

cused of this, and then being in a situation where they were willing to abide by the do not ask; do not tell.

They were willing to do their job. They were willing to demonstrate that they could restrain themselves in terms of conduct, and also not announce or admit they were gay. In that set of circumstances, I do not know what would be wrong with having that right of self-incrimination available and have the commander or whoever was asking the question warn them of that.

Now, if they went on to say, notwithstanding my right not to answer that question, I am gay, then that is a different category.

What would be wrong with that kind of approach, General Waller?

General WALLER. Senator Nunn, nothing would be wrong with that kind of approach. As a matter of fact, I have tried, in all of these questions, that both Senator Levin as well as Senator Cohen asked, to try to make sure they understood that before I would take any action, I would want to make sure that I protect the rights under the judicial system of the Uniform Code of Military Justice before I did anything.

And you are absolutely right. I would not want the person to incriminate themselves. I would make sure that they use every legal right.

And that is why I would not take action based on some allegation by someone who said "we think" he is or she might be homosexual.

Chairman NUNN. Anybody else want to comment on that approach?

Dr. MOSKOS. Senator, if you just did that off the top of your head, I am really very impressed, because as probably the formulator of the original do not ask/do not tell formulation, I came up with that thought, because that was the maximum that would keep the military in line on this without a lot of upset.

Obviously the devil is in the details when you get to those things. And I think if one could say that is the basic principle, then there could be other kinds of sessions and venues where one could talk about all the various scenarios that might occur.

But I think the general principle that you have just enunciated—the general principle of do not ask/do not tell is one that one might say, we can go down that road and the details and the scenarios then have to be done in another kind of a setting where we can toss out more things, talk about the sodomy law, have lawyers, company commanders and even maybe sociologists around. And then try to work it out in that way.

But I think that is the direction. By the way, the French did send me a document, just to get to Senator Cohen's point. If after the investigation the person is found to be homosexual, he is out. Even though they never asked the question or anything like that. With homosexuality per se in a discovered sense, whether through announcement or other kinds of things, is going to remove you. And this would probably come closer to General Waller's outlook.

Chairman NUNN. That is the French position?

Dr. MOSKOS. That is the French position.

Chairman NUNN. Dr. Segal did you want to comment?

Dr. SEGAL. I do. And I want to put on the table a parallel kind of phenomenon that may get us back to the French case, I think.

When I was teaching at West Point, one of the lessons I had to learn as a faculty member was what questions not to ask. Teaching at the University of Maryland, I can ask students if they did the reading for the day. And if they did not, and do not want me to know it, they will lie about it. And the issue ends there, unless I have proof otherwise.

At West Point, I learned very quickly that I could not ask that same question, because for a student to say, yes, I read it, if he did not was a violation of the honor code. And the punishment was extreme.

When I was lecturing at the French military Academy a couple of years ago, I had a talk with the cadets there about the West Point honor code. And they said that would never work here, because it is so absolute.

I said, well, what happens if a cadet cheats on an examination, and is not caught? And they said, well, he will probably tell his priest. And his priest will ask him to do penance, and tell him not to do it again.

Just recently, I was visited by a group of French officers, and we had a discussion about that experience, and at that point, I was beginning to prepare my testimony for this committee. And I said, what happens to a French officer if he commits a homosexual act? And these four French officers said, "we hope he tells his priest."

"Basically, it is not the military's job to control that. The military will not ask unless it comes to our attention."

"There is another institution in society to which we delegate responsibility for controlling morality." Now, it may be that there is a pressure valve there that a state with a particular religious orientation has that, as a multireligious state, we do not have.

But basically, their position was, with things like honor codes or sexual behavior, there are no absolutes. Unless it becomes a problem for the military, it is somebody else's job to take care of it.

Chairman NUNN. Dr. Stiehm, do you want to comment on this general area?

Dr. STIEHM. Yes. I think that we need to consider what appropriate standards of conduct would be, and that we have not done that well enough. Tailhook tells us that we have not done that well enough.

When men perceive themselves as possibly being the ones who are going to be harassed, or where fraternization is going to make a difference, then they will give more attention to what proper standards of conduct would be and what things could be private, what things can happen off-base that cannot happen on-base.

I gather in some of the foreign countries sexual harassment has not been taken anything like as seriously in this country, partly, probably, because the women here fight back a bit more; partly because we do use litigation over and over again.

But I think it might be helpful to have some more discussion, not about where we slice this, but what appropriate behavior would be.

And also, there is one other element related to cohesion that I think people have not talked about. When I took physics—I loved physics problems where they gave you those questions about the resolution of forces—you have 14 arrows and you figured out where something would move.

And I think when you are talking about an individual being able to be a cohesive part of the unit, homosexuality may be something which pulls them out of the unit a bit, but that it does not pull them all the way out, and other things about that individual—like if they have a good sense of humor, if they are very competent, if they are willing to do more work than anybody else—all go together to determine whether or not that person is going to be a cohesive part of the unit.

And we ought to remember that any individual, homosexual or not, has the other dimensions, and it is the full component of their characteristics that makes them a good participant or not a good participant.

Dr. MOSKOS. Could I make just a coda on that, Senator? Just one last—on this conduct/status thing that Judith was referring to.

I would agree, I think, with General Waller here. Or maybe he would not. Declared gay is different than known gay. I think that is an important distinction to make. I mean, the system can live with known gays, but declared gays, I think, then does shade off into the conduct realm, which then brings all those second order consequences, which are very hard to answer.

Dr. STIEHM. I would say just the opposite. That is, the "known" gay is the most difficult case, because it is attributed, rightly or wrongly. It may be "well known," and then this absolute ban means even if they deny or if they do not deny, other people's "knowledge" has consequences. I think that is very tricky, indeed.

