AGOGLIA: Well, Don, I would say, you know, we could begin to see some normalcy within a year or two. But a real rebuilding, a real reconstruction of the community would probably take about ten years. I'm so moved. Everywhere I go, I see so many young people, so many people on the streets trying to sell what they can. I see an interest in commerce, an interest in working hard.

I would hope that in this rebuilding process that wouldn't just taken through the account, the buildings and the infrastructure and the sewage and the water, but we take into account the potential commerce here. You know, farming, biodiesel, you know, tourism. I think that should really be part of the long-term process of rebuilding here. Something towards sustainability for this people, because I'm really moved at the welcome we've received here and the wonderful people that we meet everywhere we go.

LEMON: Hey, Tad, that's why we -- you're a CNN Hero, a CNN Hero of 2008. His organization is called First Response Team, again it's an NGO. Look it up online. Tad, please keep in touch with us and thank you for taking, you know, a moment to come because we know that you are very busy there. I want to tell you tonight 8:00 p.m. Eastern, right there, Hero Special is going to be on the air tonight, 8:00 p.m. Eastern.

Make sure you join us here on CNN, also if you know an extraordinary person, someone like Tad, a hero, you can nominate him or her by going to CNN.com/hero. Click on the nominate tab. And while you are there, you can check out CNN's here of the week again, 8 p.m. right here on CNN, there's going to be a Hero Special hosted by our very own Anderson Cooper.

OK. So, if the Obama administration has its way, the pentagon will allow gays to serve openly in the military. Former Defense Secretary William Cohen will be our very special guest to discuss this controversial policy and whether or not it should be repealed or can be repealed.

(COMMERCIAL BREAK)

LEMON: OK, you want to pay close attention to this. We're talking about the state of our nation, but this is going to be a huge story in the coming weeks and months here in the United States. It's called -- its nickname Dadt, which is "Don't ask, Don't tell." Since 1993 it's been the official U.S. policy towards gays serving in the military. Next Tuesday, the top two military leaders in the Obama administration will go before Congress to make the case that it is time to scrap the policy and let gays serve openly in the military.

CNN's Ted Rowlands sat down with three gay active duty service members who say, Dadt, "Don't ask, Don't tell" is the same as "Living a Lie."

TED ROWLANDS, CNN CORRESPONDENT: Three active members of the U.S. military, all gay, all possibly risking their careers talking to us. That's why we're not showing their faces. An army sergeant with ten years of service who's done a tour in Iraq, a female army mp who's been in for five years and has always been to Iraq and a navy sailor who joined a year and a half ago. They all argue that despite what's going on in the world including two wars now is the time to change "Don't ask, Don't tell" and listen to what they say about "Living a Lie."

(BEGIN VIDEO CLIP)

UNIDENTIFIED MILITARY: I am terrified that somebody in my chain of command is going to find out. There's always that pressure.

UNIDENTIFIED MILITARY: I agree. It is a near constant thing because you're almost always putting up some sort of a front of a band of brothers that everybody talks about. I'm kind of that brother with the secret and yes, it does wear on you.

ROWLANDS: Why did you do this interview?

UNIDENTIFIED MILITARY: Well, this institution doesn't mean you don't tell when it is broken. We're just giving voices. You know, some screwed up here.

UNIDENTIFIED MILITARY: We really think it is the best thing for the military, all services and the best thing for this country for this to be repealed.

ROWLANDS: Why now? Why do we need to deal with this now?

UNIDENTIFIED MILITARY: It is a problem now. I think that our soldiers deserve to have their fore rights.

UNIDENTIFIED MILITARY: Gays, lesbians, transgenders are in the military now. People know about it and the people who are against it who don't want to take a shower with us, that stuff already happens. It's not going to change.

ROWLANDS: And do you find that people through the process of elimination figure you are gay?

UNIDENTIFIED MILITARY: I've been aware of people who knew that I was gay. And I never really felt like I was threatened. I never felt like I had to keep watching over my shoulder for, you know, the witch hunters to come after me with their forks and pitchforks.

UNIDENTIFIED MILITARY: I would say everybody in my group where I work, they all know that I am gay. If, you know, I can be open with them, I would be able to trust them more and they would know that they could trust me because I trust them with something so you know important.

ROWLANDS: Would you all come out right away if "Don't ask, Don't tell" was lifted?

UNIDENTIFIED MILITARY SERVICEMEMBER: I wouldn't go up to everybody saying, hey, I'm gay. But you know, the people who were important, clearly important to me, they will know.

UNIDENTIFIED MILITARY SERVICEMEMBER: I will not hang a rainbow in my office but I will definitely have a coming-out-party.

ROWLANDS: All three say they're pleased and surprised that the president mentioned repealing Don't Ask, Don't Tell in his State of the Union address. They're hoping it actually leads to a change so they can stop living a lie.

Ted Rowlands, CNN, Los Angeles.

(END VIDEOTAPE)

LEMON: All right. It is certainly a very interesting story. So let's go right away to William Cohen. He dealt directly with this controversial policy as defense secretary under President Bill Clinton. Today, he's the chairman and CEO of the Cohen Group, which represents defense contractors. He joins us from Washington.

Good to see you.

WILLIAM COHEN, FORMER DEFENSE SECRETARY & CEO, CHAIRMAN, COHEN GROUP: Good to see you, Don.

LEMON: So you heard the two service members there, the gentlemen there, saying this is already happening, already showering with people. Everyone already knows. So what is the big deal? Is that so? And is that so, and is that a case, an argument to repeal Don't Ask, Don't Tell?

COHEN: Well, I suspect what they say -- or have said is true. The lead-in to the story was that these three people were risking their careers by going on television, therefore, you had to camouflage their identities. The reality is they're risking their lives every day to serve this country, and that's something we have to come to grips with. This is why I think the president said it is time, after 17 years, to review the policy and repeal it if it can be done. So I think the time issue is not one that's really the desposited (ph) case. We're having two wars, that's true. But when the policy was adopted, there were no two wars going on at that time. It was relatively calm in terms of the international scene as far as the United States. And yet the issue has always bring it's not time yet. The time has come to look at it and say that people should be able to serve honorably.

The key issue should be capability and the key issue should be conduct. How have they conducted themselves? Are they conducting themselves as men and women who were patriotic, dedicated and carrying out their mission? That ought to be the test.

LEMON: You are saying it shouldn't be about sexuality, should be about whether you can do the job, just as in private, in everyday life and in everyday companies, jobs?

COHEN: We should try to eliminate discrimination whenever we can. If you went back and looked at how discriminatory policies have evolved over the years, going back to the time when blacks in this country were segregated and they said, well, it would disrupt unit cohesion if they were allowed to be integrated or we couldn't have women in combat aircraft. That didn't take place until 1994, when the first woman was able to fly in a combat aircraft. Well, talk to Tammy Duckworth now to see whether or not women are capable of flying combat aircraft.

I think what's great about our country is we're able to evolve, we're able to look at a situation, say, you know, there are some inequities here. We can deal with this. We can implement regulations. We can control conduct. And if people are not measuring up to those conduct standards, they can be dismissed. But the notion that someone can be gay in the military and not anyone know it, you can sacrifice or she can sacrifice their lives, but if they say they're gay, then they're out. I think that's a policy which needs to be reviewed. And I would advocate to be repealed.

LEMON: Let me ask you quickly. Did you, at the time when you were working with Clinton administration, was this your stance? Did you believe this then?

COHEN: Well, we had just passed the Don't Ask, Don't Tell rule when I was in the Senate, as a matter of fact. And that was the testimony at the time. And I supported the rule at the time. And so it really didn't become a major issue when I got to the Pentagon because it had been relatively new.

LEMON: So you think that now we've evolved beyond that and you feel that it should be repealed?

COHEN: Well, I think that there is new -- I think that society itself has evolved. You had the former chairman of the Joint Chiefs, John Shalikashvili, call for a review. And I would suggest a revision -- some years ago.

LEMON: Hey, hey real quickly, I have a very short amount of time. Do you know Ike Skelton, who is a Democrat and worked with you 17 years ago, and said, don't do it, don't repeal it, it would be detrimental.

COHEN: Yes. Listen, my friend, John McCain, feels the same way. This is an issue that is going to be controversial, but I think it's time to have it brought before the Congress and have a full airing of the issue and see whether it can be reviewed.

LEMON: OK. I have to go. Do you think that it'll be repealed? If you can give me a yes or no answer?

COHEN: I don't know. I think we'll have to wait and see.

LEMON: OK. I have to move on. But I want to ask you about something because I have you here. I want to change the topic for a moment and ask you, the Obama administration announced a nearly \$6.4 billion arms package for Taiwan and that move has China outraged. Leaders in Beijing announced China was suspending military and security contracts with the U.S. and will impose sanctions. So what do you make of this?

COHEN: Well, it's an age-old problem that we have in dealing with China. We have two policies. One, a one-China policy, and we also have support for the Taiwan Relations Act. That means that we are committed to helping Taiwan to defend itself by supplying them with equipment they need.

The real answer is for China not to pose a military threat to Taiwan. They are evolving. They are getting together. I think they'll be a peaceful reconciliation between the mainland and Taiwan. It's happening already. And so this is an unnecessary confrontation.

The easiest thing to do would be for China to pullback its median-range ballistic missile, stop pointing so many at Taiwan, and then you wouldn't have the necessity for Taiwan to be requesting defensive equipment that Congress would then be providing for them. It's easier -- I think it's an emotional issue but it's one that can be resolved without confrontation.

LEMON: Secretary William Cohen, thank you, sir.

COHEN: Great to be with you.

LEMON: Toyota owners, I want you to listen up here. The carmaker has some contrite words and some new parts that you'll want to know about.

And we'll hear the best-known song that was sung at the Obama inauguration. Now the son of an American diva says she is sick, big-time.

(COMMERCIAL BREAK)

LEMON: I want to update you now on some of our top stories. If you own one of those millions of recalled Toyotas, your fix is on the way. A Toyota spokesman tells CNN that the company has met with federal regulators to talk over a repair plan. Now the company has to replace millions of sticking gas pedals. Toyota is planning an announcement soon. But wouldn't give a time line for when the fix will

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be ready. Meantime, Toyota's president has apologized for the whole mess, telling customers, quote, "We're extremely sorry."

Rival automaker, Honda, has some problems of its own tonight. The company is recalling 141,000 of its fit cars right here in the U.S. Some of the 2007 and 2008 models have faulty power windows. They have switches that could pose a fire hazard.

Singer Etta James is seriously ill with a staph infection. That is according to her son. She's been in a Los Angeles hospital since last week with MRSA. MRSA, it's an infection resistant to antibiotics. The 72-year-old singer was diagnosed with Alzheimer's disease last year. She's best known for her 1961 hit "At Least," which was sung at President Barack Obama's inaugural ball.

Imagine watching the State of the Union address and hearing the president mention you. It actually happened to a Philadelphia man, and we're going to talk to him. Wait till you hear his story.

And a lot of people are sporting these shirts around New Orleans. But the NFL really doesn't care for the fashion statement.

(COMMERCIAL BREAK)

LEMON: All right, so this week, during the State of the Union address, President Barack Obama boasted a bit about his stimulus plan, and he had this to say. Take a listen.

(BEGIN VIDEO CLIP)

BARACK OBAMA, PRESIDENT OF THE UNITED STATES: I talked to the window manufacturer in Philadelphia, who said he used to be skeptical about the Recovery Act, until he had to add two more work shifts just because of the business it created.

(END VIDEO CLIP)

LEMON: We know we have had our stimulus project all week long here on CNN and our stimulus desk, so we decided that we would track down this window manufacturer. Here's his name. His name is Alan Levin, and I got the chance to talk to him right after that speech, the day after. Take a listen.

(BEGIN VIDEO CLIP)

LEMON: So, Alan, it must have been pretty exciting hearing the president mention you?

ALAN LEVIN, WINDOW MANUFACTURER BUSINESS OWNER: It was truly amazing. We were completely excited, overjoyed, giddy, everything.

(LAUGHTER)

LEMON: You know what, here's the interesting thing. You were skeptical about this process, about the stimulus, you were not sure it would get to the right people and help at all, and now?

LEVIN: I'm a believer. We were very skeptical that we were mortgaging the future. But we've seen the benefits by the job hirings. And we see the people, the families that we're feeding.

LEMON: Yes. So if this stimulus had not been given out, if you had not received this stimulus, I should say, where would your business, where do you think that your business would be now?

LEVIN: We'd be struggling like the rest in the industry was before. The industry was off 30 percent before the stimulus act.

LEMON: Uh-huh. And how was your business before the stimulus act?

LEVIN: We were fighting to keep down 10 percent.

LEMON: To get your cost and everything down 10 percent. You had 180 -- is it 185 employees last year, right?

LEVIN: Correct.

LEMON: And now?

LEVIN: 285.

LEMON: So you've added 100 employees in just one year. How much does that -- how much of that can be attributed to the stimulus?

LEVIN: I'd say a large part of it. I would say the majority.

LEMON: Yes. And also it's not just the stimulus. You've added 100 employees. You're doing much better now. But you've said, because of the tax credits that may have helped more than just getting the stimulus money to repair windows in Philadelphia housing.

LEVIN: Correct. They put in that 30-30 Act, which was a U value (ph) below .30, and a solar heat gain below .30, and allowed the homeowner to get up to a \$1,500 tax credit if they put in a high-energy-efficient window.

LEMON: And so how much business have you gotten from that?

LEVIN: We're up over 30 percent this year.

LEMON: Ah, that's really good. Listen, you have a 15-year-old daughter named Sydney, 15-year-old son, Austin, wife, Fran, high school sweetheart you met at 15 years old. She helps in the business as well. You were really sort of -- you epitomize America, right, with owning your own business, the American dream.

So if you can explain to our viewers, in a way that they can relate, if you're a business out there struggling about the stimulus money, I would imagine your message would be, there's hope? I'm not sure. I don't want to put words into your mouth.

LEVIN: No, absolutely. It's truly the American dream. My business that my father, Earl Levin, started back in 1975 and, with perseverance, quality products and service, if you keep fighting, you know, it does pay off.

LEMON: Yes. Anything else you want to say to the people of America, who may be watching, your family members, who've helped you throughout all of this, and maybe even the president for mentioning you in his speech.

LEVIN: Keep buying energy-efficient products and lower your energy costs.

(LAUGHTER)

LEMON: Right. So listen, not is it we're only talking about housing and urban development, but it's also about clean energy, green energy, saving energy and money. So you know you are hitting a whole lot of points here.

Alan, we really appreciate it. Best of luck to you, OK?

LEVIN: Thank you, don.

(END VIDEOTAPE)

LEMON: Great guy. Nice family. Thank you so much for that interview, Alan.

You know the best foods to keep your heart healthy? Do you know what they are? Our Dr. Sanjay Gupta offers up a top-ten, it's a new top-ten, right after this.

(COMMERCIAL BREAK)

LEMON: There are a whole lot of claims out there about foods that are good for your heart. Our Dr. Sanjay Gupta is here to separate fact from fiction as part of our series, "Fit Nation."

(FIT NATION)

LEMON: All right, Sanjay.

"The Situation Room" with Mr. Wolf Blitzer straight ahead.

Wolf, what do you have for us?

WOLF BLITZER, HOST, THE SITUATION ROOM: Don, coming up at the top of the hour, we'll do something very special. It was an extraordinary meeting on Friday, the president met with Republican House members in Baltimore. Television cameras were allowed inside. The president had some tough exchanges with Republican Congressmen. We're going to play it for you. It was a rare moment. You'll see it all right here in "The Situation Room." That's coming up in a few moments.

Don, back to you.

LEMON: We'll be watching. Thank you very much, Wolf.

You know, it is something New Orleans Saints have been chanting for years and really many people in New Orleans have been chanting for a long, long time. "Who Dat", right? They're at the center of a legal fight right now. Those words, we'll tell you about that, what's going on.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

(SINGING)

(END VIDEO CLIP)

LEMON: That's from 1980. That's the original "Who Dat" video. It is written by a man, the original song, Steve Monaster. There is Aaron Neville performing. Again, this is courtesy of YouTube.

You know, this is a huge controversy down in Louisiana. It has gotten all the way to the NFL. "Who Dat" is something that New Orleans Saints fans have been chanting for years. And with the Saints headed to the Super Bowl, it is popping up on lots of T-shirts, right? So the NFL, the National Football League, not amused by this, telling retailers to stop selling the shirts. But a spokesman denies the NFL is trying to stop people from using the phrase "Who Dat." He says, quote, "We are not seeking to exclude all uses of "Who Dat" on merchandise. But in connection with the Saints, we do have to protect the rights of licensees with prior authorization to produce merchandise with the logo." He went on to say "Who Dat" on a green or white T-shirt by itself is not an issue for us. But the inclusion of the Saints helmet, logo or colors, becomes an issue. And we do not..."

Go ahead because we -- do we have to say this whole statement?

Anyway, they are basically saying, as long as it is not on the black and gold shirt.

Rick Harrow, help me out here. Who owns this?

RICK HARROW, CNN BUSINESS SPORTS ANALYST: "Who Dat" going to own that shirt, right?

(LAUGHTER)

LEMON: Yes.

HARROW: The bottom line of it all is that it is pretty complicated legal theory. It is based on common sense. If it is in the public domain, then, you know, nobody can all of a sudden say we own it, we'll charge for it. And if it is not, it is OK.

So it is probably a negotiated settlement with "Who Dat" not being owned by the NFL. But the Saints likeness being owned by the NFL. So then they may have to change the pattern of the shirt.

However, it is in this political environment, maybe there is a compromise where the shirt is there and the money has been given to charity. The NFL is pretty strong on certain things. Even with churches televising the Super Bowl at big parties to raise money, they didn't allow that a few years ago so...

LEMON: I can understand the restriction and they want to, you know, sort of keep it in their realm and they want to protect the rights or whatever. But the NFL -- and this is just for someone growing up there -- the NFL did not start "Who Dat". And the Saints didn't start it

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either. That was started back in the '60s and the '70s, Southern Jaguars, in Baton Rouge, another university, Baton Rouge, the Southern in Baton Rouge and there's LSU in Baton Rouge. People at the Southern Jaguar games would start to say "Who Dat" and it caught on at LSU. And then it caught on with the Saints and it caught on in other places. And there is also -- in New Orleans as well, an African-American high school, it started there as well.

So the Saints don't really own it either. I think it is owned by the people. If anyone, it is the Southern Jaguars or the boys who were at St. Aug High School.

HARROW: Don Lemon giving us unique historical perspective of his boyhood home.

(LAUGHTER)

LEMON: I'm telling you the truth.

HARROW: Yes, but the point is I don't think there is turns on who owns "Who Dat". This turns on using the Saints likeness in the same shirts. And, frankly, look, the NFL feels really strongly about Katrina relief. We've seen a lot of that, the Drew Brees Foundation, Peyton Manning from there. I think there is controversy is probably well founded, but will be over very quickly is my point.

LEMON: OK. Yes, and it is also millions of dollars probably in merchandising dollars. But one person who, you know, may agree with that, it is owned by the people is David Vitter who is, you know, had some very strong words. Take a listen.

(BEGIN VIDEO CLIP)

SEN. DAVID VITTER, (R), LOUISIANA: I am personally printing "Who Dat" shirts and I'm going to make them widely, commercially available. So if they're going to start suing people, they need to put me on the list.

(END VIDEO CLIP)

LEMON: So there you go. That's how people in Louisiana feel because they feel that they own that.

Rick Harrow, again, as I said, probably the NFL and the team, because we're talking about millions and millions of dollars of merchandising, and it is -- you know, there is a controversy in a time when it is a good thing for the city, that the Saints are going to the super bowl, and it is a really good time for the Saints as well.

HARROW: And kudos to Senator Vitter, but also to the NFL. I think this will be worked out and we'll see what happens when we go to the Super Bowl next week. And I'll see you tomorrow.

LEMON: I'll see you next week. Thank you.

"Who Dat" talking about beating them Saints? "Who Dat." "Who Dat."

We have someone from New Orleans dancing in the studio now. Can you get her on camera?

You want to do that dance.

(LAUGHTER)

Come on. "Who Dat" talking about beating them Saints? "Who Dat"? "Who Dat"? You're from New Orleans, right?

UNIDENTIFIED FEMALE: "Who Dat." Yes!

(LAUGHTER)

LEMON: We're back with your comments in just a moment.

(COMMERCIAL BREAK)

LEMON: OK, it's time to read some of your comments. And we have been so busy, I didn't have a chance to go through a lot of them. But here's a -- a lot of people weighing in on "Who Dat".

Don11 says, "If you look at trademark law, the NFL is required to aggressively protect their trademarks."

Here's what dvcaz says, "DADT" -- talking about Don't Ask, Don't Tell -- "needs to be ended. Any American willing to risk their lives for this nation deserves everyone's respect."

Let's go down and see another one.

Here's from sophmom, she says, "DADT isn't the same as living a lie, it is living a lie. Not the same. It is living a lie."

"Edward's story explosive, watched twice last night. Don't care what Edwards' attorney says. Seems mostly credible. Tiger can go home now."

All right. And more, on and on and on about that.

"The story on John Edwards has me smiling now. It is a mess. I think the Obama administration found out and that's why he wasn't part of the administration."

Make sure you join our conversation. You can log on to social networking sites.

I'm Don Lemon in Atlanta. Thank you for joining us. See you back here at 7:00 p.m.

"THE SITUATION ROOM" with Mr. Wolf Blitzer, right now

Weather forecast



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GAYS AND LESBIANS AT WAR: MILITARY SERVICE IN IRAQ AND AFGHANISTAN UNDER “DON’T ASK, DON’T TELL”

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Findings

1. Gays and lesbians serve on the frontlines of Operation Enduring Freedom and Operation Iraqi Freedom, taking combat and combat-support roles as officers and enlisted personnel in the Army, Air Force, Navy and Marines. Despite the prohibitions of “don’t ask, don’t tell, don’t pursue,” many serve openly or are known to a majority of the troops in their unit. When gays are out, they report greater success in bonding, morale, professional advancement, levels of commitment & retention and access to essential support services.
2. Nearly all the gay and lesbian service members interviewed for this study reported that the “don’t ask, don’t tell” policy impeded their capacity to bond with their peers, to develop trust within their units, to discuss basic personal matters, and to achieve maximum productivity in their working lives as fighters and support personnel. Reported hardships were exacerbated during deployment, when support networks and resources outside the military are less accessible. Many reported that, due to the policy’s strictures on expression, they sometimes avoided socializing with their comrades, and were perceived by others as anti-social.
3. None of the gay and lesbian interviewees reported any impairment of unit cohesion as a result of their homosexual identity being known during deployment. Some reported that the “don’t tell” clause of the policy undermined unit cohesion and impeded their ability to reach their potential. Some members reported minor disruptions resulting from anti-gay sentiment which were comparable to other kinds of tension resulting from gender- or race-based interpersonal conflicts.
4. Privacy does not appear to be affected by the presence of openly gay troops in the wars in Afghanistan and Iraq. Despite widespread knowledge of the presence of gay service members, a norm of discretion prevails, and most gays and lesbians who come out voluntarily do so quietly and to close confidantes.
5. Troops described a wide variety of sleeping and showering arrangements, including open showers, communal shower tents and makeshift showers that were used before sites in Iraq and Afghanistan were improved, as well as single-stall showers and private bathrooms. No particular arrangement was seen to have impaired unit cohesion or undermined combat effectiveness.

6. Enforcement of “don’t ask, don’t tell” in Operation Enduring Freedom and Operation Iraqi Freedom is inconsistent and often arbitrary, and is largely dependent on the discretion of individual commanders. It appears to be tied to troop strength needs rather than privacy or unit cohesion. In many cases, the unpredictability of enforcement appears to have undermined respect for military law. The message of policy itself, which states that homosexuality is “incompatible with military service,” nurtures anti-gay sentiment, which some commanders endorse and perpetuate. Service members also reported uneven distribution of training on the “don’t ask,” “don’t tell” and “don’t harass” tenets of the policy.
7. The attitudes of younger recruits were reportedly more accepting of homosexuality than those of older and senior military personnel. Some indicated that enforcement of and support for the ban on openly gay service came primarily from older members of the military who had served when an outright ban was in place. Service members who had served both before and after the current policy was adopted said a significant evolution in feelings about homosexuality had occurred since 1993.
8. The policy frequently deprives gay and lesbian service members of access to support services, including medical care, psychological assistance and religious consultations, because they have no guarantee that personnel in these offices will hold their words in confidence.
9. Some gay troops cut their service short, declined to re-enlist or were discharged due to “don’t ask, don’t tell” in the midst of Operation Enduring Freedom or Operation Iraqi Freedom. Discharges have declined since the start of Operation Enduring Freedom, which is consistent with the historical trend of dwindling gay discharges during wartime. Nevertheless, gays continue to be expelled in 161 different occupational specialties, including linguists, intelligence personnel, engineers, administrative specialists, transportation workers and military police. Cases were also reported in which service members came out in order to get out of their service obligations.

Overview & Parameters

This study assesses the qualitative experiences of gay, lesbian and bisexual service members who were deployed as part of Operation Enduring Freedom (OEF) or Operation Iraqi Freedom (OIF) between October 7, 2001 and September 1, 2004. It is designed to evaluate the impact of the “Don’t Ask, Don’t Tell” policy on the capacity of gay troops to perform their duties as part of an effective military force. To make these assessments, analyses addressed the effects of the policy on morale, cohesion, privacy and retention, as well as the effects of leadership and policy enforcement on gay troops.

A study of this nature is important for several reasons. The rationale for a policy banning openly gay troops has been that letting avowed gays serve in the military would compromise the privacy, morale and unit cohesion that are essential to an effective fighting force.¹ Social scientific data supporting these claims have been scant, and much of the public debate on this issue has relied on anecdotal evidence and political rhetoric. In addition, most of the discussion about how and whether to limit gay service has been carried out from the perspective of straight service members, with little attention to the impact of actual and potential gay and lesbian recruits. Finally, U.S. military forces have been engaged in major combat operations in the Middle East for the first time since “don’t ask, don’t tell” was adopted, affording the opportunity to assess the impact of the policy in the field. An investigation of this sort is particularly valuable during a period when military forces are stretched thin, and the stakes for national security of well-designed personnel policies are high.

This study is based on thirty in-depth interviews with gay, lesbian and bisexual service members who were deployed to the Middle East, as well as field observations made stateside. It draws additionally on secondary research and interviews with government officials, academics and other experts on military affairs (see section on *Methodology*, below, and attached bibliography). Subjects for the study were drawn from the Army, Navy, Marines and Air Force. They include active duty, Reserves and National Guard, enlisted and officer corps, male and female, combat, combat-support and service-support (e.g. administrative) specialties. They represent all regions of the country and diverse racial, ethnic, class, age and educational backgrounds. Straight service members were consulted for background information, but in-depth interviews were limited to those who identify as gay, lesbian or bisexual. Previous studies have assessed attitudes of straight service members, although these studies are limited and more qualitative research is needed to accurately assess the values, beliefs and attitudes of straight troops with regard to gay service.²

¹ USC, Sec. 654, “Policy Concerning Homosexuality in the Armed Forces”; See also the comments of Charles Moskos, principal architect of the policy, in Nathaniel Frank, “What’s Love Got To Do With It: The Real Story of Military Sociology and ‘Don’t Ask, Don’t Tell’” in *Lingua Franca*, October, 2000.

² For example, one study reporting on attitudes of straight troops about gay service relied on convenience sampling methods rather than strict probability sampling to select respondents, and it did not include senior officers. It is therefore not possible to generalize their results to the entire military population. See “Sexual Orientation and U.S. Military Personnel Policy: Options and Assessments,” National Defense Research Institute, 1993, pp215-216.

History

The current policy on gays in the U.S. military, commonly known as “don’t ask, don’t tell,” allows gays and lesbians to serve so long as they refrain from stating their sexual orientation or engaging in homosexual conduct. In 1993, President Clinton, seeking to fulfill a campaign promise to lift the ban on gay troops, ordered his Defense Secretary, Les Aspin, to review the military’s existing regulation on gay troops, a Carter-era ban which was Pentagon-wide but had no basis in federal law.³ The directive stated that the review should “end the present policy of the exclusion from military service solely on the basis of sexual orientation.”⁴

The action prompted intense opposition from members of Congress and senior military leaders, including the Joint Chiefs of Staff. After meeting with law-makers and senior military leaders, President Clinton suspended enforcement of the Pentagon’s existing ban on gay troops, but said he would not issue an executive order lifting the ban until interested parties had a chance to review and debate the merits of the plan.⁵

Congress held hearings on the matter in the spring of 1993, after which the President, along with military and Congressional leaders, agreed to a compromise policy in which gays would be allowed to serve if they were not open and if they did not engage in homosexual conduct.⁶ The policy was written into law in November, 1993, and the Department of Defense promulgated its implementing regulations the following month.⁷

Both discharge figures and reports of anti-gay harassment increased substantially in the years following the implementation of “don’t ask, don’t tell.” But other aspects of the impact of serving under the policy have not been adequately investigated.⁸ This study aims to assess the qualitative experiences of gay and lesbian troops who have served in Operation Enduring Freedom and Operation Iraqi Freedom under “don’t ask, don’t tell.”

³ Les Aspin Memorandum to the Joint Chiefs of Staff on “Policy on Homosexual Conduct in the Armed Forces,” July 19, 1993.

⁴ Weekly Compilation of Presidential Documents, vol. 29 (Jan. 29, 1993): pp. 108-112.

⁵ New York Times, Jan. 21, 24, 25, 26, 27, 1993; Weekly Compilation of Presidential Documents, vol. 29 (Jan. 29, 1993): pp. 108-112.

⁶ “Policy Concerning Homosexuality in the Armed Forces,” Hearings Before the Committee on Armed Services, U.S. Senate, 103rd Congress, 2nd Session, Senate Hearing 103-845 (1993).

⁷ USC, Sec. 654, “Policy Concerning Homosexuality in the Armed Forces”; New York Times, Dec. 23, 1993.

⁸ “Conduct Unbecoming: The Ninth Annual Report on ‘Don’t Ask, Don’t Tell,’” Servicemembers Legal Defense Network, 2003.

Methodology

A study assessing the impact of military policy on gay and lesbian service members faces a number of methodological challenges. Because it is illegal for service members to state that they are gay, it is not possible to conduct random selection surveys of gay troops, and it is difficult to reach large numbers of gay and lesbian troops. In addition, quantitative surveys on this topic are limited in their ability to generate reliable information because responses may be swayed by the knowledge that there is a ban on openly gay service members. The language of the federal statute, which says that known homosexuals “would create an unacceptable risk to the high standards of morale, good order and discipline” essential to the military, sends the message that gay people are unwelcome in the military and “good soldiers” may be inclined to echo the tone set at the top.⁹

Since random selection surveys were both impossible and of limited use, subjects for this study were recruited in three ways: First, calls for interviewees were placed in the Advocate.com, the website of the nation’s largest gay and lesbian news magazine. Second, calls for subjects were sent out via email lists and listserves of organizations of gay veterans, gay advocacy and gay research groups. These groups included CSSMM (Center for the Study of Sexual Minorities in the Military), AVER (American Veterans for Equal Rights), SLDN (Servicemembers Legal Defense Network), MEI (Military Education Initiative), LCR (Log Cabin Republicans), the Liberty Education Forum and the Military Freedom Project. Third, mindful of a possible bias produced by relying on willing interviewees who might be eager to respond to advertisements and formal postings in gay-oriented publications or websites, participation was also solicited from service members identified through friends, acquaintances and other peers of initial respondents. Roughly fifteen percent of interviewees comprise this group of subjects who did not reply to formally posted calls for interviews, but were contacted through private avenues.

The limitations of this sampling strategy are that it is not possible to generalize about the entire military from a non-random selection of interviews. The interview strategies used for this study can nevertheless yield highly useful information about the impact of deploying to combat while serving under “don’t ask, don’t tell.” In order to draw conclusions from in-depth interviews, a similar set of questions was asked to all respondents covering the following areas: (1) personal background, (2) military job and rank, (3) observed attitudes of military personnel toward homosexuality, (4) degree of privacy, (5) nature of living arrangements, and (6) impact of the policy. Because of the limitations of a non-random sampling strategy, this study incorporates a number of other methodological approaches to check identified patterns against social science data from a wide body of literature corresponding to these areas. This procedure allowed further assessment of the validity and reliability of a variety of subjective conclusions, so that meaningful and relevant findings could be derived. These additional sources of data are discussed within the text of the study as appropriate, and include (1) government

⁹ USC, Sec. 654, “Policy Concerning Homosexuality in the Armed Forces.”

documents, (2) polling data, (3) newspaper and magazine articles, (4) expert opinions, (5) scholarly studies and (6) books (see attached bibliography).

