

Attachment 9

Deposition of Paul Gade

Key to Objections

IR-FM	Irrelevant, experiences of foreign militaries
IR-PT	Irrelevant, personal testimony of the witness
IR-PE	Irrelevant, post-enactment developments
LF	Lack of foundation
VA	Vague

1 UNITED STATES DISTRICT COURT
 2 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 3 EASTERN DIVISION

4 LOG CABIN REPUBLICANS,
 5 Plaintiff,

: IR-FM-entire depo.

6
 7 v.

: CA No. CV04-8425
 : (VAP) (Ex)

9 UNITED STATES OF AMERICA AND
 10 ROBERT GATES, Secretary of
 11 Defense,
 12 Defendants.

:
 :
 :
 :
 :

13 Washington, D.C.

14 Friday, April 16, 2010

15 30(b)(6) Deposition of
 16 PAUL GADE, Ph.D., called for examination
 17 by counsel for Plaintiff, pursuant to notice, at
 18 the Law Offices of White & Case, 701 13th Street,
 19 NW, Washington, D.C., commencing at 9:19 a.m.,
 20 before Barbara A. Huber, Notary Public in and for
 21 the District of Columbia, when were present on
 22 behalf of the respective parties:

Page 2

1 APPEARANCES:

2 On behalf of Plaintiff:

3 DANIEL J. WOODS, ESQUIRE

4 White & Case, LLP

5 633 West Fifth Street

6 Suite 1900

7 Los Angeles, California 90071-2007

8 213.620.7772

9 dwoods@whitecase.com

10

11 On behalf of Defendants:

12 JOSHUA E. GARDNER, ESQUIRE

13 RYAN BRADLEY PARKER, ESQUIRE

14 JESSE GRAUMAN, ESQUIRE

15 PAUL G. FREEBORNE, ESQUIRE

16 U.S. Department of Justice

17 Civil Division

18 Federal Programs Branch

19 20 Massachusetts Avenue, NW

20 Washington, D.C. 20001

21 202.616.8470

22 joshua.e.gardner@usdoj.gov

Page 4

1 CONTENTS

2 EXAMINATION BY: PAGE

3 Counsel for Plaintiff 6

4 Counsel for Defendants 104

5 Counsel for Plaintiff 111

6 Counsel for Defendants 116

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

Page 3

1 CAPTAIN PATRICK GRANT

2 U.S. ARMY LEGAL SERVICES AGENCY

3 901 N. Stuart Street

4 Arlington, Virginia 22203

5 703.696.1626

6

7 MICHAEL J. FUCCI, ESQUIRE

8 ROBERT EASTON, ESQUIRE

9 United States Department of Defense

10 1099 14th Street, NW

11 Suite 5000W

12 Washington, D.C. 20005

13 202.761.0546

14

15 Also Present:

16 Vin Kamath, Paralegal

17 Jeff Rapoport, Intern

18

19

20

21

22

Page 5

1 DEPOSITION EXHIBITS: PAGE

2 No. 68 - GAO Report, June 1993 25

3 No. 69 - Report, May 1993 33

4 No. 70 - Canadian Report, January 1994 46

5 No. 71 - Memorandum, June 28, 1993 50

6 No. 72 - E-Mail String, October 26, 2000

7 and November 1, 2000 52

8 No. 73 - Excerpt of Book Chapter 60

9 No. 74 - Copies of Briefing Slides 72

10 No. 75 - Memorandum, November 18, 1992 78

11 No. 76 - Chronology of Policy Events/Activities 81

12 No. 77 - Report, British Armed Forces 94

13 No. 78 - Report, Isreal Defense Forces 94

14 No. 79 - Report, Australian Defense Forces 95

15 No. 80 - Report, Canadian Forces 96

16 No. 81 - Report, 2003, by Aaron Belkin 97

17 No. 82 - Palm Center Report, February 2010 97

18 No. 83 - Report/Review by the UK Government 98

19

20 DEPOSITION EXHIBITS RE-INTRODUCED PAGE

21 No. 3 - Report, July 27, 1993 106

22

Page 6

1 PROCEEDINGS
 2 Whereupon,
 3 PAUL GADE, Ph.D., 30(b)(6),
 4 was called as a witness by counsel for Plaintiff,
 5 and having been duly sworn by the Notary Public,
 6 was examined and testified as follows:
 7 EXAMINATION BY COUNSEL FOR PLAINTIFF
 8 BY MR. WOODS:
 9 Q Could you state your full name, please?
 10 A My name is Paul Gade.
 11 Q And Dr. Gade, how are you currently
 12 employed?
 13 A I work for the U.S. Army Research
 14 Institute for the Behavioral and Social Sciences.
 15 Q And what is your position there?
 16 A I am the chief of the basis research
 17 program.
 18 Q And how long have you held that position?
 19 A About ten years.
 20 Q And how long have you worked in the
 21 same -- well, strike that.
 22 How long have you been worked for the

Page 7

1 U.S. Army Research Institute?
 2 A Thirty-five years.
 3 Q And what other positions did you have
 4 there?
 5 A I've had a variety of positions, mostly
 6 as chief of research unit of one sort or another.
 7 Q And am I correct, Doctor, that you have a
 8 bachelor's degree in psychology from Hiram College,
 9 and a Ph.D. in psychology from Ohio University?
 10 A Yes.
 11 Q And did you get your Ph.D. in about 1974?
 12 A 1974, correct.
 13 Q And has your entire working career been
 14 with the Army Research Institute?
 15 A No, not entirely. I did some teaching
 16 before I came to the Army Research Institute at
 17 Seaton Hill College now Seaton Hill University, and
 18 also one of the branch campuses of the University
 19 of Pittsburgh.
 20 Q Okay. But for the last 35 years you've
 21 been with the Army Research Institute?
 22 A I have.

Page 8

1 Q And you have been designated by the
 2 Department of Defense to testify here today on its
 3 behalf on one particular subject.
 4 Is that your understanding?
 5 MR. GARDNER: Objection, mischaracterizes
 6 the designation.
 7 Just to be clear, Dan, he is designated
 8 on behalf of the United States, including Secretary
 9 Gates.
 10 MR. WOODS: Okay. Very good. Even
 11 better.
 12 BY MR. WOODS:
 13 Q So you're the person designated on behalf
 14 of the entire United States of America to speak
 15 today on this topic, both reports, studies, or
 16 analyses conducted by or on behalf of Defendants
 17 related to the experience of the armed forces of
 18 nations other than the United States with military
 19 service by individuals with a homosexual
 20 orientation or by individuals who engage in
 21 homosexual conduct, including the consideration or
 22 evaluation of such service by those foreign states

Page 9

1 or their armed forces.
 2 Do you understand that?
 3 A Pretty much, yes.
 4 Q Okay. And what, Dr. Gade, did you do to
 5 prepare for coming to testify on that topic today?
 6 A I went back and reread many of the things
 7 that I wrote back 16 years ago, primarily.
 8 Q Okay. And what writings did you review?
 9 A The two book chapters, magazine article
 10 that I wrote; also a research study that was
 11 primarily conducted by Gwyn Harries-Jenkins in the
 12 UK in which I participated, read the results of
 13 that; looked at parts of the RAND study, which we
 14 also reviewed for the book chapters that we wrote;
 15 some letters that had transpired between myself--
 16 or a letter that had transpired between myself and
 17 Frank Pinch about ten years ago. And I think
 18 that's about it.
 19 Q Okay. And can you identify for us please
 20 the two book chapters you mentioned?
 21 A There was one in a book called Out in
 22 Force, by Craig Herek. And I forget who the other

Page 10	Page 12
<p>1 editors were. And I -- we had a book chapter in</p> <p>2 that, and then also one a book by Scott -- and I</p> <p>3 can't remember the other -- about gays in the</p> <p>4 military.</p> <p>5 Q And you say that -- I think you said "we"</p> <p>6 wrote a chapter in the Out in Force book.</p> <p>7 Who were the other people you --</p> <p>8 A The co-authors on both of those book</p> <p>9 chapters with me were Dr. David Segal, professor of</p> <p>10 sociology at the University of Maryland and</p> <p>11 Dr. Edgar Johnson, who has since retired but was at</p> <p>12 the time the technical director of the Army</p> <p>13 Research Institute.</p> <p>14 Q And what was the title of the chapter</p> <p>15 that you and these other individuals authored?</p> <p>16 A It was basically -- I don't remember the</p> <p>17 exact titles offhand. They were basically about</p> <p>18 foreign military experiences with gays in the</p> <p>19 military.</p> <p>20 Q Were the two chapters the same in both</p> <p>21 books?</p> <p>22 A No. There were a lot of similarities.</p>	<p>1 policy about homosexuals --</p> <p>2 A No.</p> <p>3 Q -- in the military?</p> <p>4 A This was a study that we had asked Gwyn</p> <p>5 Harries-Jenkins at the University of Hull to put</p> <p>6 together for us to look at several countries'</p> <p>7 research programs that would have some bearing on</p> <p>8 this topic.</p> <p>9 Q Okay. And what was the date of the</p> <p>10 study?</p> <p>11 A The actual publication of that study</p> <p>12 didn't get published until 1996. But the actual</p> <p>13 study itself was conducted in April and July of</p> <p>14 1993.</p> <p>15 Q Okay. And I think you mentioned that you</p> <p>16 participated in that UK research study?</p> <p>17 A Yes.</p> <p>18 Q In what way did you participate in it?</p> <p>19 A I was there when the discussions were</p> <p>20 going on, and was able to ask questions, and also</p> <p>21 put together summaries for the Army deputy chief of</p> <p>22 staff of personnel of what the meeting had</p>
Page 11	Page 13
<p>1 Q All right. And what year or years were</p> <p>2 those book chapters published?</p> <p>3 A I believe the Out in Force book was</p> <p>4 published in '94, 1994, and similar date for the</p> <p>5 book in the Scott book, the book chapter in the</p> <p>6 Scott book.</p> <p>7 Q You mentioned a magazine article.</p> <p>8 Is that a magazine article that you</p> <p>9 authored?</p> <p>10 A Again, with the same co-authors, in a</p> <p>11 magazine called Transactions, again about the same</p> <p>12 date.</p> <p>13 Q Same subject matter?</p> <p>14 A Yes. More of a magazine treatment of it</p> <p>15 than technical.</p> <p>16 Q And then you mentioned a UK research</p> <p>17 study?</p> <p>18 A Yes.</p> <p>19 Q What was the title of that study, if you</p> <p>20 recall?</p> <p>21 A I don't recall just offhand.</p> <p>22 Q And was the subject of that study the UK</p>	<p>1 contained.</p> <p>2 Q And commissioned this particular study?</p> <p>3 A It's my understanding and my recollection</p> <p>4 that it was the deputy chief of staff of personnel</p> <p>5 had asked our technical director to do this.</p> <p>6 Q So the Department of Defense commissioned</p> <p>7 this study?</p> <p>8 A Well, through the Army, yes.</p> <p>9 Q All right. And you mentioned that you</p> <p>10 reviewed part of the RAND study in preparation of</p> <p>11 your testimony.</p> <p>12 Is that --</p> <p>13 A Yes.</p> <p>14 Q -- the 1993 RAND study?</p> <p>15 A Correct.</p> <p>16 Q I take it that you reviewed the portion</p> <p>17 of that study on foreign militaries?</p> <p>18 A That's correct.</p> <p>19 Q And then you mentioned that you reviewed</p> <p>20 some letters between yourself and a Frank Pinch?</p> <p>21 A Yes. Colonel Pinch was then, or at the</p> <p>22 time -- this was in 2000 -- Colonel Pinch at that</p>

Page 14

1 time was -- had just retired from the Canadian
 2 forces. And he was the chief behavioral scientist
 3 for the Canadian Forces.
 4 And he had done a study for us, which I
 5 forgot to mention also that I looked at, which was
 6 about the Canadian -- recent -- then-recent
 7 dropping of the ban against homosexuals in the
 8 military in Canada. He had done a major review of
 9 the background of that for us as well. And I got a
 10 letter from him in -- or an e-mail I guess it was,
 11 in 2000.
 12 Q All right. So another of the documents
 13 you reviewed was a study about the Canadian forces
 14 that was prepared for the United States Department
 15 of Defense; is that right?
 16 A For the Army Research Institute, yes.
 17 Q And when did that study come out?
 18 A That was also I think about 1996.
 19 Q Okay.
 20 A Was the actual publication date. Of
 21 course we got the information earlier.
 22 Q And then your communications with Colonel

Page 15

1 Pinch --
 2 A Yes.
 3 Q -- was about 2000?
 4 A Yes.
 5 Q Were, what, to update the situation in
 6 Canada?
 7 A Yes. I asked him for an update. I'd
 8 sent him an e-mail for an update. I had been
 9 invited to come to a conference in San Francisco.
 10 Q Okay. All right. Any other documents
 11 that you reviewed in preparation for your testimony
 12 here today?
 13 A Let's see. Oh, the Don't Ask, Don't Tell
 14 book that came out from Aaron Belkin, which was
 15 basically transcripts of the meeting that was held
 16 in 2000. I think this came out in 2003 or 2004.
 17 So I did look at that.
 18 Q Okay. And besides reviewing these
 19 written materials, did you speak to anyone in
 20 preparation for your deposition here today?
 21 A I had asked colleagues in the Air Force
 22 and the Navy if anything had been going on that

Page 16

1 they were aware of with respect to foreign military
 2 service issues since the 1990s. And those are the
 3 only folks I talked to.
 4 Q And who did you talk to from the Air
 5 Force?
 6 A The Air Force was Terry Lyons. He's the
 7 head of AFOSR, the office of research; and also
 8 talked to John Tangney, who is the head of ONR
 9 basic research.
 10 Q And who did you speak to from the Navy?
 11 A That's ONR.
 12 Q Okay. And --
 13 A Office of Navy --
 14 Q -- ONR --
 15 A -- yeah, Office of Naval Research.
 16 Sorry.
 17 Q And what did the Air Force individual
 18 tell you about anything new since the '90s?
 19 A They said that they were not aware of
 20 anything new.
 21 Q And what did the person from the Navy
 22 tell you?