Chairman NUNN. Let me pose one question. Senator Cohen, let us just—since there are just two of us here—bat it back and forth.

Senator COHEN. I will not use your name if you do not use mine. [Laughter.]

Chairman NUNN. I would ask the question on the code of conduct. Let us take another twist. Let us get off the do not ask/do not tell, which is the temporary policy. General Waller and I believe—Dr. Moskos have both said they would favor that type policy, and I believe Dr. Segal came close to saying he would favor it, I am not going to put words in his mouth.

Dr. Stiehm has clearly said in her statement, she does not think that answers the question.

But let us shift a minute. Let us say the President lifts the ban, and that he then attempts to draw a strict code of conduct, which is what the President has said he wants to do. He made it very clear that he wants a strict code of conduct. He does not want behavior to in any way be tolerated that is inappropriate, whether it is homosexual or heterosexual.

Dr. Korb, and this is the same question I would pose to you all, when asked the question about if the ban is lifted, could you have one code of conduct, one for heterosexuals and one for homosexuals, or have the same code of conduct, Dr. Korb said he thought it would take two codes of conduct. Now, let me pose the dilemma here.

The military today, as General Waller well knows, unless it is an abuse situation with command sexual abuse or harassment, there is no prohibition for affection to be shown on a military base, after hours without a uniform. People walk around holding hands. They are allowed to kiss. Many military people meet and marry in the

military. Their courtship is in the military. You have enlisted clubs and officers clubs, where dancing, embracing—all of that goes on, and it is no violation of any conduct.

Now, if we lift the ban, are we going to say that that code of conduct applies to everybody and that people who are gay or lesbian will be able to do the same thing with their partners that heterosexuals do with their partners? That is one option. Keep the conduct like it is, and apply it to everybody.

Another option would be have two codes of conduct. Dr. Korb suggested two codes of conduct so that the same kind of affection that would be permitted by heterosexuals would be barred by homosexuals. I do not want to put words in his mouth.

So, when people talk about lifting the ban and letting people announce they are gay or lesbian, but have a strict code of conduct, they do not say what kind of code of conduct. They do not answer that question.

That is the first thing the military has got to answer. The young commander out there has got to deal with conduct every single day. He needs suggestions you have, or thoughts you have on this idea. This challenge would be welcome.

If we lift the ban, do we have two separate codes? If so, how do they apply? Or do we have one code? Open question to any of you.

Dr. MOSKOS. Senator, there are actually three options. You could have the double standard, which says hetero open behavior is okay but homosexual is not; the equal thing, whatever heteros can do, homos can do; or, there is a third one, too, which is more puritanical—which is to say that heterosexuals can no longer dance together or hold hands.

Chairman NUNN. You could bar that. That is right.

Dr. MOSKOS. So there is a third kind of an option—

Chairman NUNN. You could bar every type of social—

Dr. MOSKOS. Every public display of affection can go. Which, by the way, is sometimes done in certain environments, I might add, in the military. There is no public display of affection on a ship, for example. Things of this sort.

If you wanted to make the system work—I am not an advocate of lifting the ban in its totality—I think the double standard makes more sense. That is, current heterosexual, straight behavior is allowed. You do not change that. And there would have to be a different standard for public gay behavior.

If you really want to make it fall flat on its back, I think maybe you would say, hey, gays can do exactly the same things as straights, and let the chips fall where they may. That I think will bring great dissension.

Chairman NUNN. Doctor? Anyone? Volunteers? Dr. Segal?

Dr. SEGAL. If I may, let me answer in two ways. One of the things that I asked when I was collecting information on what happened in Europe was the nature of the behavior that led to adjudication in those cases where homosexuality became a problem. And I do not have hard numbers, but I am certain that the great majority of cases involved behaviors that did not need the word "homosexual" in the regulations in order to resolve the issue. They involved cases of compulsion, or cases of sexual behavior with minors, or violations of the chain of command, or sexual harassment.

Now, in these cases it happened to be homosexual rather than heterosexual. But I think that regulations that deal with those four issues are likely to cover the largest number of problematic behaviors.

In terms of day to day behavior, if we look at the sort of social laboratories we have—Charlie has said we should not use the military as a social laboratory. We have got laboratories, we have got places like the District of Columbia, that have very supportive, very tolerant laws and requirements about the rights of homosexuals.

And if you go to the major clubs that are known to be heterosexual in Washington, places like Deja Vu, you are very unlikely to see two males dances with each other.

The same thing happens on most university campuses. Universities, particularly in the Northeast, have taken major strides toward tolerance of diversity, and say people will not be harassed because of sexual orientation. But if you go to their dances, they tend to be heterosexual dances. You do not find same sex couples. You do not find males dancing with each other and you do not find two females dancing with each other with any greater likelihood than you did when I was in high school. I mean, that has always been a pattern.

And again, I will argue that the major determinant of actual behavior is the normative structure of society. And as long as that is the case, as long as it is social structure rather than laws that drive actual behavior, I think the problems are minimal, with one code of conduct.

Chairman NUNN. Dr. Stiehm?

Dr. STIEHM. I would like to reinforce that. I agree. I am also sure, though, that there will be one test case. I mean, at Disneyland one gay couple had to go and dance to establish it could be done, but Disneyland does not have that as an ongoing, regular issue that they have to deal with.

So I think—and this is one reason why I suggested that Congress should leave this to the President, because it is touchy, ticklish, difficult, and some tinkering may have to be done with it. We may establish a code of conduct which needs some fixing before we are pleased with it.

But I think, in general, I would have to agree that a single standard is the correct thing to do, and that behavior will be, as David said, guided by the norms—by social pressures. And that the social pressures will probably be stronger on a military base than on a college campus, but even on a college campus, it has not created problems.