Section I—Bonding, Morale & Cohesion

The “don’t ask, don’t tell” policy and the rhetoric supporting it repeatedly cite “morale” and “unit cohesion” as essential ingredients to an effective military. In the text of the law, Congress finds that “one of the most critical elements in combat capability is unit cohesion,” which it defines as “the bonds of trust among individual service members that make the combat effectiveness of a military unit great than the sum of the combat effectiveness of the individual unit members.” The rationale for banning openly gay service, according to the law, is that allowing it would “create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.” Throughout the Congressional hearings surrounding the passage of the law, supporters of a ban argued that cohesion and morale would be harmed if gays were allowed to serve openly.¹⁰

During the debates over gay service, parties on both sides of the issue acknowledged that gays and lesbians already served in the military, often with distinction, and normally without incident. Almost nothing, however, was said about what impact a gay ban had on these service members, or on how bonding, morale or cohesion of units might be affected if new regulations were implemented governing gay expression and conduct.

This study has been designed to ask those questions directly of gay and lesbian service members deployed to combat. The data collected suggest that the “don’t ask, don’t tell” policy significantly impairs bonding between gay troops and their straight and gay comrades. Interviews with gay troops reveal both the centrality of social ties to military deployment and the special burden gay troops face under the restrictions on personal expression under the policy, particularly while deployed overseas.

One of the most frequent responses in interviews about the impact of serving under “don’t ask, don’t tell” was that gay and lesbian service members were compelled to shut down in an environment in which forming close bonds was encouraged. Many respondents described long hours of “down time,” even in combat zones, during which people passed the time by talking informally and discussing friends, family and other personal matters. During these moments of social bonding, some gay troops had to censor themselves, remain silent or opt out of conversations altogether. The result was that these troops were seen as aloof, uncaring or uninterested.¹¹

“It can’t be all business all the time,” said an Army JAG officer who was formerly deployed for OEF as part of the Naval Coastal Warfare community. “You have to be able to talk about your life, you have to be able to bond with the people, and I could never do that.”¹² An enlisted man said that in some units, he felt comfortable enough to come out to most of his co-workers. But when he was in a unit where people did not know his

¹⁰ USC, Sec. 654, “Policy Concerning Homosexuality in the Armed Forces”; “Policy Concerning Homosexuality in the Armed Forces,” Hearings Before the Committee on Armed Services, U.S. Senate, 103rd Congress, 2nd Session, Senate Hearing 103-845 (1993).

¹¹ FD Interview; AN Interview.

¹² SH Interview.

sexuality, “it makes it harder to form interpersonal relationships to the point where people can go to war together.”¹³

One Petty Officer First Class in the Navy explained the added strains created by the gag rule. “If I have to sit there and hide my life,” he said, “that is stressful. Because people talk: when you’re at work, do you sit there and talk about work all the time? When I can’t sit there and talk about my life and my family, it does get stressful.” The sailor recounted a rumor that circulated after he was spotted in a Starbucks with his civilian boyfriend. The next day at work on the ship, it was reported that they had been holding hands, which was untrue. Wishing to confront people and correct the record, he opted instead to lay low so as not to draw attention to himself in a matter relating to sexuality. The silence took a toll. “Their closed minds just make me into a very impersonable person here at work,” he said.¹⁴

A Senior NCO in the Air Force who has served for eighteen years said the squadron is like a family, which serves as a support group away from home. “If you can’t be yourself or reveal too much about yourself, you’re still going to be odd man out,” he said.¹⁵ A senior airman said she avoided get-togethers with co-workers for fear of battling awkward moments in conversation: “That’s like your family when you’re [deployed], so if you can’t be open with them and trust them, it’s kind of like you’re out there by yourself.” She said it was hard to be deployed because, due to the gag rule, “you don’t really have anybody to talk to.”¹⁶

Another Petty Officer First Class in the Navy said the command leadership deems it important to build comradery through family functions. During deployment “a lot of wives get together and help support each other” back home, he explained, with childcare, emotional support and socializing. He said he avoids command functions “because they always try to involve the families, too, and I don’t like showing up by myself, because then I get a rash of questions” about why he has not brought a wife or girlfriend. “Because I stay away from command functions,” he concluded, “I don’t bond with anyone at work anymore.”¹⁷

A Navy Lieutenant, currently studying aeronautical engineering at the Air Force Institute of Technology, said the ban “ends up driving more of a wedge [between gays and straights] than really helping.” The policy, in his view, “makes very sharp distinctions... but if everyone were able to be out, there wouldn’t be such sharp distinctions.” As a result of the policy, “I don’t socialize as much with the people I work with because I can’t be out to them, and that’s not good for cohesion.” If he were able to be out, he said, he would probably socialize more with his peers, which is especially important among officers in the squadron, who function “like your little social group.” He called the ban “detrimental” and said it was exhausting “to keep up appearances,” and to pretend to be interested in girls on a regular basis. The Lieutenant was out to over a dozen other gay

¹³ IN Interview.

¹⁴ WA Interview.

¹⁵ DN Interview.

¹⁶ SA Interview.

¹⁷ TR Interview.

sailors. “It makes it a little bit more sane for my state of mind that there are a few people who know and you don’t have to be secret from everyone,” he said.¹⁸ A former Army Staff Sergeant agreed, saying that “it became easier to talk to people once I was open with them.”¹⁹

Some service members found that the policy affected not only gays and lesbians but members of the force at large. The Army JAG officer said she had to avoid referring to social occasions and activities in normal conversation. At these moments, “there were only certain things I could say. One of the ways I concealed was to become more detached, more cold, which is not a good thing in the military because we’re supposed to be laying our lives down for one another.” She said that taking these steps was manageable while in the inactive Reserves but took a greater toll while deployed. “It’s so ingrained in military culture to bond on a social level that it takes away a fundamental stress release and a fundamental bonding experience to have to hide who you really are,” she said. “Either you become a cold, detached person, or you’re a liar. It’s such a disservice to do that to other service members.”²⁰

Austin Rooke, an Army Captain trained in Counterintelligence and working as a liaison officer from SOCCENT (Special Operations Command Central), corroborated that the policy burdens not only gay troops but members of the force at large. Rooke came out to a few co-workers to a very positive response. But when friends of gay troops know of a soldier’s homosexuality, either through a direct acknowledgment or through informal signs, statements and innuendo, the straight service members become accomplices. “When you come out to someone,” Rooke said, “you put them in an uncomfortable position, you burden them, because they now have knowledge that you are serving illegally.” Thus gay troops are forced to choose between bonding effectively at the cost of burdening their comrades or shutting down at the cost of effective bonding. So long as the law bans people from revealing their homosexual orientation, they will not be able to bond effectively without both violating the law and placing their peers in uncomfortable positions.²¹

Rooke said that when stationed in Qatar, the gag rule “definitely prevented me from feeling like I could make a connection with the people I was working with.” He struggled with whether or not to come out to his roommate, who he thought might be accepting, but who had apparently not been exposed to many gays before. He decided not to tell him he was gay, but recalled a need to have “that kind of human connection when I was away from my support network.”²²

¹⁸ Matthew Interview.

¹⁹ Brian Muller Interview.

²⁰ SH Interview.

²¹ Austin Rooke Interview; One Petty Officer First Class in the Navy explained the difficulty concealing sexual orientation even if one conforms to the silence provision: “Some people can just figure things out, especially if they’re from the more liberal states like California, places where they may have been around gay people before,” WA Interview. A senior NCO recounted one individual who “didn’t really have any choice but to be openly gay, because he was very effeminate.” He said, however, that he was “treated with dignity and respect,” a result he attributed to the service member’s effort to “always go above and beyond and do the best job possible.” DN Interview.

²² Austin Rooke Interview.

Many people do not initially appreciate what the policy will require them to do throughout the duration of their service. As one soldier explained, the policy prohibits gays from revealing or discussing their sexuality even to one another, depriving them of one of the essential sources of support which other members of minority groups enjoy. He went further, saying the ban effectively hampers all kinds of bonding among members of the same sex. “We’re not allowed to experience any sort of relationship with people of the same gender,” he said, including non-sexual intimacy.²³ “It requires a conscious effort to avoid the situation where that [sexual orientation] would come up,” said another, “or it requires outright deception.”²⁴

Another illustration of the unforeseen burdens of the policy comes from a Surgical Technician in the Navy who came out to his parents, and faced an unsettling silence from them for a period of time. Visibly upset but unable to explain why, he was asked by concerned supervisors what was troubling him and why he had not received emails from his parents lately. After evading their solicitations, he eventually came out to his Leading Petty Officer, who, despite his violation of the policy, was fully supportive. He was told, “I know how you feel and if you need any help, let me know.” His Leading Petty Officer added, “I don’t believe the military should have this policy. We really like you here and we want to keep you here and we’ll help you out.”²⁵

For many service members, the silence requirement raised doubts about whom to trust as “real friends,” and planted concerns that comrades they hoped would accept them might eventually reject them if they found out their secret. “I had a lot of close friends but constantly wondered if they would be my friends even after I told them,” said a Psychological Operations Staff Sergeant working in Kirkuk, Iraq.²⁶ An Army Captain in charge of battle plans and operations in Iraq, who was out to most of his friends in the military, nevertheless was constantly “terrified” that the remaining friends who didn’t know he was gay “would find out and that they wouldn’t be my friends anymore.” He explained that the gag rule affected his ability to get close to the people who didn’t know his sexuality, especially while deployed in Iraq. “You want to be able to share with people and to talk to people, especially when you’re in the field, like when we were in Baghdad; you want to be able to talk to people and blow off steam and get to know people,” he said. “If you’re not out, you’re in essence lying.” He said that everyone who knew he was gay accepted it without problem, which made it easier to feel at-ease in his unit. “I talk to most of my friends and they accept it and I can be open with them and that means so much to me,” he said.²⁷ While the prospect of facing rejection is a fact of life for gays irrespective of the policy, the ban on coming out can exacerbate these concerns by forcing people into the closet and creating additional fear and uncertainty.

A lower enlisted service member, who did not want to mention his service branch, elaborated on how the policy can compromise the development of trust between people in

²³ IN Interview.

²⁴ AN Interview.

²⁵ RO Interview.

²⁶ SM Interview.

²⁷ FD Interview.

a unit. “A great deal of military service is being able to trust people around you,” he said, “being able to be comfortable enough around them that you can trust someone with your life. Having to conceal something like this can make you doubt the personal bonds and professional bonds that you have with people.” The policy inflicts damage beyond its impact on individual gay personnel by institutionalizing the presence of dishonest troops. By requiring that gay people conceal basic information about themselves, the policy assures troops that people in their midst are misleading them. They are told there are people in their midst whom they should not trust. “It’s a forced lack of integrity on your part,” continued the service member. “If you’re living a lie, [your peers] are not trusting you, they’re trusting a picture of you that you put in their head.”²⁸

A Sergeant First Class working in Psychological Operations said the strictures against discussing one’s personal life yielded an effect similar to that of a repressive marriage. “You’d probably be a better father to your children if you didn’t have all these frustrations and all the depression that goes with it,” he said. Under “don’t ask, don’t tell,” “you can’t talk about your feelings. In that respect, maybe I could have been a better soldier.”²⁹

A combat veteran who served as both a Marine and Army infantryman explained how the policy limited his friendship with both other gays and straights. Having learned that a comrade was gay, he avoided socializing with him because of “guilt by association,” opting to email one another even though they were sitting right beside each other. With straight peers, “there were certain people I really liked and we shared experiences with each other,” he said. “But I only let them see part of me, while they shared everything. I felt I couldn’t always become friends to them and I intentionally didn’t get close to them because of that. Basically I shut them off over here now that I’m back” from the Middle East. “It takes a toll on me.”³⁰

The Surgical Technician in the Navy said it was more important to be “true to [people] at the origins,” so they would not find out later and feel deceived. “I think it would bother them more if you say you’re straight and they find out you’re gay and feel like you should have let them know before,” he said. He explained that some people who remain intolerant of homosexuality express a preference to know who is gay so they can feel better able to protect their privacy. He added that the requirement to conceal one’s sexual orientation could distract gays and lesbians from the mission at hand: “I think it hurts the unit itself if you don’t tell who you really are because if you can’t focus on what you need to focus on because you have other things in your head, then you’re wasting time because you’re not putting 100% into it.”³¹

The difficulties created around social cohesion were particularly pronounced for older and more senior personnel, who reported facing increased scrutiny about their personal lives. A Captain in the Air Force Reserves said that, at age 35, people are expected to have a “traditional” family. Seemingly harmless questions, which reflect a “genuine

²⁸ IN Interview.

²⁹ WE Interview.

³⁰ RG Interview.

³¹ RO Interview.

interest in getting to know” one another, follow accordingly. The gag rule disqualifies him from participating in these forms of socializing: “When I find myself in a discussion regarding personal experiences,” he said, “I often stay silent or don’t add much to the conversation in order to avoid those uncomfortable moments. If I have to think very carefully about each word I say, then I’d rather say nothing at all.” As a result, “I’ve earned a reputation for being all business, hard-nosed and very difficult to get close to. This is an accurate description; however, it’s not by choice. The military has forced me to become this person.”³²

Service members reported that when people did find out they were gay, relations often improved. A Squadron Leader who commanded Bradley fighting vehicles for the Fourth Infantry Division in Iraq described this evolution in his relationship to the gunner who served on his crew. “Prior to us being a crew,” he recalled, “I wouldn’t associate with him at all.” The gay squad leader had reason to believe the gunner might not be fully accepting of homosexuality. “Then we became a crew, and we became friends. When he actually found out, when I was actually able to open up to him, things got better in the sense that I’m able to be myself and he accepts me and that’s cool and he even asks me about my partner now.” The gay soldier concluded that serving openly “brought me and my soldiers closer together because now they know who I am. I’m a little bit more confident about myself because now I don’t have to walk around with this big ape on my back and we’re just that much closer and I don’t have to feel afraid of talking to them about what’s going on in my life.”³³

A Supply Specialist who served in Iraq from the beginning of the war, and whose tour was extended because of “stop-loss” orders, said his service would have been improved if he had enjoyed the freedom to discuss his personal life. “I mean, these are your best friends,” he said, “these are people you live with, you die with. How easy it would have been to say, hey, I’m gay, this is who I sleep with. I think it would have just brought us a hell of a lot closer.”³⁴

The rationale for “don’t ask, don’t tell” rests on the assumption that straight men are intolerant of, or uncomfortable around, gay men. Surveys of women’s attitudes towards lesbians in the military show greater willingness to tolerate gay women.³⁵ Since the ban on openly gay service applies to women also, it imposes constraints on relationships that the policy was not designed to restrict. In particular, the policy can hamper the special bonds that are sometimes made between gay men and straight women, and between gay women and straight men in the military. This is significant because gay people have historically confided in straight members of the opposite sex, with whom they often feel more comfortable and by whom they can feel less threatened than straight members of the same sex. In addition, their shared objects of affection can become a source of

³² JA Interview.

³³ MC Interview.

³⁴ JO Interview.

³⁵ Wendy Biehl, a lesbian and former Army Specialist, noted that women tend to socialize in the showers without incident. “We all talk in the showers,” she said. “We sort of point and say, ‘oh my god, I have a bruise here,’ and everybody just looks.” Wendy Biehl Interview.

commonality. “Don’t ask, don’t tell” deprives gay service members of the option to bond in this way, a casualty of a ban rooted in other concerns than the prospect of a gay soldier confiding in a supportive straight female at work.

“Guys loved me,” said Wendy Biehl, a former Specialist in the Army, who shared her sexuality with straight men during deployment to the Middle East. “I had the best of both worlds. When I’d go to the showers, they’d ask me who looked like what... we’d share sexual secrets.” Biehl recounted how straight men asked her for sexual advice and they had conversations in which they discussed who looked better in uniform than out of uniform. “They were like my brothers,” she said. “They’d stick up for me.”³⁶

Contemporary phenomena of popular cultural, such as “Queer Eye for the Straight Guy,” “Will and Grace,” and the term, “metrosexual” surfaced several times in interviews, as gays invoked a newfound tolerance and, indeed, a new kind of iconic relationship in the category of “gay-straight relations.” “The metrosexuals would come to me,” said one soldier. “‘I’m going out on a first date, what should I wear?’ [they would ask]. We became very good friends and my sexuality was never an issue.”³⁷ “I think in today’s military,” said another, “there’s certainly not as much concern as there was before. Look what’s on TV these days: Queer Eye, Boy Meets Boy; the perception of gays has changed so much since the policy was first instituted that no one really cares anymore.” He said the people keeping the policy in place were those who wrote it or backed it initially and have supported it since the beginning. “We’re talking Generals, who have basically fallen out of touch with everyday people. To enlisted personnel, it’s a big joke.”³⁸ “I think the most important factor is generational,” said an Air Force Captain. “It’s the old-school leaders who insist on these types of policies.”³⁹

Indeed, interviews for this study suggest that the bulk of opposition to letting gays serve openly in the military comes from older and senior personnel. This finding is consistent with major polls that have classified the ages of respondents when asked about their views on gays and lesbians, but diverges from assertions made during debate on gay service that young recruits would be most hostile to letting gays serve.⁴⁰

Overwhelmingly, interviewees reported that younger people “just don’t care” about whether their comrades are gay or lesbian. A Staff Sergeant noted that “enlisted soldiers are generally younger and more willing to accept new things” while “officers tend to look to regulations for guidance in soldiering” and “are generally distanced from their soldiers and are therefore less likely to know that one of their soldiers is gay.”⁴¹ Another service member said, “people my age, high school through my age, don’t care.”⁴²

³⁶ Wendy Biehl Interview.

³⁷ Brian Muller Interview.

³⁸ IN Interview.

³⁹ JA Interview.

⁴⁰ See, for example, Gallup Poll, December 5-7, 2003, in which respondents were asked, “do you think people who are openly gay or homosexual should or should not be allowed to serve in the U.S. military?” Ninety-one percent of respondents aged 18-29 said yes, while only 68% said yes among those who were over 65 years old. See also *The Economist/YouGov* poll conducted August 16-18, 2004, reported in *The Economist*, August 21, 2004.

⁴¹ SM Interview.

⁴² Kelly Interview.

Others commented on how much had changed in attitudes toward gays since the policy was created in 1993. To some extent, it appears that strong anti-gay animus has been replaced by gentler humor and teasing. A Marine who started out in the Navy in 1987 recounted a recent discussion in his unit about the proposed constitutional amendment to ban same-sex marriage. He said only one person backed it. “That, to me shows how much attitudes have changed,” he said, adding that he knew of no disruptions caused by the presence of gays in the Navy or Marines. He said that people care less about sexual orientation and more about performance. Only if a gay person was a “shitbird,” or slacker/complainer, would he or she be singled out. “But if a [gay] person performs his job really well, they might make a joke and move on, but they’d not try to beat them up or anything like that.”⁴³

A Navy Lieutenant who joined the service in 1993, just before “don’t ask, don’t tell” was implemented, agreed that much had changed since then. “Specifically [among] younger people and enlisted,” he said, “it’s a lot more open and accepting. Amongst officers, the older ones still have the same views.” He said that a “high school” culture still prevailed in which “you have to make anti-gay remarks every once in a while in order to really be a guy even though the majority of them really don’t care.”⁴⁴

A soldier in the National Guard said the only disruption he had witnessed as a result of someone’s sexual orientation involved “the one queenie guy from my home unit. They call him names and... make fun of him behind his back.” But the soldier concluded that people are not “hateful” because he is gay. In general, he said, “there are a few suspected gays but no one seems to care because the persons suspected do not say it one way or the other, they just take a little ribbing from time to time.” He said attitudes were improving. “Some people instead of witch hunting us are now just making jokes and letting it go,” he said.⁴⁵

Despite the generally positive response reported by most interviewees who came out to their peers, social disruptions related to sexual orientation were also a fact of life during OEF and EIF. Although discharge figures and reports of anti-gay harassment decreased since the wars began, The Servicemembers Legal Defense Network reports “a growing epidemic of anti-gay harassment within the armed forces.” Service members who face harassment or assault often do not report the behavior for fear of being investigated and discharged. Such behavior, when unreported, can escalate into violence and even death, which are clear impediments to cohesion and morale.⁴⁶

⁴³ JS Interview.

⁴⁴ Matthew Interview.

⁴⁵ RB Interview.

⁴⁶ “Conduct Unbecoming: The Tenth Annual Report on ‘Don’t Ask, Don’t Tell,’” Servicemembers Legal Defense Network, 2004; “U.S. Army, Chief of Staff Memorandum,” Erick K. Shinseki, July 21, 2000. Gen. Shinseki makes the connection between harassment and unit cohesion explicit: “When individual dignity and respect are violated, mutual trust and unit cohesion erode. Harassment of any kind violates individual dignity and tears at the fabric of this trust and the cohesion of our Army.”

Those cases in which service members reacted hostilely to discussion about gay troops are instructive. During New York City's "Fleet Week" in May, 2004, several sailors were asked whether they had an opinion on the "don't ask, don't tell" policy. Only one respondent was willing to discuss it, saying he thought it was a fair compromise. Another respondent said, "I don't think we're supposed to talk about that," which is not, in fact, a regulation mandated by the policy, but which suggests the confusion surrounding the policy. The others refused to discuss it entirely, and one yelled, "f--k the fags." Melissa Sheridan Embser-Herbert, a professor of sociology at Hamline University, and a retired U.S. Army Captain, has found that the gay ban casts such an air of suspicion and uncertainty over everyone's sexuality that it encourages the performance of "hypermasculinity" as a way of proving one is not gay. By mandating that all soldiers appear as straight, the policy requires both gays and straights to "go out of their way to be read as heterosexual," which often entails making or engaging in homophobic or sexist comments and behaviors.⁴⁷

These findings were borne out by service members' experiences in the Middle East. "I almost had to create some sort of macho think," said an infantryman who fought in Iraq. "That's how I'm perceived now in my unit, that I'm a player and that I get women all the time and have these sex parties. Little do they know..."⁴⁸ One Petty Officer First Class in the Navy reveals how the gay ban's forced performance of heterosexuality results in anti-social and disruptive behavior. "On a daily basis, I'm an asshole," he said. In order to avoid giving the impression that he was a stereotypical gay man, he acted out in ways that he thought projected heterosexuality, which, in his case, meant being "an asshole." He learned that several members of his unit thought he was gay "because I have nice white straight teeth and I trim my eyebrows and comb my hair and I wear gold." He said the implication was that "if I come to work with bad breath and I'm messy, then I'd be straight." He also said he thought his peers suspected his homosexuality due to his silence on certain occasions, such as "when I don't take part in conversations about demoralizing women."⁴⁹ His experience is also a reminder that it is impossible in many cases to successfully conceal one's homosexuality.

⁴⁷ Author Interview with Melissa Sheridan Embser-Herbert, Oct. 3, 2003. See also Janet E. Halley, *Don't: A Reader's Guide to the Military's Anti-Gay Policy* (Durham: Duke University Press, 1999)

⁴⁸ RG Interview.

⁴⁹ WA Interview.

Section II: Access to Support Services

The military provides substantial support services for its troops both stateside and during deployment. The Department of Defense offers all active duty service members legal assistance, paid time off, life insurance, health care, death and burial benefits and a large array of family support services including chaplains, counseling, crisis assistance, personal finance management, spouse employment assistance, adoption expenses and more. Individual branches offer their own networks of support. For example, The Navy Morale, Welfare & Recreation (MWR) offers child development and youth recreation programs, educational benefits, medical care, and low- or no-cost insurance, housing and medical care for sailors, spouses and children. The Army has long attracted recruits with its popular scholarships, loans and other educational opportunities and it also offers its own employment assistance, healthcare, civilian transition and relocation support, retirement benefits and a variety of religious and psychological consultation services.⁵⁰

These services are designed to make living, training and combat conditions as appealing and stress-free as possible so as to maximize recruitment, retention, readiness and combat effectiveness. Support services are also offered to families of service members both as added incentives for recruitment and to help relieve troop stress during deployment. The logic is that if troops can rest assured that things at home are taken care of, they will be less concerned with matters outside their training and combat missions and more able to focus on their military objectives.⁵¹

The data obtained in this study suggest that many gays and lesbians who served in Iraq and Afghanistan experienced special burdens as a result of constricted access to such benefits and services. The limited access to essential support manifested itself in several ways. First, there is no guarantee of confidentiality when service members talk to counselors, physicians or clergy, thus effectively denying them access to a wide range of support services considered vital during deployment. “You have to watch what you say,” said one soldier.⁵² Second, because it is illegal to reveal that a service member’s spouse or partner is a member of the same sex, gay and lesbian troops are banned from

⁵⁰ Benefits are listed and explained on the websites of the four major branches. For example, see <http://www.goarmy.com> and <http://www.navy.com>; See also Charles Moskos, “Preliminary Report on Operation Iraqi Freedom,” Dec. 14, 2003; Statement of Derek B. Stewart, Director, Defense Capabilities and Management, United States General Accounting Office Testimony before the Senate Subcommittee on Personnel, Armed Services Committee, April 11, 2002.

⁵¹ Statement of Derek B. Stewart, Director, Defense Capabilities and Management, United States General Accounting Office Testimony before the Senate Subcommittee on Personnel, Armed Services Committee, April 11, 2002.

⁵² The noted military sociologist, Charles Moskos, concluded in a recent Memorandum to the Office of the Secretary of the Army that “the role of the chaplaincy becomes more central than ever” in the current conflict in Iraq, since the mission is still not well-defined. The chaplain, he found, “is regarded as one who gives honest advice without any hidden agenda.” He recommended that “Chaplains need to make special efforts to circulate among the troops.” All of this suggests how important the military deems the chaplain to be during deployment, and thus what a disservice is rendered by depriving gay troops of access to this resource. Brian Hughes, an Army Ranger, corroborated the importance of the chaplain, saying he was “pretty much responsible for the morale of the troops.” Charles Moskos, “Preliminary Report on Operation Iraqi Freedom,” Dec. 14, 2003; Brian Muller Interview; Brian Hughes Interview.

designating members of their family as beneficiaries of support, access or even information. In addition, the statute explicitly prohibits marrying or attempting to marry a member of the same sex, further precluding gay and lesbian service members from forming and designating recognized family units with access to support and services. Finally, since phone calls and emails are often monitored for operational security, gay and lesbian service members report that they are not free to contact their partners without resorting to extraordinary means, including changing names and pronouns, writing or speaking in codes or leaving the base to make phone calls.

Interviewees unfailingly cited these constraints as sources of stress during deployment to Iraq and Afghanistan. A senior NCO in the Air Force concluded that despite the promise of “don’t ask, don’t tell” that gays could serve silently, in fact, “it was almost impossible to remain in the service and still be gay” because of the unique restrictions on gay troops. He described how the “don’t tell” clause placed strictures on his freedom to take care of personal matters at home. “We always had to be ready,” he explained. “That also meant having your unit ready and also having your personal affairs ready such as a will, power of attorney, etc.” The NCO said he could not put his partner’s name in the will he had on file without risking raising a flag and prompting an investigation. Thus he departed with the worry that if something would have happened to him, his partner would have had no way of knowing about it because he could not be listed on the “next of kin” form. “This guy would have pretty much been left in the dark; he would have probably found out on the news,” he said. “Before you hop on a plane” for a deployment, he said, “you hope you’ll have peace of mind. The DoD [Department of Defense] is cutting their own throats with this policy.” For his second deployment, the two worked out a plan where they added an “e” onto the partner’s name to make it look female while still remaining legally valid (in court, it could be chalked up to an error).⁵³

The NCO spoke from a cell phone in a truck in the parking lot of his base for fear of being monitored, and with his partner supervising the conversation to ensure he would not reveal too much identifying information to researchers. His partner said that the military offered numerous support resources to families, including liaisons for information, pizza nights, baseball games, and more, “and we don’t have access to any of that.” The NCO expressed concern that the policy needlessly increased the “unknown” factor upon being deployed, and that gays and lesbians were forced to worry either about being outed by revealing too much in their paperwork or about failing to adequately prepare for family contingencies upon deployment. Absent these worries, he would be able to “go and do our jobs and actually concentrate, without having to worry about what’s going on back [home].”⁵⁴

Brian Hughes, an E5 Army Ranger who participated in POW rescues in Iraq with the Special Operations Command, echoed the importance of knowing that personal matters on the home front are in good hands: “The principle is soldiers should know that things are okay back home and people are taking care of it.” He mentioned the Family Readiness Group, in which spouses and parents are invited into meetings for information

⁵³ DN Interview.

⁵⁴ DN Interview.

and support and where they get briefings of what is going on overseas. Official support structures also offer assistance with financial and emotional burdens. “They do make especially married soldiers’ lives much easier,” Hughes concluded, “and I think they fight better because of it.”⁵⁵

Kelly, an Army Specialist deployed to Afghanistan, recounted that when her girlfriend had surgery, she could not request that her command find time for her to visit, as a heterosexual service member would routinely do. Although she felt that “don’t ask, don’t tell” was “protective in a way, because nobody can make me tell them,” she concluded that the net cost of the policy is to deny gays and lesbians access to basic sources of support. She said that when straight people request to visit a spouse who just had a baby or a medical procedure, “we understand and say, ‘god bless, we’re praying for ‘em, go see ‘em.’ And we don’t get that.” She described “the whole picnic thing” as an effort to build up “esprit de corps,” to “hangout as people, not as, ‘you’re my boss and I’m the soldier.””⁵⁶ The military, she concluded, clearly sought to put service members’ minds at rest by reaching out to their families and offering avenues of support, which gays cannot access because they cannot discuss or bring partners of the same sex.

The Army JAG officer reported that her command “made it a point” to use support services which were available for “significant others,” but which she and her partner could not use. She could not designate her partner’s name on the list which the ombudsman used to convey certain information to family members of deployed troops, such as their whereabouts, condition and points of contact. “There was this whole network at home designed to help with significant others, and [my partner] couldn’t do that because that would have outed me,” she said. “Just to be on a mailing list would have raised eyebrows and could have gotten me kicked out.”⁵⁷

In addition to depriving gay troops of peace of mind surrounding their families, partners and home lives, “don’t ask, don’t tell” limits the opportunities of gays and lesbians themselves to draw on important military resources. An E4 Army National Guardsman said he experienced great anxiety surrounding his deployment to Iraq, and he could not access support services for fear of violating the “don’t ask, don’t tell” regulations. “I’ve currently had a lot of stress and issues that I needed to talk about but, due to the problem with mental health and the privacy rules, I have not utilized them,” he said. “The chaplains I don’t trust fully, as they seem to be way too into the bible to listen objectively.”⁵⁸

Accessing medical care and consultation presented another challenge to gays and lesbians in the military. A Psychological Operations Sergeant, emailing from deployment in Kirkuk, said that after having sex with a new boyfriend, he developed an itch and was concerned he might have contracted an STD. “I was fairly new to sex and I was scared to death,” he recalled. “I wanted to go see a doctor but was afraid that if they were to look too closely they would know that I had anal sex.” So he refused, putting his health, and

⁵⁵ Brian Hughes Interview.

⁵⁶ Kelly Interview.

⁵⁷ SH Interview.

⁵⁸ RB Interview.

that of others, further at risk. He also shared his reaction to a crisis of faith he experienced while serving in the Army. I wanted to talk to a chaplain or someone but was always unable to explain everything that I was looking for. To this day I still have not been able to choose a religion that I feel is right for me.” He explained that the gag rule had prohibited him from seeking the religious advice he craved to put his mind at rest during his service in the Army.

Brian Muller, a former Army Staff Sergeant trained in counterterrorism and bomb assessment, who was discharged in 2003 for homosexuality, recalled friends who neglected to get tested for particular kinds of genital warts because they feared it would reveal they were gay. Muller himself said he never spoke with Psychological Support personnel because “there is no doctor-patient confidentiality, at least with respect to gay things.” Muller used such services for other issues, and said “I definitely would have used them if I knew there was doctor-patient confidentiality. After you see someone blown up or injured, the Army wants to take you through the counselors,” an objective which is clearly at cross purposes with the gag rule of the policy, since it limits the emotional reactions one can discuss.⁵⁹

Austin Rooke, the Army Captain, said he would not have considered availing himself of many of the support services available to straights troops. “I never would have gone to clergy, to discuss anything about my particular issues with my sexuality,” he said. “I might have, if I could have been open, but it was so far removed from anything that would have been an intelligent thing to do.” He said he never would have brought up anything having to do with sexual health to a military physician, and instead had to use outside clinics instead of what was provided for military personnel.⁶⁰

⁵⁹ Brian Muller Interview.