Page 17

1 A Same thing, they were not aware of
 2 anything new.
 3 Q Are there any studies underway today by
 4 the United States military about the experience of
 5 foreign militaries and homosexual service?
 6 A I'm not aware of any directly. I think
 7 there may be one underway directed by the Secretary
 8 of Defense, but as part of another set of studies
 9 that are being done. I don't know of any of the
 10 details of that.
 11 Q Has anyone contacted you about that
 12 study?
 13 A No. No.
 14 Q And so when you say there may be one, can
 15 you --
 16 A I've seen a letter with the -- from
 17 Secretary Gates to I believe it was the head of the
 18 Army in Europe, directing them to begin to look at
 19 issues surrounding integration of homosexuals into
 20 the military. I don't remember the details of the
 21 letter.
 22 Q And when was this letter sent?

Page 18

1 A I believe it was sent in March.
 2 Q March of this year?
 3 A Yes.
 4 Q Okay.
 5 A That's the date I recall being on it.
 6 Q Are you aware of any reports or studies
 7 conducted on behalf of the United States besides
 8 the ones that you reviewed in preparation for your
 9 deposition today?
 10 A I'm aware that at the time, in 1992 I
 11 believe it was, the Air Force did a survey of
 12 service members, but not -- not foreign militaries,
 13 so no.
 14 Q Are you aware of any GAO studies of
 15 foreign militaries?
 16 A Oh, yes, yes.
 17 Q All right. And --
 18 A The GAO people met with us when they were
 19 doing -- they did something very similar to what
 20 RAND did, we did, back in the 1993 time frame.
 21 Q And considering the experience of foreign
 22 militaries, in your judgment what other countries'

Page 19

1 militaries are most comparable to ours?
 2 A Well, that's hard to say. There's
 3 several levels in which they can be comparable. I
 4 think probably in terms of combat experience and
 5 things, the Israelis' closest to us. In terms of
 6 culture and society, I suspect the UK and Canada
 7 are closest to us.
 8 Q Do we have foreign militaries with whom
 9 we form training exercises together?
 10 A Yes.
 11 Q And which countries do we perform
 12 training exercises together?
 13 A I am not aware of which ones in
 14 particular that we do. I can assume certain things
 15 but I don't know directly...
 16 Q And do we have U.S. officers study at
 17 colleges of other foreign countries' militaries?
 18 MR. GARDNER: Objection, beyond the scope
 19 of topic six of the Rule 30(b)(6) deposition.
 20 You can answer if you know.
 21 BY MR. WOODS:
 22 Q Go ahead.

Page 20

1 A I -- I -- I don't know.
 2 Q Okay. Are you aware of something called
 3 the technical cooperation program?
 4 A Yes.
 5 Q And is that sometimes abbreviated as
 6 TTCP?
 7 A It is.
 8 Q And can you tell us what the TTCP is,
 9 please?
 10 A That, as what I know about it, is the --
 11 a group of scientists that get together from the
 12 English-speaking countries to cooperate on research
 13 programs.
 14 Q And they are scientists doing research on
 15 military-related topics?
 16 A Yes.
 17 Q Are they social scientists?
 18 A Yes. As far as I know, yes.
 19 Q And when you say the English-speaking
 20 countries, do you mean to include the United
 21 States, the UK, Canada, Australia, and New Zealand?
 22 MR. GARDNER: Objection, compound.

Page 21

1 BY MR. WOODS:
 2 Q I'm sorry, you can answer the question.
 3 Go ahead.
 4 A I don't know. Can I talk to my --
 5 Q Yeah, you're supposed to answer.
 6 A Oh.
 7 Q You're not allowed to talk to your
 8 attorney while there's a question pending.
 9 A I see.
 10 Q Those are the rules.
 11 A Okay. All right.
 12 Q He made an objection for the record.
 13 A I got you.
 14 Q The judge can decide that objection later
 15 on. But in the meantime, you have to answer my
 16 question.
 17 A Okay. As far as I know that's true, yes.
 18 Q Okay. And have you ever participated in
 19 the TTCP program?
 20 A I have not.
 21 Q Do you know if it has annual meetings?
 22 A Yes.

Page 22

1 Q You know that it does?
 2 A Yes.
 3 Q Have you ever been to any of the annual
 4 meetings?
 5 A I have not.
 6 Q Are you aware of something called an
 7 Inter-University Seminar on Armed Forces and
 8 Society?
 9 A Yes.
 10 Q And what is that?
 11 A That's a group of social scientists, a
 12 private organization.
 13 Q And what countries participate in that
 14 organization?
 15 A Oh, my gosh. Lots of them. I don't know
 16 all of the countries that participate.
 17 Q Approximately how many? Five? Ten?
 18 Twenty?
 19 A I don't know. Many.
 20 Q Okay.
 21 A Eastern Europeans, everywhere.
 22 Q Okay. And what is your understanding of

Page 23

1 the purpose of that organization?
 2 A It's to share common research interest in
 3 military services.
 4 Q And have you --
 5 A Aspects of the military services.
 6 Q And are there annual meetings of that
 7 organization?
 8 A Biannual.
 9 Q Have you attended any of those meetings?
 10 A I have.
 11 Q How many occasions?
 12 A Oh, probably ten.
 13 Q So you're a pretty regular participant?
 14 A I have been until just recently, yes.
 15 Q And has the subject of homosexual service
 16 come up at any of the meetings of the
 17 inter-university's seminar on armed forces in
 18 society?
 19 A It has.
 20 Q On how many occasions?
 21 A I can only recall one offhand, one annual
 22 meeting, or one biannual meeting, right around the

Page 24

1 time that the discussion was going on with
 2 President Clinton lifting the ban.
 3 Q So around 1993?
 4 A Yeah. Yes.
 5 Q Do you recall who spoke on the subject at
 6 that time?
 7 A There were several people. There were
 8 several sessions that were conducted on this.
 9 Q And were there written materials at that
 10 meeting on that subject?
 11 A Yes.
 12 Q Do you still have them?
 13 A No, I don't.
 14 Q Did you speak on that subject at that
 15 biannual meeting?
 16 A I don't believe so, no.
 17 Q Do you recall the names of any of the
 18 people who did speak?
 19 A I think David Segal may have. I don't
 20 remember the others.
 21 Q And who is David Segal?
 22 A David Segal is the -- is a professor of

Page 25

1 psychology at the University of Maryland.
 2 Q And do you recall what Dr. Segal said?
 3 A No.
 4 Q Okay. Have you read any of the reports
 5 on foreign militaries produced by the Palm Center?
 6 MR. GARDNER: Objection, beyond the scope
 7 of the Rule 30(b)(6) deposition topic six.
 8 THE WITNESS: I have glanced at them. I
 9 have not read them fully.
 10 BY MR. WOODS:
 11 Q Okay. Do you know if anybody else at the
 12 Department of Defense has studied them more
 13 carefully than you?
 14 MR. GARDNER: Same objection.
 15 THE WITNESS: No, I don't know.
 16 BY MR. WOODS:
 17 Q One of the documents that you mentioned
 18 earlier was the GAO report. So I'll show you the
 19 1993 GAO report. It has been previously marked as
 20 Defendants' Exhibit 7.
 21 (Deposition Exhibit No. 68
 22 marked for identification.)

LR-
PT

Page 26

1 THE WITNESS: I've read this in the past.
 2 But this is not one of the ones I mentioned that I
 3 reviewed.
 4 BY MR. WOODS:
 5 Q You mentioned that you were aware of
 6 it --
 7 A Yes.
 8 Q -- but you didn't --
 9 A That's correct.
 10 Q -- say that you read it in preparation of
 11 your deposition?
 12 A That's correct.
 13 Q All right. But you are familiar with
 14 this GAO report, aren't you?
 15 A I am.
 16 Q And it was prepared in a response to
 17 request by Senator Warner; is that right?
 18 A That's correct.
 19 Q And did you participate with the GAO in
 20 the preparation of this report?
 21 A No, I did not participate in the
 22 preparation of it. We did have discussions about

Page 27

1 our mutual research in this particular area.
 2 Q Okay. And when you say discussions, can
 3 you explain what you did when contacted by the GAO?
 4 A I discussed it with the person who was
 5 heading up the study. We talked about our various
 6 approaches on this and who we had talked to.
 7 Q Okay. And how many discussions did you,
 8 personally, have with people from the GAO who were
 9 working on this report?
 10 A I only recall one.
 11 Q And who did you talk to?
 12 A I don't remember the woman's name who was
 13 the head of that, but I think she's in the report.
 14 Q Maybe we'll see it as we go through.
 15 A Yeah.
 16 Q Was this GAO report a sample of 29
 17 countries?
 18 A My recollection was yes, they started out
 19 with that, but they wound up with four.
 20 Q And the four countries they wound up with
 21 were Canada, Germany, Isreal, and Sweden?
 22 A That's correct.

Page 28

1 Q And do you have any understanding as to
 2 why the report ended up with those four countries?
 3 A My recollection was that they had
 4 difficulty getting data from a lot of the countries
 5 that they wanted to get. And some of them didn't
 6 fit the profile that they were looking for.
 7 Q And was it correct that at the time of
 8 this report, those four countries had policies of
 9 not discriminating against homosexuals in the
 10 military?
 11 A Sort of.
 12 Q Okay. Can you explain that?
 13 A Germany was a different case. There
 14 were, as I recall, no policy against homosexuals
 15 serving. But the actual practices differed from
 16 that. For example, as I recall, the -- in the
 17 German army, if people became known homosexuals
 18 after they had enlisted, they were not put in
 19 leadership kinds of positions, for example. And
 20 there were some other differences as well.
 21 Q Okay. And on page 3 of the GAO report
 22 there's a heading, Results in brief.

Page 29

1 Do you see that?
 2 A Yes.
 3 Q And at the end of the second paragraph of
 4 that section there is a sentence that says, quote,
 5 Most military -- I'm sorry.
 6 The first sentence of the third
 7 paragraph, quote, Military officials in all four
 8 countries said the presence of homosexuals in the
 9 military is not an issue and has not created
 10 problems in the functioning of military units.
 11 Do you see that?
 12 A Yes.
 13 Q Okay. And when you received this report
 14 in June 1993, were you aware that that was the
 15 conclusion of the GAO report?
 16 A I'm not sure I remember exactly. But
 17 yes, I probably was aware then, yes.
 18 Q Okay. And did anybody in the Defense
 19 Department study the GAO report when it was
 20 received?
 21 MR. GARDNER: Objection, vague.
 22 THE WITNESS: I don't know that.