Chairman NUNN. So under that, when the President is saying he wants a strict code of conduct if he lifts the ban, your definition of that strict code of conduct would be let the gay and lesbian community do exactly what the heterosexual community now does?

Dr. STIEHM. I think that that is a correct policy position to take, and that it will work because social norms will actually control behavior.

Chairman NUNN. In other words, you think it will work because, in effect, you do not believe homosexuals will behave just as heterosexuals do?

Dr. STIEHM. No, No, I do not.

Chairman NUNN. You think that it will work because they will not exercise the rights that you advocate giving them?

Dr. STIEHM. But I do think there will be one test case. There will be one difficult one that is sort of hard for people to get through.

Chairman NUNN. General Waller?

General WALLER. Senator Nunn, I think that there would be a lot more than one test case. There will be many test cases. There are so many issues that come to my mind about this particular thing.

What happens when the gay partners come in and say, I want government housing? You know, where do you draw the line? What happens when they come in and say, I do not feel comfortable in the officer's club or in your NCO club, I want my own club?

I could go on until the—

Chairman NUNN. Commissary, PX privileges, survivor's benefits—

General WALLER. All of these kinds of issues will come to the forefront. And there will be many test cases.

But to advocate having two sets of rules, I think, is folly. I absolutely cannot believe that we would entertain, for any amount of time, that we ought to have one set of rules for gays, lesbians, homosexuals, however you want to categorize them, and have one for heterosexuals.

Chairman NUNN. You believe, General, that if you started out that way, you would end up having a collapse either legally or otherwise at some point? You might as well now accept the fact that you are going to have one set of rules?

General WALLER. Absolutely.

Chairman NUNN. Then, what you believe is that if homosexuals ask for family housing with their partners, they would at some point in the not too distant future if the ban is lifted, be entitled to it, right?

General WALLER. Absolutely. If they are going to be partners, or if—eventually you are going to have to face these problems. I can almost guarantee you. If you open it up in the military that eventually, then, you are going to have—where people are allowed to get married.

Then, if you open it up where they get married, and they become lifestyle partners, they have the same rights and privileges and everything else, then you have no recourse but to—

Chairman NUNN. That would depend on jurisdiction. Some would preclude that and some would permit it. We would have to decide what local, Federal, State laws—

General WALLER. But then you get into a real donnybrook in doing it. So it would be—

Chairman NUNN. Well, I would tend to agree with you. Every time you answer one of these questions, if you move forward, it opens up a whole other tier of questions, and a lot of people are not thinking through that next tier. And then that has another tier of questions.

Dr. SEGAL. There clearly are probably an infinite number of issues that can be opened up. There are also reasonable responses to some of them.

To the extent that this Congress establishes and funds family benefits for military personnel, be they housing or medical benefits or whatever—it is also in a position to specify that they are family benefits, and it is not the role of the military to decide what constitutes a family.

Civilian institutions and basically, the political process in the civilian sector are going to change over time, but they are going to come up with those definitions and changes in those definitions.

And it seems to me the military response is to say, defining what a family is is not our job. We will reflect what our civilian policymakers tell us. We, after all, are subordinate to the civilian government.

Chairman NUNN. Any other comments on this? Senator Cohen?

Senator COHEN. If I could come back, Mr. Chairman, to a clarification of one point. When Senator Lieberman asked the question, where he put the proposition to you, General Waller, there are no atheists in a foxhole, and to that he added—and you, I think, confirmed—there are no atheists, or sexual preferences expressed, in a foxhole.

I think what you were saying is that when people are locked in combat, they are not thinking about sex, they are thinking about survival. That is one aspect. Am I wrong in how you characterized it?

General WALLER. You are 100 percent correct, Senator Cohen, but I do not think I added anything about sexuality in the foxhole.

Senator COHEN. I think that is the line of questioning that Senator Lieberman was getting at, saying that there are no atheists in a foxhole. He was, I think, suggesting that when people are locked in combat, they are not really drawing discriminations based upon sexual preference. And I think you confirmed that. You are trying to survive.

General WALLER. Yes.

Senator COHEN. You are not thinking about somebody's sexual preference.

General WALLER. I did confirm it.

Senator COHEN. But you have to go a step behind that, and I guess something that I have been concerned about, and that all of us have been trying to work our way through, is: What is the capability of the unit in preparation for combat? It is one thing to say once you are in combat you do not think about sex, you think about survival.

But in getting to that combat readiness, you have to deal with issues of morale and cohesiveness. What we are trying to do is find out whether there is any rational basis for the kind of prejudice that is there.

We are talking about prejudice against an entire class of people. Is there a rational basis for that? Is there a reasonable basis for discriminating against that entire class of people under the circumstances, where you are going to put people at some point in time in a combat scenario, in which they may not have anticipated? Are they going to be ready.

Now, I was going to explore this question with Dr. Moskos and Dr. Segal—

General WALLER. Can I ask—are you leaving that?

Senator COHEN. I am not leaving.

General WALLER. Oh? You are coming back to it? Okay.

Senator COHEN. I am coming back. One of the questions I wanted to ask is whether there is any empirical data that you are aware of that would suggest that homosexuality, per se, would undermine unit cohesion? You have been out in the field and meeting with the troops and so forth, but I have only seen one thing to date I want to ask your comment on it, Dr. Moskos, because it is contained in Dr. Segal's testimony dealing with the Wehrmacht.

I am looking at page 7, in which—I am going to repeat this: "The assertion seems to be that primary group solidarity in the Wehrmacht was based in part on a latent homosexual subculture that was assertively masculine rather than effeminate." I introduce this observation not to argue that we should encourage homosexuality in the military in order to generate cohesion, but rather to point out that the one piece of research I am aware of that addresses this issue, a piece of research that has previously been brought to the attention of this committee, throws into question the assertion that homosexual tendencies will necessarily undermine unit cohesion.