⁶⁰ Austin Rooke Interview.

Section III: Privacy

Concerns about privacy have fueled opposition to letting gays serve openly in the military, and constituted one of the key rationales for the creation of “don’t ask, don’t tell.” The reasoning was that if gay people did not come out, straight troops would be more comfortable training and fighting alongside them. The showering facilities, in particular, have frequently stood at ground zero of the debate about open gay and lesbian service in the military. Some have worried that allowing gays to shower with straights could compromise privacy, create discomfort and undermine unit cohesion. During the 1993 debates, Senator Sam Nunn, then chairman of the Senate Armed Services Committee, took a camera crew into a submarine to convey how close the private quarters are and how threatening it would be to allow gays, a move that apparently resonated with the public and helped solidify opposition to lifting the ban.⁶¹

The interviews collected for this study suggest several conclusions relevant to these concerns. First, the diverse sleeping and showering arrangements found both stateside and in Iraq and Afghanistan had no impact on unit cohesion regardless of whether a service member’s homosexuality was known or not. Second, many gays served openly, or were known to large numbers in their units. Third, while most gay troops were out to some of their peers, those who came out normally did so privately or quietly, to people with whom they had developed bonds of trust. Some gay interviewees noted that other troops assumed or suspected that they or other service members were gay. This indicates the difficulty of regulating the expression of sexuality, even if service members do refrain from announcing their orientation. It also suggests that privacy cannot be protected by banning statements about homosexuality since knowledge or suspicion of it often emerges without actual statements to that effect. Finally, the overwhelming majority of subjects reported positive experiences when coming out, and said that serving openly caused no disruptions but frequently made their service easier. Bonds between gays and straights improved when suspicions and uncertainty were put to rest by a revelation or acknowledgement of their homosexuality.

Taken together, the experiences of gay and lesbian service members in Iraq and Afghanistan suggest that concerns about the showers are misplaced. Since privacy is compromised for everyone in the military, especially during overseas deployments, the presence of gay service members—known or closeted—during deployment does not appear to have a disproportionate impact, and would seem to lie within the normal demands of military life. Additionally, although privacy is often in short supply during deployment, major improvements in recent years have significantly reduced the instances in which service members must shower or undress in view of one another. Major aircraft carriers have college-style heads containing individual shower stalls with curtains separating them from a common dressing/undressing space.⁶²

⁶¹ New York Times, May 11, 1993.

⁶² See section a(5) and a(12) of USC, Sec. 654, “Policy Concerning Homosexuality in the Armed Forces”; “Policy on Homosexual Conduct in the Armed Forces,” Secretary of Defense Memorandum for the Joint Chiefs of Staff, Les Aspin, July 19, 1993.

Because privacy is limited for all personnel in the military, training and preparation exercises, including boot camp, are designed to put recruits into situations with minimal privacy, including shared sleeping quarters and showering facilities. In some cases, conditions during training are more intimate and less private than during combat. Interviewees, however, also described environments in Iraq and Afghanistan with little or no privacy, which persisted for a number of weeks until sites were secured and improved. These conditions included cases in which showers were not available at all, and in which men and women bathed in areas which had no covering and which were publicly visible, to both men and women. One member of the Air Force said his unit received chemical warfare training for a decontamination scenario in which men and women would be stripped naked together, a prospect which suggests that safety is prioritized over privacy.⁶³

SHOWERS

No one in this study reported any disruptions or complaints resulting from sharing showers with straight service members, even though the majority of interviewees were out to some or many of their peers. There were no reports of sexual harassment or assault perpetrated by gay or lesbian personnel in the showers. In some cases, homoerotic banter or behavior was reported to have taken place by straight people in the showers, but not by gays.

Gays and lesbians described a wide variety of showering facilities in Iraq and Afghanistan. A Medical Technician in the Air Force, deployed to Kirkuk, said her unit built a single-stall shower out of a tarp, which afforded more privacy than the group heads in training.⁶⁴ Sailors uniformly reported that ships had “single stalls with curtains.” One said that, “except in boot camp, I’ve never had to take a shower with another man on the ship.”⁶⁵ A Navy Lieutenant who served in both OEF and OIF said that in Kuwait, they used bathrooms in the coast guard base, and also had single-stall shower tents.⁶⁶ A marine who saw combat in Iraq as a convoy commander had to wait for the “luxury of showers in Iraq.” When they finally arrived, “they were of the tent style,” with open fronts in rows opposite one another. “Not since boot camp and various deployments did I use communal showers,” he said.⁶⁷

The Army JAG officer who served in the Navy during OEF said she had experienced both private and communal showers. She said she shared communal showers with straight people and people widely suspected of being gay, and there were no problems. She emphasized that showering together as adults meant compromising privacy for both straights and gays alike, and rather than causing disruptions, this fact was accepted as part of military life. “I don’t care if I’m in the shower with men or women,” she said, “because I’m not looking at anyone’s anything. It’s pretty embarrassing, especially as an

⁶³ DN Interview.

⁶⁴ SA Interview.

⁶⁵ WA Interview.

⁶⁶ Matthew Interview.

⁶⁷ JS Interview

adult, to be there, and you're not looking like you used to look, so you're not looking at anyone. You're just getting in and getting out." She said that communal showers were "pretty rare" and that in those cases, "you probably don't have much opportunity to shower at all. So you want to get in and get out and it's not a sexualized atmosphere like it is in a porn flick. I just don't see it as a charged opportunity. I think that's more of a fantasy type situation."⁶⁸

Brian Muller, the former Army Staff Sergeant, echoed the JAG officer's sentiment that privacy was both a desired commodity and one whose short supply was accepted as part of military life. He said that in Afghanistan, even the shower tents in remote outposts had curtains. "They do that for soldiers' privacy," he said. "People like to have a shower curtain." Nevertheless, he said that even though men and women are supposed to have separate quarters in hostile territory, sometimes they simply put up dividers between their tents.⁶⁹ "Privacy is a rare thing for us when we're off-duty in the States," summarized another soldier. "It is non-existent in the field."⁷⁰

An Army Specialist who spent 11 months deployed to OEF, and also served in Iraq and lived in one of Saddam's former palaces in Mosul, described a "field shower, essentially a canvass bag." She said they used wood boards and a poncho for a door and said soldiers hoisted the unit over their heads. "There's your shower," she said, indicating that, although it was primitive, it afforded full privacy. "You don't get ashamed anymore after being in the Army," she said. "You just knock on the door and you say, 'hey, is there anyone in there,' and you wait a few seconds and if no one answers, you just go in."⁷¹

An E4 Army National Guardsman deployed to Iraq experienced both communal and individual showers. "It comes down to the person," he said. "I like to sneak a peak, but I respect other people and their spaces." He said that straight men look at each other in the showers too. "They compare each other in the shower and in the bathrooms, silently of course." In his view, military service requires a degree of self-control as a pre-requisite for service. "If you cannot maintain control in the environment you are in," he said, "then you do not belong in the military in the first place."⁷²

Others elaborated that the showers were an area of forced proximity in which straights, as well as gays, navigate their reduced privacy in similar ways. "Everyone looks," said one service member. "You go into the shower and everyone, even straight people, are ...grabbing ass and talking about each other..."⁷³ The Bradley Commander said that in his experience, "everyone was uncomfortable" in the showers, not just gays. "I was uncomfortable because I didn't want anyone finding out about me, and they [straights] were uncomfortable because god forbid anyone would touch them. It was just something

⁶⁸ SH Interview.

⁶⁹ Brian Muller Interview.

⁷⁰ Brian Hughes Interview.

⁷¹ Kelly Interview.

⁷² RB Interview.

⁷³ RO Interview.

we had to do and no one ever paid that much attention to it and no one ever seemed too concerned.”⁷⁴

A Psychological Operations Sergeant serving in Kirkuk said conditions there provided significantly more privacy than during training exercises. In contrast to stateside accommodations where fifty men shared open bays with communal showers, his experience in Kirkuk was that soldiers had one roommate in a living container with ponchos or sheets to provide privacy between them. Showers were stalls with curtains. “Showering and sleeping arrangements are not a big issue as far as I’m concerned,” he said. “The Army has done a fairly decent job in renovating soldiers’ rooms so that each soldier has a room to him/herself and share only a kitchen and bathroom.” The sergeant said that during both training and fighting conditions, “a separate bond occurs between soldiers. You no longer look at them as ‘Joe’ or think ‘Joe’ is cute. You look at them as your brother who just saved your ass while you were fighting, or someone that you can rely on when the shit hits the fan. You don’t look at them as a potential sex partner. Once the bond as a military brother is formed it is extremely hard to break that bond and look at them as a sexual possibility. Whoever thinks that gays join the military to sleep with a bunch of soldiers has obviously never served a day in the shoes of a soldiers.”⁷⁵

Another soldier who served in Iraq said that in the first few weeks, bathing facilities were so scarce that people showered outside in the open, where even men and women could see one another. Although commanders try to avoid this scenario as an unwelcome compromise of privacy, the soldier said all the troops took effective steps to accommodate that reality. He said the women would shower in remote areas or at different times. “Everybody finds a way to shower in whatever way is most comfortable for them,” he said. “You just do what you have to do, and that’s nothing new in the military. You can’t be so sensitive as to [say,] ‘it’s not fair, he’s gay and he’s looking at me.’” Eventually, plywood arrived to form walls around the makeshift showers, affording full privacy, except for the collective changing area. Even here, however, soldiers could wrap a towel around them if they chose, until safely behind the dividers. “I have not seen a group shower since about 1995, and in extreme circumstances like war you do what you have to do,” he said. He also explained that modern living quarters afforded more privacy, making the showers less of an issue than in the past. “Nowadays they get contractors in [rather quickly],” he said, “so it’s not like it used to be; that issue is becoming obsolete.” The soldier added that he thought gays would be the least likely to gawk. Not everyone in the military is a head-turner, he said, but “when there is someone worth looking at, the last thing I want to do is look and then have nature take its course down south.”⁷⁶

Many service members, such as Austin Rooke, the Army Captain, described environments that offered substantial choice over how private to be. Rooke’s unit used a shower trailer in Qatar that offered stalls with shower curtains. In the adjacent undressing area one could choose to remain covered or not. Some people stay naked for a lot longer than others,” he said, for instance, remaining voluntarily unclothed while they shave. He

⁷⁴ MC Interview.

⁷⁵ SM Interview.

⁷⁶ QU Interview.

also described other experiences of showering communally with people who knew he was gay: “I’ve showered naked beside straight guys who knew I was gay, and they didn’t mind. I was probably more uncomfortable at the beginning, after I came out to them, than they were.” He also pointed out that all troops “are already showering with gays; they just don’t know which ones are gay.” As for his own feelings, “I’ve showered with a thousand guys; it does nothing for me.”⁷⁷

In those cases where personnel used communal showers, none reported being distracted or seeing or participating in homosexual conduct in the showers, and none reported any impact on unit cohesion as a result of sharing showers. These findings hold true for both “closeted” and “out” gay and lesbian troops. The majority of those interviewed had revealed their sexual orientation to at least a handful of people in their unit, and many were out to most of their unit. In other cases, service members had not announced their sexuality, but reported that many or most of their comrades knew or suspected their sexual orientation. For instance, one member of the Navy said, “you get five or six gay people in a straight community [and] you’re going to know they’re gay.”⁷⁸ In no case did a service member report any problems resulting from a known gay person showering with a straight person.

Interviewees reported that, during boot camp, enlisted people are worked to exhaustion and during deployment, their minds are more focused on the mission than on the sexual orientation of their comrades. In both cases, time in the showers is limited and there is little opportunity or motivation to turn the showering facilities into anything beyond the hygienic exercise they are designed to be. In both communal and private shower situations, service members repeatedly said their sexuality was a “non-issue.” “When you go in, you just have one thing on your mind: you just want to get clean and go to bed,” said one.⁷⁹ “We were so tired all the time,” said another, “that [sexuality] doesn’t even really enter into the picture for me.” He added, “there were limited opportunities even if you were in that frame of mind.”⁸⁰

“Pretty much at the end of the day I’m tired,” said a Petty Officer First Class in the Navy. “I want to get in the shower and get out and I don’t have time to get aroused.” He said there were no problems even when people know they were sharing showers with gays. “I had six other guys in my unit who were pretty effeminate and everyone knew they were gay, and they used the heads just like everyone else and no one batted an eye.”⁸¹

A Sergeant First Class in the Army who served in Iraq said that there was homosexual conduct in the military, but it had nothing to do with the showers: “Any gay stuff I had, I certainly had it, but not in the shower. There was nothing you could do about it there.” He said that people in his unit shared the same showerhead. But he also reported he only took two showers in his four-month deployment (though he also bathed with buckets of

⁷⁷ Austin Rooke Interview.

⁷⁸ RO Interview.

⁷⁹ DN Interview.

⁸⁰ AN Interview.

⁸¹ TR Interview.

water in bathing stations). “My experience was that [sexuality] had no effect whatever. You didn’t have time to think about that. You just got in and got out.”⁸²

OPENLY GAY SERVICE

The effort to protect privacy by limiting statements about homosexuality relies on the assumption that straight service members will be more comfortable and more willing to serve with gays if they do not know or hear about their sexual orientation. Data from this study, however, suggest that gays are increasingly serving openly and that straights tolerate serving alongside known gay and lesbian troops. Interviewees repeatedly asserted that they were out to peers or they knew of other gays who were out and their sexuality was accepted and did not cause problems in the Middle East. The following statements represent a sample of remarks to this effect: “Most of my unit does know I am gay and they don’t care one way or the other... that’s really the last thing on anyone’s mind”⁸³; “There was another gay guy in my squadron who was really good friends with my roommates, and they were really cool with it and so that kind of paved the way for me”⁸⁴; “most of it’s accepted... it’s not a problem”⁸⁵; “I came out to a couple of co-workers and that went quite well”⁸⁶; “after I developed a strong relationship with my supervisor, we would talk about it [sexual orientation] and would even joke about it”⁸⁷; [from a female:] “the women didn’t mind it; they were my friends. If I told someone, it never changed our relationships... I was never looked at differently for being gay”⁸⁸; “almost every one of my friends said, ‘oh, we all knew that. What’s the big deal?’”⁸⁹ Significantly, many gays also visited gay bars with straight friends in the military, an activity which served as a source of bonding. Gay troops were observed performing homosexual acts in front of straight peers, indicating that gays serve openly in the military.⁹⁰

“We were as intimate as intimate can get,” said an Army Specialist about his combat unit in Iraq. He said he slept in the same three to five cubic feet as his sergeant inside a tent. “It didn’t matter,” he said, referring to his sexuality. “There wasn’t much of a question of, ‘okay, this guy does this, would he do it here?’” He said when his friend learned of his sexuality after he was seen at a gay bar, he first tried to explain it away by saying the drinks were cheaper there. “Then I told him and he said, ‘I don’t care.’” When his

⁸² WE Interview.

⁸³ IN interview.

⁸⁴ TR Interview.

⁸⁵ SA Interview.

⁸⁶ Austin Rooke Interview. Rooke followed his statement with an indication that others had more trouble than he did: “However, I don’t think that’s the norm. I still come into contact with people in the military who have been in for years and are absolutely terrified” that they will be outed. Consistent with evidence reported earlier, the difficulty appears to result from the policy, rather than the presence of known gays.

⁸⁷ WA Interview.

⁸⁸ Wendy Biehl Interview.

⁸⁹ MI Interview.

⁹⁰ BY Interview; Homosexual acts are defined by law as same-sex bodily contact “for the purpose of satisfying sexual desires,” or “which a reasonable person would understand to demonstrate a propensity or intent to engage in” such acts. USC, Sec. 654, “Policy Concerning Homosexuality in the Armed Forces”; Observations were based on field visits.

sergeant during another tour learned of his sexuality, he told him he would not mention it to anyone. The Specialist also described a gay soldier “who was girlier than any girl I knew. He was extremely flamboyant and nobody gave a shit.”⁹¹ A Surgical Technician onboard the U.S.S. Abraham Lincoln said he worked with gays who were so flamboyant, “we need to have an extinguisher.” He said one of his JAG officers “sashed down the hanger bay, hand on the hip and everything,” and it did not create problems.⁹² Others described increased hostility toward those who were less conformist: “The environment around [gay] soldiers changed if they were flamboyant.”⁹³

The Squadron Leader who commanded Bradley fighting vehicles, and who also commanded a dismounted unit for the Fourth Infantry Division, said he served openly with no problems. “I don’t advertise,” he said, “but I don’t hide anything either.” He said all nine of the soldiers who worked under him as a dismounted infantry squad leader knew he was gay. “It doesn’t affect unit cohesion,” he said. “When I was on the ground, I was leading the charges through buildings,” he said. “And I’ve never had people not follow me. I’ve never heard of that happening at all,” referring to insubordination due to a leader’s sexual orientation.⁹⁴

Kelly, the Army Specialist who was deployed to Afghanistan, said her Platoon Sergeant found out about her sexuality and fully tolerated it. “He said, ‘well, don’t go tell the world, but I don’t really care; I’ll try to look out for you unless you’re a total piece of crap. Just don’t make it to where me looking out for you makes me look stupid.’” Kelly said she could “read people a bit and I can tell who it’s okay to be open with and who not.”

The relatively smooth outcome of openly gay service appears to have been due, in part, to effective judgment calls by individual gay troops based on the appropriateness of individual situations. Since surveys show that majorities of members of the military oppose letting gays serve openly, hostile or negative responses to homosexual statements might be expected; however, interviewees routinely explained that, while they felt the need to confide in someone about their sexuality, they were careful to establish preliminary bonds of trust with confidantes, or to judge the probability of acceptance before coming out.

“I see myself as a good instinctive judge of character,” said an Army Captain, “and thankfully for me that’s turned out to be the case when I told my friends [that I’m gay].” On one occasion, when a date went longer than expected, the Captain’s best friend hounded him about his whereabouts. After staving off the questions, he finally said, “I’m not going to lie to you, you’re my best friend. I went to meet a guy.” The Captain’s friend nearly choked on his burrito, collected his thoughts and then said, “that’s cool, but don’t expect me to be down with it because I’m not. Now let’s go get a beer.” The friendship has remained strong and the Captain now baby-sits for his friend’s children.⁹⁵

⁹¹ JO Interview.

⁹² RO Interview.

⁹³ SM Interview.

⁹⁴ MC Interview.

⁹⁵ FD Interview.

The episode is an important illustration of the kind of response that may ensue even from those who may have indicated on impersonal surveys that they oppose letting gays serve in the military.

AN INFORMAL “DON’T ASK, DON’T TELL”

Many service members described an informal “don’t ask, don’t tell” norm prevailing among both gay and straight troops. This is partly attributable to the policy’s strictures on discussing the matter; however, the fact that so many gays and lesbians do come out to their peers in certain situations reveals that the law alone is not governing their behavior; rather, their decisions are shaped by individual judgments about when and to whom to reveal their sexual orientation. Interviewees corroborated this conclusion by explicitly linking their decisions to particular contexts and cultural norms in general, as opposed to the dictates of the policy. The same reportedly holds true of “asking” behavior. One soldier, for instance, said that “many people are just not asking, not because of the ban but because it’s none of their business.” He said the custom was “don’t know, don’t want to find out.”⁹⁶

Indeed, most respondents said that, while some or most of their peers knew they were gay, they did not wish to announce the fact publicly, and they had no intention of doing so if the policy were changed to allow it. Rather, such a policy change would reduce their stress, remove impediments to productive work and allow them to stop taking proactive steps to misrepresent and isolate themselves.

The Bradley Commander made clear that he used discretion in choosing the people with which he shared his sexual orientation. “You won’t see me walking in the gay pride parade,” he said, “but the people who need to know know, and the people that don’t, it’s none of their business.”⁹⁷ A marine said, “I don’t think that people should be going to work and announcing it [their sexual orientation], but if it does come out I don’t think it should [matter].”⁹⁸ A Petty Officer First Class said if the ban were lifted, “I wouldn’t just tell people I’m gay, but I probably wouldn’t go through such measures to hide it.”⁹⁹ “I wouldn’t come out just for the hell of it,” said another.¹⁰⁰

The Bradley Commander’s experience also suggests the ultimate impossibility of regulating the expression of sexual orientation. Although he did not announce his sexuality publicly, “the stuff I do, it causes people to wonder.” He said when he lived in the barracks, “you can look at the visitor’s log and see that no women come in under my name.” His vocal opposition to derogatory statements about women, the placement of rainbow stickers in his room, and the lack of female visitors add up to a clear picture that he is gay, he said. “If you look at the whole big picture,” he concluded, “eventually people will start to wonder.” Those soldiers who didn’t know that he was gay “suspect

⁹⁶ JO Interview.

⁹⁷ MC Interview.

⁹⁸ JS Interview.

⁹⁹ TR Interview.

¹⁰⁰ QU Interview.

that I am.”¹⁰¹ “People know by deduction,” agreed a Naval Pilot who has served since 1984. “You’re not married, you’re in your 40’s, all your friends are male, and you don’t talk about any personal or private life.”¹⁰²

An Army Captain was confident that changing the policy would not unleash a torrent of homosexual announcements. “Just lifting the ban, there’s not going to be a rainbow flag hoisted on the headquarters of the Army,” he said. “All you’re doing by lifting the ban is allowing people not to live in secrecy.”¹⁰³ If the ban were lifted, said another, “I don’t think I’d run and tell everyone at once.” He did, however, say the main reason he didn’t tell people was the fear that someone could turn him in. “If the law were overturned, I’d probably gradually come out to everyone,” he concluded, emphasizing that he would do so in a private manner.¹⁰⁴

“I’d be truthful as far as filling out documentation,” said a senior NCO in the Air Force about how things would change if the gag rule were lifted. “But as far as sticking a big old rainbow sticker on my car, [I wouldn’t do that].”¹⁰⁵ At the same time, some did report that they had rainbow stickers on their belongings in public view, or that they had seen them on-base. Such signs are not allowed to be used to initiate an investigation into the sexuality of a service member.¹⁰⁶

A sailor, who described himself as inconspicuous with regard to his sexuality, said that most gays in the military blended in. “Just because you’re gay doesn’t mean you have to be really queeny,” he said. “I’m not like that and most of the time, people aren’t.” He added that if people were to see him walking down the street “they’d be like, who’s that boring guy dressed in jeans and a tee-shirt?”¹⁰⁷

¹⁰¹ MC Interview.

¹⁰² MI Interview.

¹⁰³ FD Interview.

¹⁰⁴ Matthew Interview.

¹⁰⁵ DN Interview.

¹⁰⁶ DN Interview, in which he reported he had seen rainbow stickers “occasionally. I could drive a few blocks and find a couple.” He also reported seeing HRC stickers [the yellow and blue equals sign of the Human Rights Campaign]; Biehl Wendy Interview in which she reported seeing a rainbow sticker on a duffel bag, placed by someone with “no shame.”

¹⁰⁷ WA Interview.

Section IV: Leadership, Enforcement & the Rule of Law

Military experts have long recognized that effective leadership and a consistent and strong chain of command are essential to a successful fighting force. Setting and embodying standards of behavior and action begin at the top and affect the discipline, morale and effectiveness of units throughout the force. Leadership is particularly important to the success of the current wars in Iraq and Afghanistan, as the behavior of American service members, which can be integral to gaining the support of the Arab world, has been under international scrutiny.

Evidence from this study suggests that the military leadership frequently fails to enforce the “don’t ask, don’t tell” policy. Some interviewees asserted that the policy is unenforceable at its core because of the inherent ambiguity of defining what it means to “ask” or “tell.” Evidence also indicates that uneven commitment and enforcement at the leadership level cause fear and uncertainty about how to behave. The conflicting message of the policy, which states that “homosexuality is incompatible with military service” while stipulating that “homosexual orientation is not a bar to service,” breeds further confusion.¹⁰⁸ The existence of a policy which is difficult or impossible to enforce, and whose enforcement is frequently not prioritized by commanders, may weaken respect for the rule of law and the norms of obedience, integrity and loyalty that are essential ingredients of an effective military.

Although respondents in this study did not report high levels of harassment, many said the policy itself gives a green light to anti-gay rhetoric and behavior, and that a policy which clearly stated that gays were not unwelcome would go far toward curbing such overt homophobia and provide a safer and more productive training and fighting environment. Austin Rooke, the Army Captain, said harassment was not sufficiently routed out by the command structure. He said he never saw or heard of an officer reprimanding anyone for saying something anti-gay, which is a violation of the “don’t harass” clause of the policy. “Right now gays are about the only people you can make fun of,” he explained, saying the policy itself creates an “out status” comprised of gays. He pointed out that the military actually has an infrastructure set up to address issues of tolerance and diversity called the Equal Employment Opportunity Commission, but gays are not included. “If you actually put gays and lesbians under the auspices of the EEOC, and commanders were held responsible for the behavior of people in their units, things would change dramatically,” he predicted. “Individuals would still have their beliefs, just as they have racist beliefs, but you would not hear them.” He concluded that “the Army has a lot of control over the people in it.”¹⁰⁹

Other reports corroborate the presence of leaders who violate the “don’t harass” components of the law and set a permissive tone for anti-gay behavior. “The command climate as it pertains to that is negative,” said one combat soldier from the Fourth Infantry Division in Iraq. “Both my current commander and my last commander, both in

¹⁰⁸ “Policy on Homosexual Conduct in the Armed Forces,” Secretary of Defense Memorandum for the Joint Chiefs of Staff, Les Aspin, July 19, 1993.

¹⁰⁹ Austin Rooke Interview.

company formations [and] during safety briefings said derogatory statements; my commander uses the word, 'faggot' in safety briefings. And my last commander did the same thing." In his view, "they're actually engaging in behavior that could cause problems."¹¹⁰ He recounted that the commander who used derogatory language about gays, who did not know that he was gay, awarded him an army commendation medal. But he feared his commander's opinion of him would change if he learned of his sexual orientation.¹¹¹

Enforcement of "don't ask, don't tell" is further taxed by the difficulty of defining what it means to "ask" or to "tell." Such actions need not be verbal or explicit. The law requires a discharge when a service member "has stated that he or she is a homosexual or bisexual, or words to that effect...," leaving a gray area in the definition of "tell." The policy further instructs that commanders will initiate investigations "when there is credible information that a basis for discharge" exists, which appears to allow, and perhaps require, discharge when information comes to them that they believe indicates that a service member is gay.¹¹²

"There is no such thing as 'don't ask,'" said the Army JAG officer, because the most basic conversations entail questions about friends, lovers, spouses and family which, if answered fully and honestly, could reveal one's sexual orientation.¹¹³ As another soldier pointed out, "using the policy in defense to not answer the question is basically the same as admitting guilt."¹¹⁴ Even when soldiers choose to follow the letter of the law, it is rarely fully under one's control to totally conceal one's sexual orientation, since unconscious codes, signals and mannerisms frequently mark a person or raise suspicions, thus giving a form of knowledge to straight soldiers who do not know what to do with it. The impossibility of fully regulating these forms of expression suggests that the policy cannot significantly affect the privacy of either gay or straight troops.

In addition to encouraging leaders to tolerate anti-gay harassment, "don't ask, don't tell" precludes what scholars say is the single most important ingredient to generating tolerance of gays and lesbians: knowing someone who is gay or lesbian. Brian Muller, the former Army Staff Sergeant, found that when he did discuss his sexuality, many young straight people he encountered had little known exposure to gays and lesbians, "and I think some of them changed their views." He concluded that "the best thing the military can do if they lift this ban is to educate people... Once they see that we have the same relationships, the same fears, go to the same restaurants [as straights do], they come around." Regarding his sexuality, he said, "some say, look, I don't really like it, but as long as you can carry the same pack, I don't care."¹¹⁵

¹¹⁰ MC Interview.

¹¹¹ MC Interview.

¹¹² USC, Sec. 654, "Policy Concerning Homosexuality in the Armed Forces"; "Policy on Homosexual Conduct in the Armed Forces," Secretary of Defense Memorandum for the Joint Chiefs of Staff, Les Aspin, July 19, 1993.

¹¹³ SH Interview.

¹¹⁴ SM Interview.

¹¹⁵ Brian Muller Interview.

“If they allowed homosexuals to be gay in the military, then a result of that would be teaching acceptance of another part of their family,” said Muller, who served in both single-sex and co-ed units and noticed a sharp difference in attitudes between the two. The co-ed units “were always the best units because you don’t have as much machismo floating around and you get people who are more tolerant and people realize they have to be more careful with their words.” He said that in all-male units, he heard some of the most discriminatory language, largely against women. “So to me, the more diverse the unit, the more tolerant.” He saw an explicit analogy between gays and women: “When they mixed females with males, they taught acceptance, so they could do the same with gays.”¹¹⁶

A Petty Officer First Class drew precisely the same conclusion from his experience in the Navy. The sailor was deployed twice to the Persian Gulf since 2001, having joined the service in 1990. As a Nuclear Operator with a top security clearance, he spent time both in all-male units and mixed-sex units. “As the Navy changes and allows women on combat ships,” he said, “I have found that conversations have changed over the years. They’re not quite as trashy toward women.” Straight men, in particular, he reported, “are not as demoralizing toward women as they used to be because we work with them.”¹¹⁷

Other service members echoed the importance of allowing gays and straights to get to know one another and speak freely. “I’ve had people come up to me who were dead set against [letting gays serve openly],” recalled one, “and then they found out I was gay and they changed their minds.”¹¹⁸ These experiences suggest that the policy, by keeping people in the dark about sexual orientation, breeds a culture of ignorance and prejudice, which perpetuate the anti-gay sentiment which is then used to justify “don’t ask, don’t tell.” It should also be noted that many people falsely believe they are not permitted to discuss the issue of homosexuality. This perceived gag rule erodes the opportunity to hear, contemplate and weigh information about gay service. By contrast, in those situations where people knew they were allowed to discuss the policy, open debate prevailed. In a Marine training office of six people, for instance, a service member reported that after a discussion of gay service, one person’s opposition to letting gays serve evolved into support. “People in the office convinced him otherwise,” he said.¹¹⁹

The Petty Officer First Class in the Navy who had described working with effeminate men who were known to be gay confirmed the centrality of effective leadership to creating a productive work environment. He reported that these suspected or known gays worked successfully with their peers, in part, because of a tolerant and dedicated command structure. “Our commanders made it clear that anti-gay harassment would not be accepted,” he said. “And that’s why those effeminate men were accepted.” He said that tolerance was the product of “a climate that’s created.” “All they need to do is hear it from a higher up. If you create a climate at a commanding officer level that [homosexuality] is acceptable, then I think everybody will fall in line.”¹²⁰

¹¹⁶ Brian Muller Interview.

¹¹⁷ WA Interview.

¹¹⁸ BY Interview.

¹¹⁹ JS Interview.

¹²⁰ TR Interview.

A Technical Sergeant who spent four months in Afghanistan said the law gives cover to anti-gay sentiment, and that changing the law would likely reduce homophobia. “If the ban were lifted, then the people who don’t like it wouldn’t have a leg to stand on. It’s the law; you either accept it or you get out.” Currently, he explained, the law says that homosexuality is incompatible with service, and that message ultimately condones anti-gay sentiment. “There’s a sense that you shouldn’t be here anyway,” he said.¹²¹ “Changing the law will not end prejudice,” said an Iraqi war veteran, but people like me will say they’re gay and people will say, ‘obviously, this person is capable of serving.’”¹²² “In a way,” said another, “they can’t help being ignorant about it if they’re not educated about it.”¹²³

“In the military,” said the Army JAG officer who deployed to OEF while serving in the Navy, “we learn to follow rules, and we promote what we’re told to promote.” She said the result was that laws and policies sent clear messages about what was and was not acceptable in the service. “The best thing you can do as a soldier or sailor is to stand up for what the military says is right.” If the military said that gays and lesbians were welcome, it would have an enormous impact on attitudes toward them in the service. But “when the military is giving the message that there’s something wrong and shameful about being gay, then we’re also giving the message that to hate gays is acceptable.” She also pointed out that the policy, by banning coming out, deprived people in the armed services of the opportunity to understand and come to accept all the people they’re serving with. “If you’re in the military, then you’ll never be exposed to anyone who’s gay unless they out themselves and you choose not to turn them in.”¹²⁴

UNEVEN ENFORCEMENT

Evidence from this study indicates that commanders, who wish to retain gay troops during deployment, disregarded information about homosexuality that would legally require an investigation. When a soldier serving in Iraq was reported to have been gay, the command response was, “so what?” Since the policy mandates that “commanders will continue to initiate inquiries or investigations, as appropriate, when there is credible information that a basis for discharge or disciplinary action exists,” some interviewees concluded that the policy was not being followed by commanders. “As far as enforcement,” said one, “there’s discretion.” The problem, he said, was that the policy requires known gay soldiers to be separated from service, “and that doesn’t [always] happen.”¹²⁵

In one reported episode in the Middle East, two women got drunk and danced intimately, holding hands and kissing before an audience. When it came to the commander’s attention, he said, “I don’t even want to touch that. I just want to find out if they were

¹²¹ BY Interview.