IR-PT

Page 30

1 BY MR. WOODS:
 2 Q Okay. Did you study it?
 3 A Yes.
 4 Q Okay. And did you agree or disagree with
 5 the results of the GAO study?
 6 MR. GARDNER: Objection, beyond the scope
 7 of the Rule 30(b)(6) deposition.
 8 THE WITNESS: There were certain aspects
 9 of it I agreed with and others not.
 10 BY MR. WOODS:
 11 Q Okay. And --
 12 A And I think we outlined those in the
 13 chapter that we did. We did discuss the GAO
 14 report.
 15 Q All right. And can you tell me which
 16 parts you recall agreeing with, first?
 17 A Well, I'm sure this sentence would be one
 18 that we would have agreed with, because the foreign
 19 militaries didn't feel that this was a problem,
 20 because they -- they either didn't deal with it or
 21 they dealt with it in practices that were different
 22 from the policies.

Page 31

1 Q Okay. So you, at the time you received
 2 this GAO report, agreed with the sentence I just
 3 read, which is that, quote, Military officials in
 4 all four countries said that the presence of
 5 homosexuals in the military is not an issue and has
 6 not created problems in the functioning of military
 7 units, correct?
 8 A Yes, I would agree.
 9 Q Okay.
 10 A Those officials would say that, yes.
 11 Q Did you have any reason to disagree with
 12 what the officials had said?
 13 A In a way, yes. Because when we looked at
 14 practices versus the actual policy, there are often
 15 differences. The example of which I mentioned with
 16 respect to the German military, in which treatment
 17 of gays was different in -- in the way that they
 18 were treated. But it wasn't a policy kind of
 19 thing.
 20 Q Anything else that was different?
 21 A Well, in some of the countries as well,
 22 folks could use the fact that they were gay to not

Page 32

1 serve in the military if they would testify to the
 2 effect that their homosexuality would interfere
 3 with their service as a member of the military.
 4 Q Was this GAO report provided to Congress
 5 as it was debating what became Don't Ask, Don't
 6 Tell?
 7 MR. GARDNER: Objection, beyond the scope
 8 of the Rule 30(b)(6) topic six.
 9 THE WITNESS: I don't know.
 10 BY MR. WOODS:
 11 Q Was it provided to the military working
 12 group that was studying what became Don't Ask,
 13 Don't Tell?
 14 MR. GARDNER: Objection, beyond the scope
 15 of topic six of the Rule 30(b)(6) deposition.
 16 You can answer if you know.
 17 THE WITNESS: Again, I don't know.
 18 BY MR. WOODS:
 19 Q I'm going to show you what I'll mark as
 20 Exhibit 69, which is a document called, Comparative
 21 International Military Personnel Policies, dated
 22 May 1993.

Page 33

1 (Deposition Exhibit No. 69
 2 marked for identification.)
 3 BY MR. WOODS:
 4 Q Dr. Gade, is this one of the documents
 5 you reviewed in preparation for your deposition?
 6 A I did not review this one. I reviewed a
 7 later research study that incorporated things in
 8 here.
 9 Q All right. So can you -- are you
 10 familiar with this study that I've --
 11 A Yes.
 12 Q -- shown you as Exhibit 69?
 13 A Yeah.
 14 Q And can you tell me who commissioned this
 15 study?
 16 A To the best of my knowledge it was the
 17 deputy chief of staff of personnel of the U.S.
 18 Army.
 19 Q Okay. And did you participate in the
 20 process of -- the preparation of this study?
 21 A Yes.
 22 Q And to what extent did you, personally,

Page 34

1 participate?

2 A Again, I was present at the meetings in

3 which the discussions were held with respect to the

4 issues in this, and review of what the various

5 scientists from the participating countries

6 produced, both the April and the July session.

7 Q All right. And what was the purpose of

8 preparing or having -- strike that.

9 What was the purpose of commissioning

10 this report?

11 A To the best of my knowledge, it was

12 commissioned to -- in anticipation of the removal

13 of the ban, and looking at experiences of foreign

14 militaries and how we might use those experiences

15 to -- to integrate homosexuals in the military if

16 the ban were lifted.

17 Q Do you know the author or the editor of

18 this report?

19 A Gwyn Harries-Jenkins, yes.

20 Q And did you have discussions with her

21 about this report?

22 A Him.

Page 35

1 Q I'm sorry, him.

2 With him about the report?

3 A Yes.

4 Q And did you agree with the findings and

5 conclusions of this report?

6 A By and large, yes.

7 Q Was there anything that you recall

8 disagreeing with from this report?

9 A I don't think we disagreed with anything.

10 We probably had additional things that we -- we

11 developed and were published in those book chapters

12 that I referred to earlier.

13 Q And you mentioned another report.

14 This report prompted desire to have

15 further research done?

16 A No. The -- this one, you see the date is

17 May 1993. I think this was only from the April

18 meeting. There was another one that was published

19 in '96 that was -- that incorporated the additional

20 work we did in July of '93, and also incorporated

21 the individual papers that each of the scientists

22 from the countries involved had produced.

Page 36

1 Q So you mentioned --

2 A This was more or less an organizing

3 meeting. And that's what -- as my recollection is,

4 that's what this report's about.

5 Q All right. So you mentioned an April

6 1993 meeting?

7 A Yes.

8 Q And were you at this meeting?

9 A I was.

10 Q And who else was at this meeting?

11 A Well, of course, Gwyn Harries-Jenkins put

12 this together; Dr. David Segal; Dr. Edgar Johnson,

13 who again was -- these were my co-authors on the

14 book chapters -- were at that meeting; and then

15 also the scientists who were doing the reports for

16 us.

17 Q And who was in charge of this meeting?

18 A Gwyn Harries-Jenkins.

19 Q And what was the purpose of the meeting?

20 A The purpose of the meeting again was to

21 get together with countries with varying experience

22 with homosexuals in the military to see how they

Page 37

1 were dealing with them and how the United States

2 might use that material to see how the United

3 States might deal with it should the ban be lifted.

4 Q Okay. And was there to be sort of a

5 series of studies about that?

6 A This is the only one I know about.

7 Q Okay. All right. And so after this

8 report was completed in May 1993, was there another

9 meeting of the same group?

10 A Uh-huh. Yes. In July 1993.

11 Q Okay. Was it the same group of people in

12 attendance?

13 A Yes.

14 Q And what happened?

15 A Except Edgar Johnson was not at that

16 meeting.

17 Q And what happened at that meeting?

18 A This initial meeting in April set out the

19 kinds of things we asked the visiting scien -- or

20 the expert scientists from each of the country to

21 do. They came back with fuller reports.

22 Q Okay. And when did they come back with

Page 38

1 fuller reports?
 2 A In July of '93.
 3 Q And how many reports came back in July of
 4 1993?
 5 A My recollection is there were seven.
 6 Q And was that one report for each of seven
 7 countries?
 8 A Yes.
 9 Q And which seven countries?
 10 A Well, let me take that back. There was
 11 one that was -- that incorporated all of
 12 Scandinavia. It was really done by a Danish
 13 scientist.
 14 Q Okay.
 15 A So that was one of the seven.
 16 Q All right. And what were the others?
 17 A The UK, the Netherlands, France, Italy,
 18 Germany, Belgium. My missing --
 19 Q That's seven.
 20 A That's it? Okay.
 21 Q And why were these European countries
 22 selected?

Page 39

1 A We asked Gwyn Harries-Jenkins to pull
 2 together expert scientists that he knew, social
 3 scientists that he knew from each of those
 4 countries that could speak to the issue, basically
 5 to try to look at countries in various stages or
 6 various approaches to the issue of gays in the
 7 military.
 8 Q All right. I guess what I'm trying to
 9 find out is why those Europe-only countries, and
 10 not Canada, Australia, or some other country?
 11 A We did Canada separately. We asked Frank
 12 Pinch, as I mentioned earlier, to do a separate
 13 report on Canada. Part of this was what was going
 14 on at the time. Things were moving very fast. And
 15 so we were trying to get together as much good
 16 information as we could in a very short period of
 17 time. Same thing that was going on with the GAO
 18 and RAND.
 19 Q And do you recall the results of these
 20 seven reports?
 21 MR. GARDNER: Objection, compound.
 22 THE WITNESS: Basically, yes.

Page 40

1 BY MR. WOODS:
 2 Q Okay. And so with respect to the report
 3 on the Scandinavian countries, what do you recall
 4 being the results of the report?
 5 A My recollection is they basically -- that
 6 they didn't pay attention to the issue of sexual
 7 orientation vis-à-vis their military, and although
 8 at least in one of the Scandinavian countries
 9 people could avoid military service if they felt
 10 that their sexual orientation was going to
 11 interfere with their ability to service. That's
 12 basically it.
 13 Q And what do you recall to be the result
 14 of the report on the UK military?
 15 A They were in a similar position to what
 16 the United States was in, in that there was a ban
 17 on homosexuals serving in the military.
 18 Q And at that time, was there effort
 19 underway to change it in the UK?
 20 A There were -- yes. There were, as I
 21 recall, legal issues to try to do that, yes.
 22 Q And, subsequently, you understand that

Page 41

1 the UK has lifted its ban?
 2 A That's correct.
 3 Q And are you aware of any studies that
 4 have been performed at the request of the United
 5 States Government of its units about the impact of
 6 that change in the UK?
 7 A No, I am not.
 8 Q Have you seen any reports prepared by
 9 anybody about the effect of the elimination of the
 10 ban on homosexual service in the UK?
 11 MR. GARDNER: Objection, beyond the scope
 12 of the Rule 30(b)(6) deposition topic number six.
 13 THE WITNESS: Not directly. I
 14 participated in meetings where people from the UK
 15 were there and discussed it, yes.
 16 BY MR. WOODS:
 17 Q And were those meetings of the IUS?
 18 A No.
 19 Q Other meetings?
 20 A Yes.
 21 Q Okay. And from the discussion that you
 22 heard, what was --

IR-PT

Page 42

1 A Well, at least --

2 Q -- said about it?

3 A -- at least I don't think it was at IUS.

4 I don't recall that being at IUS.

5 Q Okay. But from whatever discussion --

6 A Yeah.

7 Q -- you heard, whether it was at IUS or

8 somewhere else, what do you hear about the affect

9 of lifting the ban on the UK military?

10 MR. GARDNER: Objection, beyond the scope

11 of topic six, the Rule 30(b)(6) deposition.

12 Objection, hearsay.

13 You can answer.

14 THE WITNESS: I can answer?

15 MR. GARDNER: You can answer if you know.

16 THE WITNESS: Okay.

17 As far as I know, it was very similar to

18 what Canada had experienced.

19 BY MR. WOODS:

20 Q Which was what?

21 A Which was the ban was lifted, and there

22 were no major negative impacts.

Page 43

1 Q Okay. And going back to the seven

2 countries' reports, or seven reports rather, the

3 Netherlands' report, what do you recall the result

4 of that report to be?

5 A The Netherlands was the most liberal

6 country that we looked at. They had not only no

7 ban on homosexuals serving in the military, they

8 actually had an active program to assist

9 homosexuals serving in the military.

10 Q Okay. And what do you recall about the

11 report -- and I guess all these reports date back

12 to 1993 or so, right?

13 A That's correct.

14 Q -- the 1993 report about France?

15 A France was one of those countries that

16 didn't pay attention to the sexual orientation

17 issue.

18 Q And what do you recall about the 1993

19 report about the Italian military?

20 A The Italian military was very similar to

21 the French, in that they did not pay attention to

22 sexual orientation, did not ask about it, did not

Page 44

1 seem to feel that that was a problem.

2 Q And what do you recall about the 1993

3 report about the German military?

4 A That was more complicated. The German

5 policies were not to ask questions at enlistment.

6 But if people brought the topic up at enlistment,

7 they would avoid enlistment -- or conscription in

8 the case of Germany -- by saying that

9 homosexuality -- their homosexuality would

10 interfere with military service.

11 Also, as I mentioned earlier, the

12 practices were such that if people were discovered

13 to be homosexuals after they were already in the

14 military, they didn't necessarily throw them out;

15 but they wouldn't put them in leadership positions,

16 for example.

17 Q And what do you recall about the 1993

18 report on the Belgium military?

19 A The Belgians, as I recall from that,

20 again were another country that didn't pay

21 attention to that.

22 Q All right. Did any of these seven

Page 45

1 reports conclude that a ban on homosexuals was

2 necessary for military effectiveness?

3 A Not that I recall, no.

4 Q And after you received these seven

5 reports what, if anything, did you do with them?