So I wanted you to respond to that particular statement.

Dr. MOSKOS. I will let David. But let me get two things out first, before I turn it over to David, who wrote that.

Senator COHEN. I wanted you to respond to it, not just turn it over to him.

Dr. MOSKOS. We do have empirical data on mixed gender units, which maybe, I think, is relevant. According to a Roper poll taken in Desert Shield, 45 percent of those who served in mixed gender units in the Gulf said that there was enough sexual activity to degrade military performance. That is a very high number. That is between heterosexuals, now. It is a huge number when you think about it.

So they said that—by the way, the data also seems to show that there was more hanky-panky in the Desert than there was back at home. Contrary again to a lot of popular opinions on this stuff.

So I do not know what goes on in a foxhole, but what goes on in tent city, you know, seems to be a different story.

Senator COHEN. In other words, the closer you are to a combat scenario, the greater the risk of death, obviously, and perhaps the greater the tendency to engage in sexual activity?

Chairman NUNN. I do not think it would make any difference whether you sat in the desert for three months without firing a shot or whether somebody was shooting at you. If people were shooting at you, I think you would have that as your number one preoccupation.

Dr. MOSKOS. But the point is, we do have some data, though, that it did degrade military effectiveness on mixed gender units.

Now, on the homoerotic tendency of Wehrmacht soldiers in World War II—I would take—the statement David put in there is perfectly correct. I would give it a different interpretation, though.

First of all, in Nazi Germany, perhaps more than any other regime that we have ever known about, even more than Stalinist Russia, gays were persecuted severely down to concentration camp and extermination levels. So there was no official sanctioning of

any kind of gay behavior in Nazi Germany. Quite to the contrary. It was probably the most barbaric system toward gays that human history has ever known.

Second, then following up—this is where I would disagree on the interpretation. Precisely because there are homoerotic tendencies in all male groups—and I referred earlier to our sexual insecurities—this is exactly why the ban.

I think I would turn that around and say exactly why a stiff ban would have to be in place, because once these homoerotic tendencies are out, the cat is out of the bag, then you have all kinds of negative effects on unit cohesion.

Senator COHEN. But what he was saying—unless I am missing this—is that there is a latent homosexual subculture. I am not sure exactly what a “latent homosexual subculture” would be, under those circumstances—

Dr. MOSKOS. You would have to ask him. Yes. That does not mean they did the behavior, though.

Dr. MOSKOS. It does not say they did anything.

Senator COHEN. Well, I have been trying to deal with that issue all along.

Dr. MOSKOS. There is a strong male homoerotic tendency among these combat groups.

Senator COHEN. Okay, well, they were not barred out of the combat.

Dr. MOSKOS. That is right. And they were not homosexuals, either, though. That is the point.

Senator COHEN. They are a latent homosexual subculture. Okay. The implication from this statement to me is that it produced greater unit cohesiveness. Or it at least in your statement throws into question the assertion that homosexual tendencies will necessarily undermine unit cohesion. They found greater unit cohesion.

Dr. MOSKOS. Senator, before we go on to David, the point is that in the Nazi Army, you could not be a gay. In any form, sense—I mean, you have to put that in the total context. You have these erotic tendencies operating at one level, but at the same time, the system is the most repressive ever known. And then it worked for a good fighting army.

Senator COHEN. Dr. Segal, clarify what you were saying for me.

Dr. SEGAL. I will try. I did not do this research and it was done before I started reading sociology. I did study under both Professor Janowitz and Professor Shils, although I must say that during my graduate years, I never discussed the issue of homosexuals in the military with them.

But let me see if I can—

Senator COHEN. What did you mean by this? I am just not clear on what you meant.

Dr. SEGAL. Professor Moskos is absolutely correct. There was basically a blanket ban on homosexual behavior in Nazi Germany. What they are saying is basically that there was a hard core of enlisted personnel in the Wehrmacht who were attracted to the company of other men. They did not necessarily behave homosexually; indeed, they probably did not. But they preferred the company of men. Their behavior styles were assertively masculine, probably

what in more recent times we would have called "butch," and perhaps it was a reflection either of their seeking their sexual identity—and this is a period when a lot of people are not sure who they are—

Senator COHEN. Seeking it or sublimating it?

Dr. SEGAL. Either one. Interestingly, as I have been working through this, as I said in my testimony, this particular piece of the Shils and Janowitz research is one that I have never seen cited before. I discovered it by accident while I was grading some midterm exams.

Senator COHEN. Now, this business about "throwing into question"—is that your statement, or—

Dr. SEGAL. That is mine. That is mine.

Senator COHEN. All right. That is what I wanted to know.

Dr. SEGAL. The indented part is theirs.

Senator COHEN. Why does it throw into question?

Dr. SEGAL. Because it basically suggests that what we have more recently called "male bonding" may well have been in the Wehrmacht, this propensity to seek other males as erotic objects, although not acting on that.

I might add that this is a small piece of a fairly large literature that came out of the World War II period on the role of the authority structure in the Germany family, on phenomena like authoritarianism, which were seen as related to sexual identity.

I am not going to rule that that research is correct or incorrect. My point is that since the Shils and Janowitz study has taken as one of the keystones of our concern with cohesion, we need to acknowledge that this was a perception of the people who were doing the research.

Chairman NUNN. It seems to me the only application that would have is if you had people with homosexual tendencies in the military unit that would perhaps be put in concentration camps or executed if they were discovered—I mean, how in the world is that applicable to what we are talking about here? It does not seem to me to apply or have any application to America.