¹²² QU Interview.

¹²³ Kelly Interview.

¹²⁴ SH Interview.

¹²⁵ MC Interview.

drinking. I couldn't care less [about their sexual orientation]." The incident left the impression that leaders in this case wished to avoid the issue of sexual orientation and focused instead on the issue of excessive alcoholic consumption.¹²⁶

One of the most damaging effects of "don't ask, don't tell" has been the impact of uneven enforcement. Because so many commanders do not want to lose their subordinates, there are frequent reports of the leadership "looking the other way," creating uncertainty across the board about when and whether the law will be enforced or used selectively against specific service members. Because it is impossible to achieve the policy's goal of banning known gays from service, due to the impossibility of effectively regulating who knows or suspects that one is gay, the policy is routinely violated and creates a climate of lawlessness surrounding this issue. As a result, "don't ask, don't tell" quickly gained a reputation as a "hollow shell of a policy"¹²⁷ and as a "joke," a word that was repeatedly heard in a string of separate interviews.

"Don't ask, don't tell' became a punch line in the military," said one soldier. "After 'don't ask, don't tell,' the homophobic humor was everywhere." He explained that anti-gay sentiment itself did not worsen, but that the policy and its name became the butt of jokes and increased the frequency with which discussion and jokes about gay issues occurred. "It was almost a daily occurrence," he said, adding that even he had used the term. People would ask simple questions such as, "where are you going tonight," and the retort would be, "don't ask, don't tell." Or two men would appear together and someone would point and say, "don't ask, don't tell."¹²⁸

Many others also reported that the policy was not taken seriously, made a mockery of military law and compromised effectiveness. "The policy is a joke," said an Army National Guardsman. "It basically says that I can be gay but I can't *be* gay; they are denying me the right to be who I am and they expect no fallout from that. A person can only repress himself so long before it starts to have negative effects on his performance and attitude."¹²⁹ "The ban's a joke. It's a joke. It's not uniformly enforced," said another, adding that enforcement is, in reality, at the discretion of each commander.¹³⁰ "The whole policy literally became a joke," agreed an Air Force Captain who entered the military before the policy was adopted. "It still is to this day."¹³¹

"It's in our doctrine that we can't tolerate any kind of systematic or individual discrimination," noted a senior NCO in the Air Force, "and this is exactly what they're doing here, and if they want to contradict themselves, it's not going to make them look very credible." He also said that even though everyone knew the term, "don't ask, don't tell," few understood what the law said and required, and commanders ignored training on the policy. "The first time young troops hear about 'don't ask, don't tell,' it's in basic training," he said. "And there's no refresher training at all." He noticed it was in the

¹²⁶ AN Interview.

¹²⁷ JA said, "I think the average GI see it as a hollow shell of a policy." JA Interview.

¹²⁸ QU Interview.

¹²⁹ RB Interview.

¹³⁰ MC Interview.

¹³¹ JA Interview.

lesson plan but recalled that his instructor at Lackland Air Force base said they would skip right over it.¹³² An Army Staff Sergeant had much the same experience: “they’re supposed to have annual training on the policy, but in eight years I had one. They don’t follow their own policies.” He said that, although the training is built into the policy, “because of the personal beliefs of some commanders, it doesn’t happen. It’s not something they like to talk about.”¹³³ This conclusion echoes other assertions that much of the support for “don’t ask, don’t tell” comes from a command leadership which personally dislikes homosexuality, rather than from evidence showing that combat effectiveness relies on restricting gays and lesbians to the closet.

¹³² DN Interview.

¹³³ Brian Muller Interview.

Section V: Talent & Retention

Some people have worried that lifting the gay ban would hurt recruitment and retention due to the level of anti-gay sentiment in the military and those considering service.¹³⁴ Since the ban was not fully lifted, conclusions cannot be drawn about this concern in the U.S. military. Indications from this study are that gays and lesbians do serve openly, and no major studies or senior leaders have suggested that recruitment has suffered as a result. This could be attributable, in part, to the continued existence of an official policy banning open service, despite the known presence of gays who nevertheless do serve openly.

While there are no reports of heterosexual talent loss due to gays serving openly, interviews with gay troops indicate that the loss of talent and expertise among gays resulting from “don’t ask, don’t tell” is immeasurable. This is because it is impossible to determine what number of service members cut short their military service or never sign up at all due to the burdens imposed by the policy and the sense of being unwelcome.

What is measurable are the discharge numbers themselves. Under “don’t ask, don’t tell,” homosexual discharges rose every year but one, until America went to war, when the discharge figures began to drop. In 2001, a record 1256 service members were discharged under the policy, a figure nearly double the separation rate of 1992, prior to “don’t ask, don’t tell.” Since 2002, the first full year America was at war, 1655 troops have been ousted under the policy. At least 37 of those were language specialists. Figures assessing job specialties since 1998 indicate the discharges covered 161 different occupational categories, including linguists, intelligence personnel, engineers, administrative specialists, transportation workers and military police. In the summer of 2004, the Pentagon announced it would issue involuntary recalls to thousands of civilians with these same occupational specialties, indicating that the “don’t ask, don’t tell” policy directly affects the capacity of the military to retain the expertise and troop strength it needs to fight in the Middle East.¹³⁵

Although the total talent loss among gays and lesbians is impossible to measure, Austin Rooke, the Army Captain, said that for any gay person who leaves the military, the policy is definitely part of their decision. “If the ban weren’t there, it’s quite possible that I could still be on active duty to this day,” he said, adding that it was difficult to measure the true costs of the policy because many gay people leave prematurely due to the ban.¹³⁶ Rooke’s sentiment was reflected in remarks by many other service members. “When people ask me why I don’t want to re-enlist, I say because of the family life,” said Brian Hughes, the Army Ranger who fought on the frontlines of Iraq and Afghanistan. He

¹³⁴ See, for example, “Clinton Should Change His Mind,” Chicago Sun-Times, Feb. 2, 1993; “Personnel Prospects Darken,” Army Times, May 17, 1993.

¹³⁵ “Conduct Unbecoming: The Ninth Annual Report on ‘Don’t Ask, Don’t Tell,’” Servicemembers Legal Defense Network, 2003; “Uniform Discrimination: The ‘Don’t Ask, Don’t Tell’ Policy of the U.S. Military,” Human Rights Watch, report, January, 2003, Vol. 15, No. 1; Job specialty classifications and statistics come from the Department of Defense and the Defense Manpower Data Center, and were analyzed in a report by the Center for the Study of Sexual Minorities in the Military, University of California, Santa Barbara, June, 2004.

¹³⁶ Austin Rooke Interview.

explained that the policy meant he was not allowed to “bring your partner to events” and precluded his partner from being able to “plug into support networks.”¹³⁷ Wendy Biehl, the former Army Specialist who opted for a discharge when her tour ended, said the policy did not allow her to be herself. “It’s one of the reasons I got out of the military, because I wanted to be gay, I wanted to be openly gay,” she said. “It became a big issue because the person I am now and the person I was in the military were two completely different people. I really wasn’t happy and that became a problem for me.”¹³⁸

Another service member reported that many gays grow to resent the military when they realize what they’re being asked to do in order to serve. In preparing to go to war, he said, “some people have the sense: ‘why should I face that situation if I’m being dealt such a hard hand by the military?’ Frankly a lot of gay people are driven to take advantage of the policy and to come out because of this. If the military is not going to let me form normal, happy, healthy relationships,” he asked rhetorically, “if they’re going to discriminate against me, why should I fight for that institution and risk death?”¹³⁹ This conclusion was seconded by a sailor who deployed to Iraq, and reported that, “a lot of people are getting out” by exploiting the policy. “They don’t want to be there.”¹⁴⁰ An officer with an Air Force expeditionary unit in the Middle East echoed this report, saying “a lot of the people who were voluntarily identifying as gay were [doing so] with the full knowledge that they were going to be discharged.”¹⁴¹ The policy “turns a lot of people away from joining the military,” agreed an Iraqi war combat veteran. “People know this ban is in place and I imagine there’s some fear in the civilian world, so I imagine that the ban being in effect might strike some fear into some folks who might otherwise want to enlist.”¹⁴²

Brian Muller, the Army Staff Sergeant, well illustrates how the policy results in premature discharge and the waste of talent. Muller’s commander knew he was gay as a result of both his own suspicions and some third-party disclosures to that effect over the years. After nearly eight years of service and a deployment to Bosnia and Afghanistan, in which he slept in the same safe houses as British troops who are allowed to serve openly if they are gay, Muller felt he had done everything he could do in the military while continuing to conform to the policy. He had celebrated his 18th birthday in Bosnia, had been to war and had twenty-one medals to show for it. He had also heard commanders say “all fags should get AIDS and die,” and continued to feel uniquely burdened as he strove to continue service while maintaining a forbidden relationship. So he came out. “I’d done everything I could do in the military,” he recalled. “People couldn’t say I was trying to get out of war because I had gone to war, so for me, it was a principle.” He was also tired of not being able to be with his partner. But equally important, he was driven to leave by fear. He knew that his superiors knew he was gay and he thus risked discharge on dishonorable terms if he was outed instead of coming out himself. “My fear was that they’d discover it and I’d be dishonorably discharged,” he said. With the record he had

¹³⁷ Brian Hughes Interview.

¹³⁸ Wendy Biehl Interview.

¹³⁹ IN Interview.

¹⁴⁰ RO Interview.

¹⁴¹ AN Interview.

¹⁴² MC Interview.

built up and with the credit toward a sizable pension, he felt he could not risk being dishonorably discharged, so he left voluntarily.¹⁴³

Derek Sparks is another illustration. Sparks, who joined the Navy in 1987, was a Signalman Seaman Recruit specializing in Visual Communications. As a command career counselor, Sparks had his own office, where, one night, he and two other gay friends were socializing while deployed off the coast of Pakistan. After leaving his two friends behind in his office, he learned the next morning that they had been caught by the Command Master Chief in violation of the homosexual conduct policy.

The first statement of the Master of Arms made no mention of Sparks but his second statement tried to implicate him in the violation, despite dozens of witnesses who saw him elsewhere at the time of the incident. At this point, he admitted he was gay. "I was tired of playing, I was tired of hiding, I was tired of all the bullshit," he recalled. "I know that the only reason the Command Master Chief tried to implicate me was because he knew I was gay." Sparks was discharged four months into his tour for Operation Enduring Freedom.¹⁴⁴

PROFESSIONAL ADVANCEMENT

What is particularly damaging about the talent loss is that the older and more senior a service member becomes, the more difficult it is to serve without explaining the details of one's personal life. Specifically, many respondents mentioned that officers and personnel with senior positions are generally expected to be married, and are expected to attend social events designed to encourage comradery and identification with the force. The gag rule and the ban on homosexual relationships under "don't ask, don't tell" make it uniquely difficult for senior personnel to attend such events and to maintain normal ties with their peers, since they face myriad questions about whether they have a spouse or why they have not showed up with a date. The result is that the most highly trained gay service members have a greater incentive to leave the military because of the requisites of the policy on gay service.

"I'm getting up in age there," said a senior NCO in the Air Force, "and they're asking me, 'hey, where's your girlfriend, where's your wife?' and I say, 'she's away, she has a very prestigious job, she couldn't be here.'" He said the policy "stifles innovative thinking within the ranks because I possess the knowledge and willpower to go further in my career, but once you go so far, there's that time when [people start to ask], 'why isn't this guy married?' and 'why is his girlfriend always away?'" The NCO said he wouldn't be able to land a major command job because high-profile jobs would prompt close scrutiny of his files and many detailed questions. Being an apparent bachelor, he added, would count against him, as it indicates instability to those weighing his suitability. In addition, when people take visible jobs that put them in charge of many subordinates, people

¹⁴³ Brian Muller Interview.

¹⁴⁴ Derek Sparks Interview.

routinely try to fix them up with dates. “You can only duck a blind date so many times,” he said, and “lies are very hard to juggle; it’s hard to keep the story straight.”¹⁴⁵

Others agreed that it becomes more difficult to dodge questions as they get older. A Petty Officer First Class in the Navy, who has been serving for over ten years, said it was getting harder to stay in the military and keep up a front now that he was approaching age 30. “I’m 29,” he said. “I’m not 21 anymore, and most people are either married or have been divorced.”¹⁴⁶ When asked how the policy affects his ability to bond with his comrades, a Counterterrorism Specialist who deployed to Iraq with the Army and was then commissioned as an officer in the Navy, said, “it’s starting to more now. When we were young and few of us were married, it didn’t matter so much. But now, more of us are married and there’s more of a divide now. He said that, especially as an officer, “the social parts of the military are very important to cohesion and comradery.”¹⁴⁷ In some cases, people were reportedly passed over for promotions because they were unable to explain why they were not married. A Navy Pilot said his boss considered him for a company commander but passed because he was not married. “Professionally,” he said, “the ban had the effect of limiting what you might be able to do.”¹⁴⁸

¹⁴⁵ DN Interview.

¹⁴⁶ TR Interview.

¹⁴⁷ QU Interview.

¹⁴⁸ MI Interview.

CONCLUSION

This study set out to assess the impact of “don’t ask, don’t tell” on the service of gay and lesbian soldiers, sailors, marines and airmen at war. In the process, it explored the qualitative experiences of gay troops deployed to Iraq and Afghanistan by asking a set of questions and appropriate follow-up questions about morale, cohesion, privacy, retention, leadership and enforcement.

Evidence from this study suggests that the “don’t ask, don’t tell” policy increases gay troops’ stress levels, lowers their morale, impairs their ability to form trusting bonds with their peers, restricts their access to medical care, psychological services and religious consultations, and limits their ability to advance professionally and their willingness to join and remain in the services. The detrimental effects of the policy on gay service are heightened during deployment for Operation Enduring Freedom and Operation Iraqi Freedom, when alternative sources of support are less available than when stateside, and when military effectiveness is at its most critical.

At the same time, the findings present a portrait of a military in transition, in which the fears, discomfort and dislike that were reported during the time when “don’t ask, don’t tell” was formulated were not pronounced. Relations between gays and straights appear to create negligible disruptions and have even reached a new status in which the rapport between gays and straights can provide a positive source of bonding and social cohesion. When gays are out, they report greater success in bonding, morale, professional advancement, levels of commitment & retention and access to essential support services. Gay and lesbian troops serve openly in Operation Enduring Freedom and Operation Iraqi Freedom without undermining unit cohesion, in part, because their openness is largely moderated by discretion to foster an atmosphere of mutual respect.

Evidence from this study as well as polls and other scholarly research show that younger people are substantially more tolerant of gays and lesbians than older people. The positive responses from younger service members to the presence of open gays and lesbians in the military reflects that the armed forces are no exception, and that, indeed, a marked liberalization of attitudes toward gays and lesbians has been underway for some time.

Nevertheless, many gay service members remain afraid of the consequences of being out or of being outed, as well as the harm that can come from anti-gay harassment in the military. Consequently, many remain closeted, to the detriment of their own well-being and that of their comrades.

The compromise policy reflected in “don’t ask, don’t tell” does not appear to rectify the conditions that may be said to generate concerns about privacy. Since it explicitly allows gays and lesbians to serve in the military and simultaneously bans them from identifying themselves as gay, straight service members who might wish to protect their privacy in the presence of gays have no way of identifying when they should do so. In addition, the

policy itself may exacerbate privacy concerns by shining a spotlight on sexuality. The result is to generate suspicion among *all* personnel that one or another might be gay, and to encourage the performance of hyper-heterosexuality to quell such suspicions.

The primary rationale for “don’t ask, don’t tell” was the concern that heterosexual men would not tolerate serving alongside known gays, and for this reason, continuing research is needed to assess the evolving attitudes of straight service members. But the impact of this policy on gay service members has been widely ignored in the literature on gays in the military, as have the costs of the policy for the military as a whole. The strictures against self-identification make it difficult to study the impact of the policy on a sufficiently broad scale to form definitive conclusions, a fact which undermines the capacity of the armed forces to adequately serve the needs of its troops.

Biographical Sketch

Dr. Nathaniel Frank is Senior Research Fellow at the Center for the Study of Sexual Minorities in the Military, University of California, Santa Barbara, and teaches history at New York University and New School University. He has been interviewed on national television and radio programs to discuss the military service of gays and lesbians, and is currently writing a book on the U.S. military's gay ban. Dr. Frank holds a Ph.D. and Masters Degree in History from Brown University, and a Bachelors Degree from Northwestern University in History and American Culture. He would like to thank Dr. Aaron Belkin for support for this study and Joshua L. Vandeburgh and Cindy Gorn for their essential research assistance.

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Wesley Clark Backs Cunningham in North Carolina

March 29, 2010, 11:56 a.m.

By John McArdle

Roll Call Staff

Former NATO Supreme Allied Commander and 2004 Democratic presidential candidate Wesley Clark on Monday entered the North Carolina Senate race fray by endorsing Cal Cunningham in the Democratic primary.

Monday's endorsement, which also came with a fundraising appeal two days before the first-quarter Federal Election Commission deadline, is the latest example of how the national party is lining up behind the former state legislator in its effort to knock off Sen. Richard Burr (R).

Cunningham, an attorney and captain in the U.S. Army Reserves who served a one-year tour as a military prosecutor in Iraq in 2008, was recruited heavily by the Democratic Senatorial Campaign Committee even though North Carolina Secretary of State Elaine Marshall (D) was already in the race.

"Cal would be the first veteran of the wars in Iraq and Afghanistan to serve in the U.S. Senate," Clark said in his endorsement Monday. "He would bring a veteran's unique perspective to policymaking in Washington."

"Cal knows sexual orientation plays no role on the battlefield, and that it's time to end 'Don't Ask, Don't Tell,'" Clark said.

Attorney Kenneth Lewis is also vying for the Democratic nomination, along with three lower-tier candidates. The primary is May 4.

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ARI Research Note 92-72

Update of the U.S. Army Research Institute's Longitudinal Research Data Base of Enlisted Personnel

Lori J. Ramsey, Barbara T. Urynowicz,
and Dianne D. Younkman

Fu Associates, Ltd.

for

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13. ABSTRACT (Maximum 200 words) This document describes the procedures used to augment the Enlisted Personnel Research Data Base (EPRDB). The EPRDB consists of longitudinal records that contain both personnel data and selected career history for soldiers who enlisted in the Army between 1974 and 1990. It is composed of two data sets, a 25 % sample of accessions from 1974 to 1984 and a 100 % sample of accessions from 1985 to 1990.				
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UPDATE OF THE U.S. ARMY RESEARCH INSTITUTE'S LONGITUDINAL
RESEARCH DATA BASE OF ENLISTED PERSONNEL

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UPDATE OF THE U.S. ARMY RESEARCH INSTITUTE'S LONGITUDINAL RESEARCH DATA BASE OF ENLISTED PERSONNEL

Background

The Enlisted Personnel Research Data Base (EPRDB) was conceived by the U.S. Army Research Institute for the Behavioral and Social Sciences (ARI) to make available a longitudinal file of historical data describing the U.S. Army enlisted personnel. The purpose of this file is to support current and future research. It presently includes information for a 25 percent sample of those individuals who began their first tour of active duty in fiscal years 1974 through 1984. It also includes 100 percent of those individuals who entered active duty for the first time in fiscal years 1985 through 1990.

The EPRDB Core Data Set was originally created as a 25 percent sample of enlisted personnel primarily from Defense Manpower Data Center (DMDC) data for accessions from 1974 through 1984. The purpose of the second phase was to add supplemental data from outside sources to provide history after separation from active duty. As the initial 25 percent sample was nearing completion, investigation of the available supplemental data proved to be of much more limited applicability than originally anticipated. ARI researchers determined that there would be greater research and policy interest in more recent Master file data. The decision was made to acquire 100 percent of the DMDC accessions from 1985 through 1988 to provide additional research capability. A separate 100 percent data set was constructed in the same manner as the 25 percent data set so that researchers could utilize the data sets separately or combine data from each.

The EPRDB was recently enhanced to provide current personnel information to researchers. The 25 percent sample was augmented with 1989 and 1990 fiscal year data for those individuals in the data base who were still active. The 100 percent sample was updated by adding current data to active duty personnel records and also by adding individuals who entered active duty for the first time in fiscal years 1989 and 1990.

Specific accession data elements, including Composite score data from the Army Classification Battery Test (ACB), were captured for each individual. For each year of an individual's service, a subset of the DMDC fiscal year end Master/Loss File was included. To broaden the scope of information for each individual, Skill Qualifying Test (SQT) scores were included beginning in 1980 and additional data were included from the Enlisted Master File (EMF).

The EPRDB is composed of both personal information and selected career history data elements. The data elements describing a soldier's personal history include date of birth, home of record, education level, marital status, and number of dependents. Career history is described by data elements such as entry into active duty for current tour, pay grade, Composite and SQT scores, and military occupation specialty (MOS).

The EPRDB is designed to play an important role in research on the nature of enlisted personnel behavior. This research will support the formulation of personnel policy, including force restructuring options necessitated by downsizing.

Objective

The objective of this work was to update the 25 percent and the 100 percent samples of the EPRDB Core Data Set with fiscal year 1989 and 1990 enlisted personnel data. Using subsets of the DMDC, SQT, and EMF data files and associated documentation, the following tasks were established:

1. Add the 1989 and 1990 enlisted personnel data to the existing EPRDB 25 percent and 100 percent samples.
2. Check all data elements for accuracy (e.g., range of values and consistency across elements) and correct where appropriate within the bounds of available documentation and logic.
3. Protect the privacy of individual records by using the EPRDB encryption procedure which encodes the social security numbers.
4. Develop detailed documentation describing all data elements on the EPRDB.

Update Procedures

The EPRDB was designed to be updated with annual enlisted personnel data. Each record is a fixed length and represents one individual in the sample. The EPRDB chronologically follows the longitudinal career path of enlisted personnel. The information contained within a record includes: initial accession data with Composite test scores, secondary accession data when applicable, and fiscal year end career data elements. These data, currently covering 17 years from 1974 to 1990, are followed by 34 flags which denote the presence or absence of annual Master and Loss records over the same period. Of these flags, the first 17 describe Master file history, followed by 17 flags that identify separation history. The loss flag values indicate no separation, normal separation, reenlistment, and early attrition based on separation history. Occurring in the last position is a 35th flag which indicates presence or absence of a second accession. Figure 1 illustrates the record layout for the EPRDB Core Data Set.

The update process consists of the following procedures:

1. Determine the location of the EPRDB data elements
2. Validate and process the data
3. Merge selected data elements
4. Encrypt the personal identifying information
5. Perform extractions for analytical purposes

Determine the Location of the EPRDB Data Elements

The primary source files used to update the EPRDB are the 1989 and 1990 Accession/Cohort files and Master/Loss files maintained by Defense Manpower Data Center (DMDC) in Monterey, California. These data were augmented with 1989 and 1990 Skill Qualifying Test (SQT) and Enlisted Master File (EMF) information available at ARI. ARI requests the (SQT) data for use by the Manpower and Personnel Research Division from the SQT Directorate at Fort Eustis, Virginia. The EMF data are maintained by Personnel Systems Information Command (PERSINSCOM). Quarterly EMF files are sent to ARI as a special request.

The data elements included in the initial creation of the EPRDB were chosen by ARI. The choice to include or exclude a particular data element depended on its perceived usefulness in understanding individual career decisions. Based on available documentation, these same data elements were located in the Accession, Master/Loss, Composite, EMF, and SQT source files for fiscal year 1989 and 1990.

After determining the proper record layout for each source file, the EPRDB data elements were extracted. Three separate Master/Loss record formats were encountered since the initial creation of the EPRDB. Appendixes A, B, and D contain the EPRDB data elements and descriptions provided by DMDC and PERSINSCOM. Appendix E outlines the corresponding flat file position for each of the data elements in the EPRDB.

Validate and Process the Data

The data used to update the EPRDB were validated and processed separately by source. It was necessary to create a correspondence among annual Master files over 17 years. Social security numbers were utilized to match and merge source data. To facilitate the use of the EPRDB for research purposes, any outdated values of data elements from earlier files were recoded to reflect the most recent documentation. Appendix C lists the specific data elements which have been recoded and describes the data transformation.

DMDC performed the initial selection of the 25 percent sample from their original files of accessions from 1974 through 1984. They selected every fourth record from these files to create a sample set of enlisted personnel. They then matched by social security number from the sample to each of the fiscal year end files to select Master, Loss, and ACB Composite score records when applicable. It should be noted that some enlisted personnel have more than one accession and separation cycle. When DMDC performed the data selection for the 25 percent sample, they did not attempt to identify all accessions or selected social security numbers. The process of selecting every fourth accession did uncover some secondary accessions but it is believed that some additional accessions for individuals in the 25 percent sample were not included.

For the update process the complete source files were requested from DMDC. The files were then matched and merged by social security number to the existing 25 percent data set. The same procedure was used to match and merge the source files to the 100 percent sample. Having access to the complete source files made it possible to identify multiple accessions. Presently, there are 1,452 second accessions in the 25 percent sample and 3,801 second accessions in the 100 percent sample.

The fiscal year end Master and Loss files contain only the last record available for each individual. Since the Loss file contains records for both separations and record corrections, it is possible that in a small number of cases, a separation could have occurred in a given year but a record correction for a subsequent tour is the final record on the fiscal year end Loss file. In this case, the separation information would not be included on the EPRDB.

The Skill Qualifying Test (SQT) data utilized by the EPRDB was obtained from ARI. The 1989 and 1990 SQT data were added to the EPRDB. Over the course of EPRDB development, two versions of SQT data were received and applied to the EPRDB. The first version contained scores for fiscal years 1980 through 1986. The second version of SQT data was made available by calendar year for 1985 through 1990.

The final data source added to the EPRDB was the 1989 and 1990 Enlisted Master Files (EMF). The EPRDB utilized a special quarterly subset of the EMF retained by ARI for use in another project. This version of the EMF had been validated and converted to a Statistical Analysis System (SAS) file for research purposes. The desired data elements were selected from the ARI file stored on the National Institutes of Health (NIH) computing facility and were processed for inclusion into the EPRDB.

General editing. The DMDC Master files contained both binary and character data in each record. All binary fields were converted to a character format. Using these character files, test programs and sample frequencies were run in order to ascertain the validity and reliability of the desired data elements.

During the development of the initial EPRDB Core Data Set, it was discovered that not all the Master and Loss records received from DMDC were of the service type Army. This occurred when an individual accessed into the Army and later served in another branch of the military. The Master and Loss records generated from service outside the Army were eliminated.

In cases where accession data elements were found to be missing, some of the data were obtained from the DMDC Master and Loss records which carry some of the same data elements. Matching by social security number, data from seven accession fields were extracted from an individual's Master/Loss records. These data, if valid, were used to replace what had been missing from the original accession record. The seven fields chosen were home of record (state), date of birth, sex, race, ethnic group, Armed Forces Qualification Test (AFQT) percentile, and AFQT percentile group. These data elements were chosen because they contain personal information which remains constant over time.

Numeric data elements were edited for valid data in the field. In addition, the date fields were also checked for appropriate ranges. The accession year field was edited to ensure that the event occurred within the bounds of the data base. Valid accessions on the 25 percent sample had to occur between fiscal years 1974 and 1984 and on the 100 percent sample between fiscal years 1985 and 1990. All month fields were checked for valid numeric values of 1 to 12, and day fields were checked for values of 1 to 31. If the edit criteria were not met, the record was kept on the EPRDB but the invalid data element was stored as zero or a blank value. If the social security number contained non-numeric data, however, the entire record was dropped from the EPRDB.

Alphabetic data were edited for an appropriate range of valid values. Other data element specific edits were also performed. The series of codes giving a description of an individual's physical normalcy known as PULHES1 and PULHES2 were checked for values of 15 or below. The AFQT score was edited for a value between 1 and 99, as were the Aptitude Area (APTAR) and Army Classification Battery Composite (ACB) scores. If the edit criteria were not met, the record was kept on the EPRDB but the invalid data element was stored as a blank value.

Special attention was given to the military occupation specialty (MOS) codes. In the initial creation of the EPRDB the entire field was edited for alpha and numeric data. However, in the frequencies performed on the data base and on the additional Master files used for augmentation, it was noted that a significant number of data elements in these fields were invalid because they did not adhere to the format of two numeric characters followed by an alphabetic. A more detailed editing procedure was then written which edited the individual characters of the MOS fields for conformance. If the MOS was invalid it was filled with blanks as were the skill identifiers whose meaning depend on the MOS. To minimize the amount of data set to blank values due to data entry errors, all alphabetic 'O's were converted to zero in the first two positions. A similar process was implemented in editing the primary MOS and duty MOS fields and their associated skill identifiers.

Special Master/Loss editing. The EPRDB was designed with segments for annual Master file data with designated fields for the few separation data elements collected from Loss records, should a loss occur in that year. If an individual was found to have only one type of record for a year, either a Master or a Loss, all the data were taken from that record. In some cases, an individual had both types of records. Determination of where to gather the specific data to be included in the EPRDB for these cases was somewhat complex but was driven by the desire to have the resulting data base be as complete and accurate as possible.

Individuals could have both a Master and Loss record for a single year for the following reasons: they separated late in the fiscal year and they had not yet been taken off the Master file, they separated and rejoined, or there was a separation driven by a record keeping need to correct information on the Master file record which required a "loss" transaction to occur. Since only the last Loss record for an individual in each year was available, it was not possible to truly reconstruct each case clearly from the data. Whether the data ultimately came from the Master file, Loss file, or both, a master flag was set to reflect the fact that the individual was active at some time during that year. The following

criteria were established for use in those cases where both record types were present in a single year:

1. If the Loss record was coded as a "true" loss, that is, having an interservice separation code (ISC) between 1 and 99, the data from the Loss record was stored on the EPRDB and the Master file data was used to fill in any information found to be missing on the Loss record.

2. If the Loss record was coded as a "non-true" loss, that is, having an ISC of 0 or above 99, the data from the Master record was stored on the EPRDB and the Loss file data was used to fill in the separation data elements as well as any information found to be missing on the Master record.

In the 1988 update, a decision was made to add the separation program designator (SPD) from the Loss record to the yearly segments of the EPRDB. This decision was driven by the fact that for some research ISC was not sufficient. All Loss records were reprocessed to pick up this additional data element. As part of this effort, an attempt was made to clarify those records with an ISC of 0 (Unknown). The SPD is an Army specific code and the available documentation to describe how SPDs correlate with ISCs was not complete for all years used in the study. This presented a problem for years before 1980 when all reenlistments, desertions, imprisonments, and record-keeping transactions were presented with an ISC code of 0. When the SPD definition could be determined by the ISC, the ISC of 0 was recoded to the more current definition of 100 and above. These definitions are included in the documentation found in Appendix A. As with all character fields, the SPD was edited for valid characters or blanks.

For the 1974 through 1988 Loss files, expiration of term of service was considered to be a normal separation if it was within three months of the expected termination date. The determination for normal separation was altered for the 1989 and 1990 Loss records. To reflect current trends, a separation within six months of the expected termination date was identified as a normal separation.

The master and loss flags associated with each record were designed to assist in record selection for research analyses. The master flag denotes the presence or absence of the individual on the active force for a given year. The loss flag indicates whether the individual separated from active duty in a given year and also describes what kind of separation occurred:

- 1 - normal separation within 6 months of the expected termination date and ISC = 001 for 1989 and 1990 data (within 3 months of the expected termination date for 1974 through 1988 data);
- 2 - reenlistment as denoted by ISC = 100 or ISC = 0 and SPD = KHC;
- 3 - all other early attrition, including separations due to education, officer training, illness, and desertions.

Prior service editing. During the initial development of the EPRDB, analysis of the prior service data element on the accession file indicated that approximately 10 percent of the individuals had served in the military prior to the accession at hand. ARI concluded that these individuals did not represent the target population desired for studies in retention since this was not their first tour and corresponding first reenlistment decision. Therefore, the decision was made that individuals whose accession records indicated that they had previously served would be eliminated from the data base. In the update process, accession records were first checked for possible secondary accessions by matching the records to the existing EPRDB. The accession records that did not match to the EPRDB, indicated first-time accessions, therefore, if these individuals had prior service they were dropped from the data base.