6 A We summarized the results and reported

7 them to the deputy chief of staff of personnel.

8 And, again, we published them as book chapters,

9 more detailed, in a more popular type of magazine

10 article.

11 Q And when you say you reported the summary

12 of these reports to the deputy chief of -- for

13 personnel --

14 A Deputy chief of staff for personnel.

15 Q Sorry.

16 And who was that?

17 A I don't recall who it was at the time.

18 Q And do you know what that person did with

19 the summary of the reports?

20 A No, I don't.

21 Q Did you author any of the seven reports?

22 A No.

Page 46

1 Q Now, in addition to these seven reports
 2 that you mentioned, there was also a separate
 3 report on the Canadian experience?
 4 A Correct.
 5 Q And when was that report done?
 6 A That was done right about the same time
 7 frame.
 8 Q All right. Let me show you what I'll
 9 mark as the next exhibit, which is 70.
 10 (Deposition Exhibit No. 70
 11 marked for identification).
 12 BY MR. WOODS:
 13 Q All right. Is this the Canadian report
 14 that you mentioned?
 15 A Yes, it is.
 16 Q And this was commissioned by the U.S.
 17 Army Research Institute?
 18 A It was.
 19 Q And this was done by Dr. Franklin Pinch?
 20 A Correct.
 21 Q And can you just tell me who is
 22 Dr. Franklin Pinch?

Page 47

1 A At the time, I think he had just
 2 retired -- no, actually he was still -- he was the
 3 chief social scientist for the Canadian forces.
 4 Q Okay. And on the second page of this
 5 document it says the technical review was provided
 6 by several people, including yourself?
 7 A Correct.
 8 Q What does that mean when it says that you
 9 provided technical review?
 10 A We reviewed the report and -- to make
 11 sure that the results reported were in good form,
 12 good scientific perspective.
 13 Q Okay. And what do you recall as the
 14 result of this report?
 15 A The bottom-line was it was a very good
 16 review of a history and the background of the
 17 social historical context in particular in which a
 18 lifting of the gay ban in the Canadian forces
 19 occurred, and some of the initial results of doing
 20 that.
 21 Q And what -- and when you say the results
 22 of lifting the ban, were the results that there had

Page 48

1 been no noticeable impact on recruitment,
 2 employment, attrition, retention, cohesion, or
 3 morale?
 4 MR. GARDNER: Objection, compound.
 5 THE WITNESS: Yes.
 6 BY MR. WOODS:
 7 Q And there had been, I take it,
 8 predictions that there would be dire consequences
 9 of lifting the ban?
 10 A Well, that was part of the survey work
 11 that had been done, which was somewhat flawed.
 12 There were three surveys that were done of service
 13 members that indicated that there would be people
 14 who would leave the military service who would
 15 perhaps be upset enough to create disturbances if
 16 the ban were lifted. And none of that happened.
 17 Q And so if you look at the page labeled --
 18 or numbered Roman numeral VII.
 19 A. [Witness examined document]. Okay.
 20 Q This is a -- it's part of the executive
 21 summary of this lengthy report; is that right?
 22 A Yes.

Page 49

1 Q And under the head findings, the second
 2 paragraph says as follows.
 3 Quote, The impact of the policy change
 4 has been minimal. Negative consequences predicted
 5 in the area of recruitment, employment, attrition,
 6 retention, and cohesion and morale have not
 7 occurred in the six-month period since revocation
 8 of the exclusionary policy, end quote.
 9 That was the finding of this report,
 10 wasn't it?
 11 A It is.
 12 Q Do you have any reason to disagree with
 13 that?
 14 A No.
 15 Q Okay. And I think you already mentioned
 16 this.
 17 But after this report was done in 1994,
 18 at a later point in time you followed up with
 19 Dr. Pinch to see if there had been any more recent
 20 information available?
 21 A Correct.
 22 Q Okay. Before I do that, let me show you

Page 50

1 what I'll mark as Exhibit 71 next.
 2 (Deposition Exhibit No. 71
 3 marked for identification.)
 4 THE WITNESS: [Witness examined
 5 document].
 6 BY MR. WOODS:
 7 Q Have you had a chance to look at Exhibit
 8 71, Dr. Gade?
 9 A Yes.
 10 Q Do you recognize this document?
 11 A Yes.
 12 Q All right. And is this a memorandum that
 13 you prepared and sent to Bob Wisher on June 28,
 14 1993?
 15 A Yes.
 16 Q And who is Bob Wisher?
 17 A Bob Wisher was apparently the person who
 18 was -- and I don't recall his exact -- I think he
 19 was the contracting officers representative for the
 20 contract with Frank Pinch.
 21 Q And what does that mean in English,
 22 contracting officers representative?

Page 51

1 A It means in English that he's not the
 2 contracting officer, but he's the technical person
 3 who knows the details of the contract purpose, and
 4 functions as a representative for a contracting
 5 officer in making decisions about contracting
 6 issues.
 7 Q Okay.
 8 A But he's more technical than he is a
 9 contracting -- a legal contracting person.
 10 Q Okay. And Exhibit 71 is your comment on
 11 Exhibit 70, right?
 12 A Yes.
 13 Q And would you describe Dr. Pinch's report
 14 as a very well-written report, correct?
 15 A Correct.
 16 Q All right. Now, I'm not sure I have -- I
 17 think you mentioned what was a letter between you
 18 and Dr. Pinch, but I did find --
 19 A It's an e-mail, yeah.
 20 Q -- I did find some e-mails, yes. Thank
 21 you.
 22 MR. WOODS: So let me just mark these as

Page 52

1 the next exhibit, which will be 72.
 2 (Deposition Exhibit No. 72
 3 marked for identification.)
 4 THE WITNESS: [Witness examined
 5 document].
 6 BY MR. WOODS:
 7 Q All right. Are these the e-mails that
 8 you exchanged with Dr. Pinch to follow up on the
 9 1994 work he had done?
 10 A Yes4.
 11 Q And these e-mails began in October 26,
 12 2000, through November 1, 2000; is that right?
 13 A That's right.
 14 Q And why at that particular point in time,
 15 in October and November of 2000, were you asking
 16 Dr. Pinch to follow up on research?
 17 A I think I mentioned in the e-mail. I had
 18 been asked to come and be part of a group to talk
 19 about the Don't Ask, Don't Tell policy and to talk
 20 about the research that we'd done in foreign
 21 militaries at a meeting the Commonwealth Club in
 22 San Francisco in December of that year.

Page 53

1 Q All right. So when this refers to you,
 2 David Segal, Charlie Moskos attending a conference
 3 about gays in the military in early December in
 4 California that was about a conference that was
 5 held at the Commonwealth Club --
 6 A Yes.
 7 Q -- in San Francisco?
 8 A Yes.
 9 Q And did you prepare any written materials
 10 for that conference?
 11 A No. I gave a talk. I had written
 12 materials that I talked from, but they were notes.
 13 Q Okay. And what was the subject of your
 14 talk?
 15 A Experience in foreign militaries.
 16 Q And what was the theme of the
 17 presentation you gave at the Commonwealth Club in
 18 San Francisco in December of 2000 on that subject?
 19 MR. GARDNER: Objection, vague.
 20 THE WITNESS: The theme, the idea was to
 21 talk about how or if the experience of foreign
 22 militaries could be useful in the case of the

14 (Pages 50 to 53)

IR-PE

1 United States.
 2 BY MR. WOODS:
 3 Q Well, did you describe the experience of
 4 foreign militaries lifting their bans as a
 5 non-event?
 6 A Yes, in part.
 7 Q And when you say "in part," why do you
 8 qualify the answer that way?
 9 A Well, because there -- there are some
 10 qualifications that I think need to be made when
 11 the issue was trying to apply it to the United
 12 States.
 13 Q What are those qualifications?
 14 A The --
 15 Q I'm sorry. Let me back up.
 16 What were the qualifications you
 17 expressed at this meeting in San Francisco in
 18 December of 2000?
 19 A Huh. My recollection was that what I
 20 said were two things: That as long as the American
 21 leadership followed some of the lessons that the
 22 foreign militaries like Canada had done when they

1 Q And then when you say that as a
 2 qualification that as long as the gay community was
 3 discrete about it, what do you mean by that, sir?
 4 A The experience of other -- Canada and
 5 other countries where the ban had been lifted,
 6 people didn't come out and make a big deal of being
 7 homosexuals. In fact, not much changed with
 8 respect to this. And as a result, it was a low-key
 9 kind of experience that the homosexual community
 10 had. And I think that is one of the things that
 11 contributed to the success of these bans being
 12 lifted.
 13 Q Well, were you trying to say, in
 14 different words, that the homosexual members of the
 15 armed forces needed to continue to conform to
 16 military values if a ban was lifted?
 17 MR. GARDNER: Objection, to the extent it
 18 mischaracterizes Dr. Gade's testimony.
 19 THE WITNESS: Yes. Yes. Yeah.
 20 BY MR. WOODS:
 21 Q And the experience of these other foreign
 22 countries was that homosexuals in those countries,

1 integrated gays into their force and as long as the
 2 gay community was discrete about this, that that
 3 would probably -- those conditions would be
 4 necessary for it to work well in the United States.
 5 Q And when you say as long as leadership
 6 followed the lessons learned from other countries,
 7 do you mean by that that the leadership of the U.S.
 8 military would have to be definitive about it?
 9 A Yes.
 10 Q In other words, it couldn't be any
 11 wishy-washy --
 12 A Yeah.
 13 Q -- nature, be definitive --
 14 A Exactly.
 15 Q Okay. And --
 16 A Be a no-tolerance policy. And it would
 17 not treat homosexuals necessarily different from
 18 anybody else.
 19 Q Right. And the reason for that is
 20 because it is assumed, isn't it, that members of
 21 our armed forces will obey their leaders?
 22 A That's correct.

1 after the ban was lifted in those countries, did
 2 continue in large part to be discrete and not do
 3 anything differently than they had done before?
 4 MR. GARDNER: Objection, compound.
 5 THE WITNESS: They didn't -- they didn't
 6 identify themselves any more readily than they had
 7 previously, yes.
 8 BY MR. WOODS:
 9 Q Okay. Now, when you say identify
 10 themselves, I want to just ask you to clarify what
 11 you mean by that and what the research shows about
 12 that.
 13 A Okay.
 14 Q Are we talking about a situation where
 15 somebody would identify themselves to like the
 16 whole unit, or are we talking about identifying
 17 themselves to close friends or people that they
 18 felt comfortable talking to?
 19 MR. GARDNER: Objection, compound.
 20 THE WITNESS: Huh. Perhaps both. It was
 21 our feeling, and those of us who had researched
 22 this, is that the general values of Western society

IR-PE

IR-PE

1 were to tolerate homosexuals but not to embrace
 2 that as an issue. And as long as people maintained
 3 good decorum, didn't identify themselves, didn't
 4 flaunt, if you, the fact of their sexual
 5 orientation, and that these groups were not treated
 6 as a special class, that that -- those were the
 7 conditions that we felt were necessary for this to
 8 be successful.
 9 BY MR. WOODS:
 10 Q Okay. And so at this speech in December
 11 of 2000, you said that if those two qualifications
 12 were satisfied, the ban could be lifted or repealed
 13 in the United States?
 14 A I actually didn't say that.
 15 Q Well, what did you say?
 16 A What I said was if the ban were repealed
 17 and the Government and the homosexual community
 18 followed what had happen in the foreign militaries,
 19 the ban could probably be successful, could be
 20 successfully lifted. I didn't say that it was a
 21 reason to go ahead and do that.
 22 Q But you said that the ban could be

1 successfully lifted as long as those two
 2 qualifications were satisfied?
 3 A Yes.
 4 Q Is that still your view?
 5 A Yes.
 6 Q Has your view changed in any way?
 7 A No.
 8 Q Has there been any additional research or
 9 study on the experience of foreign militaries since
 10 2000 that influences your view about what would be
 11 necessary for lifting the ban here to be
 12 successful?
 13 MR. GARDNER: Objection, beyond the scope
 14 of the Rule 30(b)(6) deposition topic number six.
 15 THE WITNESS: I have -- I don't know. I
 16 don't know.
 17 BY MR. WOODS:
 18 Q Has the Army Research Institute
 19 commissioned any studies or reports since these
 20 reports that we've looked at going back to the
 21 1993/1994 time period?
 22 A No.