Dr. STIEHM. What does apply is that current German conscripts include homosexuals and apparently it does not affect small unit cohesion.

Dr. SEGAL. They fairly thoroughly screen out homosexuals today.

Chairman NUNN. I just do not understand how that has any relevance. You have got a unique set of circumstances. You have got a repressive regime. You have got people who persecute homosexuals. You have got people who exterminate homosexuals. And you may have some people in the military who had a tendency in that direction who did not act on it.

I am just not sure that is relevant to any society that we know of or would ever tolerate.

Dr. SEGAL. Independent of the issue of what causes homosexuality, I think what you are arguing, Senator Nunn, I think it is an important issue, and one that the social science community does not have a good answer to, is what causes homosexuality. There is literature that says that that authority structure may have produced homosexual orientations.

The important issue is that here we are talking about people who may have had sexual orientations but were not acting out on homosexual behavior proclivities, who were allowed to serve, and rather than undermining unit cohesion, seemed to enhance it by virtue of the fact that they gathered around them other men with whom they bonded.

Let me raise three other points in response to your question.

Senator COHEN. We are getting into some fairly metaphysical distinctions, I must say.

Dr. SEGAL. I have been, I guess, doing research on soldiers in the field for 25 years, and I would certainly yield both to Professor Moskos and to General Waller in terms of having more experience in the mud than I.

But for as long as I have been doing that, I have been told by soldiers of people in their units who they suspected of being homosexual. And it was not an issue.

And I think one of the things that made it not an issue was that it was only a suspicion. I had a sense that they did not have to confront "the fact" and as long as it was not a demonstrated fact, it was not a problem.

Here, I think this bears directly on the issue of flaunting and asking. That is, they have been there in the past, and they will continue to be there. The policy up until the beginning of January required them to lie if asked, or else get out.

But basically their mere presence and suspicion that they were there does not seem to have undermined cohesion in the past.

I did ask the European behavioral scientists and social scientists I spoke to what the experience was in those countries that are tolerant of what happens when someone comes out. And as I said earlier in my testimony, the numbers who come out are very small.

The point in their military service at which they come out seems crucial. If indeed they have been serving in a unit for some period of time and have demonstrated their performance level and their soldierly qualities, and then come out, the impact seems to be minimal, and does not seem to have a major impact on unit cohesion.

If they come out immediately, then they have an uphill fight proving that they are indeed good soldiers and acceptable performers. They have to prove themselves.

And my sense is that they have a harder time proving themselves than people who are not professed homosexuals.

Senator COHEN. Well, I think the only point we are trying to make—I had difficulty with that study—was that the study done by these two professionals to reach a judgment about what took place during World War II, with a latent homosexual subculture. And the assumption that you then come to that this throws into question the assertion that homosexual tendencies will necessarily undermine unit cohesion. I just did not follow how you made the leap from that research, which may or may not be solidly based, to a conclusion which leaves very much the question up in the air.

Just a couple more, Mr. Chairman.

With respect to discrimination against women, we have already discussed the issue about discrimination against blacks and the myths they had going back for decades toward the black people of this country. With respect to women in the military, I think there

was a general perception that they were physically weaker, as a general statement, that they were psychologically weaker, and that they were less dependable in a time of stress or under combat scenarios.

I think that was a general pattern of discrimination or justification of discrimination. And we have found, that with the exception of physically weaker, which must be determined on an individual basis, that those myths simply did not hold up.

Now, I recall that last year, Mr. Chairman, we had the chief of staff of the Air Force, who was presenting evidence about the ability of women to fly combat missions. And frankly, I was not aware of this at the time.

I asked a question, thinking—saying well, if you have a person who has a smaller body weight, that they probably cannot withstand the g forces as well as someone the size of General Waller. Wrong! Just the contrary is true. They have a better capacity to withstand it.

I said, well, in view of that fact, then, would you favor allowing women in combat missions? Answer? No. Because it was a cultural issue, that he simply did not feel that he could accept the concept of a woman flying under those circumstances.

So we have to get behind some of the biases and prejudices and look just to what the reality is, and that is really what we have been trying to do here in drawing distinctions or analogies between black and white, female and male, and now this issue of sexual orientation.

Is there a reasonable basis for the discrimination, which we clearly have, and have had for a long time now.

I think the panel has been enormously helpful.

Dr. MOSKOS. Could I respond to that? I think that is a good question about is the antipathy toward gays rationally based or is it a matter of prejudice. Of course, it is both.

And unfortunately, the argument does get polarized. It seems silly for me to even say this, but I wanted to just get it—gay bashing is reprehensible. And it is terrible behavior.

But it does not mean that at the same time there is not some rational basis for it as well as well as a prejudice basis for it.

Senator COHEN. What? For gay bashing?

Dr. MOSKOS. No. For discrimination of gays in the military. I am not for gay bashing, even in the military, much less in general society.

But I think there are some rational grounds that have to be raised for the ban or a variation of it.

Not too long ago, morally superior people used to look down on gays. Now, today morally superior people look down on those who look down on gays. So it has sort of switched around.

Both of those are really wrong. You do not have to morally look down on gays, but at the same time I do not think we should get on our high horses and more to look down on those who do look on gays, because there are a variety of motives for that kind of behavior.

And I have always been trying to hark back to this male/female analogy which you raised. It is not a matter just of conduct. It is

a matter of—if you want to call it status, call it status. But it is a matter of sexuality, modesty and privacy.

And those kinds of concerns have to be attended to as well. And it is a dilemma between equal rights for gays and modesty rights for straights.

And I think we have learned here today, even though there was some difference of opinions among the panelists, is that if we look at other countries' lessons—well, the fact of the matter is, most of them do discriminate against gays one way or the other except for a handful in northwest Europe.