It was learned that prior to January, 1985, all individuals who had been on reserve duty and then enlisted in the Army were given a prior service code, in order to be eligible for certain benefits. In an effort to identify and keep these individuals on the EPRDB, each record was tested for prior service by looking at the difference between the basic active service date and the date of entry. Any record with more than six months between these two dates was dropped. The six month criteria was used to provide sufficient leeway for several years of normal Reserve duty. All prior service codes of the individuals who fell within the six month window were recoded as having non-prior service.

Edits for records to be dropped. After carefully examining SAS frequencies of the 100 percent and 25 percent samples, ARI decided to eliminate a small portion of the sample due to characteristics which suggest possible errors in the data or which could affect analysis. Among the criteria used to eliminate records from the data base were the following:

1. Low AFQT scores – To be accepted for active duty, an individual would need to score 10 or above. For the 25 percent sample records with scores below 10 were eliminated. On the 100 percent sample the minimum score was raised to 16 to reflect more current acceptance criteria.

2. Date of birth out of range – Individuals were dropped who enlisted for the first time after the age of thirty-five. However it was noted that most of these individuals had served previously and would not have passed the prior service edit criteria. Their age was determined by calculating the difference between their date of birth and basic active service date.

3. Paygrade above '5' – These records were dropped because this paygrade indicates someone who is probably not a first accession.

4. No Master data – If no Master data were present then the record would consist of only accession information. This type of record would be of no use in the type of research the EPRDB was designed to support. The record was dropped if the master flags indicated that the individual was not present in any of the years between 1974 and 1990.

5. Basic active service date after date of entry – This situation represents an internal consistency problem, therefore, these records were dropped.

6. Third accessions – In the 1989 and 1990 input to the update of the EPRDB, two individuals were found who had third accession records. ARI had previously concluded that the total third accessions represent a very small statistical sample and do not accurately reflect the career path of most individuals. Third accessions were dropped from the 25 percent and the 100 percent data sets.

7. Early separations – All 1989 and 1990 records with normal separations (ISC=1) were required to have a separation date within six months of the estimated termination of service (ETS) date or else they were dropped. These cases reflect an internal data inconsistency. The 1974 through 1988 separations were required to have a separation date within three months of the ETS date.

Processing considerations. After the initial set of data was received from DMDC, the 25 percent and 100 percent EPRDB were created in character format. These data sets were converted into SAS. Additional SQT, EMF, and 1985 through 1990 DMDC data were later obtained and added to the 25 percent and the 100 percent EPRDB samples. Due to the significant expense in converting from a character format to a SAS file for a file the size of the EPRDB, small update records were created for each social security number affected by additional updates or edits resulting from new data. These records are applied to the EPRDB SAS file. Using this programming technique, the incoming SAS update file overlays the existing data with the new data without changing unaffected data elements. The end result is that the same data are maintained on both the character and SAS version of the EPRDB Core Data Sets.

Merge Selected Data Elements

The initial versions of the EPRDB Core Data Sets were created from the data acquired from DMDC. As additional source files were processed, the new data were merged with the existing EPRDB by social security number to create an updated EPRDB Data Set. The procedures used to create the 25 percent sample are depicted in Figure 2. These procedures were streamlined for the construction of the 100 percent sample. This flow is depicted in Figure 3.

Encrypt the Personal Identifying Information

The social security number is the only data element that contains personal identifying information in the EPRDB Core Data Sets. Individual privacy is protected by replacing social security number with a unique number called matchcode. This encryption is performed using procedures developed for the Officer Longitudinal Research Data Base (OLRDB). The EPRDB data base manager has a copy of this encryption procedure.

Perform Extractions for Analytical Purposes

The EPRDB provides the capability to perform analysis on specific characteristics across cohorts for the years 1974 through 1990. Using the master and loss flags previously described, SAS frequencies were run to determine the number of enlisted personnel in the data set by fiscal year. Table 2 represents the number of enlisted personnel in the 100 percent sample. Table 3 shows separations due to expiration of term of service (ISC = 001) taken from the 100 percent sample.

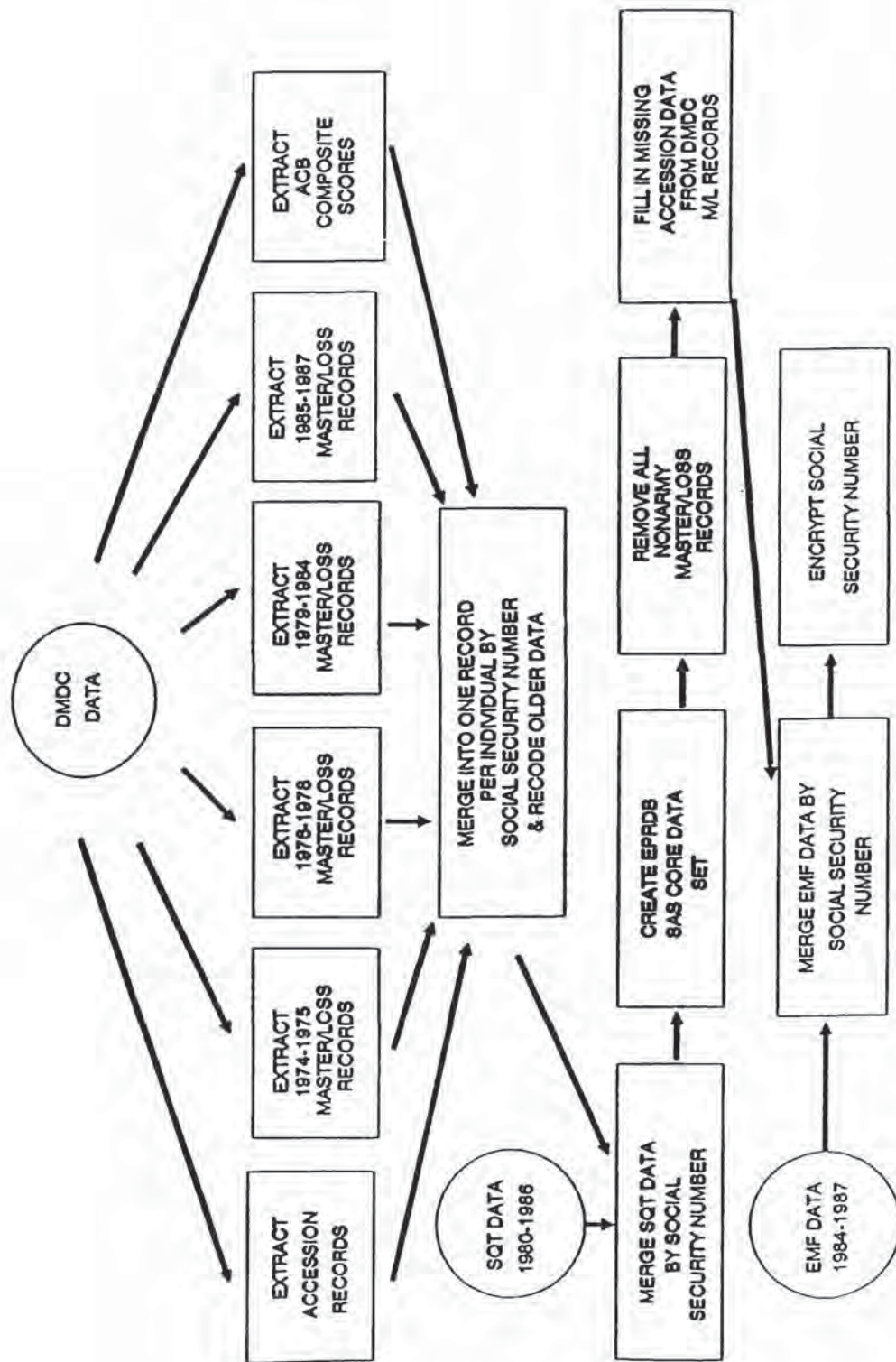


Figure 2. EPRDB Core Data Base Development

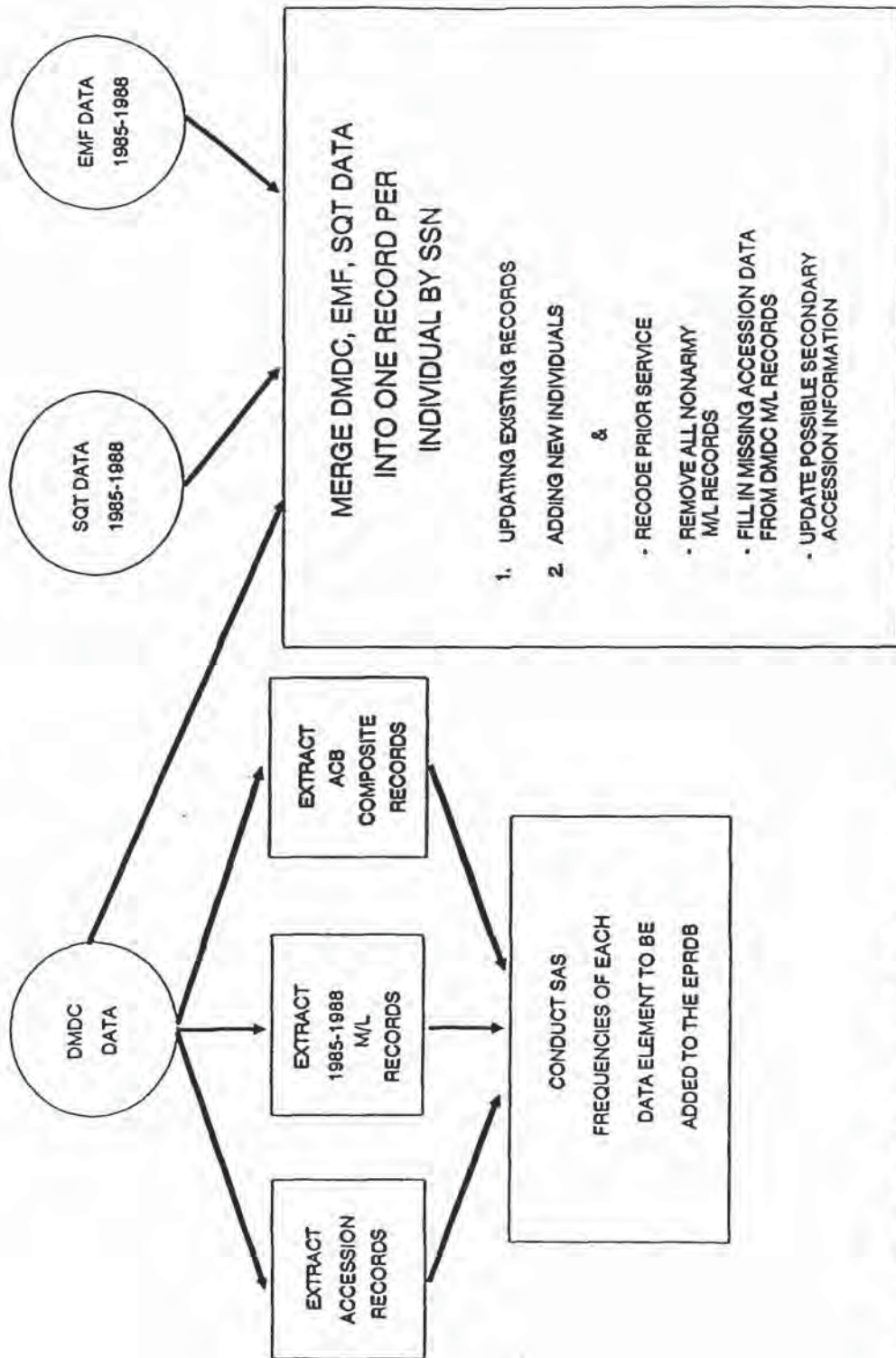
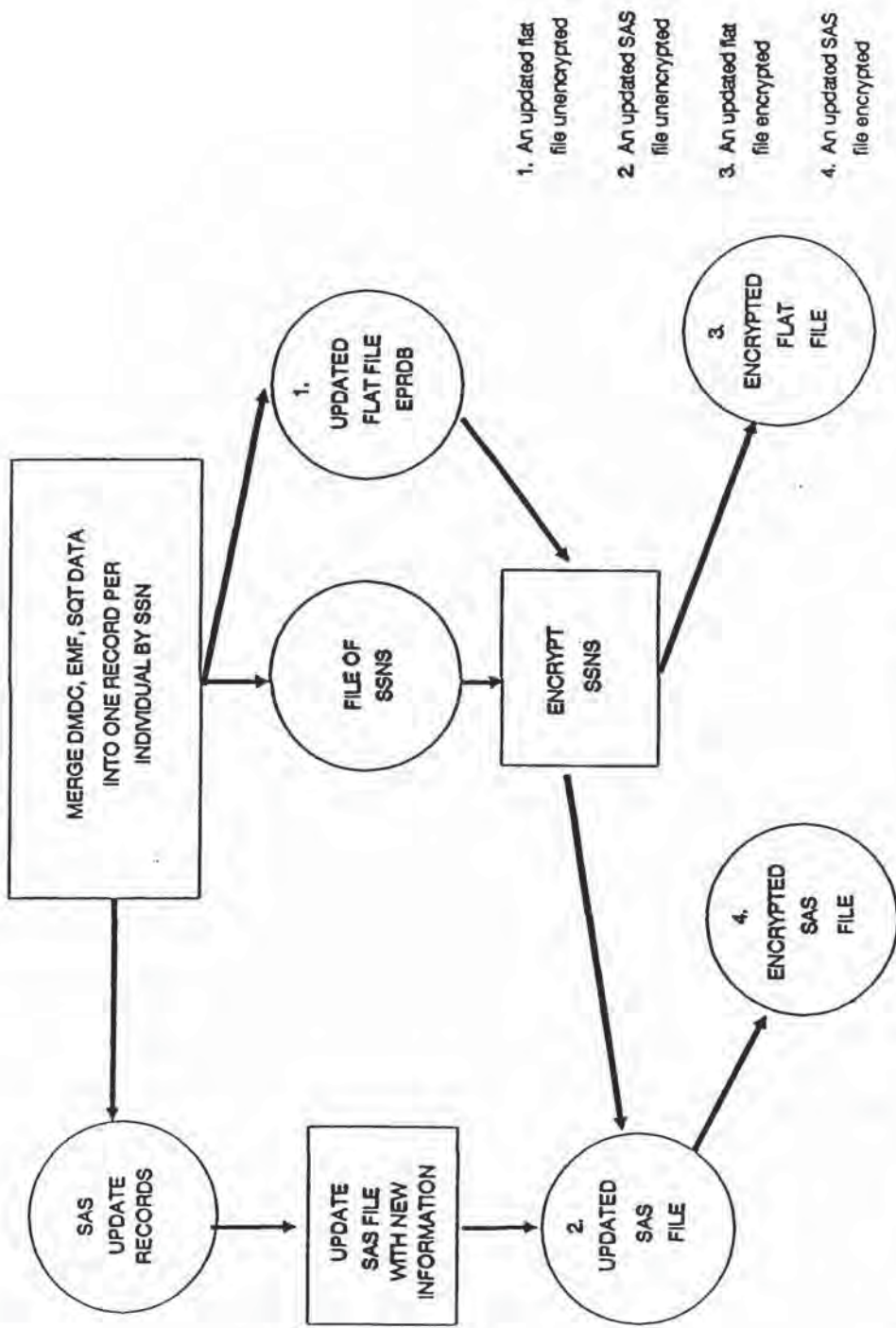


Figure 3. EPRDB Core Data Set Maintenance Flow
(Continued on next page)



- 1. An updated flat file unencrypted
- 2. An updated SAS file unencrypted
- 3. An updated flat file encrypted
- 4. An updated SAS file encrypted

Figure 3 continued. EPRDB Core Data Set Maintenance Flow

Table 1
Number of Enlisted Personnel by Fiscal Year in 100% EPRDB

<u>YEAR</u>	<u># OF ENLISTED</u>
1985	119,919
1986	235,656
1987	332,861
1988	398,264
1989	443,755
1990	441,231

Table 2
Number of Enlisted Personnel Whose Term of Service has Expired
by Fiscal Year in 100% EPRDB

<u>YEAR</u>	<u># OF ENLISTED</u>
1985	1
1986	66
1987	6,342
1988	14,812
1989	46,553
1990	38,628

Data Base Summary

There are two versions of the EPRDB Core Data Set, a flat character file and a SAS file. These files exist for both the 25 percent and 100 percent samples. They are maintained at the NIH computing facility on standard label 3480 cartridge tapes. The data set characteristics are described below.

25 percent EPRDB: Accessions for fiscal years 1974-1984

- Flat character file

Data Set Name: WTFBXPHEPRDB25.Y7490.ENCRYPT
Volumes: 009145, 007967, 007939, 009852
Number of Observations: 408,879
Number of Data elements: 973

- SAS file

Data Set Name: WTFBXPHEPRDB25.Y7490.ENCRYPT
Volumes: 007509, 008793, 008592, 008720, 008682
Number of Observations: 408,879
Number of Data elements: 973

100 percent EPRDB: Accessions for fiscal years 1985-1990

- Flat character file

Data Set Name: WTFBXPHEPRDB100.Y8590.ENCRYPT
Volumes: 004898, 085353, 011643, 054629, 008596, 064388, 065995
Number of Observations: 667,051
Number of Data elements: 973

- SAS file

Data Set Name: WTFBXPHEPRDB100.Y8590.ENCRYPT
Volumes: 109066, 108991, 104316, 105336
Number of Observations: 667,051
Number of Data elements: 529
(Note: Data elements for 1974-84 are not on SAS file)

Each data set contains one record per individual. All data sets were designed to have the same data elements, however, all annual data elements for the 100 percent SAS data base for the years 1974 through 1984 were eliminated since, by definition, they would always be blank. Appendix E contains an alphabetical list of the data elements. An individual is identified by the data element matchcode, which is the encrypted social security number.

APPENDIX A

DATA ELEMENTS OF EPRDB CORE SAS DATA SET

SECTION	DATA ELEMENTS
I. Initial Accession	#1-59
II. Second Accession	#60-77
III. Composite Scores From Army Classification Battery Test (ACB)	#78-87
IV. DMDC Master/Loss Records Fiscal Year 1974+	#88-125
V. SQT Scores Fiscal Year 1980+	#126-129
VI. PERSINSCOM EMF Files Fiscal Year 1984+	#130-155
VII. Master Record Indicator Flags	#156
VIII. Loss Record Indicator Flags	#157
IX. Secondary Accession Indicator Flag	#158

I. INITIAL ACCESSION

VARIABLE
NAME DATA TYPE SOURCE NAME SOURCE FILE

1. MATCHCOD CHAR N/A ACCESSION/COHORT

An eight digit unique identifying code which is derived from scrambling the social security number.

2. HOMZIP1 CHAR Home of Record #1 ACCESSION/COHORT

The first three digits of an individual's home zip code.

<u>THREE DIGIT</u> <u>ZIPS</u>	<u>STATE</u>	<u>THREE DIGIT</u> <u>ZIPS</u>	<u>STATE</u>
006,007,009	Puerto Rico	500-528	Iowa
010-027	Massachusetts	530-549	Wisconsin
028-029	Rhode Island	550-567	Minnesota
030-038	New Hampshire	570-577	North Dakota
039-049	Maine	580-588	South Dakota
050-059	Vermont	590-599	Montana
060-069	Connecticut	600-629	Illinois
070-089	New Jersey	630-658	Missouri
088	Virgin Islands	660-279	Kansas
090-149	New York	680-693	Nebraska
150-196	Pennsylvania	700-714	Louisiana
197-199	Delaware	716-729	Arkansas
200-205	District of Columbia	730-749	Oklahoma
206-219	Maryland	750-799	Texas
220-246	Virginia	800-816	Colorado
247-268	West Virginia	820-831	Wyoming
270-289	North Carolina	832-838	Idaho
290-299	South Carolina	840-847	Utah
300-319	Georgia	850-865	Arizona
320-339	Florida	870-884	New Mexico
350-369	Alabama	890-898	Nevada
370-385	Tennessee	900-966	California
386-397	Mississippi	967 (99)	American Samoa
400-427	Kentucky	967-968	Hawaii
430-458	Ohio	969	Guam
460-479	Indiana	970-196	Oregon
480-499	Michigan	980-994	Washington
		995-999	Alaska

- | <u>VARIABLE NAME</u> | <u>DATA TYPE</u> | <u>SOURCE NAME</u> | <u>SOURCE FILE</u> |
|---|------------------|--------------------|--------------------|
| 3. HOMZIP2 | CHAR | Home of Record #2 | ACCESSION/COHORT |
| The last two digits of an individual's home zip code. | | | |
| 4. HOMEREC | CHAR | Home of Record #3 | ACCESSION/COHORT |
| FIPS State code of an individual's home. | | | |

Code Values:

<u>State Code</u>	<u>State</u>	<u>State Code</u>	<u>State</u>
01	Alabama	29	Missouri
02	Alaska	30	Montana
03	American Samoa	31	Nebraska
04	Arizona	32	Nevada
05	Arkansas	33	New Hampshire
06	California	34	New Jersey
07	Canal Zone	35	New Mexico
08	Colorado	36	New York
09	Connecticut	37	North Carolina
10	Delaware	38	North Dakota
11	District of Columbia	39	Ohio
12	Florida	40	Oklahoma
13	Georgia	41	Oregon
14	Guam	42	Pennsylvania
15	Hawaii	43	Puerto Rico
16	Idaho	44	Rhode Island
17	Illinois	45	South Carolina
18	Indiana	46	South Dakota
19	Iowa	47	Tennessee
20	Kansas	48	Texas
21	Kentucky	49	Utah
22	Louisiana	50	Vermont
23	Maine	51	Virginia
24	Maryland	52	Virgin Islands
25	Massachusetts	53	Washington
26	Michigan	54	West Virginia
27	Minnesota	55	Wisconsin
28	Mississippi	56	Wyoming

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
5. HOMCNTY	CHAR	Home of Record	ACCESSION/COHORT
6. DOBYY	CHAR	Date of Birth Year	ACCESSION/COHORT
7. DOBMM	CHAR	Date of Birth Month	ACCESSION/COHORT
8. DOBDD	CHAR	Date of Birth Day	ACCESSION/COHORT
9. SEX	CHAR	Sex	ACCESSION/COHORT

Code Values:

1. Male
2. Female

10. RACE	CHAR	Race	ACCESSION/COHORT
----------	------	------	------------------

Code Values:

1. White
2. Black
3. Other

11. ETHGP	CHAR	Ethnic Group	ACCESSION/COHORT
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Code Values:

- | | |
|---------------------------|----------------------------------|
| 1. Mexican | 16. Melanesian |
| 2. Puerto Rican | 17. Micronesian |
| 3. Cuban | 18. Polynesian |
| 4. Latin American | 19. Other Pacific Island descent |
| 5. Other Hispanic descent | 20. Other/None |
| 6. Aleut | 21. Spanish descent (pre 10/81) |
| 7. Eskimo | 22. Asian American (pre 10/81) |
| 8. N. American Indian | |
| 9. Chinese | |
| 10. Japanese | |
| 11. Korean | |
| 12. Indian | |
| 13. Filipino | |
| 14. Vietnamese | |
| 15. Other Asian descent | |

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
12. REDCAT	CHAR	Race Ethnic	ACCESSION/COHORT

Code Values:

- 0. Unknown (post 9/84)
- 1. White
- 2. Black
- 3. Hispanic
- 4. American Indian/Alaskan native
- 5. Asian/Pacific Islander
- 6. Other/Unknown (pre 9/84)
- 7. Other (post 9/84)

13. ENTRYMS	CHAR	Marital Status/ Dependents at Entry	ACCESSION/COHORT
-------------	------	--	------------------

Code Values:

SINGLE/DEPENDENTS

MARRIED/DEPENDENTS

- | | |
|------------|------------|
| 1. Unknown | 2. Unknown |
| 10. None | 20. None |
| 11. One | 21. One |
| 12. Two | 22. Two |
| 13. Three | 23. Three |
| 14. Four | 24. Four |
| 15. Five | 25. Five |
| 16. Six | 26. Six |
| 17. Seven | 27. Seven |
| 18. Eight | 28. Eight |
| 19. Nine | 29. Nine |

14. ENTRYED	CHAR	Highest Year of Education at Entry	ACCESSION/COHORT
-------------	------	---------------------------------------	------------------

Code Values:

- | | |
|--|----------------------------------|
| 1. 1-7 years | 7. 1 year college |
| 2. 8 years | 8. 2 years college |
| 3. 1 year high school | 9. 3-4 years college (no degree) |
| 4. 2 years high school | 10. College graduate |
| 5. 3-4 years high school
(no diploma or G.E.D.) | 11. Masters or equivalent |
| 6. High school diploma | 12. Doctorate or equivalent |
| | 13. High school G.E.D |

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
15. PRIRSRC	CHAR	Prior Service	ACCESSION/COHORT
Code Values:			
1. Non-prior service			
All enlistees having prior service have been eliminated from the data base.			
16. DEPY	CHAR	Year of Entry into Delayed Entry Program (DEP)	ACCESSION/COHORT
17. DEPMM	CHAR	Month of Entry into DEP	ACCESSION/COHORT
18. MONSDEP	CHAR	Months in DEP	ACCESSION/COHORT
19. DOEYY	CHAR	Year of Entry into Active Duty	ACCESSION/COHORT
20. DOEMM	CHAR	Month of Entry into Active Duty	ACCESSION/COHORT
21. DOEDD	CHAR	Day of Entry into Active Duty	ACCESSION/COHORT
22. TERMENL	CHAR	Term of Enlistment	ACCESSION/COHORT
23. ENTRYPG	CHAR	Entry Pay Grade	ACCESSION/COHORT

Code Values:

- 0. E00
- 1. E01
- 2. E02
- 3. E03
- 4. E04
- 5. E05

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
24. PGMNLF1	CHAR	Program Enlisted for #1	ACCESSION/COHORT

Code Values:

- 0. No VEAP kicker and no European assignment
- 1. VEAP kicker and CONUS assignment
- 2. No VEAP kicker with European assignment
- 3. VEAP kicker with European assignment
- 4. Raised VEAP kicker
- 5. No VEAP kicker
- 6. \$2000 VEAP kicker
- 7. \$4000 VEAP kicker
- 8. \$6000 VEAP kicker
- A. 2 year VEAP \$8000
- B. 3 year VEAP \$12000
- C. 4 year VEAP \$12000
- D. Tuition assistance 2 year enlistment
- E. Tuition assistance 3 year enlistment
- F. Tuition assistance 4 year enlistment
- G. Noncontributory VEAP-\$2000-2 year enlistment
- H. Noncontributory VEAP-\$4000-3 year enlistment
- I. Noncontributory VEAP-\$6000-4 year enlistment

See Data Element #24 for the Code Values of Data Elements #25-28

25. PGMNLF2	CHAR	Program Enlisted for #2	ACCESSION/COHORT
26. PGMNLF3	CHAR	Program Enlisted for #3	ACCESSION/COHORT
27. PGMNLF4	CHAR	Program Enlisted for #4	ACCESSION/COHORT
28. PGMNLF5	CHAR	Program Enlisted for #5	ACCESSION/COHORT

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
29. AFESMEP	CHAR	AFEES STATION/ EPS	ACCESSION/COHORT

The following values are valid for all years of data:

- | | |
|----------------------|------------------------|
| 1. Albany, NY | 44. El Paso, TX |
| 3. Baltimore, MD | 45. Houston, TX |
| 5. Beckley, WV | 46. Little Rock, AR |
| 6. Boston, MA | 47. New Orleans, LA |
| 7. Buffalo, NY | 48. Oklahoma City, OK |
| 8. Cincinnati, OH | 49. San Antonio, TX |
| 9. Cleveland, OH | 50. Shreveport, LA |
| 10. Columbus, OH | 51. Chicago, IL |
| 12. Harrisburg, PA | 52. Denver, CO |
| 13. Louisville, KY | 53. Des Moines, IA |
| 14. Manchester, NH | 54. Detroit, MI |
| 15. Newark, NJ | 55. Fargo, ND |
| 16. New haven, CT | 56. Indianapolis, IN |
| 18. Philadelphia, PA | 57. Kansas City, MO |
| 19. Pittsburgh, PA | 58. Milwaukee, WI |
| 20. Portland, ME | 59. Minneapolis, MN |
| 22. Richmond, VA | 60. Omaha, NE |
| 24. Springfield, MA | 61. Sioux Falls, SD |
| 25. Syracuse, NY | 62. Saint Louis, MO |
| 26. Wilkes-Barre, PA | 63. Boise, ID |
| 27. Ft. Hamilton, NY | 64. Butte, MT |
| 28. Atlanta, GA | 65. Salt Lake City, UT |
| 29. Charlotte, NC | 66. Fresno, CA |
| 30. Coral gables, FL | 67. Los Angeles, CA |
| 31. Ft. Jackson, SC | 68. Oakland, CA |
| 32. Jackson, MA | 69. Phoenix, AZ |
| 33. Jacksonville, FL | 70. Portland, OR |
| 34. Knoxville, TN | 71. Seattle, WA |
| 35. Memphis, TN | 72. Spokane, WA |
| 36. Montgomery, AL | 73. Anchorage, AK |
| 37. Nashville, TN | 74. Honolulu, HI |
| 38. Raleigh, NC | 75. Guam |
| 39. San Juan, PR | 76. San Diego, CA |
| 41. Albuquerque, NM | 77. Atlantic ENL |
| 42. Amarillo, TX | 78. Pacific ENL |
| 43. Dallas, TX | 79. Tampa, FL |

The following codes are only valid for records prior to 01/01/82:

- | | |
|-------------------|--------------------|
| 2. Ashland, KY | 21. Providence, RI |
| 4. Bangor, ME | 23. Roanoke, VA |
| 11. Fairmont, WV | 40. Abilene, TX |
| 17. Whitehall, NY | |

<u>VARIABLE</u> <u>NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
30. ENLBON	CHAR	Bonus Option	ACCESSION/COHORT

Available from FY76 only.

Code Values:

- | | |
|----------------------------|--------------------------------|
| 1. Combat arms \$0-1500 | 4. Non combat arms \$0-1500 |
| 2. Combat arms \$1500-3000 | 5. Non combat arms \$1500-3000 |
| 3. Combat arms \$3000+ | 6. Non combat arms \$3000+ |

31. ENLOP	CHAR	Enlistment Option	ACCESSION/COHORT
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Available from FY76 only.

Code Values:

1. Advanced enlistment grade plus training or skill, unit or geographic locations, and buddy program.
2. Advanced enlistment grade plus unit or geographic location and buddy program.
3. Advanced enlistment grade plus unit or geographic location.
4. Advanced enlistment grade.
5. Advanced enlistment grade plus unit or geographic location and training or skill.
6. Advanced enlistment grade plus training or skill guarantee.
7. Advanced enlistment grade plus buddy program.
8. Accelerated promotion plus training or skill guarantee, unit or geographic location and buddy program.
9. Accelerated promotion plus unit or geographic location and buddy program.
10. Accelerated promotion plus unit or geographic location.
11. Accelerated promotion.
12. Accelerated promotion plus buddy program and training or skill guarantee.
13. Accelerated promotion plus training or skill guarantee.
14. Accelerated promotion plus buddy program.
15. Training or skill guarantee plus unit or geographic location and buddy program.
16. Unit or geographic location plus buddy program.
17. Unit or geographic location.
18. Training or skill guarantee plus unit or geographic location.
19. Training or skill guarantee plus buddy program.
20. Training or skill guarantee.
21. Other.

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
32. TMOS	CHAR	Training MOS	ACCESSION/COHORT

Military occupational specialty which an individual is entering the the service to acquire. See Appendix B for code values. These definitions are subject to change, and new documentation is published twice yearly. For more current listings, please refer to form

AR 611-201 Reference Data.

33. TSKID1	CHAR	Skill Identifier #1	ACCESSION/COHORT
34. TSKID2	CHAR	Skill Identifier #2	ACCESSION/COHORT

Also referred to as SQI

Code Values:

- A. Technical intelligence
- C. Nuclear, biological & chemical
- D. Civil affairs operations
- E. Northern warfare expert
- F. Flying status
- G. Ranger
- H. Instructor
- I. Installer
- K. Logistics NCO
- L. Linguist
- M. First seargent
- N. Joint planner
- O. No special qualifications
- P. Parachutist
- Q. Equal opportunity advisor (EOA)
- R. Research development, test, and evaluation (RDTE)
- V. Ranger parachutist
- X. Drill seargent
- Y. Pathfinder
- Z. Alcohol and drug abuse prevention and control program
- 2. Training development
- 4. Non-career recruiter

<u>VARIABLE</u> <u>NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
35. PULHES1	CHAR	PUL	ACCESSION/COHORT

A series of codes giving a description of an individual's physical normalcy. Each letter corresponds to a particular area of health as follows:

P - General physical well-being	H - Hearing
U - Upper extremities	E - Eyes and vision
L - Lower extremities	S - Psychiatric well-being

Each area is scored from one through four:

- 1 = Completely healthy
- 2 = Minor defect
- 3 = More serious defect requiring waiver for entry
- 4 = Unwaiverable defect

This field is treated as two separate three digit codes, comprised of the score for areas PUL and areas HES. All fours are converted to fives, and then each of the three digits is multiplied together and the product of each set is stored in its appropriate position. This method means the original scores in individual area can never be retrieved, however, certain ranges can be determined to signify general good health or the presence of a defect.