1 Q Why not?
 2 A It was not an issue. The law had
 3 changed. It was not an issue that -- that we were
 4 asked to deal with.
 5 Q Now, we have talked a little bit about --
 6 or you talked a little bit about book chapters.
 7 A Yes.
 8 Q So I think I have one of them.
 9 A Okay.
 10 MR. WOODS: So let me mark it as the next
 11 exhibit, which will be 73.
 12 (Deposition Exhibit No. 73
 13 marked for identification.)
 14 THE WITNESS: [Witness examined
 15 document]. Yeah. Uh-huh.
 16 BY MR. WOODS:
 17 Q All right. Have you had a chance to skim
 18 through Exhibit 73?
 19 MR. GARDNER: Take the time you need to
 20 read the document, Dr. Gade.
 21 THE WITNESS: Okay.
 22 [Witness examined document]. Okay.

1 BY MR. WOODS:
 2 Q Okay. Have you had a chance to look
 3 through that now?
 4 A I briefly skimmed through it.
 5 Q Is this one of the book chapters you
 6 mentioned before?
 7 A Yes, it is.
 8 Q Okay. And do you know which one I was
 9 able to locate?
 10 MR. GARDNER: Objection, vague.
 11 BY MR. WOODS:
 12 Q In other words, which book is this
 13 chapter from?
 14 A This is from the Scott and Stanley book.
 15 Actually, I think the other one's a little bit
 16 better written, but --
 17 Q Well, this is the one I was able to
 18 locate.
 19 A Yeah, okay.
 20 Q And this was published in 1994?
 21 A That's right.
 22 Q And what was your purpose in co-authoring

Page 62

1 this article called, Social Science Research on
 2 Homosexuals in the Military?
 3 A Was to contribute a book chapter, as I
 4 said in a volume, because we had the most
 5 information about the experience of foreign
 6 militaries.
 7 Q Okay. And was this the first or second
 8 publication of a book chapter?
 9 A First.
 10 Q And while you had two co-authors for this
 11 article, can you tell me how the work was divided
 12 up?
 13 A No.
 14 Q No? All right.
 15 Let me ask you a few questions about
 16 this. On page 35 of the article.
 17 A Yes.
 18 Q At the top, the first paragraph says,
 19 Most nations with which we are familiar do not
 20 categorically exclude homosexuals.
 21 Has anything changed since 1994 when you
 22 authored this article that includes that statement?

Page 63

1 A I'm sorry, say that again.
 2 Q Sure.
 3 Has anything changed since 1994 with
 4 regard to that statement?
 5 A No, probably not.
 6 Q And the next sentence says, Some of those
 7 which in the past have excluded homosexuals have
 8 changed their policies in recent years.
 9 Has that phenomenon continued since 1994?
 10 A Yes.
 11 Q And so can you identify any countries
 12 today that do exclude homosexuals?
 13 MR. GARDNER: Objection, beyond the scope
 14 of the Rule 30(b)(6) deposition.
 15 THE WITNESS: I don't know.
 16 BY MR. WOODS:
 17 Q Now, since 1994, can you identify any
 18 countries that did change their policies?
 19 A Yes.
 20 Q Which ones?
 21 A The UK.
 22 Q And the next sentence of this article

Page 64

1 says, We know of no nation that in the past has
 2 admitted homosexuals and has recently moved to
 3 exclude them.
 4 Has anything changed on that subject
 5 since 1994?
 6 A Not as far as I know.
 7 Q And then the conclusion of this paragraph
 8 is, Thus, the number of nations that exclude
 9 homosexuals from military service has been
 10 declining.
 11 And is that continuing to be true?
 12 MR. GARDNER: Objection, vague as to the
 13 term "exclude."
 14 THE WITNESS: Yes, as far as I know
 15 that's true.
 16 BY MR. WOODS:
 17 Q A little down on this page, the next
 18 paragraph actually says, The major group of nations
 19 that of recent history has been concerned with
 20 homosexuals in the military is composed of the
 21 Anglo-American nations: The United States, Great
 22 Britain, Canada, Australia, New Zealand, and

Page 65

1 Northern Ireland. These nations share a more or
 2 less common cultural heritage.
 3 Is that a true statement?
 4 A As far as I know it is.
 5 Q And is it true that those nations share a
 6 common cultural heritage in terms of the military?
 7 MR. GARDNER: Objection, compound.
 8 THE WITNESS: There are some differences.
 9 BY MR. WOODS:
 10 Q Well, let me try it differently.
 11 When you said in this article that they
 12 share a more or less common cultural heritage, were
 13 you talking about culture in terms of military
 14 culture, or were you talking about culture in terms
 15 of, you know, arts and such things?
 16 A I believe we were talking about the
 17 general society, culture in the general society.
 18 Q Okay. All right. On page 42 of the
 19 article, under the heading general patterns.
 20 A [Witness examined document]. Okay.
 21 Q The first sentence is, There is consensus
 22 within the international community of social

IR-
PE, PT

IR-
PE, PT

Page 66

1 scientists that some individuals with homosexual
 2 orientations have managed to serve undetected in
 3 the military forces of virtually all Western
 4 nations.

5 That was a true statement when you
 6 co-authorized it in 1994, right?

7 A Correct.

8 Q Is that true in the United States
 9 military as well?

10 A I would assume so, yes.

11 Q Have you done any studies of the United
 12 States military?

13 A With respect to this issue?

14 Q Yes.

15 A No.

16 Q All right. Let me ask you to go to page
 17 48 of your report, and under the heading summary
 18 and conclusions. And this was the statement in the
 19 second paragraph there.

20 Quote, The most useful current
 21 information on homosexuals and military service,
 22 and our most promising laboratories for the future,

Page 67

1 come from the experiences of other Western nations.

2 I take it that was a correct and accurate
 3 statement at the time?

4 A We thought so.

5 Q Yeah. And is it still true?

6 A As far as I know it is.

7 Q Okay. So if we were to look for the
 8 source of the most useful current information on
 9 homosexuals in military service, we should look at
 10 the experiences of other Western nations, right?

11 A Correct.

12 Q And the other Western nations that we
 13 should be looking at here are which Western
 14 nations?

15 A Well, there would be a variety of them.
 16 Again, I don't know which ones would be the most
 17 appropriate right now.

18 Q Okay. But when you --

19 A Certainly Canada and UK would be part of
 20 that.

21 Q And at the bottom of the same page this
 22 article says, quote, It is imperative that social

IR-
PE

Page 68

1 scientists continue to study countries that have
 2 recently removed restrictions on homosexuals
 3 serving in the military to derive lessons learned
 4 from the problems and solutions that flow from
 5 those changes.

6 I take it that you believe that was
 7 imperative at the time?

8 A Correct.

9 Q Okay. And has --

10 A We said so.

11 Q And have social scientists since 1994
 12 continued to study foreign countries, as you
 13 indicated here?

14 MR. GARDNER: Objection, beyond the scope
 15 of the Rule 30(b)(6) deposition topic six.

16 THE WITNESS: I'm not familiar with all
 17 social scientists and what they've studied. I
 18 don't know.

19 BY MR. WOODS:

20 Q But -- all right. But you've already
 21 told us, I believe, that the U.S. Army Research
 22 Institute hasn't --

Page 69

1 A They haven't --

2 Q -- done any further studies since you
 3 authored this article saying it was imperative that
 4 such studies be continued by social scientists?

5 A That's correct.

6 Q And you don't know why, accept that
 7 you've never been asked?

8 A That's correct.

9 Q All right. And then if you could look at
 10 footnote three of the article, on page 49.

11 A Okay.

12 Q This footnote says, The question most
 13 frequently asked of social scientists during the
 14 hearings was what impact sexual orientation
 15 integration in the military would have on cohesion
 16 and unit effectiveness.

17 Let me begin here by asking you, what
 18 hearings are you referring to there?

19 A These were hearings that David Segal had
 20 participated in. I did not participate in those.

21 Q Okay. And --

22 A I believe they were congressional

IR-
PE, PT

1 hearings.
 2 Q Okay.
 3 A Vis-à-vis this issue. David participated
 4 in those. I did not.

5 Q Okay. And this footnote goes on to say,
 6 We do not address this issue here both because
 7 there are no data that might support an empirical
 8 answer, and because the issue itself does not have
 9 comparative relevance. It has not emerged as an
 10 issue in any country except the United States.

11 So let me ask you about the first part of
 12 this first.

13 So was it your view at the time of this
 14 article in 1994 that there was no data that would
 15 support an empirical answer to the question of
 16 whether sexual orientation integration in the
 17 military would have any impact on unit cohesion and
 18 unit effectiveness?

19 A Correct.

20 Q Are you aware of any data that exists
 21 today on that subject?

22 A No.

1 Q Are you aware of any data or empirical
 2 study that shows that Don't Ask, Don't Tell is
 3 necessary for unit cohesion and unit effectiveness?

4 MR. GARDNER: Objection, beyond the scope
 5 of the topic six of the Rule 30(b)(6) deposition.

6 THE WITNESS: No, I'm not aware of it.

7 BY MR. WOODS:

8 Q And then in this footnote, when you say
 9 the issue does not have comparative relevance, what
 10 did you mean by that?

11 A I think it was clarified up front. The
 12 other countries don't pay attention to the cohesion
 13 issue like with we do. This is not a major issue
 14 for them and not something that they're terribly
 15 concerned with.

16 Q Okay.

17 A Certainly not to the extent the United
 18 States is.

19 Q Okay. Let me show you next what I'll
 20 mark as Exhibit 74. It looks to be a PowerPoint
 21 presentation that you did. Maybe you can tell us
 22 what it is.

1 A I hope.
 2 (Deposition Exhibit No. 74
 3 marked for identification.)

4 THE WITNESS: [Witness examined
 5 document].

6 BY MR. WOODS:

7 Q Do you recognize Exhibit 74?

8 A Yes.

9 Q Can you please tell us what it is?

10 A These are briefing slides I seem to
 11 remember I used to brief the deputy chief of staff
 12 for personnel.

13 Q And when did you prepare them?

14 A I'm not sure. It was -- it would have
 15 been sometime after we had completed the July
 16 meeting, I would assume, in 1993.

17 Q Okay. So I see on the second page that
 18 there is a reference to the meetings in April and
 19 July 1993?

20 A Correct.

21 Q So that would tell us that it's after
 22 July 1993?

LR-PE

LR-PT

Page 74

1 A I don't recall if there were differences.
 2 Q On the next to the last page of this
 3 there is a slide numbered seven.
 4 There's a bullet point that says, Gender
 5 discrimination is usually more problematic for
 6 lesbians than is discrimination based on their
 7 homosexuality.
 8 Can you explain what you meant by that,
 9 please?
 10 A My recollection on this was that -- that
 11 the issue of being a woman in the military was a
 12 bigger problem, in terms of males objecting to this
 13 in particular, than was the -- their issue of
 14 sexual orientation.
 15 Q Okay. And then the last page of this
 16 slide is headed, Additional research on homosexuals
 17 in the military services.
 18 The first bullet point is about, Thorough
 19 view of the Canadian situation.
 20 By this slide were you suggesting that
 21 this additional research should be done?
 22 A That's what we asked Frank Pinch to do.