But from across the board in democratic armies, there is some kind of differential treatment.

Then we have to raise the final questions here, and I will be off—obviously, gays have fought well in the services from time immemorial to the present. But the point is, that does not tell us much either, because they were in the closet. Partly or wholly.

Therefore, to generalize from good fighting performance of gays under the previous system of restriction and closeting does not really tell us much about gays in a different situation, in which such behavior might be open, and mixed. Thank you.

Senator COHEN. Thank you, Mr. Chairman.

Chairman NUNN. Dr. Stiehm, did you want to respond?

Dr. STIEHM. I would just like to say three things. One is that I have not seen what Professor Moskos just said related to degraded performance by integrated units in the Gulf, but that we have a lot of other evidence which suggests that sex integration does not degrade performance.

So I would like that to be looked at *in toto* and not just rely on that one particular study.

Second, I think that what we do see is a lot of change happening and a lot of people wrestling in a serious way with these issues. The change is in the direction of not honoring prejudice. And I think that we have seen it in Australia; we have seen it in Canada; we are wrestling with it; New Zealand is wrestling with it.

But the direction seems clear.

And then a point which I made earlier, but which I think we really need to reiterate again and again to ourselves.

Social change is easier when there is a felt need. When the battle is on, when you need more people because you do not have enough. We are not in that situation. We are in a situation of downsizing. And that is going to make it tougher to make a change.

If we needed a huge number of troops right away, it would be much easier just to let this change occur. But it is not fair to say, we will use you in emergencies, but you cannot be in when it is safe.

And so I think that if we are ever going to be using people in the service of our country, calling them to duty, that we cannot just do it at a time when we want them.

Chairman NUNN. We have done that historically. Haven't we done that historically during time of war? People who otherwise because of 4-F status, to say hey, the hearing is okay for this time. It may not be all right in peacetime but we have got a war on. We need you.

Dr. STIEHM. And I have to say the first time that I ever spoke to this issue was on a panel very similar to this one. There were three social scientists and a retired officer.

General WALLER. Some things never change. [Laughter.]

Dr. STIEHM. When we had given our presentations, this officer gave a very impassioned speech opposing lifting the ban. And he stood up when he gave it. I mean, he was passionate. And he concluded by saying, but of course if a war comes, we will draft them and we will use them.

And I think that is not an acceptable final position, that you do have to figure out a policy that we would want to use all the time.

Senator COHEN. Thank you. Let me thank the panel for being here all this time. It has been very helpful to me.

Chairman NUNN. Thank you. I would like to ask General Waller one other question. I am informed there was a program on 60 Minutes on Sunday night about service of gay men and lesbians in the Dutch army. General, you were over there in Germany for some time. Did you conduct field exercises or command post exercises with the Dutch Army?

General WALLER. Thank you very much, Senator Nunn. Indeed I did. I thought that 60 Minutes, the most popular program that we have in these great United States did a tremendous disservice to the American public by airing that type of thing. That was done by Ed Bradley last Sunday evening. If you watched that program and you did not know anything about the NATO forces and you did not know much about the Dutch Army, you would come away saying, my goodness, if they do this in the Dutch Army, why don't we do it in the American army.

Well, the Dutch Army consists of 65,000 people. Forty thousand of them are conscripts. They serve 12 to 14 months only. The vast majority of them live at home.

As I mentioned in my testimony or in my statement, they have a union. It is a union army. The gays have their own union. Ed Bradley was talking to the head of that union, the lieutenant colonel. Never once does he compare or mention this, the size of the force, the kind of force that it is, with the United States of America.

Would we have an interview with a high school football coach at Baker to ask him what he thought Jimmy Johnson of the Cowboys should do? I do not think so. But this is the kind of nonsense that we are doing.

And then, for the audacity of this man to wink at the camera when he closes it off sort of is a statement in itself. I just cannot imagine—

Chairman NUNN. Who winked at the camera? I did not see that. Was that Ed Bradley or—[Laughter.]

General WALLER. No, it was not Ed. It was the gay lieutenant colonel out of the Dutch Army. And here we are talking about a country that has one corps—one corps, mind you, which does not even have a personnel policy in it. And it is a corps minus. They never once filled their GDP positions when we thought that the great Warsaw Pact forces might come across the border. When Senator Levin visited me in Germany, one of his primary concerns was, "Will the Dutch fill that hole?"

Chairman NUNN. I have been concerned about that for the whole time I have studied NATO, beginning in 1974 and wrote two reports on that.

General WALLER. But no, did 60 Minutes even come close to talking about the comparison of the Dutch forces with the U.S. forces? No! The vast majority of the people who watched that program left that program with this is a big army, they showed the one ship they have, and they showed this battalion out in the field.

A tremendous disservice. A tremendous disservice to what happens in the media to try to explain to the American people—

Chairman NUNN. They also do not have a dress code, do they?

General WALLER. Absolutely not! It is sort of—you know, made up as you go.

Chairman NUNN. Wear whatever you please, whenever, and so forth?

General WALLER. That is correct, sir.

Dr. MOSKOS. Senator, before you close, can I say one thing for the record? I would trade off the gay ban to bring back a draft, to have mandatory national service, military and civilian, for every young person.

Chairman NUNN. This is one of the things you and I have talked about over the years. I think our volunteer force is working well in an age of high technology, but one of the things we are going to pay a price for, and maybe already are, and maybe this debate reflects it, is the increasing number of people in the public—a very large percentage of people in the public and in the Congress and in decision-making, who do not know anything about serving in the military.

That is a societal change of first order. And I think that you will find that a lot of the lines in this particular debate and many other debates is going to divide along the lines of people who do not know anything about the military and people who have either served or have close relatives who have served.