36. PULHES2	CHAR	HES	ACCESSION/COHORT
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See Data Element #35.

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
37. WAIVER	CHAR	Waiver Code	ACCESSION/COHORT

Code Values:

- | | |
|---|----------------------------|
| 0. Not applicable | 8. Physical qualification |
| 1. Age | 9. Sole survivor member |
| 2. Number of dependents | 10. Education |
| 3. Mental qualification | 11. Alien |
| 4. Moral qualification | 12. Security risk |
| 5. Previous disqualification/
separation | 13. Conscientious objector |
| 6. Lost time | 14. Pay grade |
| 7. Physical qualification
(EPTS) | 15. Skill requirements |
| | 16. Predictor requirements |
| | 17. Other |

38. TFORM	CHAR	Test Form	ACCESSION/COHORT
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Code Values:

- | | |
|-------------------|-------------|
| 1. ECFA1 | 24. ACT |
| 2. ECFA2 | 25. AQB |
| 3. ECFA3 | 26. AQE66 |
| 4. ASVAB | 31. ASVAB1 |
| 5. AFWST/5 | 32. ASVAB2 |
| 6. AFWST/6 | 33. ASVAB3 |
| 7. AFQT 7A,D | 34. ASVAB4 |
| 8. AFQT 7B | 35. ASVAB5 |
| 9. AFQT 7C | 36. ASVAB6 |
| 10. AFQT 8A,D | 37. ASVAB7 |
| 11. AFQT 8B/AQB | 38. ASVAB8 |
| 12. AFQT 8C/AQE66 | 39. ASVAB9 |
| 13. SBTB | 40. ASVAB10 |
| 14. SBTB2 | 41. ASVAB11 |
| 15. SBTB3 | 42. ASVAB12 |
| 16. BTB3 | 43. ASVAB13 |
| 17. BTB4 | 44. ASVAB14 |
| 18. BTB5 | 45. ASVAB15 |
| 19. BTB6 | 46. ASVAB16 |
| 20. BTB7 | 47. ASVAB17 |
| 21. BTB8 | |
| 22. BTB-R1 | |
| 23. ACB73 | |

<u>VARIABLE</u> <u>NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
39. AFQT	CHAR	AFQT Percentile	ACCESSION/COHORT
Individual's percentile test score attained on the Armed Forces Qualification (or equivalent) Test.			
40. AFQTGPS	CHAR	AFQT Groups	ACCESSION/COHORT
Aggregation of percentile test score attained by an individual on the AFQT (or equivalent).			
Code Values:			
1. 1-9	(V)		
2. 10-15	(IVc)		
3. 16-20	(IVb)		
4. 21-30	(IVa)		
5. 31-49	(IIIb)		
6. 50-64	(IIIa)		
7. 65-92	(II)		
8. 93-99	(I)		
41. AFQTOR	CHAR	AFQT % Original	ACCESSION/COHORT
This field is only valid between <u>FY76 to FY80</u> (07/01/75-09/30/80).			
42. AFQTGRP	CHAR	AFQT Group Original	ACCESSION/COHORT
This field is only valid between <u>FY76 to FY80</u> (07/01/75-09/30/80).			
43-			
59. APTAR1- APTAR16	CHAR	Aptitude Areas 1-16	ACCESSION/COHORT
Scores range in value from 1 to 180.			

II. SECOND ACCESSION

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
60. HOMEREC2		See Data Element #4	
61. ENTRYMS2		See Data Element #13	
62. ENTRYED2		See Data Element #14	
63. DOEYY2		See Data Element #19	
64. DOEMM2		See Data Element #20	
65. DOEDD2		See Data Element #21	
66. TERMENL2		See Data Element #22	
67. ENTRYPG2		See Data Element #23	
68-			
72. PGMNLF21-PGMNLF25		See Data Elements #24-28	
73. ENLBON2		See Data Element #30	
74. ENLOP2		See Data Element #31	
75. TMOS2		See Data Element #32	
76. WAIVER2		See Data Element #37	
77. AFQT2		See Data Element #39	

III. COMPOSITE SCORES FROM (ACB)

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
78. CO	CHAR	Combat Arms	COMPOSITE
79. FA	CHAR	Field Artillery	COMPOSITE
80. MM	CHAR	Mechanical Maintenance	COMPOSITE
81. GM	CHAR	General Maintenance	COMPOSITE
82. CL	CHAR	Clerical	COMPOSITE
83. GT	CHAR	General Technical	COMPOSITE
84. EL	CHAR	Electronics	COMPOSITE
85. SC	CHAR	Surveillance	COMPOSITE
86. ST	CHAR	Skilled Technical	COMPOSITE
87. OF	CHAR	Operators & Food Handlers	COMPOSITE

IV. DMDC MASTER/LOSS RECORDS FISCAL YEAR 1974+

<u>VARIABLE</u> <u>NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
88. DPOC(Y)	CHAR	DoD Primary Occupation Code	MASTER/LOSS

The Primary Occupation code indicates the occupation for which the Service member has been trained or the most significant skill held by the individual.

89. DDOC(Y)	CHAR	DoD Duty Occupation Code	MASTER/LOSS
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The Duty Occupation code reflects the occupation in which the Service member is actually working.

90. HVEC(Y)	CHAR	Highest Year of Education	MASTER/LOSS
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Code Values:

- 00. Unknown
- 01. 1-7 years of elementary school completed
- 02. 8 years of elementary school completed
- 03. 1 year of high school completed
- 04. 2 years of high school completed
- 05. 3 or 4 years of high school completed, with no diploma or GED
- 06. High school diploma (pre 12/97 - attendance certificate, or GED)
- 07. 1 year college completed
- 08. 2 years of college completed
- 09. 3 or 4 years of college completed with no diploma
- 10. College graduate (Bachelor's)
- 11. Masters degree
- 12. Doctorate and first-professional degrees
- 13. GED (after 11/87)
- 14. Alternate education credential (after 11/87)

<u>VARIABLE</u> <u>NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
91. PYGRD(YY)	CHAR	Pay Grade	MASTER/LOSS

Code Values:

00 Enlisted unknown
 01-09 E01-E09
 10 Warrant officer unknown
 11-14 W01-W04
 20 Commissioned officer unknown
 21-31 001-011

92. MARST(YY)	CHAR	Marital Status	MASTER/LOSS
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Code Values:

00. Unknown
 01. Single
 02. Married
 03. No longer married
 04. Single (pre 07/01/85)

93. NOD(YY)	CHAR	Number of Dependents	MASTER/LOSS
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Code Values:

01. No dependents 06. 5 dependents
 02. 1 dependent 07. 6 dependents
 03. 2 dependents 08. 7 dependents
 04. 3 dependents 09. 8-15 dependents
 05. 4 dependents

94. PMOS(YY)	CHAR	Primary MOS	MASTER/LOSS
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This data element is the service code for the member's primary occupation. See Appendix B for code values.

95. PSKID1(YY)	CHAR	Skill Identifier #1	MASTER/LOSS
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See data element #34

96. PSKID2(YY)	CHAR	Skill Identifier #2	MASTER/LOSS
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See data element #34

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
97. DMOS(YY)	CHAR	Duty MOS	MASTER/LOSS
Available from <u>09/78</u> only. See Appendix B for code values.			
98. DSKID1(YY)	CHAR	Skill Identifier #1	MASTER/LOSS
See data element #34			
99. DSKID2(YY)	CHAR	Skill Identifier #2	MASTER/LOSS
See data element #34			
100. CMF(YY)	CHAR	Career Management Field	MASTER/LOSS

Code Values:

11 Infantry	55 Ammunition
12 Combat engineering	63 Mechanical maintenance
13 Field artillery	64 Transportation
16 Air defense artillery	67 Aircraft maintenance
18 Special operations	71 Administration
19 Armor	74 Automatic data processing
23 Air defense missile maintenance	76 Supply and service
24 Air defense system maintenance	77 Petroleum and water
25 Audio-visual	79 Recruiting/reenlistment
27 Land combat/air defense air defense systems intermediate maintenance	81 Topographic engineering
28 Aviation communications electronics systems maintenance	84 Public affairs and audiovisual
29 Signal maintenance	88 Transportation
31 Signal operations	91 Medical
33 Electronic intercept systems	92 Petroleum
46 Public affairs	93 Aviation operations
51 General engineering	94 Food service
54 Chemical	95 Military police
	96 Military intelligence
	97 Band
	98 Electronic warfare/ cryptologic operations

Available from 07/78 only. These definitions change frequently. The most current CMF definitions can be found on Form AR 611-201 Reference Data.

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
101. ASI(Y Y)	CHAR	Additional Skill Identifier	MASTER/LOSS

Available from 12/87 only. Field added to record for 1984+

102. BSDYY(Y Y)	CHAR	Base Active Service Date (Year)	MASTER/LOSS
103. BSDMM (Y Y)	CHAR	Base Active Service Date (Month)	MASTER/LOSS
104. BSDDD(Y Y)	CHAR	Base Active Service Date (Day)	MASTER/LOSS
105. ETTY(Y Y)	CHAR	ETS Date (Year)	MASTER/LOSS
106. ETMM(Y Y)	CHAR	ETS Date (Month)	MASTER/LOSS

The estimated date that an individual's obligation to the Army will be fulfilled.

107. RKPGYY (Y Y)	CHAR	Date of Rank (Year)	MASTER/LOSS
108. RKPGMM (Y Y)	CHAR	Date of Rank (Month)	MASTER/LOSS

The date that establishes the relative seniority of an individual among others who possess the same permanent paygrade.

109. DOLEY Y (Y Y)	CHAR	Date of Latest Reenlistment (Year)	MASTER/LOSS
110. DOLEMM (Y Y)	CHAR	Date of Latest Reenlistment (Month)	MASTER/LOSS

Reflects date at which member started his current tour of duty.

<u>VARIABLE</u> <u>NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
111. COMPT(Y)	CHAR	Component	MASTER/LOSS

Code Values:

1. Regular
2. Temporary
3. Reserve
4. Guard
5. Full-time support reservists
(for Sep 1983 files only)

112. SRB(Y)	CHAR	SRB Multiplier	MASTER/LOSS
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Available from 07/85 only.

113. BPDYY(Y)	CHAR	Pay Entry Base Date (Year)	MASTER/LOSS
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114. BPDMM (Y)	CHAR	Pay Entry Base Date (Month)	MASTER/LOSS
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115. BPDDD(Y)	CHAR	Pay Entry Base Date (Day)	MASTER/LOSS
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Items #115-117 are not available for FY74 loss records.

116. UNTID(Y)	CHAR	Unit Identification Code	MASTER/LOSS
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Available from 12/74 only.

Morocco-	284	Portugal-	678
Azores-	406	France-	777
Zaire-	662	Jordan-	892
Finland-	664, 862		

APO Miami and Location (34)

Panama-	001-009, 011	Chile-	033
Costa Rica-	020	Argentina-	034
Nicaragua-	021	Uruguay-	035
Honduras-	022	Paraguay-	036
El Salvador-	023	Venezuela-	037
Guatemala-	024	Columbia-	038
Brazil-	030	Ecuador-	039
Peru-	031	Puerto Rico-	040
Bolivia-	032	Dominican Republic-	041

APO San Francisco and Location (96)

Korea-	208, 212-214, 218, 220, 224, 231, 251, 259, 264, 271, 301-302, 324, 335, 358, 366, 371, 397, 455, 460, 461, 483, 488, 524, 570-571		
Australia-	209, 390, 404-405		
Japan-	210, 230, 235, 239, 244, 248, 270, 328, 331, 336, 343, 344, 361, 367, 503, 519		
Philippines-	274, 311, 408, 410, 431-432, 434, 528		
Johnston Island-	305	Indonesia-	356
Guam-	327, 334, 351	Wake Island-	501
Thailand-	346, 468	Marshall Islands-	555
Hawaii-	556		

APO Seattle and Location (98)

704, 713, 723, 733, 736 Alaska

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
118. ASC(YY)	CHAR	Status Codes	MASTER/LOSS

Code Values:

CF	Civil functions not defined by CW
CO	CONUS operating
CW	Corps of Engineers, civil works
C1	US Strategic Army Forces, authorized level 1
C2	US Strategic Army Forces, authorized level 2
C3	US Strategic Army Forces, authorized level 3
CE	US Strategic Army Forces, authorized level E
D1	US Strategic Army Forces, deploying unit
DP	Patient assigned to medical holding unit
EN	En route
ES	Personnel entering military service
FA	Foreign activities, other than reimbursable
FP	Active army patients in a foreign country
FS	Foreign students, active Army personnel
GR	Reserve components, statutory tour officer augmentation
GS	Special Reserve Components
JF	Joint task force
NF	Foreign military sales, nonreimbursables
NP	Military assistance program, nonreimbursables
NX	Outside DoD, nonreimbursables
PC	Returned to military control assigned to PCF for processing at PERSINSCOM
PR	Active Army prisoners
PS	Separatees
RE	Replacements
RF	Foreign military sales, reimbursables
RO	Other reimbursables
RP	Military Assistance Programs, reimbursables
RR	Returnees for reassignment
RX	Outside DoD, reimbursables
ST	Students
TH	Overseas troops
TN	Transients
TR	Active Army trainees

Available after 11/87. Field was added to record for 1984 and later.

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
119. ENSLRV (YY)	CHAR	Character of Service	MASTER/LOSS

Code Values:

- 0. Unknown
- 1. Honorable
- 2. Under honorable conditions - general
- 3. Under other than honorable conditions
- 4. Dishonorable
- 5. Uncharacterized

Information after FY83 (10/01/82) may contain '5' as a valid entry meaning uncharacterized. However, blank or '0' entries prior to this should mean unknown but may have been used to mean uncharacterized as well.

120. RE(YY)	CHAR	Reenlistment Eligibility	MASTER/LOSS
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Code Values:

1 or 10 Fully qualified for immediate enlistment/reenlistment.

1A Fully qualified for reenlistment, but ineligible to apply until 93 days after date of separation. Applicable to those who have completed 6 years of service for pay purposes and were not required to take action to meet service remaining requirements if separated on or after August, 1978.

1B Fully qualified for reenlistment. Applies to persons who were fully qualified when last separated; however, reenlistment was not authorized at time of separation under strength management program if separated after January 31, 1983.

Fully qualified for reenlistment. Applies to persons who have not been tested to verify PMOS during current term of service or were tested and had not received test score at time of separation if separated on or before January 31, 1983.

- 1C Fully qualified for reenlistment provided otherwise qualified. Applies to persons who do not possess scores of 90 or higher in any three or more aptitude areas of the Armed Services Vocational Aptitude Battery (ASVAB), if tested prior to October 1, 1980; or scores of 85 or higher in any 3 or more aptitude areas of the ASVAB if tested on or after October 1, 1980.**
- 2 or 20 Fully qualified for reenlistment. Applies to persons whose voluntary enrollment is not contemplated due to circumstances such as separation to accept commission or warrant officer appointment, enlistment expires while in cadet status, etc.**
- 2A Fully qualified for reenlistment after 93 days have elapsed since date of last separation. Grade determination must be made. Applies to persons with over 6 years of service for pay separated prior to August 15, 1978 who have incurred an additional service requirement and who decline to meet this requirement through reenlistment or extension.**
- 2B Fully qualified for reenlistment. Applies to persons who were fully qualified when last separated; however, a voluntary enrollment was not authorized at time of separation under enlisted year group management plan.**
- 2C Fully qualified for reenlistment after 93 days have elapsed since date of separation. Applies to persons who were fully qualified when last separated. However, reenlistment was not authorized at time of separation under reenlistment control policy.**
- 3 or 30 Not eligible for reenlistment unless waiver is granted. Includes those separated under Trainee Discharge Program (TDP) and Expeditious Discharge Program (EDP).**
- 3A Not eligible for reenlistment unless waiver is granted. Ineligible to apply for reenlistment until 93 days after date of separation. Grade determination must be made. Applicable to those who have completed 4 years of service for pay purposes and who refused to take action to meet service remaining requirements and were separated on or after August 15, 1978.**

- 3B Not eligible for reenlistment unless waiver is granted. Applicable to those who have time lost during their last period of service.**
- 3C Not eligible for reenlistment unless waiver consideration is granted. Applicable to those who do not meet the grade requirement in basic eligibility criteria.**
- 4 or 40 Not eligible for reenlistment. Applies to persons separated from last period with a nonwaivable disqualification. Includes regular and disability retirements.**
- 4A Not eligible for reenlistment. Applicable to those who fail to meet citizenship requirement.**
- 4R Not eligible for reenlistment. Applies to enlisted personnel retiring after 20 or more years active federal service. (The following codes are meant to be used while an individual is still in the service to show reasons he/she may be precluded from voluntary enrollment. They are occasionally seen on dropped from strength type "loss" records (desertions, for example).**
- 5 Eligible (pre 10/78)**
- 6 Ineligible (pre 10/78)**
- 9A Lost time. Time lost because of absence without leave (AWOL) (includes cases where article 15 has been administered for AWOL/lost time)**
- 9C Skill qualification. A non-qualifying skill qualification evaluation and less than 3 scores of 85 on the ASVAB/ACB/WACB).**
- 9E Physical readiness. Unacceptable physical readiness qualifications.**
- 9G Grade. Exceeds total years active federal service for pay grade**
- 9K Field bar to reenlistment. A denial of reenlistment imposed below Department of the Army Headquarters.**
- 9L Department of the Army bar to reenlistment. A denial of reenlistment imposed by Department of the Army Promotional board.**

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- 9N Court-martial conviction. Convicted by one or more summary. Special or general courts-martial.
 - 9O Age. Does or will exceed maximum age limitations.
 - 9Q Declination of continued service statement. Refusal to take action to meet length of service requirement.
 - 9U Weapons. Unacceptable weapons qualifications.
 - 9W Article 15. Unacceptable Article 15 qualifications.
 - 9X Other. Prohibitions not otherwise identified.
 - 9Y Retirement. Application for retirement has been approved.
 - 9Z Weight. Does not meet acceptable weight standards.

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
121. ISC(YY)	CHAR	Interservice Separation Code	MASTER/LOSS

Code Values:

- 000 Unknown or invalid
- 0 Release from active service
 - 001 Expiration of term of service
 - 002 Early release - insufficient retainability
 - 003 Early release - to attend school
 - 004 Early release - police duty
 - 005 Early release - in the national interest
 - 006 Early release - seasonal employment
 - 007 Early release - to teach
 - 008 Early release - other (including RIF)
- 1 Medical disqualifications
 - 010 Conditions existing prior to service
 - 011 Disability - severance pay
 - 012 Permanent disability - retired
 - 013 Temporary disability - retired
 - 014 Disability - non EPTS - no severance pay
 - 015 Disability - Title 10 retirement
 - 016 Unqualified for active duty - other (after 10/85)
 - 017 Failure to meet weight/body fat standards (included in 016 prior to FY85)
 - 018 Unqualified for active duty or failure to meet Weight/body fat (pre 10/85)
- 2 Dependency or hardship
 - 022 Dependency or hardship
- 3 Death
 - 030 Battle casualty
 - 031 Non-battle - disease
 - 032 Non-battle - other
 - 033 Death - cause not specified

- 4 Entry into officer programs
 - 040 Officer commissioning program
 - 041 Warrant officer program
 - 042 Service academy

- 5 Retirement (other than medical)
 - 050 20-30 years of service
 - 051 Over 30 years of service
 - 052 Other categories

- 6 Failure to meet minimum behavioral of performance Criteria
 - 060 Character or behavior disorder
 - 061 Motivational problems (apathy)
 - 062 Enuresis
 - 063 Inaptitude
 - 064 Alcoholism
 - 065 Discreditable incidents - civilian or military
 - 066 Shirking
 - 067 Drugs
 - 068 Financial irresponsibility
 - 069 Lack of dependent support
 - 070 Unsanitary habits
 - 071 Civil court conviction
 - 072 Security
 - 073 Court martial
 - 074 Fraudulent entry
 - 075 AWOL, desertion
 - 076 Homosexuality
 - 077 Sexual perversion
 - 078 Good of the service (in lieu of Court-Martial)
 - 079 Juvenile offender
 - 080 Misconduct (reason unknown)
 - 081 Unfitness (reason unknown)
 - 082 Unsuitability (reason unknown)
 - 083 Pattern of minor disciplinary infractions
 - 084 Commission of a serious offense
 - 085 Failure to meet minimum qualifications for retention
 - 086 Expeditious discharge\unsatisfactory performance
 - 087 Trainee discharge

- 9 Other separations or discharges
 - 090 Secretarial authority
 - 091 Erroneous enlistment or induction

- 092 Sole surviving family member
- 093 Marriage
- 094 Pregnancy
- 095 Minority
- 096 Conscientious objector
- 097 Parenthood
- 098 Breach of contract
- 099 Other

10 Transactions

- 100 Immediate reenlistment
- 101 Dropped from strength for desertion
- 102 Dropped from strength for imprisonment
- 103 Record correction
- 104 Missing in action or POW
- 105 Other dropped from strength/the rolls

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
122. SPDTYY(Y)	CHAR	Date of Separation (Year)	MASTER/LOSS
123. SPDTMM(Y)	CHAR	Date of Separation (Month)	MASTER/LOSS
124. SPDTDD(Y)	CHAR	Date of Separation (Day)	MASTER/LOSS
125. SPD(Y)	CHAR	Separation Program Designator	MASTER/LOSS

V. SQT SCORES FISCAL YEAR 1980+

126. SQT MOS(Y)	CHAR	MOS of SQT Test	SQT FILES
See Appendix B for values.			
127. SLEVEL(Y)	CHAR	Skill Level of SQT Test	SQT FILES
128. VERS(Y)	CHAR	SQT Test Version	SQT FILES
129. SQTSCR(Y)	NUM	SQT Score	SQT FILES

VI. PERSINSCOM EMF FILES FISCAL YEAR 1984+

130. GTSCR(YY) NUM	General Technical Score	EMF FILES
131. ASVYY(YY) CHAR	Date Last Vocational Test (Year)	EMF FILES
132. ASVMM(YY) CHAR	Date Last Vocational Test (Month)	EMF FILES
133. NCOES(YY) CHAR	Noncommissioned Officer Education Program	EMF FILES

Designates graduates of the NCOES training courses and the academic level attained, for SMA.

Code Values:

Sergeants Major Academy:

- A US Army Sergeants Major graduate (resident & nonresident program)
- C US Army Sergeants Major academy nongraduate (resident/nonresident)
- D US Army Sergeants Major academy declinee (resident/nonresident)
- F US Army Sergeants Major academy selectee (resident/nonresident)

Senior level NCOES:

- K Senior level noncommissioned officer course graduate (applies only to the resident mode of the department of the Army First Sergeants course)
- L On-the-job experience of skill level 5
- M Advanced level noncommissioned officer course nongraduate
- N Advanced level noncommissioned officer course nongraduate with on-the-job experience of skill level 4
- P Advanced level noncommissioned officer course declinee
- R Advanced level noncommissioned officer course declinee with on-the-job experience of skill level 4
- S Advanced level noncommissioned officer course graduate
- T Advanced level noncommissioned officer course selectee
- V On-the-job experience for skill level 4

Basic level NCOES:

- W** Basic level noncommissioned officers graduate combat arms
- X** Basic technical course graduate
- Y** On the job experience for skill level 3

Primary level NCOES:

- Z** Primary technical course graduate
- 0** Withdrawal or nonparticipation in any of above courses
- 1** Primary noncommissioned officer course/combat arms graduate
- 2** Primary leadership graduate
- 3** On-the-job experience for skill level 2

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
134. EFMP(Y)	CHAR	Exceptional Family Member Program	EMF FILES

Soldier has one or more Handicapped Dependents, to be considered as a special condition for assignment purposes.

135. DERSY (Y)	CHAR	Date Eligible to Return from Overseas (Year)	EMF FILES
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136. DERSMM (Y)	CHAR	Date Eligible to Return from Overseas (Month)	EMF FILES
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137. DERSDD (Y)	CHAR	Date Eligible to Return from Overseas (Day)	EMF FILES
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Designates the date upon which an individual is eligible to return to CONUS or area of residents form O/S. Not applicable to personnel in CONUS.

138. DLPYY(Y)	CHAR	Date of Last Permanent Change of Station (Year)	EMF FILES
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139. DLPMM (Y)	CHAR	Date of Last Permanent Change of Station (Month)	EMF FILES
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140. DLPDD(Y)	CHAR	Date of Last Permanent Change of Station (Day)	EMF FILES
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Designates the date an individual was moved from one duty station to another, at government expense.

141. DROSY (Y)	CHAR	Date Last Departed Overseas (Year)	EMF FILES
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142. DROSMM (Y)	CHAR	Date Last Departed Overseas (Month)	EMF FILES
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The date or adjusted date, that an individual departed from his most recent assignment in an overseas command.

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
143. CITIZ(YY)	CHAR	Citizenship Status	EMF FILES

Code Values:

- A. Native born citizen
- B. Naturalized citizen - acquired US citizenship after birth through naturalization of one or both parents
- C. Derivative - birth - acquired US citizenship at birth outside the US of parents one or both of whom are US citizens
- D. Naturalization - a person born outside of the US who has completed naturalization procedures and has been admitted to US citizenship by duly constituted authority
- Y. Alien - not a US citizen
- Z. Unknown

144. CLANG(YY)	CHAR	Language Identity	EMF FILES
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Designates the language other than English, with the greatest significance to the Army, in which an individual is qualified.

145. ENLOP(YY)	CHAR	Enlistment Option Code	EMF FILES
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A multiple usage code reflecting immediate reenlistment or how entered service, (enlisted drafted) and what option EM applied for (airborne, AG) as coded on DD Form 4. Includes codes for reenlistment per AR 601-280.

146. TERMS(YY)	CHAR	Term of Service	EMF FILES
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Code Values:

- 1. 15 months or less
- 2. 15 months and 1 day - 35 months
- 3. 35 months and 1 day - 47 months
- 4. 47 months and 1 day - 59 months
- 5. 59 months and 1 day - 71 months
- 6. 71 months and 1 day - 83 months
- 7. 83 months and 1 day - 95 months
- 8. 95 months and 1 day - 107 months
- 9. 107 months and 1 day - 119 months
- 0. 119 months and 1 day - 120 months
- Z. More than 120 months (current active duty individuals who enlisted in the RA for an unspecified period on a career basis).

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
147. PSVCI(YY)	CHAR	Number of Times Reenlisted	EMF FILES

Code Values:

- 0. First enlistment
- 1. First reenlistment (2nd enlistment)
- 2. Second reenlistment (3rd enlistment)
- 3. Third or subsequent reenlistment (equals 4th or subsequent enlistment)

Designates whether an individual has had more than one Regular Army enlistment.

148. ADPAY(YY)	CHAR	Eligibility for Additional Pay	EMF FILES
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Code Values:

- 0. Withdrawal of eligibility for additional pay
- 1. Aerial flight duty - crew member
- 2. Aerial flight duty - noncrew member
- 3. Parachute duty
- 4. Demolition duty
- 5. Diving duty - master diver
- 6. Experimental - stress duty
- 7. Diving duty - diver first class
- 8. Diving duty - salvage diver
- 9. Diving duty - diver second class
- R. Diving duty - scuba diver
- X. Aerial flight duty - crew member and parachute duty
- Y. Aerial flight duty - noncrew member and parachute duty
- Z. Parachute duty and demolition duty
- BLANK No additional pay reported

<u>VARIABLE</u> <u>NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
149. PROPAS (YY)	CHAR	Proficiency Pay Status	EMF FILES

A rating or classification given an enlisted member of the Armed Forces which indicates the level of entitlement to proficiency pay under applicable regulations.

Code Values:

1. Lowest level of skill-related proficiency pay
2. Second lowest level of skill related proficiency pay
3. Highest level of skill-related proficiency pay.

150. PROPT(YY)	NUM	Current Promotion Points	EMF FILES
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Indicates the number of points awarded an individual by a promotion board. Applies to the grades of 4 and 5 only.

151. PROPY (YY)	CHAR	Current Promotion Points Date (Year)	EMF FILES
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152. PROPMM (YY)	CHAR	Current Promotion Points Date (Month)	EMF FILES
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153. PRVPT(YY)	NUM	Previous Promotion Points	EMF FILES
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154. PRPTY(YY)	CHAR	Previous Promotion Points Date (Year)	EMF FILES
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155. PRPTMM (YY)	CHAR	Previous Promotion Points Date (Month)	EMF FILES
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II. MASTER RECORD INDICATOR FLAGS

<u>VARIABLE NAME</u>	<u>DATA TYPE</u>	<u>SOURCE NAME</u>	<u>SOURCE FILE</u>
156. MFLAG(YY)	CHAR	Master Flag	N/A

A "1" in this position indicates that variables #80-116 for this year contain data from a Master record, and that variables #117-126 may contain data from a transaction record, indicated by an ISC code value of zero or higher.

VIII. LOSS RECORD INDICATOR FLAGS

157. LFLAG(YY)	CHAR	Loss Flag	N/A
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A value greater than zero in this position indicates that the variables #80-125 for this year contain data from a Loss record.

Code Values:

1. Loss due to normal separation, indicating ISC = 1.
2. Immediate reenlistment.
3. Early attrition, ISC 2 or higher.
Includes unknowns, ISC equal to zero.

IX. SECONDARY ACCESSION INDICATOR FLAGS

158. AFLAG	CHAR	Second Accession Flag	N/A
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A "1" in this position indicates that this record contains information from a second accession record.

APPENDIX B

MILITARY OCCUPATION SPECIALTY VALUES*

00B	Diver	11M	Fighting vehicle infantryman
00D	Special duty assignment	12B	Combat engineer
00E	Recruiter	12C	Bridge crewman
00J	Club manager	12E	Atomic demolition munitions specialist
00U	Equal opportunity NCO	12F	Engineer tracked vehicle crewman
00Z	Command sergeant major reporting codes	12Z	Combat engineering senior sergeant
01H	Biological sciences assistant	13B	Cannon crewman (131 - FA cannon/missile subfield)
02B	Cornet or trumpet player	13R	FA firefinder radar oper (132 - FA target acquis operations subfield)
02C	Baritone or euphonium player	13C	Tacfire operations specialist
02D	French horn player	13E	Cannon fire direction specialist
02E	Trombone player	13F	Fire support specialist
02F	Tuba player	13M	Multiple launch rocket system crewmember
02G	Flute or piccolo player	13W	FA target acquisition senior sergeant
02H	Oboe player	13Y	Cannon missile senior sergeant
02J	Clarinet player	13Z	Field artillery senior sergeant
02K	Bassoon player	15D	Lance crewmember MLRS sergeant
02L	Saxophone player	15E	Pershing missile crew member
02M	Percussion player		
02N	Piano player		
02P	Brass group leader		
02Q	Woodwind player		
02R	Percussion group leader		
02S	Special band person		
02T	Guitar player		
02Z	Enlisted band leader		
03C	Physical activities specialist		
05B	Radio operator		
05D	EW/sigint emitter identifier/locator		

- * Because Military Occupation Specialties change, the codes listed in this appendix are not necessarily the ones most currently in use by the Army. Updated lists are published every six months, and can be found on form AR-611-201, available from PERSINSCOM.