Page 75

1 Q Okay. So when you presented this slide,
 2 did you tell the audience that that was going to be
 3 done, or needed to be done?
 4 A At the time, it must have been that we
 5 were -- we were doing it. Because this is the time
 6 period in which we were doing that study.
 7 Q All right.
 8 A So it was informative, yes.
 9 Q Okay. And then the second bullet point
 10 on this page says, Review of para-military
 11 organizational experiences, police departments and
 12 fire departments.
 13 Was that review done?
 14 A No.
 15 Q Why not?
 16 A To the best of my knowledge, no.
 17 Q Why not?
 18 A Again, I think it was a question of
 19 timing. I just don't remember what the details
 20 were on that. Also, RAND had done quite a bit on
 21 that as well.
 22 Q And what were the RAND report conclusions

Page 76

1 or findings about para-military organizational
 2 experiences?
 3 A Very similar to what the Canadian
 4 experience had been, that this was not an issue;
 5 again, particularly if people didn't pay attention
 6 to and make a big deal of sexual orientation.
 7 Q Okay. And was that also the case about
 8 the RAND findings about foreign militaries?
 9 A Essentially, yes.
 10 Q In your judgment, Doctor, do these
 11 studies of foreign militaries that have been done
 12 support lifting the ban?
 13 MR. GARDNER: Objection, beyond the scope
 14 of the Rule 30(b)(6) deposition.
 15 If you have a personal view, you can
 16 share it.
 17 THE WITNESS: I'm not sure that that's
 18 the case so much as supporting the idea, if the ban
 19 is lifted, that the military will do so
 20 effectively.
 21 BY MR. WOODS:
 22 Q Do they --

Page 77

1 A Provided those conditions exist that we
 2 mentioned in the -- earlier.
 3 Q Right. Leadership, following through,
 4 and the gay community being discrete?
 5 A Yes.
 6 Q Do these studies of foreign militaries
 7 provide any evidence supporting the maintenance of
 8 Don't Ask, Don't Tell?
 9 MR. GARDNER: Objection, beyond the scope
 10 of the Rule 30(b)(6) topic number six.
 11 If you have a personal view, you can
 12 share it.
 13 THE WITNESS: Don't -- don't know that
 14 they do, no.
 15 BY MR. WOODS:
 16 Q When you say you don't know that they do,
 17 that's kind of vague, Doctor.
 18 Do these --
 19 A Well, say that --
 20 Q Let me ask the question again.
 21 Do these studies of foreign militaries
 22 provide any evidence supporting the maintenance of

IR-PT

IR-PT

Page 78

1 Don't Ask, Don't Tell?
 2 MR. GARDNER: Same objection.
 3 THE WITNESS: No.
 4 BY MR. WOODS:
 5 Q All right. A couple more documents to
 6 show you. The next one is Exhibit 75. It's a
 7 short document called, The Integration of
 8 Homosexuals in the U.S. Military.
 9 (Deposition Exhibit No. 75
 10 marked for identification.)
 11 THE WITNESS: [Witness examined
 12 document].
 13 BY MR. WOODS:
 14 Q Do you recognize this, Doctor?
 15 A I do now. It's been awhile.
 16 Q Can you tell us what it is, please?
 17 A It was a recommendation for dealing with
 18 the potential lifting of the ban, and how the Army
 19 could approach that.
 20 Q All right. This is a two-page memo that
 21 you authored in November of 1992?
 22 A It is.

Page 79

1 Q Who did you send it to?
 2 A Probably it was given to my director. I
 3 don't remember who it actually went to.
 4 Q All right. And at the time that you
 5 authored this, you were aware that President-elect
 6 Clinton had promised to repeal the ban?
 7 A Correct.
 8 Q And the purpose of this was to make
 9 recommendations about how best to implement that
 10 outcome, right?
 11 A Yes.
 12 Q Okay. And what exactly were you
 13 recommending?
 14 A My recollection -- and I haven't read
 15 through this thoroughly -- was to provide experts
 16 who would help us to -- to do this, and also to do
 17 whatever research was necessary, both survey
 18 research and -- and of the sort of research that we
 19 did conduct.
 20 Q All right. Well, if I look at the second
 21 page of this I see two recommendations.
 22 The second one is to collect information

Page 80

1 of lessons learned about the integration of
 2 homosexuals in the military services of other
 3 countries?
 4 A Right.
 5 Q And I take it that's what you were
 6 doing --
 7 A Yes.
 8 Q -- by getting these reports that we've
 9 talked about this morning?
 10 A Yes.
 11 Q The first one says, Inserting survey
 12 items in an on-going survey?
 13 A Uh-huh.
 14 Q By that did you mean a survey of U.S.
 15 military?
 16 A Yes.
 17 Q And was that survey ever done?
 18 A No.
 19 Q And why not?
 20 A Secretary Aspin put the kibbosh on all
 21 surveys of military service members. The Air Force
 22 had done one along about this time in '92. And

Page 81

1 Mr. Aspin decided that doing further surveys of
 2 this sort wouldn't yield any new information. And
 3 so he stopped any of the services from doing any
 4 surveys vis-à-vis the ban on homosexuals.
 5 Q Okay. And his stated reason at least was
 6 that he opined that it wouldn't yield any
 7 additional information?
 8 A Wouldn't yield any new information; would
 9 create lots of heat, but not much light.
 10 Q Do you agree with that?
 11 A Yes.
 12 Q All right. Next let me show you another
 13 document I'll mark as Exhibit 76.
 14 (Deposition Exhibit No. 76
 15 marked for identification.)
 16 THE WITNESS: [Witness examined
 17 document].
 18 BY MR. WOODS:
 19 Q This is a chronology of policy events/
 20 activities that was located in the Army Research
 21 Institute documents that were provided to us. It's
 22 about four pages long. It has your name in it

Page 82

1 occasionally.

2 A Uh-huh. Yes.

3 Q Do you recognize this?

4 A Yes.

5 Q Did you prepare this?

6 A No, I did not.

7 Q Do you know who did prepare this?

8 A I believe that it was Dr. Wisher, as was

9 mentioned before.

10 Q All right. So let me just ask you about

11 the parts of this that do mention you or refer to

12 you. Okay?

13 A Okay.

14 Q So there's an entry in this chronology

15 for November 4, 1992 which says, Dr. Johnson

16 initiates two-week review literature on homosexuals

17 in the military and assigns you with Ms. Donna

18 Angle to assist.

19 Is that what happened at that point in

20 time?

21 A Correct?

22 Q Who is Dr. Johnson?

Page 83

1 A Dr. Johnson is Edgar Johnson, who was

2 then the technical director of the Army Research

3 Institute.

4 Q Okay. And then November 18, 1992, it

5 says you prepare an informational paper for the

6 DCSPER based on --

7 A Deputy chief of --

8 Q -- your literature --

9 A -- staff of personnel.

10 Q Okay.

11 A That's the --

12 Q Those the exhibits we looked at?

13 A That's this [indicating].

14 Q Exhibit 75?

15 A Uh-huh.

16 Q Is that "yes"?

17 A Correct.

18 Q Okay. And then January 28, 1993, it says

19 Army Research Institute meeting re task force,

20 including you.

21 Was that the task force -- what was the

22 task force?

Page 84

1 A Don't recall exactly. I guess -- oh, it

2 would have been those of us who were part of this

3 original process. I guess me because I had done

4 the initial review, and was also in the process I

5 guess of setting up this -- this meeting in April.

6 We hadn't done that yet. I don't recall the task

7 force, per se.

8 Q Okay. Let me then ask you to jump ahead

9 to February 12, 1993. It says you and others

10 briefed BG Jones on research plan.

11 I take it that means Brigadier General

12 Jones?

13 A Where is that again? I'm sorry. What

14 date is that?

15 Q February 12, 1993.

16 A [Witness examined document]. Apparently

17 they briefed the deputy chief of staff.

18 Q No, I'm talking about February 12, the

19 one above that that has you and others --

20 A Oh.

21 Q -- and Brigadier General Jones.

22 A Oh. Okay.

Page 85

1 Q Do you recall doing that?

2 A No, I don't.

3 Q Do you recall Brigadier General Jones?

4 A I think he was the assistant deputy chief

5 of staff of personnel at the time.

6 Q And then if you look next to that, the

7 first entry for February 23, 1993.

8 It says, FOCUS Army formally established,

9 task force members -- and then there's a list of

10 them; and it includes you?

11 A Right.

12 Q Do you recall that at all?

13 A Vaguely, yes.

14 Q And what does FOCUS Army mean in --

15 A I forget what the acronym stood for. But

16 it was -- it was to focus on the issue of -- of the

17 ban being lifted.

18 Q Okay. And was the task force focused

19 only on the study of foreign militaries, or other

20 aspects of the ban?

21 A It was broader than foreign militaries.

22 Q And then on February 25, it indicates

Page 86	Page 88
<p>1 there's a meeting with Dr. Herek and you and 2 others? 3 A Correct. 4 Q Do you recall that? 5 A Yes. 6 Q And what happened at that meeting? 7 A This was a meeting in which we I believe 8 were contracting with Dr. Herek to help us with 9 this -- with our look into how best to accommodate 10 the changes in the policy should they take place. 11 Dr. Herek was probably the best known psychologist 12 who dealt with sexual orientation issues at the 13 time. 14 Q Okay. And then the next entry is March 15 1, 1993, where you and others briefed Robert 16 Emmerichs? 17 A I vaguely remember this, yes. 18 Q And what do you remember about it? 19 A This was probably -- again, I don't know 20 the details of it, so I -- I really don't know the 21 details. My guess would be that we were briefing 22 on what we were proposing to do.</p>	<p>1 A That's correct. 2 Q All right. And then there's another 3 meeting, April 15, 1993, that you were at with 4 others? 5 A Don't recall the details of that. 6 Q Okay. 7 MR. GARDNER: Would now be a good time 8 for a break? 9 MR. WOODS: I'm almost done with this 10 witness, so let's just try to finish if we could. 11 MR. GARDNER: How much more time do you 12 have? 13 MR. WOODS: With this witness, probably 14 about ten minutes. 15 BY MR. WOODS: 16 Q All right. Doctor, could I ask you to go 17 back to Exhibit 73, please? 18 A [Witness examined document]. Okay. 19 Q And on page 49. 20 A Yes. 21 Q This is, I gather, the last paragraph of 22 the article, or the chapter.</p>
Page 87	Page 89
<p>1 Q Okay. And then if you skip ahead to the 2 next page, the first entry for March 24, 1993, 3 refers to an Army Research Institute meeting of 4 several people, including you? 5 A Don't know. 6 Q Don't remember that? 7 A No. 8 Q Okay. And then April 2 to 4, 1993, 9 refers to a conference. 10 Do you remember that conference? 11 A Yes, I do. 12 Q Okay. And what do you remember about 13 that? 14 A It's where we started the process of 15 looking at foreign militaries. 16 Q Okay. 17 A We had hired Gwyn Harries-Jenkins for 18 that. 19 Q Okay. 20 A To do this. 21 Q So it was at that conference that yielded 22 Exhibit 69 that we looked at before?</p>	<p>1 It says, We know there the surveys of 2 U.S. military personnel that there is potential for 3 violence and disruption if homosexuals serve 4 openly. Social science research needs to address 5 these issues before they become problems for the 6 military services, rather than wait for policy 7 changes that are likely to come about as a result 8 of court actions. 9 Are you aware of any social science 10 research that was done on those issues? 11 MR. GARDNER: Objection, beyond the scope 12 of the Rule 30(b)(6) deposition topic number six. 13 THE WITNESS: On what issues? 14 BY MR. WOODS: 15 Q The issues described in that paragraph. 16 MR. GARDNER: Same objections. 17 BY MR. WOODS: 18 Q Which I gather is the potential for 19 violence and disruption if homosexuals serve 20 openly? 21 A Yes. 22 Q What research?</p>

IR-PT

1 A There was an Air Force survey that was
2 done, my recollection was in 1992 that again was
3 the basis for Les Aspin saying don't do any of more
4 of these surveys.

5 Q I'm sorry if my question wasn't clear.

6 After this article was published in 1994,
7 was there any social science research that was
8 done?

9 A No, not to the best of my knowledge.

10 Q Okay. And this in article when you
11 wrote, Rather than wait for policy changes that are
12 likely to come about as a result of court actions,
13 what were you referring to?

14 A Assuming that there would be court
15 actions, I would guess I -- I don't think I wrote
16 that particular paragraph. It was probably David
17 Segal who wrote that. But I -- I'm not sure what
18 he was referring to there in terms of court action,
19 but my guess would be --

20 MR. GARDNER: Objection, calls for
21 speculation.

22 BY MR. WOODS:

1 February 2010 Admiral Mullin provided testimony to
2 the Senate Arms Services Committee about the
3 experience of foreign militaries?

4 A No, I'm not.

5 Q You're not aware that he said that his
6 counterparts in countries that allow gays and
7 lesbians to serve openly report no impact on
8 military effectiveness?

9 MR. GARDNER: Objection, beyond the scope
10 of the Rule 30(b)(6) deposition.

11 THE WITNESS: I'm not aware of it, no.

12 BY MR. WOODS:

13 Q Do you know what basis he had for that
14 statement?

15 A No.

16 MR. GARDNER: Objection, speculation.

17 BY MR. WOODS:

18 Q I gather he didn't talk to you before he
19 said that?

20 A No, he did not.

21 Q Do you agree with the statement that
22 countries that allow gays and lesbians to serve

1 Q I'm sorry, your counsel interrupted you
2 while you were talking. If you could just finish
3 your answer, please.

4 A Okay. I would assume it would be court
5 action associated with the ban itself.

6 Q Okay. Let me just show a document. I'm
7 not going to mark it as an exhibit yet, but --
8 we'll see if we need to. If we need to, we will.
9 But this is a very long report dated February 1996
10 called, Report on the Homosexuality Policy
11 Assessment Team.