And an increasing percentage of our population has not served, and that is going to grow over the years, and I do not know what the final outcome of that is going to be.

I think it also is going to go to the heart of making judgments about when we use military forces and when we do not. I think people who have very little exposure to the military either exaggerate military capabilities in periods of time when they want a war, or degrade military capabilities in times when they do not want a war. I think we are going to pay a price for that in decision-making, too.

Any other comments?

General WALLER. Thank you for the opportunity to be here today.

Chairman NUNN. We appreciate all of you being here. I believe it has been a very enlightening hearing, and all of you have added to it greatly. Thank you very much.

[Whereupon, at 1:50 p.m., the hearing was adjourned.]

POLICY CONCERNING HOMOSEXUALITY IN THE ARMED FORCES

WEDNESDAY, JULY 21, 1993

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

DOD POLICY ON HOMOSEXUALITY IN THE ARMED FORCES

The committee met, pursuant to notice, at 8:05 a.m., in room SD-106, Dirksen Senate Office Building, Senator Sam Nunn (chairman) presiding.

Committee members present: Senators Nunn, Exon, Levin, Glenn, Shelby, Graham, Robb, Lieberman, Bryan, Thurmond, Warner, Cohen, McCain, Coats, Smith, Kempthorne, Faircloth, and Hutchison.

Committee staff members present: Arnold L. Punaro, staff director; Andrew S. Effron, general counsel; Richard D. DeBobes, counsel; Julie W. Kemp and Daniel B. Ginsberg, research assistants.

Professional staff member present: David S. Lyles.

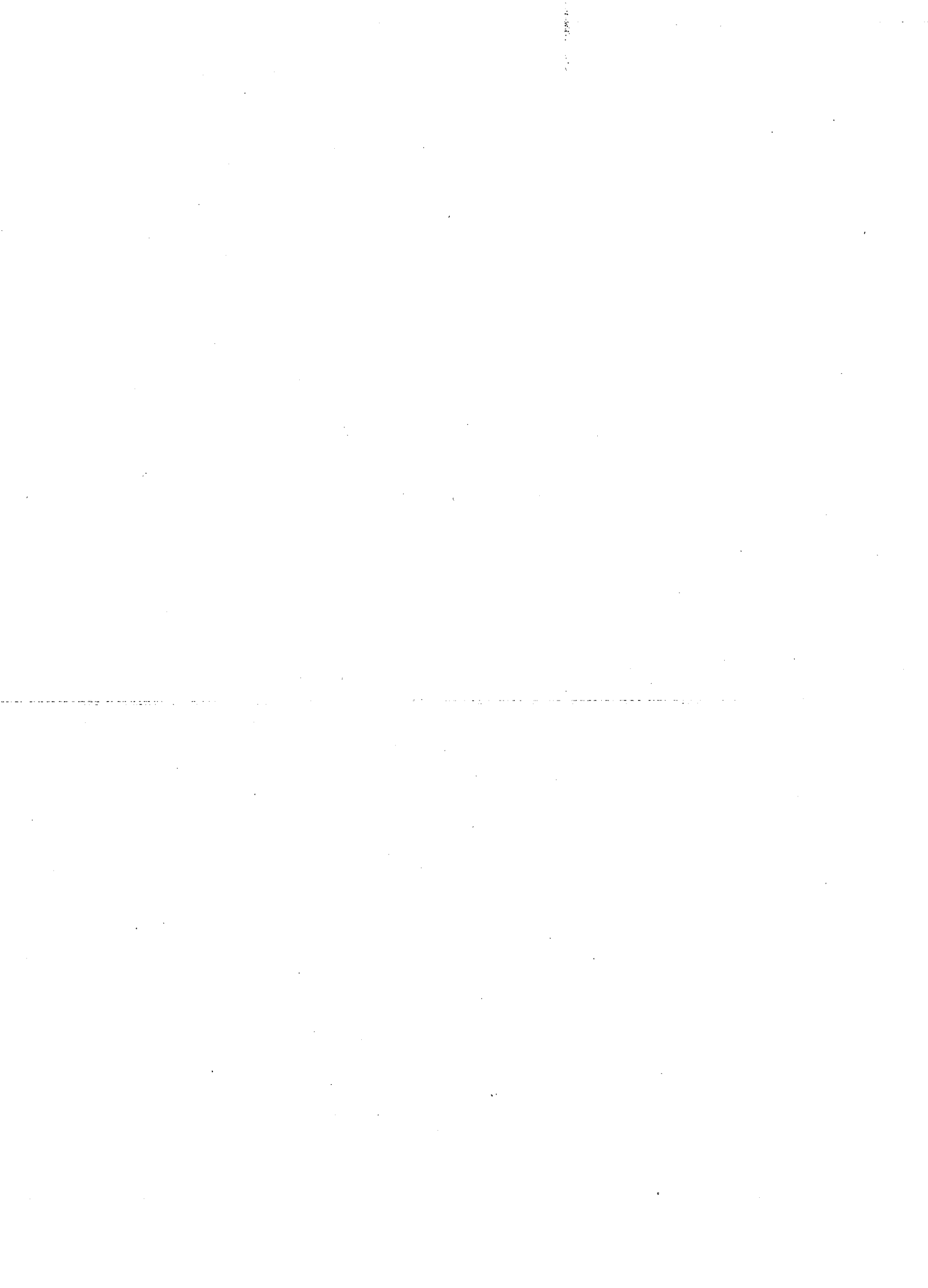
Minority staff members present: Richard L. Reynard, minority staff director; Romie L. Brownlee, deputy staff director for the minority; Donald A. Deline, minority Counsel; Charles S. Abell and George W. Lauffer, professional staff member.