05G	Sigsec analyst	15J	MLRS/lance operation/fire direction specialist
05H	EW/sigint Morse interceptor	16B	Hercules missile crew member
05K	EW/sigint non-Morse interceptor	16C	Hercules fire control crew member
06C	Radio teletype operator	16D	Hawk missile crew member
09D	College trainee	16E	Hawk fire control crew member
09R	Reserve forces rptg code	16F	Light ADA crewman (reserve forces)
09S	Comm officer candidate	16G	Roland crewmember assistant
09T	ARNG stat OCS candidate	16H	ADA operations and intelligence assistant
09W	WO candidate	24S	Roland mechanic 7
11B	Infantry man	24T	Patriot missile mechanic
11C	Indirect fire infantryman	24U	Hercules electronics mechanic
11H	Heavy antiarmor weapons infantryman	24V	IH maintenance chief
16J	Defense acquisition radar operator	25C	Combat area surveillance radar repairs
16P	ADA short range missile crewman	25J	Operations central repairs
16R	ADA short range gunnery crewman	25L	AN/TSQ-78 ADA command and control system operations/repairs
16S	MANPADS (man portable air Defense system) crewman	25Q	Tactical microwave satellite systems operations
16T	Patriot missile crewmember	25R	Strategic microwave systems operations
16Z	ADA senior sergeant	26B	Weapons support radar repairs
17B	FA radar crew member	26F	Aerial photoactive sensor repairs
17C	FA target acquisition specialist	26H	Air defense radar repairs
17K	Ground surveillance radar crewman	26K	Aerial electronic warning defense equipment repairs
17L	Aerial sensor specialist (OV-IBC) (Reserves)	26L	Tactical microwave system repairs
17M	Remote sensor specialist	26M	Aerial surveillance radar repairs (Reserves)
19D	Cavalry scout	26N	Aerial surveillance infra red repairs (Reserves)
19E	M48-M60 armor crewman		
19K	MI Abrams armor crewman		
19Z	Armor senior sergeant		
21G	Pershing electronic material specialist		
21L	Pershing electronics repair		
22L	Nike test equipment repairs		
22N	Nike-Hercules missile launcher repairs		

23N	Nike track radar repairs	26T	Radio/TV systems spec
23U	Nike high power radar simulator repairs	26V	Strategic microwave system repairs
23W	Nike maintenance chief	26Y	Satellite communications equipment repairs
24C	IH firing section mechanic	27B	LCSS test specialist/lance repairs
24F	IH fire control mechanic	27C	Roland repairs 7
24G	IH information coordinator central mechanic	27D	Roland FMTS repairs
24H	IH fire control repairs	27E	Tow/dragon repairs
24J	IH pulse radar repairs	27F	Vulcan repairs
24K	IH CW radar repairs	27G	Chaparral/redeye repairs
24L	IH launcher & mechanical systems repairs	27H	Shillelagh repairs
24M	Vulcan system mechanic	27N	Forward area alerting radar repairs
24N	Chaparral system mechanic	27Z	Ballistic/LC/LAD systems maintenance chief
24P	Defense acquisition radar mechanic	31E	Field radio repairs
24Q	Nike Hercules fire control mechanic	31J	Teletypewriter repairs
24R	Improved hawk master mechanic	31M	Multichannel communications equipment operator
31T	Field systems comsec repairs	31N	Tactical circuit controller
31V	Tactical communications systems/operator mechanic	31S	Field general COMSEC repairs
31Z	C-E operations chief	36E	Cable splicer
32D	Stations technical controller	36H	Dial/manual central office repairs
32F	Fixed cliphony repairs	36K	Tactical wire operations specialist
32G	Fixed cryptographic equipment repairs	36L	Electronic switching systems repairs
32H	Fixed station radio repair	41B	Topographic instrument Repair specialist
32Z	C-E maintenance chief	41C	Fire control instrument repairs
33S	EW/intercept systems repairs	41E	Audiovisual equipment repairs
34B	Punchcard machine repairs	41G	Aerial surveillance photographic equipment repairs (reserve forces)
34C	DAS 3 computer repairs	41J	Office machine repairs
34E	NCR 500 computer repairs	42C	Orthoptic specialist
34F	DSTE repairs	42D	Dental laboratory specialist
34H	ADMSE repairs	42E	Optical laboratory specialist
34J	UNIVAC 1004/1005 DCT 9000 system repairs	43E	Parachute rigger
34K	IBM 360 repairs		

34Y	FA computer repairs	43M	Fabric repair specialist
34Z	ADP maintenance supervisor	44B	Metal worker
35B	Electronic instrument repairs	44E	Machinist
35C	Automatic test equipment repairs	45B	Small arms repairs
35E	Special electrical devices repairs	45D	Field artillery turret mechanic
35F	Nuclear weapons electronic specialist	45E	MI Abrams tank turret mechanic
35G	Biomedical equipment specialist basic	45G	FC systems repairs
35H	Calibration specialist	45K	Tank turret repairs
35K	Avionic mechanic	45L	Artillery repairs
35L	Electronic switchin systems repairs	45N	M60A1/A3 tank turret Mechanic
35L	Avionic communications equipment repairs	45T	ITV/IFV/CFV turret
35M	Avionic navigation and flight control equipment repairs	45Z	Armament/fire control maintenance supervisor
35P	Avionic equipment maintenance supervisor	46N	Pershing electrical mechanical repairs
35R	Avionic special equipment repairs	51B	Carpentry & masonry specialist
35U	Biomedical equipment specialist advanced	51C	Structures specialist
36C	Wire systems installer/operator	51G	Materials quality specialist
36D	Antenna installer specialist	51H	Construction supervisor
51Z	General engineering supervisor	51K	Plumber
52C	Utilities equipment repairs	51M	Firefighter
52D	Power generation equipment repairs	51N	Water treatment
52E	Prime power production specialist	51R	Interior electrician
52G	Transmission and distribution specialist	51T	Technical engineering specialist
54C	Smoke operations specialist	65D	Railway car repairs
54E	NBC specialist	65E	Airbrake repairs
54Z	Chemical senior sergeant	65F	Locomotive electrician
		65G	Railway section repairs
		65H	Locomotive operator
		65J	Train crew member
		65K	Railway movement Coordinator
		65Z	Railway senior sergeant
		67G	Utility/cargo airplane repairs
		67H	Observation airplane repairs

55B	Ammunition specialist	67N	Utility helicopter management specialist
55D	Explosive ordinance disposal specialist	67T	Tactical transport helicopter repairs specialist
55G	Nuclear weapons maintenance specialist	67U	Medium helicopter repairs
55X	Ammunition inspector	67V	Observation/scout helicopter repairs
55Z	Ammunition supervisor	67W	Aircraft quality control supervisor
57E	Laundry and bath specialist	67X	Heavy lift helicopter repairs
57F	Graves registration specialist	67Y	Attack helicopter repairs
57H	Terminal operations Coordinator	67Z	Aircraft maintenance senior sergeant
61B	Watercraft operator	68B	Aircraft power plant repairs
61C	Watercraft engineer	68D	Aircraft power train repairs
61F	Marine hull repairs	68F	Aircraft electrician
61Z	Marine senior sergeant	68G	Aircraft structural repairs
62B	Construction equipment repairs	68H	Aircraft pneudralics repairs
62E	Heavy construction equipment operator	68J	Aircraft fire control repairs
62T	ITV/IFV/CFV system mechanic	68M	Aircraft weapon systems mechanic
63B	Light wheel vehicle/power generation mechanic	71C	Stenographer
63D	Self-propelled field artillery system mechanic repairs	71D	Legal clerk
68K	Aircraft component repair supervisor	71E	Court reporter
63E	MI ABRAMS tank systems repairs	71G	Patient administration specialist
63G	Fuel & electrical systems repairs	71L	Administrative specialist
63H	Track vehicle repairs	71M	Chapel activities spec.
63J	Quartermaster & chemical equipment repairs	71N	Traffic management Coordinator
63N	M60A1 tank system mechanic	71P	Flight operations coord.
63W	Wheel vehicle repairs	71Q	Journalist
63Y	Track vehicle mechanic	71R	Broadcast journalist
63Z	Mechanical maintenance supervisor	72E	Combat telecommunications Center operator
64C	Motor transport operator	91B	Medical specialist
64Z	Transportation senior sergeant	91C	Patient care specialist
65B	Locomotive repairs		
72G	Data communications switching center specialist		

72H	Central office operations Operator	91D	Operating room specialist
73C	Finance specialist	91E	Dental specialist
73D	Accounting specialist	91F	Psychiatric specialist
73Z	Finance senior sergeant	91G	Behavioral science specialist
74B	Card and tape writer (reserve forces)	91H	Orthopedic specialist
74D	Computer/machine operator	91J	Physical therapy specialist
74F	Programmer/analyst	91L	Occupational therapy specialist
74Z	Data processing NCO	91N	Cardiac specialist
75B	Personnel administration specialist	91P	X-ray specialist
75C	Personnel management specialist	91Q	Pharmacy specialist
75D	Personnel records specialist	91R	Veterinary specialist
75E	Personnel actions specialist	91S	Environmental health specialist
75F	Personnel information system	91T	Animal care specialist
75Z	Personnel sergeant	91U	ENT specialist
76C	Equipment records & parts	91V	Respiratory specialist
76J	Medical supply specialist	91W	Nuclear medicine specialist
76P	Material control & Accounting specialist	91Y	Eye specialist
76V	Material storage & handling specialist	92B	Medical laboratory specialist
76W	Petroleum supply specialist	92C	Petroleum laboratory specialist
76X	Subsistence supply specialist	92D	Chemical laboratory specialist
76Y	Unit supply specialist	92E	Cytology specialist
76Z	Senior supply sergeant	93E	Meteorological observer
79D	Reenlistment NCO	93F	FA meteorological crew
81B	Technical drafting specialist	93H	ATC tower operator
81C	Cartographer	93J	ATC radar controller
81E	Illustrator	94B	Food service specialist
81Z	Topographic engineering supervisor	94F	Hospital food service specialist
82B	Construction surveyor	95B	Military police
82C	FA surveyor	95C	Correctional specialist
82D	Topographic surveyor	95D	Special agent
83E	Photo and layout specialist	96B	Intelligence analyst
83F	Photolithographer	96C	Interrogator
84B	Still photo specialist	96D	Image interpreter
84C	Mopic specialist	96H	Aerial sensor specialist (OV-ID)
		96Z	Intelligence senior sgt.
		97B	Counterintelligence agent
		97C	Area intelligence spec.

84F Audio/TV specialist
84T TV/radio broadcast
operations chief
84Z Public affairs/
audiovisual chief

98C EW/sigint analyst
98G EW/sigint voice
interceptor
98J EW/sigint noncomm
interceptor
98Z EW/sigintchief

APPENDIX C
DATA ELEMENT RECODING

**VARIABLE
NAME**

**SOURCE
NAME**

1. **ETHGP** **Ethnic Group**

Information prior to 10/81 was recoded as follows:

OLD

NEW

- | | |
|--|--|
| <ul style="list-style-type: none"> 1. Spanish descent 2. American Indian 3. Asian American 4. Puerto Rican 5. Filipino 6. Mexican American 7. Eskimo 8. Aleut 9. Cuban American 10. Chinese 11. Japanese 12. Korean 13. Other 14. None | <ul style="list-style-type: none"> 21. Spanish descent (pre 10/81) 8. N. American Indian 22. Asian American (pre 10/81) 2. Puerto Rican 13. Filipino 1. Mexican 7. Eskimo 6. Aleut 3. Cuban 9. Chinese 10. Japanese 11. Korean 20. Other/none 20. Other/none |
|--|--|

2. **REDCAT** **Race Ethnic**

Information prior to 10/81 was recoded as follows:

OLD

NEW

- | | |
|--|--|
| <ul style="list-style-type: none"> 0. 1. White/non-Spanish 2. White Spanish 3. Black 4. Malayan | <ul style="list-style-type: none"> 6. Other/Unknown 1. White 3. Hispanic 2. Black 5. Asian/Pacific Islander |
|--|--|

Information was further recoded after 9/84:

OLD

NEW

- | | |
|---|--|
| <ul style="list-style-type: none"> 6. Other/Unknown (pre 84) 6. Other (post 84) | <ul style="list-style-type: none"> 0. Unknown 7. Other |
|---|--|

**VARIABLE
NAME**

**SOURCE
NAME**

3. **MARST(Y)** **Marital Status**

Information prior to 07/01/85 was recoded as follows:

OLD

NEW

- | | |
|-------------|---------------------------|
| 01. Single | 04. Single (pre 07/01/85) |
| 02. Married | 02. Married |

4. **RE** **Reenlistment Eligibility**

Information prior to FY79 (10/01/78) was recoded as follows:

OLD

NEW

- | | |
|---------------|---------------------------|
| 1. Eligible | 5. Eligible (pre 10/78) |
| 2. Ineligible | 6. Ineligible (pre 10/78) |

5. **ISC** **Interservice Separation Code**

Information prior to 10/85 was recoded as follows:

OLD

016. Unqualified for active duty

NEW

018. Unqualified for active duty or failure to meet weight/body fat standards

Prior to 1980 an ISC = 0 was used to identify reenlistments and loss transactions due to desertions, imprisonments, and individuals dropped from the strength/rolls. After 1979 these separations were assigned ISC's of 100 and above. Using available documentation, information obtained from ARI and DMDC personnel on SPD's for these types of transactions, we were able to reassign most of the ISC's of zero to the values 100 and greater. See Appendix A for definitions.

APPENDIX D

DEFINITIONS AND SAS NAMES OF
EPRDB DATA ELEMENTS

<u>DATA</u>	<u>SAS NAME</u>
1. Matchcode	MATCHCOD
2. Home of Record #1	HOMZIP1
3. Home of Record #2	HOMZIP2
4. Home of Record #3 State - FIPS	HOMEREC
5. Home of Record County County - FIPS	HOMCNTY
6. Date of Birth Year	DOBYY
7. Date of Birth Month	DOBMM
8. Date of Birth Day	DOBDD
9. Sex	SEX
10. Race	RACE
11. Ethnic Group	ETHGP
12. Race Ethnic	REDCAT
13. Marital Status at Entry	ENTRYMS
14. Highest Year of Education at Entry	ENTRYED
15. Prior Service	PRIRSRC
16. Date of Entry into DEP (Year)	DEPY Y
17. Date of Entry into DEP (Month)	DEPMM

<u>DATA</u>	<u>SAS NAME</u>
18. Months in DEP	MONSDEP
19. Date of Entry (Year)	DOEYY
20. Date of Entry (Month)	DOEMM
21. Date of Entry (Day)	DOEDD
22. Term of Enlistment	TERMENL
23. Entry Pay Grade	ENTRYPG
24. Program Enlisted for #1	PGMNLF1
25. Program Enlisted for #2	PGMNLF2
26. Program Enlisted for #3	PGMNLF3
27. Program Enlisted for #4	PGMNLF4
28. Program Enlisted for #5	PGMNLF5
29. AFEES/EPS	AFESMEP
30. Bonus Option	ENLBON
31. Enlistment Option	ENLOP
32. Training MOS	TMOS
33. Skill Identifier #1	TSKID1
34. Skill Identifier #2	TSKID2
35. PUL	PULHES1
36. HES	PULHES2
37. Waiver Code	WAIVER
38. Test Form	TFORM
39. AFQT Percentile	AFQT

<u>DATA</u>	<u>SAS NAME</u>
40. AFQT Groups	AFQTGPS
41. AFQT % Original	AFQTORG
42. AFQT Group Original	AFQTGRP
43-59. Aptitude Areas 1-16	APTAR1-APTAR16
60. Home of Record	HOMEREC2
61. Entry Marital Status	ENTRYMS2
62. Entry Education	ENTRYED2
63. Date of Entry (Year)	DOEYY2
64. Date of Entry (Month)	DOEMM2
65. Date of Entry (Day)	DOEDD2
66. Term of Enlistment	TERMENL2
67. Entry Pay Grade	ENTRYPG2
68-72. Program Enlisted for #1-5	PGMNLF21-PGMNLF25
73. Enlistment Bonus	ENLBON2
74. Enlistment Option	ENLOP2
75. Training MOS	TMOS2
76. Waiver Code	WAIVER2
77. AFQT Percentile	AFQT2
78. Combat Arms	CO
79. Field Artillery	FA
80. Mechanical Maintenance	MM
81. General Maintenance	GM

DATA	SAS NAME
82. Clerical	CL
83. General Technical	GT
84. Electronics Repair	EL
85. Surveillance	SC
86. Skilled Technical	ST
87. Operators & Food Handlers	OF
ITEMS #88-122 ARE REPEATED FOR YEARS 1974-1979	
88. DoD Primary Occupation Code	DPOC(Y Y)
89. DoD Duty Occupation Code	DDOC(Y Y)
90. Highest Year of Education	HYEC(Y Y)
91. Pay Grade	PYGRD(Y Y)
92. Marital Status	MARST(Y Y)
93. Number of Dependents	NOD(Y Y)
94. Primary MOS	PMOS(Y Y)
95. Skill Identifier #1	PSKID1(Y Y)
96. Skill Identifier #2	PSKID2(Y Y)
97. Duty MOS	DMOS(Y Y)
98. Skill Identifier #1	DSKID1(Y Y)
99. Skill Identifier #2	DSKID2(Y Y)
100. Career Management Field	CMF(Y Y)
101. Additional Skill Identifier (Only for 1984+)	ASI(Y Y)

<u>DATA</u>	<u>SAS NAME</u>
102. Base Active Service Date (Year)	BSDYY(YY)
103. Base Active Service Date (Month)	BSDMM(YY)
104. Base Active Service Date (Day)	BSDDD(YY)
105. ETS Date (Year)	ETYY(YY)
106. ETS Date (Month)	ETMM(YY)
107. Date of Rank (Year)	RKPGYY(YY)
108. Date of Rank (Month)	RKPGMM(YY)
109. Date of Latest Reenlistment (Year)	DOLEY(YY)
110. Date of Latest Reenlistment (Month)	DOLEMM(YY)
111. Component	COMPT(YY)
112. SRB Multiplier	SRB(YY)
113. Pay Entry Base Date (Year)	BPDYY(YY)
114. Pay Entry Base Date (Month)	BPDMM(YY)
115. Pay Entry Base Date (Day)	BPDDD(YY)
116. Unit Identification Code	UNTID(YY)
117. Unit Zip Code	UNTZIP(YY)
118. Army Status Code (Only for 1984+)	ASC(YY)
119. Character of Service	ENSLRV(YY)

<u>DATA</u>	<u>SAS NAME</u>
120. Reenlistment	RE(YY)
121. Interservice Separation Code	ISC(YY)
122. Date of Separation (Year)	SPDTYY(YY)
123. Date of Separation (Month)	SPDTMM(YY)
124. Date of Separation (Day)	SPDTDD(YY)
125. Separation Program Designator	SPD(YY)

ITEMS #126-129 ARE REPEATED FOR YEARS 1980+

126. MOS of SQT Test	SQTMOS(YY)
127. Skill Level of SQT Test	SLEVEL(YY)
128. SQT Test Version	VERS(YY)
129. SQT Score	SQTSCR(YY)

ITEMS #130-155 ARE REPEATED FOR YEARS 1984+

130. General Technical Score	GTSCR(YY)
131. Date Last Vocational Test (Year)	ASVYY(YY)
132. Date Last Vocational Test (Month)	ASVMM(YY)
133. Noncommissioned Officer Education Program	NCOES(YY)
134. Exceptional Family Member Program	EFMP(YY)
135. Date Eligible to Return from Overseas (Year)	DERSYY(YY)

<u>DATA</u>	<u>SAS NAME</u>
136. Date Eligible to Return from Overseas (Month)	DESRMM(YY)
137. Date Eligible to Return from Overseas (Day)	DESRDD(YY)
138. Date of Last Permanent Change of Station (Year)	DLPYY(YY)
139. Date of Last Permanent Change of Station (Month)	DLPMM(YY)
140. Date of Last Permanent Change of Station (Day)	DLPDD(YY)
141. Date Last Departed Overseas Year	DROSY(YY)
142. Date Last Departed Overseas (Month)	DROSMM(YY)
143. Citizenship Status	CITIZ(YY)
144. Language Identity	CLANG(YY)
145. Enlistment Option Code	ENLOP(YY)
146. Term of Service	TERMS(YY)
147. Number of Times Reenlisted	PSVCI(YY)
148. Eligibility for Additional Pay	ADPAY(YY)
149. Proficiency Pay Status	PROPAS(YY)
150. Current Promotion Points	PROPT(YY)
151. Current Promotion Points Date (Year)	PROPY(YY)
152. Current Promotion Points Date (Month)	PROPMM(YY)

DATA	SAS NAME
153. Previous Promotion Points	PRVPT(YY)
154. Previous Promotion Points Date (Year)	PRPTY(YY)
155. Previous Promotion Points Date (Month)	PRPTMM(YY)
156. Master Flag	MFLAG(YY)
157. Loss Flag	LFLAG(YY)
158. Second Accession Flag	AFLAG

APPENDIX E

RECORD LAYOUT FOR FLAT FILES OF EPRDB
25 AND 100% SAMPLES

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
MATCHCOD	PIC '(9)9'	1-9
HOMZIP1	PIC '999'	10-12
HOMZIP2	PIC '99'	13-14
HOMEREC	PIC '99'	15-16
HOMCNTY	PIC '999'	17-19
DOBYY	PIC '99'	20-21
DOBMM	PIC '99'	22-23
DOBDD	PIC '99'	24-25
SEX	PIC '9'	26
RACE	PIC '9'	27
ETHGP	PIC '99'	28-29
REDCAT	PIC '9'	30
ENTRYMS	PIC '99'	31-32
ENTRYED	PIC '99'	33-34
PRIRSRC	PIC '99'	35-36
DEPYE	PIC '99'	37-38
DEPMM	PIC '99'	39-40
MONSDEP	PIC '99'	41-42
DOEY	PIC '99'	43-44
DOEMM	PIC '99'	45-46
DOEDD	PIC '99'	47-48
TERMENL	PIC '99'	49-50
ENTRYPG	PIC '99'	51-52
PGMNL1	CHAR (1)	53
PGMNL2	CHAR (1)	54
PGMNL3	CHAR (1)	55
PGMNL4	CHAR (1)	56
PGMNL5	CHAR (1)	57
AFESMEP	PIC '99'	58-59
ENLBON	PIC '9'	60
ENLOP	PIC '99'	61-62
TMOS	CHAR (3)	63-65
TSKID1	CHAR (1)	66
TSKID2	CHAR (1)	67
PULHES1	PIC '99'	68-69
PULHES2	PIC '99'	70-71
WAIVER	PIC '99'	72-73
TFORM	PIC '99'	74-75
AFQT	PIC '99'	76-77

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
AFQTGPS	PIC '9'	78
AFQTORG	PIC '99'	79-80
AFQTGRP	PIC '9'	81
APTAR1	PIC '999'	82-84
APTAR2	PIC '999'	85-87
APTAR3	PIC '999'	88-90
APTAR4	PIC '999'	91-93
APTAR5	PIC '999'	94-96
APTAR6	PIC '999'	97-99
APTAR7	PIC '999'	100-102
APTAR8	PIC '999'	103-105
APTAR9	PIC '999'	106-108
APTAR10	PIC '999'	109-111
APTAR11	PIC '999'	112-114
APTAR12	PIC '999'	115-117
APTAR13	PIC '999'	118-120
APTAR14	PIC '999'	121-123
APTAR15	PIC '999'	124-126
APTAR16	PIC '999'	127-129
HOMEREC2	PIC '99'	130-131
ENTRYMS2	PIC '99'	132-133
ENTRYED2	PIC '99'	134-135
DOEYY2	PIC '99'	136-137
DOEMM2	PIC '99'	138-139
DOEDD2	PIC '99'	140-141
TERMENL2	PIC '99'	142-143
ENTRYPG2	PIC '99'	144-145
PGMNLF21	CHAR (1)	146
PGMNLF22	CHAR (1)	147
PGMNLF23	CHAR (1)	148
PGMNLF24	CHAR (1)	149
PGMNLF25	CHAR (1)	150
ENLBON2	PIC '9'	151
ENLOP2	PIC '99'	152-153
TMOS2	CHAR (3)	154-156
WAIVER2	PIC '99'	157-158
AFQT2	PIC '99'	159-160
CO	PIC '999'	161-163
FA	PIC '999'	164-166
MM	PIC '999'	167-169
GM	PIC '999'	170-172
CL	PIC '999'	173-175
GT	PIC '999'	176-178
EL	PIC '999'	179-181

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
SC	PIC '999'	182-184
ST	PIC '999'	185-187
OF	PIC '999'	188-190
DPOC74	PIC '999'	• 191-193
DDOC74	PIC '999'	194-196
HYEC74	PIC '99'	197-198
PYGRD74	PIC '99'	199-200
MARST74	PIC '9'	201
NOD74	PIC '9'	202
PMOS74	CHAR (3)	203-205
PSKID174	CHAR (1)	206
PSKID274	CHAR (1)	207
DMOS74	CHAR (3)	208-210
DSKID174	CHAR (1)	211
DSKID274	PIC '9'	212
CMF74	PIC '99'	213-214
BSDYY74	PIC '99'	215-216
BSDMM74	PIC '99'	217-218
BSDDD74	PIC '99'	219-220
ETYY74	PIC '99'	221-222
ETMM74	PIC '99'	223-224
RKPGYY74	PIC '99'	225-226
RKPGMM74	PIC '99'	227-228
DOLEY74	PIC '99'	229-230
DOLEMM74	PIC '99'	231-232
COMPT74	PIC '9'	233
SRB74	CHAR (3)	234-236
BPDYY74	PIC '99'	237-238
BPDMM74	PIC '99'	239-240
BPDDD74	PIC '99'	241-242
UNTID74	CHAR (6)	243-248
UNTZIP74	CHAR (5)	249-253
ENSLRV74	PIC '9'	254
RE74	CHAR (2)	255-256
ISC74	PIC '999'	257-259
SPDTYY74	PIC '99'	260-261
SPDTMM74	PIC '99'	262-263
SPDTDD74	PIC '99'	264-265
SPD74	CHAR (3)	266-268
DPOC75	PIC '999'	269-271
DDOC75	PIC '999'	272-274
HYEC75	PIC '99'	275-276
PYGRD75	PIC '99'	277-278
MARST75	PIC '9'	279

Beginning here
the record is
blank in the
100% data base
until position
1143 (1985 data)

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
NOD75	PIC '9'	280
PMOS75	CHAR (3)	281-283
PSKID175	CHAR (1)	284
PSKID275	CHAR (1)	285
DMOS75	CHAR (3)	286-288
DSKID175	CHAR (1)	289
DSKID275	PIC '9'	290
CMF75	PIC '99'	291-292
BSDYY75	PIC '99'	293-294
BSDMM75	PIC '99'	295-296
BSDDD75	PIC '99'	297-298
ETYY75	PIC '99'	299-300
ETMM75	PIC '99'	301-302
RKPGYY75	PIC '99'	303-304
RKPGMM75	PIC '99'	305-306
DOLEY75	PIC '99'	307-308
DOLEMM75	PIC '99'	309-310
COMPT75	PIC '9'	311
SRB75	CHAR (3)	312-314
BPDYY75	PIC '99'	315-316
BPDMM75	PIC '99'	317-318
BPDDD75	PIC '99'	319-320
UNTID75	CHAR (6)	321-326
UNTZIP75	CHAR (5)	327-331
ENSLRV75	PIC '9'	332
RE75	CHAR (2)	333-334
ISC75	PIC '999'	335-337
SPDTYY75	PIC '99'	338-339
SPDTMM75	PIC '99'	340-341
SPDTDD75	PIC '99'	342-343
SPD75	CHAR (3)	344-346
DPOC76	PIC '999'	347-349
DDOC76	PIC '999'	350-352
HYEC76	PIC '99'	353-354
PYGRD76	PIC '99'	355-356
MARST76	PIC '9'	357
NOD76	PIC '9'	358
PMOS76	CHAR (3)	359-361
PSKID176	CHAR (1)	362
PSKID276	CHAR (1)	363
DMOS76	CHAR (3)	364-366
DSKID176	CHAR (1)	367
DSKID276	PIC '9'	368
CMF76	PIC '99'	369-370

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
BSDYY76	PIC '99'	371-372
BSDMM76	PIC '99'	373-374
BSDDD76	PIC '99'	375-376
ETYY76	PIC '99'	377-378
ETMM76	PIC '99'	379-380
RKPGYY76	PIC '99'	381-382
RKPGMM76	PIC '99'	383-384
DOLEY76	PIC '99'	385-386
DOLEMM76	PIC '99'	387-388
COMPT76	PIC '9'	389
SRB76	CHAR (3)	390-392
BPDYY76	PIC '99'	393-394
BPDMM76	PIC '99'	395-396
BPDDD76	PIC '99'	397-398
UNTID76	CHAR (6)	399-404
UNZIP76	CHAR (5)	405-409
ENSLRV76	PIC '9'	410
RE76	CHAR (2)	411-412
ISC76	PIC '99'	413-415
SPDTYY76	PIC '99'	416-417
SPDTMM76	PIC '99'	418-419
SPDTDD76	PIC '99'	420-421
SPD76	CHAR (3)	422-424
DPOC77	PIC '999'	425-427
DDOCT77	PIC '999'	428-430
HYECT77	PIC '99'	431-432
PYGRD77	PIC '99'	433-434
MARST77	PIC '9'	435
NOD77	PIC '9'	436
PMOS77	CHAR (3)	437-439
PSKID177	CHAR (1)	440
PSKID277	CHAR (1)	441
DMOS77	CHAR (3)	442-444
DSKID177	CHAR (1)	445
DSKID277	PIC '9'	446
CMF77	PIC '99'	447-448
BSDYY77	PIC '99'	449-450
BSDMM77	PIC '99'	451-452
BSDDD77	PIC '99'	453-454
ETYY77	PIC '99'	455-456
ETMM77	PIC '99'	457-458
RKPGYY77	PIC '99'	459-460
RKPGMM77	PIC '99'	461-462
DOLEY77	PIC '99'	463-464

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
DOLEMM77	PIC '99'	465-466
COMPT77	PIC '9'	467
SRB77	CHAR (3)	468-470
BPDYY77	PIC '99'	471-472
BPDMM77	PIC '99'	473-474
BPDDD77	PIC '99'	475-476
UNTID77	CHAR (6)	477-482
UNTZIP77	CHAR (5)	483-487
ENSLRV77	PIC '9'	488
RE77	CHAR (2)	489-490
ISC77	PIC '999'	491-493
SPDTYY77	PIC '99'	494-495
SPDTMM77	PIC '99'	496-497
SPDTDD77	PIC '99'	498-499
SPD77	CHAR (3)	500-502
DPOC78	PIC '999'	503-505
DDOC78	PIC '999'	506-508
HYEC78	PIC '99'	509-510
PYGRD78	PIC '99'	511-512
MARST78	PIC '9'	513
NOD78	PIC '9'	514
PMOS78	CHAR (3)	515-517
PSKID178	CHAR (1)	518
PSKID278	CHAR (1)	519
DMOS78	CHAR (3)	520-522
DSKID178	CHAR (1)	523
DSKID278	PIC '9'	524
CMF78	PIC '99'	525-526
BSDYY78	PIC '99'	527-528
BSDMM78	PIC '99'	529-530
BSDDD78	PIC '99'	531-532
ETYY78	PIC '99'	533-534
ETMM78	PIC '99'	535-536
RKPGYY78	PIC '99'	537-538
RKPGMM78	PIC '99'	539-540
DOLEY78	PIC '99'	541-542
DOLEMM78	PIC '99'	543-544
COMPT78	PIC '9'	545
SRB78	CHAR (3)	546-548
BPDYY78	PIC '99'	549-550
BPDMM78	PIC '99'	551-552
BPDDD78	PIC '99'	553-554
UNTID78	CHAR (6)	555-560
UNTZIP78	CHAR (5)	561-565

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
ENSLRV78	PIC '9'	566
RE78	CHAR (2)	567-568
ISC78	PIC '999'	569-571
SPDTYY78	PIC '99'	572-573
SPDTMM78	PIC '99'	574-575
SPDTDD78	PIC '99'	576-577
SPD78	CHAR (3)	578-580
DPOC79	PIC '999'	581-583
DDOC79	PIC '999'	584-586
HYEC79	PIC '99'	587-588
PYGRD79	PIC '99'	589-590
MARST79	PIC '9'	591
NOD79	PIC '9'	592
PMOS79	CHAR (3)	593-595
PSKID179	CHAR (1)	596
PSKID279	CHAR (1)	597
DMOS79	CHAR (3)	598-600
DSKID179	CHAR (1)	601
DSKID279	PIC '9'	602
CMF79	PIC '99'	603-604
BSDYY79	PIC '99'	605-606
BSDMM79	PIC '99'	607-608
BSDDD79	PIC '99'	609-610
ETYY79	PIC '99'	611-612
ETMM79	PIC '99'	613-614
RKPGYY79	PIC '99'	615-616
RKPGMM79	PIC '99'	617-618
DOLEY79	PIC '99'	619-620
DOLEMM79	PIC '99'	621-622
COMPT79	PIC '9'	623
SRB79	CHAR (3)	624-626
BPDYY79	PIC '99'	627-628
BPDMM79	PIC '99'	629-630
BPDDD79	PIC '99'	631-632
UNTID79	CHAR (6)	633-638
UNTZIP79	CHAR (5)	639-643
ENSLRV79	PIC '9'	644
RE79	CHAR (2)	645-646
ISC79	PIC '999'	647-649
SPDTYY79	PIC '99'	650-651
SPDTMM79	PIC '99'	652-653
SPDTDD79	PIC '99'	654-655
SPD79	CHAR (3)	656-658
DPOC80	PIC '999'	659-661