12 MR. GARDNER: Take all the time you need
13 to review the document, Dr. Gade.

14 THE WITNESS: [Witness examined
15 document].

16 BY MR. WOODS:

17 Q Have you seen this report before?

18 A I have not.

19 Q Well, that makes the questions about it
20 more simpler if you haven't seen it before. Thank
21 you. I don't need to mark it as an exhibit then.

22 All right. Are you aware that in

1 openly report no impact on military effectiveness?

2 MR. GARDNER: Objection, beyond the scope
3 of the Rule 30(b)(6) deposition topic number six.

4 THE WITNESS: Would you say that again?

5 BY MR. WOODS:

6 Q Sure.

7 The statement was that countries that
8 allow gays and lesbians to serve openly report no
9 impact on military effectiveness.

10 MR. GARDNER: Same objection.

11 THE WITNESS: I would agree with it
12 partially.

13 BY MR. WOODS:

14 Q And what part do you agree with?

15 A I would agree that there probably had
16 been no disturbances of uncivil behavior.

17 Q And what part of it do you not agree
18 with?

19 A I don't think we have the empirical
20 evidence to look at performance issues for sure.

21 Q Okay. All right. Let me quickly go
22 through some other documents with you, please.

IR -
PT

Page 94

1 MR. WOODS: Exhibit 77 is a report
 2 called, The Effects of Including Gay and Lesbian
 3 Soldiers in the British Armed Forces: Appraising
 4 the Evidence, dated November 2000.
 5 (Deposition Exhibit No. 77
 6 marked for identification.)
 7 MR. GARDNER: I'll object to Exhibit 77
 8 as being beyond the scope of topic six of the Rule
 9 30(b)(6) deposition. It's not Government document.
 10 BY MR. WOODS:
 11 Q Have you ever read this report?
 12 A I have not.
 13 Q Did you ever become aware that this
 14 report existed?
 15 A No, I didn't, no.
 16 Q Let me show you what I'll mark as Exhibit
 17 78, which I think has previously been marked as
 18 Defendants 13. This is a report titled,
 19 Homosexuality and the Israel Defense Forces: Did
 20 Lifting the Gay Ban Undermine Military Performance?
 21 (Deposition Exhibit No. 78
 22 marked for identification.)

Page 95

1 MR. GARDNER: And I'll make the same
 2 objection with respect to previously marked Exhibit
 3 13, which is now Exhibit 78, this is beyond the
 4 scope of topic six. It is not a Government
 5 document.
 6 BY MR. WOODS:
 7 Q Have you ever seen this report before,
 8 Doctor?
 9 A I have not.
 10 Q Have you ever heard of it?
 11 A No, I haven't.
 12 Q All right. Let me show you what I'll
 13 mark as Exhibit 79. This is a report called, The
 14 Effects of Including Gay and Lesbian Soldiers in
 15 the Australian Defense Forces: Appraising the
 16 evidence. This one is dated September 19, 2000.
 17 (Deposition Exhibit No. 79
 18 marked for identification.)
 19 MR. GARDNER: And I'll make the same
 20 objections with respect to Exhibit 79, beyond the
 21 scope of topic six of the Rule 30(b)(6) deposition.
 22 Not a government document.

Page 96

1 BY MR. WOODS:
 2 Q Same questions, Doctor.
 3 Have you seen or heard of this report
 4 before?
 5 A I have not.
 6 Q I'll show you what we'll mark next as
 7 Exhibit 80, which is a report titled, Effects of
 8 the 1992 Lifting of Restrictions on Gay and Lesbian
 9 Service in the Canadian Forces: Appraising the
 10 evidence. This one is dated April of 2000.
 11 (Deposition Exhibit No. 80
 12 marked for identification.)
 13 MR. GARDNER: Same objection. Exhibit 80
 14 is beyond the scope of the topic six of the Rule
 15 30(b)(6) deposition.
 16 BY MR. WOODS:
 17 Q Have you seen or heard of this report?
 18 A I have not.
 19 Q I'll show you what I'll mark as Exhibit
 20 81, which is a report entitled, Don't Ask, Don't
 21 Tell: Is the Gay Bay Based on Military Necessity?
 22 This one is dated 2003.

Page 97

1 (Deposition Exhibit No. 81
 2 marked for identification.)
 3 MR. GARDNER: Same objection. Exhibit 81
 4 is beyond the scope of topic six of the Rule
 5 30(b)(6) deposition.
 6 BY MR. WOODS:
 7 Q Have you seen or heard of this report
 8 before?
 9 A No, I have not.
 10 Q Let me show you what I'll mark as Exhibit
 11 82, which is a report called, Gays in Foreign
 12 Militaries 2010: A Global Primer. Dated February
 13 2010.
 14 (Deposition Exhibit No. 82
 15 marked for identification.)
 16 MR. GARDNER: Same objection. Exhibit 82
 17 is beyond the scope of topic six of the Rule
 18 30(b)(6) deposition.
 19 BY MR. WOODS:
 20 Q Have you seen or heard of this report
 21 before?
 22 A I have seen the front page of it.

1 Q Where did you see that?
 2 A Somebody showed me a copy of it.
 3 Q Who was that?
 4 A I don't know. I don't remember.
 5 Q In what context were you shown the front
 6 page of this lengthy report?
 7 A I don't -- I don't remember. But I have
 8 seen it.
 9 Q Okay. And that's all you saw was the
 10 front page?
 11 A That's basically it, yes.
 12 Q All right. And let me show you one more
 13 document that I'll mark as Exhibit 83.
 14 (Deposition Exhibit No. 83
 15 marked for identification.)
 16 MR. GARDNER: Same objection. Exhibit 83
 17 is beyond the scope of topic six of the Rule
 18 30(b)(6) deposition.
 19 BY MR. WOODS:
 20 Q Exhibit 83 appears to be a report or
 21 review done by the UK government of its policy.
 22 Have you ever seen this before?

1 A [Shaking head].
 2 Q No? You're shaking your head no?
 3 A No.
 4 Q You did make a presentation at the
 5 Commonwealth Club in San Francisco in December
 6 2000, didn't you?
 7 A Well, yes. It is part of a panel
 8 discussion. And I was a participant in the panel
 9 discussion. And I did talk about foreign
 10 militaries there and -- and the application to the
 11 U.S.
 12 Q Okay. And in the nine or ten years since
 13 then, you've done no further work on the issue?
 14 A That's correct.
 15 Q And are you aware of anybody else at the
 16 Army Research Institute who has done any work on it
 17 in the past nine or ten years?
 18 A No.
 19 Q Are you aware of anybody in other branch
 20 of the service who has done any work on it in that
 21 period of time?
 22 A No, I am not.

1 A No, I have not.
 2 Q And when were you last involved in any
 3 issue relating to the experience of foreign
 4 militaries and homosexuals?
 5 MR. GARDNER: Objection, vague.
 6 THE WITNESS: You mean outside of
 7 preparing for the deposition --
 8 BY MR. WOODS: VA
 9 Q Yes.
 10 A -- and the reading in the past?
 11 December of 2000.
 12 Q And what happened?
 13 That was when you gave that speech --
 14 A Well, I --
 15 Q -- at the Commonwealth --
 16 A -- participated.
 17 Q -- Club in San Francisco?
 18 A -- in the conference. It was not so much
 19 a speech as a dialogue in the conference. It was
 20 published in the book.
 21 Q Okay. So since the presentation you made
 22 at the Commonwealth Club in San Francisco --

1 Q Are you aware of anybody in the Defense
 2 Department who has done any work on it?
 3 A No, I am not.
 4 Q Are you aware of anybody in any other
 5 part of the United States Government who has done
 6 any work on it in the past nine or ten years?
 7 A No. VALF
 8 Q Are you aware of anybody in the United
 9 States Government who has greater expertise in the
 10 subject of and experience of foreign militaries and
 11 homosexuals than yourself?
 12 MR. GARDNER: Objection, vague, lack of
 13 foundation, calls for speculation, beyond the scope
 14 of the Rule 30(b)(6) deposition topic number six.
 15 You can answer if you can.
 16 THE WITNESS: I don't know of anybody.
 17 BY MR. WOODS:
 18 Q So, I mean, in other words, you're the
 19 leading expert for the United States Government on
 20 this issue, aren't you?
 21 MR. GARDNER: Objection, mischaracterizes
 22 Dr. Gade's previous testimony, beyond the scope of

1 the Rule 30(b)(6) deposition, calls for
 2 speculation, lack of foundation.
 3 THE WITNESS: I don't know that I'd call
 4 myself an expert, since I haven't been involved in
 5 this for over ten years. VA, LF
 6 BY MR. WOODS:
 7 Q Can you tell me whether there is anybody
 8 else who has any more expertise on this issue than
 9 you?
 10 MR. GARDNER: Objection, beyond the scope
 11 of the Rule 30(b)(6) deposition, lack of
 12 foundation, calls for speculation.
 13 THE WITNESS: Not that I'm aware of.
 14 BY MR. WOODS:
 15 Q Okay. Can you tell me today the number
 16 of countries that allow openly gay service?
 17 A No.
 18 Q Can you tell me the number of foreign
 19 countries today that do not allow openly gay
 20 service?
 21 A No.
 22 MR. WOODS: Okay. Thank you, Doctor.

1 MR. WOODS: Thank you. That's all I
 2 have.
 3 EXAMINATION BY COUNSEL FOR DEFENDANTS
 4 BY MR. GARDNER:
 5 Q All right. Dr. Gade, I've got some
 6 questions for you here.
 7 And I want to make sure I understand --
 8 because I'm not sure Mr. Woods went into this too
 9 much -- the process by which ARI, your
 10 organization, issues these reports.
 11 Once you issue a report, what happens?
 12 Where does it go?
 13 A There's a distribution list of about a
 14 hundred people that it's distributed to. I don't
 15 know who they all are.
 16 Q And are those reports that you and your
 17 group generate, are they ultimately adopted in
 18 total by the Department of Defense?
 19 MR. WOODS: Objection, compound, vague
 20 and ambiguous.
 21 BY MR. GARDNER:
 22 Q You can answer, Dr. Gade.

1 MR. GARDNER: Why don't we take a break.
 2 I may have some questions for you, Dr. Gade. But
 3 we've been going for over an hour-and-a-half, so
 4 let's take a quick break.
 5 (Recess)
 6 EXAMINATION BY COUNSEL FOR PLAINTIFF
 7 CONTINUED
 8 BY MR. WOODS:
 9 Q Doctor, as a person in your position at
 10 the Army Research Institute, are you a member of
 11 our armed forces?
 12 A No, I am not. I'm a civilian employee.
 13 Q So you could be openly gay?
 14 MR. GARDNER: Objection, beyond the scope
 15 of the Rule 30(b)(6). Objection, hypothetical.
 16 Objection, relevance.
 17 BY MR. WOODS:
 18 Q A person in your position could openly be
 19 gay --
 20 A Yes.
 21 Q -- without consequence, right?
 22 A Yes.