Staff assistants present: Debra W. Crnkovic, Cindy Pearson, and Mickie Jan Wise.

Committee members' assistants present: Andrew W. Johnson, assistant to Senator Exon; David A. Lewis, assistant to Senator Levin; Phillip P. Upschulte and Suzanne M. McKenna, assistants to Senator Glenn; Terence M. Lynch, assistant to Senator Shelby; Kevin Monroe, assistant to Senator Graham; Jeremiah J. Gertler, assistant to Senator Robb; Thomas R. Parker, assistant to Senator Lieberman; Randall A. Schieber, assistant to Senator Bryan; Dale F. Gerry, assistant to Senator Cohen; Anthony H. Cordesman and Christopher J. Paul, assistants to Senator McCain; Pamela G. D. Sellars and Richard F. Schwab, assistants to Senator Coats; Thomas L. Lankford, assistant to Senator Smith; and David S. Sullivan, assistant to Senator Faircloth.

OPENING STATEMENT OF SENATOR SAM NUNN, CHAIRMAN

Chairman NUNN. The committee meets today to continue our hearings on the Department of Defense policy concerning gay men and lesbians in the Armed Forces. Yesterday, Secretary of Defense Aspin and the Joint Chiefs testified on the policy announced by the



Chairman NUNN. We are going to be here tomorrow, and they will have a chance to answer it at that stage, after refining it. I would say that I am informed that the courts have said on several occasions that the military services do not have to wait until the propensity to act turns into an act.

Ms. GORELICK. I did say that the military services do not need to take the risk.

Senator LEVIN. She answered the propensity; we were talking about the orientation, because that apparently is a different issue.

Chairman NUNN. Okay. Thank you very much. You have helped us a great deal. I think we have a much better understanding, and we are going to need one more round tomorrow morning, preferably at 8 o'clock, but if that does not work, we will get back with you.

Ms. GORELICK. Thank you, Senator.

Chairman NUNN. Thank you.

Thank you, General. Thank you to all of the working group, too. We appreciate your being here and we appreciate your hard work. Thank you.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR SAM NUNN

EXECUTIVE BRANCH SPONSORED STUDIES

Senator NUNN. Please provide a copy of the "Report of the Board Appointed to Prepare and Submit Recommendations to the Secretary of the Navy for the Revision of Policies, Procedures, and Directives Dealing with Homosexuality" (March 15, 1957) (the "Crittenden Report"). Also provide your analysis of these studies in light of the July 19 policy.

Ms. GORELICK. The Crittenden study was undertaken to examine procedures and standards used by the Navy in separating homosexuals. The report reflects a number of assumptions prevailing in 1956—most particularly that homosexual behavior is symptomatic of underlying disorders ranging from a personality disorder to psychosis—that have been discarded by the medical community. Thus, the study is of limited value today. The Military Working Group was aware of the Crittenden Report and maintained a copy in its working library. However, the group did not consider the report to be a material resource but rather a historical background docket. [A copy of the "Crittenden Report" is being retained in the committee files.]

Senator NUNN. Please provide copies of the following studies for the record and also analysis of these studies in the light of the July 19 policy:

Sarbin and Boyang, "Nonconforming Sexual Orientation and Military Suitability" (1988).

McDaniel, Preservice Adjustment of Homosexual and Heterosexual Military Accessions (1989).

Ms. GORELICK. The first one, "Nonconforming Sexual Orientation in the Military and Society" (the authors are Sarbin and Karols) is a draft that was never completed. I am informed that the draft study was not accepted by DOD because it did not focus on the nexus, if any, between homosexuality and security clearances for DOD civilian employees and contractors, which was the Defense Personnel Security Research and Education Center (PERSEREC) tasking, and it was felt that the authors had not adequately consulted with those within DOD who were most knowledgeable about the homosexual exclusion policy and the basis therefor.

I am informed that the McDaniel study is another uncompleted draft that was not relied upon by the working group. I am told that the report contains the caveat that it does not address the consequences of mixing homosexual and heterosexual persons in the same working group.

[Copies of these studies were provided and are being retained in the committee files.]

Senator NUNN. Please provide a copy of the 1993 RAND Study for the record and also your analysis in light of the July 19 policy.

Ms. GORELICK. The report recommends that DOD adopt a policy whereby sexual orientation, in itself, is not germane to determining who may serve in the military. To this extent, the RAND Report is consistent with Secretary Aspin's July 19 memorandum, which states, "Sexual orientation is considered a personal and private mat-

ter, and homosexual orientation is not a bar to service entry or continued service, unless manifested by homosexual conduct."

I have been informed that RAND was not asked to study whether it would be good public policy to rescind rules barring homosexuals from serving in the military, but only how to integrate homosexuals into the military if those rules were rescinded. And while the RAND Report contains valuable and interesting data concerning opinion on acceptance of homosexuals and experiences with open homosexuals serving in some foreign militaries and some U.S. municipal police and fire departments, the Report acknowledges that this data does not directly address the concerns of U.S. military leaders that the presence of an open homosexual in a unit would undermine the cohesiveness of that unit.

The approach suggested by the RAND Report—permitting private homosexual acts and open homosexuality—would place all of the responsibility for addressing this complex and contentious issue on the military commander, who would have to determine on a case-by-case basis whether particular conduct threatens or undermines unit cohesion, readiness, morale, health concerns, etc., in a particular circumstance. The Military Working Group and the senior military leadership of the Department were concerned that this would result in inconsistent and arbitrary treatment of similar activities and would impose inappropriate burdens on unit commanders.

[A copy of the Report was submitted and is being retained in the committee files.]

[Whereupon, at 9:57 a.m., the hearing was adjourned.]