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
DDOC80	PIC '999'	662-664
HYEC80	PIC '99'	665-666
PYGRD80	PIC '99'	667-668
MARST80	PIC '9'	669
NOD80	PIC '9'	670
PMOS80	CHAR (3)	671-673
PSKID180	CHAR (1)	674
PSKID280	CHAR (1)	675
DMOS80	CHAR (3)	676-678
DSKID180	CHAR (1)	679
DSKID280	PIC '9'	680
CMF80	PIC '99'	681-682
BSDYY80	PIC '99'	683-684
BSDMM80	PIC '99'	685-686
BSDDD80	PIC '99'	687-688
ETYY80	PIC '99'	689-690
ETMM80	PIC '99'	691-692
RKPGYY80	PIC '99'	693-694
RKPGMM80	PIC '99'	695-696
DOLEY80	PIC '99'	697-698
DOLEMM80	PIC '99'	699-700
COMPT80	PIC '9'	701
SRB80	CHAR (3)	702-704
BPDYY80	PIC '99'	705-706
BPDMM80	PIC '99'	707-708
BPDDD80	PIC '99'	709-710
UNTID80	CHAR (6)	711-716
UNTZIP80	CHAR (5)	717-721
ENSLRV80	PIC '9'	722
RE80	CHAR (2)	723-724
ISC80	PIC '999'	725-727
SPDTYY80	PIC '99'	728-729
SPDTMM80	PIC '99'	730-731
SPDTDD80	PIC '99'	732-733
SPD80	CHAR (3)	734-736
SQTMOS80	CHAR (3)	737-739
SLEVEL80	PIC '9'	740
VERS80	PIC '9'	741
SQTSCR80	PIC '999'	742-744
DPOC81	PIC '999'	745-747
DDOC81	PIC '999'	748-750
HYEC81	PIC '99'	751-752
PYGRD81	PIC '99'	753-754
MARST81	PIC '9'	755

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
NOD81	PIC '9'	756
PMOS81	CHAR (3)	757-759
PSKID181	CHAR (1)	760
PSKID281	CHAR (1)	761
DMOS81	CHAR (3)	762-764
DSKID181	CHAR (1)	765
DSKID281	PIC '9'	766
CMF81	PIC '99'	767-768
BSDYY81	PIC '99'	769-770
BSDMM81	PIC '99'	771-772
BSDDD81	PIC '99'	773-774
ETYY81	PIC '99'	775-776
ETMM81	PIC '99'	777-778
RKPGYY81	PIC '99'	779-780
RKPGMM81	PIC '99'	781-782
DOLEY81	PIC '99'	783-784
DOLEMM81	PIC '99'	785-786
COMPT81	PIC '9'	787
SRB81	CHAR (3)	788-790
BPDYY81	PIC '99'	791-792
BPDMM81	PIC '99'	793-794
BPDDD81	PIC '99'	795-796
UNTID81	CHAR (6)	797-802
UNTZIP81	CHAR (5)	803-807
ENSLRV81	PIC '9'	808
RE81	CHAR (2)	809-810
ISC81	PIC '999'	811-813
SPDYY81	PIC '99'	814-815
SPDTMM81	PIC '99'	816-817
SPDTDD81	PIC '99'	818-819
SPD81	CHAR (3)	820-822
SOTMOS81	CHAR (3)	823-825
SLEVEL81	PIC '9'	826
VERS81	PIC '9'	827
SQTSCR81	PIC '999'	828-830
DPOC82	PIC '999'	831-833
DDOC82	PIC '999'	834-836
HYEC82	PIC '99'	837-838
PYGRD82	PIC '99'	839-840
MARST82	PIC '9'	841
NOD82	PIC '9'	842
PMOS82	CHAR (3)	843-845
PSKID182	CHAR (1)	846
PSKID282	CHAR (1)	847

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
DMOS82	CHAR (3)	848-850
DSKID182	CHAR (1)	851
DSKID282	PIC '9'	852
CMF82	PIC '99'	853-854
BSDYY82	PIC '99'	855-856
BSDMM82	PIC '99'	857-858
BSDDD82	PIC '99'	859-860
ETYY82	PIC '99'	861-862
ETMM82	PIC '99'	863-864
RKPGYY82	PIC '99'	865-866
RKPGMM82	PIC '99'	867-868
DOLEY82	PIC '99'	869-870
DOLEMM82	PIC '99'	871-872
COMPT82	PIC '9'	873
SRB82	CHAR (3)	874-876
BPDYY82	PIC '99'	877-878
BPDMM82	PIC '99'	879-880
BPD82	PIC '99'	881-882
UNTID82	CHAR (6)	883-888
UNTZIP82	CHAR (5)	889-893
ENSLRV82	PIC '9'	894
RE82	CHAR (2)	895-896
ISC82	PIC '999'	897-899
SPDTYY82	PIC '99'	900-901
SPDTMM82	PIC '99'	902-903
SPDTDD82	PIC '99'	904-905
SPD82	CHAR (3)	906-908
SQTMOS82	CHAR (3)	909-911
SLEVEL82	PIC '9'	912
VERS82	PIC '9'	913
SQTSCR82	PIC '999'	914-916
DPOC83	PIC '999'	917-919
DDOC83	PIC '999'	920-922
HYEC83	PIC '99'	923-924
PYGRD83	PIC '99'	925-926
MARST83	PIC '9'	927
NOD83	PIC '9'	928
PMOS83	CHAR (3)	929-931
PSKID183	CHAR (1)	932
PSKID283	CHAR (1)	933
DMOS83	CHAR (3)	934-936
DSKID183	CHAR (1)	937
DSKID283	PIC '9'	938
CMF83	PIC '99'	939-940

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
BSDYY83	PIC '99'	941-942
BSDMM83	PIC '99'	943-944
BSDDD83	PIC '99'	945-946
ETYY83	PIC '99'	947-948
ETMM83	PIC '99'	949-950
RKPGYY83	PIC '99'	951-952
RKPGMM83	PIC '99'	953-954
DOLEY83	PIC '99'	955-956
DOLEMM83	PIC '99'	957-958
COMPT83	PIC '9'	959
SRB83	CHAR (3)	960-962
BPDYY83	PIC '99'	963-964
BPDMM83	PIC '99'	965-966
BPDDD83	PIC '99'	967-968
UNTID83	CHAR (6)	969-974
UNTZIP83	CHAR (5)	975-979
ENSLRV83	PIC '9'	980
RE83	CHAR (2)	981-982
ISC83	PIC '999'	983-985
SPDTYY83	PIC '99'	986-987
SPDTMM83	PIC '99'	988-989
SPDTDD83	PIC '99'	990-991
SPD83	CHAR (3)	992-994
SQTMOS83	CHAR (3)	995-997
SLEVEL83	PIC '9'	998
VERS83	PIC '9'	999
SQTSCR83	PIC '999'	1000-1002
DPOC84	PIC '999'	1003-1005
DDOC84	PIC '999'	1006-1008
HYEC84	PIC '99'	1009-1010
PYGRD84	PIC '99'	1011-1012
MARST84	PIC '9'	1013
NOD84	PIC '9'	1014
PMOS84	CHAR (3)	1015-1017
PSKID184	CHAR (1)	1018
PSKID284	CHAR (1)	1019
DMOS84	CHAR (3)	1020-1022
DSKID184	CHAR (1)	1023
DSKID284	PIC '9'	1024
CMF84	PIC '99'	1025-1026
ASI84	CHAR (2)	1027-1028
BSDYY84	PIC '99'	1029-1030
BSDMM84	PIC '99'	1031-1032
BSDDD84	PIC '99'	1033-1034

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
ETYY84	PIC '99'	1035-1036
ETMM84	PIC '99'	1037-1038
RKPGYY84	PIC '99'	1039-1040
RKPGMM84	PIC '99'	1041-1042
DOLEY84	PIC '99'	1043-1044
DOLEMM84	PIC '99'	1045-1046
COMPT84	PIC '9'	1047
SRB84	CHAR (3)	1048-1050
BPDYY84	PIC '99'	1051-1052
BPDMM84	PIC '99'	1053-1054
BPDDD84	PIC '99'	1055-1056
UNTID84	CHAR (6)	1057-1062
UNTZIP84	CHAR (5)	1063-1067
ASC84	PIC '99'	1068-1069
ENSLRV84	PIC '9'	1070
RE84	CHAR (2)	1071-1072
ISC84	PIC '999'	1073-1075
SPDTYY84	PIC '99'	1076-1077
SPDTMM84	PIC '99'	1078-1079
SPDTDD84	PIC '99'	1080-1081
SPD84	CHAR (3)	1082-1084
SQTMOS84	CHAR (3)	1085-1087
SLEVEL84	PIC '9'	1088
VERS84	PIC '9'	1089
SQTSCR84	PIC '999'	1090-1092
GTSCR84	PIC '999'	1093-1095
ASVYY84	PIC '99'	1096-1097
ASVMM84	PIC '99'	1098-1099
NCOES84	CHAR (1)	1100
EFMP84	PIC '9'	1101
DERSYY84	PIC '99'	1102-1103
DERSMM84	PIC '99'	1104-1105
DERSDD84	PIC '99'	1106-1107
DLPYY84	PIC '99'	1108-1109
DLPMM84	PIC '99'	1110-1111
DLPDD84	PIC '99'	1112-1113
DROSY84	PIC '99'	1114-1115
DROSMM84	PIC '99'	1116-1117
CITIZ84	CHAR (1)	1118
CLANG84	CHAR (2)	1119-1120
ENLOP84	CHAR (4)	1121-1124
TERMS84	CHAR (1)	1125
PSVCI84	PIC '9'	1126
ADPAY84	CHAR (1)	1127

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>	
PROPAS84	PIC '9'	1128	
PROPT84	CHAR (3)	1129-1131	
PROPTY84	PIC '99'	1132-1133	
PROPMM84	PIC '99'	1134-1135	
PRVPT84	CHAR (3)	1136-1138	
PRPTY84	PIC '99'	1139-1140	
PRPTMM84	PIC '99'	1141-1142	
DPOC85	PIC '999'	* 1143-1145	Begins arrays
DDOC85	PIC '999'	1146-1148	of yearly data
HYEC85	PIC '99'	1149-1150	on 100% EPRDB
PYGRD85	PIC '99'	1151-1152	
MARST85	PIC '9'	1153	
NOD85	PIC '9'	1154	
PMOS85	CHAR (3)	1155-1157	
PSKID185	CHAR (1)	1158	
PSKID285	CHAR (1)	1159	
DMOS85	CHAR (3)	1160-1162	
DSKID185	CHAR (1)	1163	
DSKID285	PIC '9'	1164	
CMF85	PIC '99'	1165-1166	
ASI85	CHAR (2)	1167-1168	
BSDYY85	PIC '99'	1169-1170	
BSDMM85	PIC '99'	1171-1172	
BSDDD85	PIC '99'	1173-1174	
ETYY85	PIC '99'	1175-1176	
ETMM85	PIC '99'	1177-1178	
RKPGYY85	PIC '99'	1179-1180	
RKPGMM85	PIC '99'	1181-1182	
DOLEY85	PIC '99'	1183-1184	
DOLEMM85	PIC '99'	1185-1186	
COMPT85	PIC '9'	1187	
SRB85	CHAR (3)	1188-1190	
BPDYY85	PIC '99'	1191-1192	
BPDMM85	PIC '99'	1193-1194	
BPDDD85	PIC '99'	1195-1196	
UNTID85	CHAR (6)	1197-1202	
UNTZIP85	CHAR (5)	1203-1207	
ASC85	PIC '99'	1208-1209	
ENSLRV85	PIC '9'	1210	
RE85	CHAR (2)	1211-1212	
ISC85	PIC '999'	1213-1215	
SPDTYY85	PIC '99'	1216-1217	
SPDTMM85	PIC '99'	1218-1219	
SPDTDD85	PIC '99'	1220-1221	

VARIABLE	TYPE	POSITION
SPD85	CHAR (3)	1222-1224
SQTMOS85	CHAR (3)	1225-1227
SLEVEL85	PIC '9'	1228
VERS85	PIC '9'	1229
SQTSCR85	PIC '999'	1230-1232
GTSCR85	PIC '999'	1233-1235
ASVYY85	PIC '99'	1236-1237
ASVMM85	PIC '99'	1238-1239
NCOES85	CHAR (1)	1240
EFMP85	PIC '9'	1241
DERSYY85	PIC '99'	1242-1243
DERSMM85	PIC '99'	1244-1245
DERSDD85	PIC '99'	1246-1247
DLPYY85	PIC '99'	1248-1249
DLPMM85	PIC '99'	1250-1251
DLPDD85	PIC '99'	1252-1253
DROSY85	PIC '99'	1254-1255
DROSM85	PIC '99'	1256-1257
CITIZ85	CHAR (1)	1258
CLANG85	CHAR (2)	1259-1260
ENLOP85	CHAR (4)	1261-1264
TERMS85	CHAR (1)	1265
PSVIC85	PIC '9'	1266
ADPAY85	CHAR (1)	1267
PROPAS85	PIC '9'	1268
PROPT85	CHAR (3)	1269-1271
PROPY85	PIC '99'	1272-1273
PROPMM85	PIC '99'	1274-1275
PRVPT85	CHAR (3)	1276-1278
PRPTY85	PIC '99'	1279-1280
PRPTMM85	PIC '99'	1281-1282
DPOC86	PIC '999'	1283-1285
DDOC86	PIC '999'	1286-1288
HYEC86	PIC '99'	1289-1290
PYGRD86	PIC '99'	1291-1292
MARST86	PIC '9'	1293
NOD86	PIC '9'	1294
PMOS86	CHAR (3)	1295-1297
PSKID186	CHAR (1)	1298
PSKID286	CHAR (1)	1299
DMOS86	CHAR (3)	1300-1302
DSKID186	CHAR (1)	1303
DSKID286	PIC '9'	1304
CMF86	PIC '99'	1305-1306

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
ASI86	CHAR (2)	1307-1308
BSDYY86	PIC '99'	1309-1310
BSDMM86	PIC '99'	1311-1312
BSDDD86	PIC '99'	1313-1314
ETYY86	PIC '99'	1315-1316
ETMM86	PIC '99'	1317-1318
RKPGYY86	PIC '99'	1319-1320
RKPGMM86	PIC '99'	1321-1322
DOLEY86	PIC '99'	1323-1324
DOLEMM86	PIC '99'	1325-1326
COMPT86	PIC '9'	1327
SRB86	CHAR (3)	1328-1330
BPDYY86	PIC '99'	1331-1332
BPDMM86	PIC '99'	1333-1334
BPDDD86	PIC '99'	1335-1336
UNTID86	CHAR (6)	1337-1342
UNTZIP86	CHAR (5)	1343-1347
ASC86	PIC '99'	1348-1349
ENSLRV86	PIC '9'	1350
RE86	CHAR (2)	1351-1352
ISC86	PIC '999'	1353-1355
SPDTYY86	PIC '99'	1356-1357
SPDTMM86	PIC '99'	1358-1359
SPDTDD86	PIC '99'	1360-1361
SPD86	CHAR (3)	1362-1364
SQTMOS86	CHAR (3)	1365-1367
SLEVEL86	PIC '9'	1368
VERS86	PIC '9'	1369
SQTSCR86	PIC '999'	1370-1372
GTSCR86	PIC '999'	1373-1375
ASVYY86	PIC '99'	1376-1377
ASVMM86	PIC '99'	1378-1379
NCOES86	CHAR (1)	1380
EFMP86	PIC '9'	1381
DERSYY86	PIC '99'	1382-1383
DERSMM86	PIC '99'	1384-1385
DERSDD86	PIC '99'	1386-1387
DLPYY86	PIC '99'	1388-1389
DLPMM86	PIC '99'	1390-1391
DLPDD86	PIC '99'	1392-1393
DROSY86	PIC '99'	1394-1395
DROSMM86	PIC '99'	1396-1397
CITIZ86	CHAR (1)	1398
CLANG86	CHAR (2)	1399-1400

VARIABLE	TYPE	POSITION
ENLOP86	CHAR (4)	1401-1404
TERMS86	CHAR (1)	1405
PSVCI86	PIC '9'	1406
ADPAY86	CHAR (1)	1407
PROPAS86	PIC '9'	1408
PROPT86	CHAR (3)	1409-1411
PROPY86	PIC '99'	1412-1413
PROPMM86	PIC '99'	1414-1415
PRVPT86	CHAR (3)	1416-1418
PRPTY86	PIC '99'	1419-1420
PRPTMM86	PIC '99'	1421-1422
DPOC87	PIC '999'	1423-1425
DDOC87	PIC '999'	1426-1428
HYEC87	PIC '99'	1429-1430
PYGRD87	PIC '99'	1431-1432
MARST87	PIC '9'	1433
NOD87	PIC '9'	1434
PMOS87	CHAR (3)	1435-1437
PSKID187	CHAR (1)	1438
PSKID287	CHAR (1)	1439
DMOS87	CHAR (3)	1440-1442
DSKID187	CHAR (1)	1443
DSKID287	PIC '9'	1444
CMF87	PIC '99'	1445-1446
ASI87	CHAR (2)	1447-1448
BSDYY87	PIC '99'	1449-1450
BSDMM87	PIC '99'	1451-1452
BSDDD87	PIC '99'	1453-1454
ETYY87	PIC '99'	1455-1456
ETMM87	PIC '99'	1457-1458
RKPGYY87	PIC '99'	1459-1460
RKPGMM87	PIC '99'	1461-1462
DOLEY87	PIC '99'	1463-1464
DOLEMM87	PIC '99'	1465-1466
COMPT87	PIC '9'	1467
SRB87	CHAR (3)	1468-1470
BPDYY87	PIC '99'	1471-1472
BPDMM87	PIC '99'	1473-1474
BPDDD87	PIC '99'	1475-1476
UNTID87	CHAR (6)	1477-1482
UNTZIP87	CHAR (5)	1483-1487
ASC87	PIC '99'	1488-1489
ENSLRV87	PIC '9'	1490
RE87	CHAR (2)	1491-1492

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
ISC87	PIC '999'	1493-1495
SPDTYY87	PIC '99'	1496-1497
SPDTMM87	PIC '99'	1498-1499
SPDTDD87	PIC '99'	1500-1501
SPD87	CHAR (3)	1502-1504
SQTMOS87	CHAR (3)	1505-1507
SLEVEL87	PIC '9'	1508
VERS87	PIC '9'	1509
SQTSR87	PIC '999'	1510-1512
GTSCR87	PIC '999'	1513-1515
ASVYY87	PIC '99'	1516-1517
ASVMM87	PIC '99'	1518-1519
NCOES87	CHAR (1)	1520
EFMP87	PIC '9'	1521
DESY87	PIC '99'	1522-1523
DESM87	PIC '99'	1524-1525
DESD87	PIC '99'	1526-1527
DLPY87	PIC '99'	1528-1529
DLPMM87	PIC '99'	1530-1531
DLPDD87	PIC '99'	1532-1533
DROSY87	PIC '99'	1534-1535
DROSM87	PIC '99'	1536-1537
CITIZ87	CHAR (1)	1538
CLANG87	CHAR (2)	1539-1540
ENLOP87	CHAR (4)	1541-1544
TERMS87	CHAR (1)	1545
PSVIC87	PIC '9'	1546
ADPAY87	CHAR (1)	1547
PROPAS87	PIC '9'	1548
PROPT87	CHAR (3)	1549-1551
PROPY87	PIC '99'	1552-1553
PROPMM87	PIC '99'	1554-1555
PRVPT87	CHAR (3)	1556-1558
PRPTY87	PIC '99'	1559-1560
PRPTMM87	PIC '99'	1561-1562
DPOC88	PIC '999'	1563-1565
DDOC88	PIC '999'	1566-1568
HYEC88	PIC '99'	1569-1570
PYGRD88	PIC '99'	1571-1572
MARST88	PIC '9'	1573
NOD88	PIC '9'	1574
PMOS88	CHAR (3)	1575-1577
PSKID188	CHAR (1)	1578
PSKID288	CHAR (1)	1579

VARIABLE	TYPE	POSITION
DMOS88	CHAR (3)	1580-1582
DSKID188	CHAR (1)	1583
DSKID288	PIC '9'	1584
CMF88	PIC '99'	1585-1586
ASI88	CHAR (2)	1587-1588
BSDYY88	PIC '99'	1589-1590
BSDMM88	PIC '99'	1591-1592
BSDDD88	PIC '99'	1593-1594
ETYY88	PIC '99'	1595-1596
ETMM88	PIC '99'	1597-1598
RKPGYY88	PIC '99'	1599-1600
RKPGMM88	PIC '99'	1601-1602
DOLEY88	PIC '99'	1603-1604
DOLEMM88	PIC '99'	1605-1606
COMPT88	PIC '9'	1607
SRB88	CHAR (3)	1608-1610
BPDYY88	PIC '99'	1611-1612
BPDM88	PIC '99'	1613-1614
BPDDD88	PIC '99'	1615-1616
UNTID88	CHAR (6)	1617-1622
UNTZIP88	CHAR (5)	1623-1627
ASC88	PIC '99'	1628-1629
ENSLRV88	PIC '9'	1630
RE88	CHAR (2)	1631-1632
ISC88	PIC '999'	1633-1635
SPDYY88	PIC '99'	1636-1637
SPDTMM88	PIC '99'	1638-1639
SPDTDD88	PIC '99'	1640-1641
SPD88	CHAR (3)	1642-1644
SQTMOS88	CHAR (3)	1645-1647
SLEVEL88	PIC '9'	1648
VERS88	PIC '9'	1649
SQTSR88	PIC '999'	1650-1652
GTSCR88	PIC '999'	1653-1655
ASVYY88	PIC '99'	1656-1657
ASVMM88	PIC '99'	1658-1659
NCOES88	CHAR (1)	1660
EFMP88	PIC '9'	1661
DERSYY88	PIC '99'	1662-1663
DERMM88	PIC '99'	1664-1665
DERDDD88	PIC '99'	1666-1667
DLPYY88	PIC '99'	1668-1669
DLPMM88	PIC '99'	1670-1671

VARIABLE	TYPE	POSITION
DLPDD88	PIC '99'	1672-1673
DROSY88	PIC '99'	1674-1675
DROSM88	PIC '99'	1676-1677
CITIZ88	CHAR (1)	1678
CLANG88	CHAR (2)	1679-1680
ENLOP88	CHAR (4)	1681-1684
TERMS88	CHAR (1)	1685
PSVCI88	PIC '9'	1686
ADPAY88	CHAR (1)	1687
PROPAS88	PIC '9'	1688
PROPT88	CHAR (3)	1689-1691
PROPY88	PIC '99'	1692-1693
PROPMM88	PIC '99'	1694-1695
PRVPT88	CHAR (3)	1696-1698
PRPTY88	PIC '99'	1699-1700
PRPTMM88	PIC '99'	1701-1702
DPOC89	PIC '999'	1703-1705
DDOC89	PIC '999'	1706-1708
HYEC89	PIC '99'	1709-1710
PYGRD89	PIC '99'	1711-1712
MARST89	PIC '9'	1713
NOD89	PIC '9'	1714
PMOS89	CHAR (3)	1715-1717
PSKID189	CHAR (1)	1718
PSKID289	CHAR (1)	1719
DMOS89	CHAR (3)	1720-1722
DSKID189	CHAR (1)	1723
DSKID289	PIC '9'	1724
CMF89	PIC '99'	1725-1726
ASI89	CHAR (2)	1727-1728
BSDYY89	PIC '99'	1729-1730
BSDMM89	PIC '99'	1731-1732
BSDDD89	PIC '99'	1733-1734
ETYY89	PIC '99'	1735-1736
ETMM89	PIC '99'	1737-1738
RKPGYY89	PIC '99'	1739-1740
RKPGMM89	PIC '99'	1741-1742
DOLEY89	PIC '99'	1743-1744
DOLEMM89	PIC '99'	1745-1746
COMPT89	PIC '9'	1747
SRB89	CHAR (3)	1748-1750
BPDYY89	PIC '99'	1751-1752
BPDMM89	PIC '99'	1753-1754
BPDDD89	PIC '99'	1755-1756

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
UNTID89	CHAR (6)	1757-1762
UNTZIP89	CHAR (5)	1763-1767
ASC89	PIC '99'	1768-1769
ENSLRV89	PIC '9'	1770
RE89	CHAR (2)	1771-1772
ISC89	PIC '999'	1773-1775
SPDTYY89	PIC '99'	1776-1777
SPDTMM89	PIC '99'	1778-1779
SPDTDD89	PIC '99'	1780-1781
SPD89	CHAR (3)	1782-1784
SQTMOS89	CHAR (3)	1785-1787
SLEVEL89	PIC '9'	1788
VERS89	PIC '9'	1789
SQTSCR89	PIC '999'	1790-1792
GTSCR89	PIC '999'	1793-1795
ASVYY89	PIC '99'	1796-1797
ASVMM89	PIC '99'	1798-1799
NCOES89	CHAR (1)	1800
EFMP89	PIC '9'	1801
DERSYY89	PIC '99'	1802-1803
DERSMM89	PIC '99'	1804-1805
DERSDD89	PIC '99'	1806-1807
DLPYY89	PIC '99'	1808-1809
DLPMM89	PIC '99'	1810-1811
DLPDD89	PIC '99'	1812-1813
DROSY89	PIC '99'	1814-1815
DROSMM89	PIC '99'	1816-1817
CITIZ89	CHAR (1)	1818
CLANG89	CHAR (2)	1819-1820
ENLOP89	CHAR (4)	1821-1824
TERMS89	CHAR (1)	1825
PSVCI89	PIC '9'	1826
ADPAY89	CHAR (1)	1827
PROPAS89	PIC '9'	1828
PROPT89	CHAR (3)	1829-1831
PROPY89	PIC '99'	1832-1833
PROPMM89	PIC '99'	1834-1835
PRVPT89	CHAR (3)	1836-1838
PRPTY89	PIC '99'	1839-1840
PRPTMM89	PIC '99'	1841-1842
DPOC90	PIC '999'	1843-1845
DDOC90	PIC '999'	1846-1848
HYEC90	PIC '99'	1849-1850
PYGRD90	PIC '99'	1851-1852
MARST90	PIC '9'	1853

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
NOD90	PIC '9'	1854
PMOS90	CHAR (3)	1855-1857
PSKID190	CHAR (1)	1858
PSKID290	CHAR (1)	1859
DMOS90	CHAR (3)	1860-1862
DSKID190	CHAR (1)	1863
DSKID290	PIC '9'	1864
CMF90	PIC '99'	1865-1866
ASI90	CHAR (2)	1867-1868
BSDYY90	PIC '99'	1869-1870
BSDMM90	PIC '99'	1871-1872
BSDDD90	PIC '99'	1873-1874
ETYY90	PIC '99'	1875-1876
ETMM90	PIC '99'	1877-1878
RKPGYY90	PIC '99'	1879-1880
RKPGMM90	PIC '99'	1881-1882
DOLEY90	PIC '99'	1883-1884
DOLEMM90	PIC '99'	1885-1886
COMPT90	PIC '9'	1887
SRB90	CHAR (3)	1888-1890
BPDYY90	PIC '99'	1891-1892
BPDMM90	PIC '99'	1893-1894
BPDDD90	PIC '99'	1895-1896
UNTID90	CHAR (6)	1897-1902
UNTZIP90	CHAR (5)	1903-1907
ASC90	PIC '99'	1908-1909
ENSLRV90	PIC '9'	1910
RE90	CHAR (2)	1911-1912
ISC90	PIC '999'	1913-1915
SPDTYY90	PIC '99'	1916-1917
SPDTMM90	PIC '99'	1918-1919
SPDTDD90	PIC '99'	1920-1921
SPD90	CHAR (3)	1922-1924
SQTMOS90	CHAR (3)	1925-1927
SLEVEL90	PIC '9'	1928
VERS90	PIC '9'	1929
SQTSCR90	PIC '999'	1930-1932
GTSCR90	PIC '999'	1933-1935
ASVYY90	PIC '99'	1936-1937
ASVMM90	PIC '99'	1938-1939
NCOES90	CHAR (1)	1940
EFMP90	PIC '9'	1941
DERSYY90	PIC '99'	1942-1943
DERSMM90	PIC '99'	1944-1945

<u>VARIABLE</u>	<u>TYPE</u>	<u>POSITION</u>
DESD90	PIC '99'	1946-1947
DLPYY90	PIC '99'	1948-1949
DLPMM90	PIC '99'	1950-1951
DLPDD90	PIC '99'	1952-1953
DROSY90	PIC '99'	1954-1955
DROSM90	PIC '99'	1956-1957
CITIZ90	CHAR (1)	1958
CLANG90	CHAR (2)	1959-1960
ENLOP90	CHAR (4)	1961-1964
TERMS90	CHAR (1)	1965
PSVCI90	PIC '9'	1966
ADPAY90	CHAR (1)	1967
PROPAS90	PIC '9'	1968
PROPT90	CHAR (3)	1969-1971
PROPY90	PIC '99'	1972-1973
PROPMM90	PIC '99'	1974-1975
PRVPT90	CHAR (3)	1976-1978
PRPTY90	PIC '99'	1979-1980
PRPTMM90	PIC '99'	1981-1982
MFLAG74	PIC '9'	1983
MFLAG75	PIC '9'	1984
MFLAG76	PIC '9'	1985
MFLAG77	PIC '9'	1986
MFLAG78	PIC '9'	1987
MFLAG79	PIC '9'	1988
MFLAG80	PIC '9'	1989
MFLAG81	PIC '9'	1990
MFLAG82	PIC '9'	1991
MFLAG83	PIC '9'	1992
MFLAG84	PIC '9'	1993
MFLAG85	PIC '9'	1994
MFLAG86	PIC '9'	1995
MFLAG87	PIC '9'	1996
MFLAG88	PIC '9'	1997
MFLAG89	PIC '9'	1998
MFLAG90	PIC '9'	1999
LFLAG74	PIC '9'	2000
LFLAG75	PIC '9'	2001
LFLAG76	PIC '9'	2002
LFLAG77	PIC '9'	2003
LFLAG78	PIC '9'	2004
LFLAG79	PIC '9'	2005
LFLAG80	PIC '9'	2006
LFLAG81	PIC '9'	2007

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Powell Favors Repeal of 'Don't Ask, Don't Tell'

By **PETER BAKER**

Gen. **Colin L. Powell**, who as the nation's top military officer in the 1990s opposed allowing gay men and lesbians to serve openly in the military, switched gears today and threw his support behind efforts to end the "don't ask, don't tell" law he helped shepherd in.

"In the almost 17 years since the 'don't ask, don't tell' legislation was passed, attitudes and circumstances have changed," General Powell said in a statement issued by his office. He added: "I fully support the new approach presented to the Senate Armed Services Committee this week by Secretary of Defense Gates and Admiral Mullen."

Stephen Chernin/Associated Press
Gen. Colin L. Powell in December.

Robert M. Gates, the defense secretary, and Adm. **Mike Mullen**, the chairman of the **Joint Chiefs of Staff**, told lawmakers on Tuesday that they supported **President Obama's** proposal to repeal the 1993 law forbidding gay men and lesbians to be open about their sexuality while serving in uniform.

Admiral Mullen was the **first Joint Chiefs chairman ever to take that position**, signaling the evolution in attitudes both inside the military and in the broader society since the debate under President **Bill Clinton**.

When Mr. Clinton tried to end the ban on gay soldiers, **General Powell was the Joint Chiefs chairman and opposed the move on the grounds** that it would undermine discipline and order in the military but he supported the "don't ask" compromise. In his statement on Wednesday, General Powell said "the principal issue has always been the effectiveness of the Armed Forces and order and discipline in the ranks."

He noted that he had said for the past two years that it was "time for the law to be reviewed," but his new statement of unequivocal support for the effort by Mr. Gates and Admiral Mullen could be an important factor as the debate moves forward this year.

After retiring from the military, General Powell went on to become an active Republican and joined the cabinet of President **George W. Bush** as secretary of state. But he bolted from the party and endorsed Mr. Obama in 2008.

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