1 A Parts of them. Sometimes, sometimes not.
 2 It's oftentimes hard to determine when the
 3 recommendations are adopted.
 4 Q So, for example, if we were to take your
 5 book chapter here, Exhibit 73 --
 6 A Yes.
 7 Q -- could you tell which parts, if any,
 8 were actually adopted as the official policy views
 9 of the Department of Defense?
 10 A No, I could not.
 11 Q Why not?
 12 A I don't have knowledge of that.
 13 Q Okay.
 14 A What had happened as a result of that. I
 15 don't know that people in the Department of Defense
 16 read this.
 17 Q Okay. So, in other words, the views
 18 expressed in Exhibit 73, your book chapter, those
 19 are just your personal views, correct?
 20 A That's what we said.
 21 Q Okay.
 22 A We put a disclaimer in everything that we

IR;
PE, PT

IR -
PT, PE

Page 106

1 publish.
 2 Q Now, let's go back. The same comment
 3 with respect to your -- I think it was December
 4 2000 statement, or your conference that you
 5 attended.
 6 When you were expressing your views
 7 there, were those just your personal views, or were
 8 those the views of the Department of Defense?
 9 A They were not the views of the Department
 10 of Defense. They were my reviews. And, again,
 11 there is a disclaimer on those.
 12 Q Understood.
 13 (Deposition Exhibit No. 3
 14 re-introduced.)
 15 BY MR. GARDNER:
 16 Q I have an exhibit which has been
 17 previously marked.
 18 This is an exhibit that has been
 19 previously marked, Dr. Gade, as Exhibit 3 to the
 20 depositions in this case. It is a document
 21 entitled, National Defense Authorization Act for
 22 Fiscal Year 1994, Report, Additional Views

Page 107

1 Committee on Armed Services, United States Senate.
 2 I'll represent to you that is the Armed Services
 3 Committee comments with respect to the Don't Ask,
 4 Don't Tell legislation.
 5 And I want to turn your attention,
 6 Dr. Gade, to page 288, which is, The experience of
 7 foreign nations.
 8 And you can see from the top of this,
 9 Dr. Gade, that, The committee considered testimony
 10 on the experience of foreign nations with respect
 11 to the service of gay men and lesbians in the armed
 12 forces.
 13 Dr. Gade, is that consistent with your
 14 understanding?
 15 A Is what consistent?
 16 Q That the Armed Services Committee, during
 17 the Don't Ask, Don't Tell hearings, considered
 18 testimony on the experience of foreign nations with
 19 respect to the service of gay men and lesbians in
 20 the armed services?
 21 A Yes.
 22 Q And if you go to the next paragraph it

Page 108

1 says, There is little actual experience in foreign
 2 nations with open homosexuality in military
 3 service.
 4 Do you see that?
 5 A Yes.
 6 Q Again, is that consistent with your
 7 understanding, Dr. Gade?
 8 MR. WOODS: Objection, vague and
 9 ambiguous.
 10 BY MR. GARDNER:
 11 Q You can answer.
 12 A Yes.
 13 Q That is consistent. Okay.
 14 And, again, there is a reference here to
 15 Dr. David Segal, correct?
 16 A Right.
 17 Q You know Dr. Segal?
 18 A I do.
 19 Q Dr. Segal is someone who you conducted a
 20 scholarship with; is that correct?
 21 A Correct.
 22 Q Okay. And it says here that, Even where

Page 109

1 policy and law allow them to serve, very few
 2 soldiers openly declare themselves to be
 3 homosexual, perhaps because there is a risk of gay
 4 bashing and of career costs to going public.
 5 Dr. Gade, do you agree with that?
 6 A Yes.
 7 Q Okay. And then it goes, Thus, the number
 8 of military personnel in Western nations who
 9 publicly identify themselves as homosexual appear
 10 to be very small.
 11 Again, Dr. Gade, is that consistent with
 12 your understanding?
 13 A Yes.
 14 Q And then it goes, Even in those countries
 15 with non-exclusionary policies, open homosexuals
 16 may find themselves referred for psychiatric
 17 counseling, and excluded from certain units and
 18 certain assignments.
 19 Dr. Gade, is that consistent with your
 20 understanding?
 21 A Of the issue at the time, yes.
 22 Q Okay. This goes on to state that, No

Page 110

1 other nation in the world requires the members of
 2 its armed forces to serve under the conditions that
 3 face the armed forces of the United States.
 4 Dr. Gade, do you agree with that comment?
 5 A I would.
 6 Q Why?
 7 A We are larger and more involved in
 8 combat-type operations than any other military
 9 service that I'm aware of.
 10 Q The end of this paragraph says, The
 11 committee concludes that while the foreign
 12 experience is worth monitoring, it does not provide
 13 a relevant basis for permitting gays and lesbians
 14 to serve openly in the armed forces of the United
 15 States.
 16 Dr. Gade, as someone who is a 30(b)(6)
 17 witness on behalf of the United States, is it your
 18 understanding that that was the committee -- the
 19 armed services committee's conclusion with respect
 20 to foreign militaries?
 21 A Yes.
 22 MR. WOODS: Excuse me. Objection. This

Page 111

1 goes beyond the scope of the category number six,
 2 and lacks foundation.
 3 THE WITNESS: Yes, as far as I know.
 4 MR. GARDNER: No further questions,
 5 Dr. Gade. Thank you for your time.
 6 EXAMINATION BY COUNSEL FOR PLAINTIFF
 7 BY MR. WOODS:
 8 Q Let's go back to some of this that you
 9 were talking about on this page 288. Okay?
 10 A Sure.
 11 Q First of all, the last part that you were
 12 asked about, which says that the foreign
 13 experience, quote, Does not provide a relevant
 14 basis for permitting gays and lesbians to serve
 15 openly in the armed forces of the United States,
 16 what does that mean? Do you have any understanding
 17 what that actually means?
 18 A I'm assuming that the committee decided
 19 that foreign government experiences with their gays
 20 in the military is not relevant to the United
 21 States.
 22 Q Wasn't part of your writing that foreign

Page 112

1 militaries' experience was relevant to consider in
 2 considering whether to allow gay service in our
 3 country?
 4 A It's a little more complicated than.
 5 My position is that foreign government experience
 6 is relevant for applying the -- that should the ban
 7 be lifted for -- for making that work, not
 8 necessarily does it provide information about
 9 permitting gays and lesbians to serve openly or
 10 not.
 11 Q All right. But from one of your writings
 12 that we looked at, the article that you wrote, that
 13 the most useful current information on homosexuals
 14 in the military service come from the experiences
 15 of other Western nations, right?
 16 A Correct.
 17 Q Do you know what testimony the Senate
 18 committee considered in considering the experience
 19 of foreign nations?
 20 A I don't.
 21 Q So you don't have any understanding or
 22 information about the basis of any findings it may

Page 113

1 have made, do you?
 2 A No, I don't.
 3 Q And this portion of Dr. Segal's testimony
 4 that's described here as being given in 1963 --
 5 which I can only assume is a typographical error?
 6 A Yeah, it must be.
 7 Q -- is one portion of the reports that
 8 you, Dr. Segal, and your other co-author had
 9 produced, right?
 10 A At least it's very similar to it, yes.
 11 Q Yeah. I mean, that point had been made
 12 in the writings that we've gone over, right?
 13 A Correct.
 14 Q It's one of many points that was made.
 15 And other points that were made in your
 16 articles with co-author of Dr. Segal were not
 17 included in this page, correct?
 18 MR. GARDNER: Objection, vague.
 19 Objection, compound.
 20 THE WITNESS: As far as I can see, no.
 21 Right.
 22 BY MR. WOODS:

LF

Page 114

1 Q Okay. So somebody just decided to pick
 2 this one little passage from the many lengthy
 3 writings on the subject, right?
 4 MR. GARDNER: Objection, mischaracterizes
 5 the document, mischaracterizes the action of the
 6 Senate subcommittee.
 7 THE WITNESS: I don't know. I've never
 8 seen this document until it was just handed to me.
 9 BY MR. WOODS:
 10 Q Oh, okay.
 11 And, actually, the sentence that reads,
 12 There is little actual experience in foreign
 13 nations with open homosexuality in military
 14 service -- do you see that sentence?
 15 A Yes.
 16 Q -- that's actually untrue, isn't it?
 17 Because you had seven reports, including the
 18 experiences of at least seven other countries;
 19 isn't that right?
 20 MR. GARDNER: Objection, mischaracterizes
 21 the statement on page 288 of the Senate
 22 subcommittee report.

Page 115

1 THE WITNESS: By and large, yes, that's
 2 true.
 3 BY MR. WOODS:
 4 Q By and large it is untrue --
 5 A Your statement is correct.
 6 Q My statement is true?
 7 A Yes.
 8 Q So by and large, the statement here in
 9 this report that there is a little actual
 10 experience in foreign nations with open
 11 homosexuality in the military service is untrue,
 12 correct?
 13 A Yes.
 14 Q Thank you.
 15 Do you know whether any of those reports
 16 that were prepared by the Army Research Institute
 17 on foreign militaries were provided to the Senate
 18 Armed Services Committee?
 19 A I do not.
 20 Q In this page, there's some reference to
 21 the Scandinavian nations and the Netherlands.
 22 Do you see that, the top paragraph on

Page 116

1 this page 288?
 2 A Yes.
 3 Q There's no reference there about Canada
 4 or Australia, is there?
 5 MR. GARDNER: Objection, the document
 6 speaks for itself.
 7 THE WITNESS: Not that I see.
 8 BY MR. WOODS:
 9 Q And wouldn't you consider Canada and
 10 Australia to be more comparable to the U.S.
 11 military than the Scandinavian and the Netherlands
 12 countries?
 13 MR. GARDNER: Objection, compound.
 14 THE WITNESS: Yes.
 15 MR. WOODS: Thank you.
 16 You know, thanks for opening this up,
 17 Josh. It helps.
 18 MR. GARDNER: Oh, yeah.
 19 MR. WOODS: No more questions.
 20 MR. GARDNER: Well, I do.
 21 MR. WOODS: Good.
 22 EXAMINATION BY COUNSEL FOR DEFENDANTS

Page 117

1 BY MR. GARDNER:
 2 Q Page 288 it says, There is little actual
 3 experience in foreign nations with open
 4 homosexuality in the military service.
 5 Do you see that?
 6 A Yes.
 7 Q What do you understand it to mean by
 8 "open homosexuality"?
 9 A With people who are able to serve in the
 10 military whether they're homosexual or not.
 11 Q Do you understand, based upon Dr. Segal's
 12 testimony, that open homosexuality reflects the
 13 view that people are openly identifying as being
 14 gay in the military?
 15 MR. WOODS: Objection, no foundation for
 16 what Dr. Segal testified to, calls for speculation.
 17 THE WITNESS: Would you say that again?
 18 BY MR. GARDNER:
 19 Q Sure.
 20 In other words, you talked earlier about
 21 this notion of open homosexuality in your reports
 22 as being those homosexuals who openly disclose

Page 118

1 their sexual identity, correct?
 2 MR. WOODS: Objection, leading, and
 3 misstates his reports, and compound as to his
 4 reports.
 5 THE WITNESS: Openly homosexual is a
 6 vague term, that's -- that's true. With respect to
 7 foreign militaries even as we said once the bans
 8 were lifted in countries where they lifted the
 9 bans, it was not likely that people identified
 10 themselves as homosexuals. So if you mean by
 11 openly homosexual identifying one's self, that's
 12 true, they don't.
 13 BY MR. GARDNER:
 14 Q So then that would be a true statement on
 15 page 288 of the Senate subcommittee report, to the
 16 extent open homosexuality means identification of
 17 one's homosexuality?
 18 A True.
 19 MR. GARDNER: Okay. No further
 20 questions.
 21 MR. WOODS: Thank you.
 22 (Whereupon at 11:30 a.m., the

Page 119

1 deposition of PAUL GADE,
 2 Ph.D., 30(b)(6), was adjourned.)
 3
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22

Page 120

1 CERTIFICATE OF DEPONENT
 2 I hereby certify that I have read and examined the
 3 foregoing transcript, and the same is a true and
 4 accurate record of the testimony given by me.
 5 Any additions or corrections that I feel are
 6 necessary, I will attach on a separate sheet of
 7 paper to the original transcript.
 8
 9
 10 Signature of Deponent
 11 I hereby certify that the individual representing
 12 himself/herself to be the above-named individual,
 13 appeared before me this ____ day of _____,
 14 2010, and executed the above certificate in my
 15 presence.
 16
 17
 18 NOTARY PUBLIC IN AND FOR
 19
 20
 21 County Name
 22 MY COMMISSION EXPIRES:

Page 121

1 CERTIFICATE OF NOTARY PUBLIC
 2 I, BARBARA A. HUBER, CSR, the officer
 3 before whom the foregoing deposition was taken, do
 4 hereby certify that the witness whose testimony
 5 appears in the foregoing deposition was duly sworn
 6 by me; that the testimony of said witness was
 7 taken by me in stenotypy and thereafter reduced to
 8 print under my direction; that said deposition is
 9 a true record of the testimony given by said
 10 witness; that I am neither counsel for, related
 11 to, nor employed by any of the parties to the
 12 action in which this deposition was taken; and,
 13 furthermore, that I am not a relative or employee
 14 of any attorney or counsel employed by the parties
 15 hereto, nor financially or otherwise interested in
 16 the outcome of this action.
 17
 18 BARBARA A. HUBER, CSR
 19 Notary Public, in and for the
 20 District of Columbia
 21 My Commission Expires: March 14, 2012
 22