

**ATTACHMENT**

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8 Attorneys for Plaintiff  
9 LOG CABIN REPUBLICANS

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA

12 LOG CABIN REPUBLICANS, a non-  
13 profit corporation,

14 Plaintiff,

15 vs.

16 UNITED STATES OF AMERICA and  
17 ROBERT M. GATES, SECRETARY  
18 OF DEFENSE, in his official capacity,

19 Defendants.

20 Case No.: CV 04-8425 VAP (Ex)\_

21 LOG CABIN REPUBLICANS'  
22 FIRST SET OF REQUESTS FOR  
23 PRODUCTION OF DOCUMENTS  
24 PROPOUNDED TO UNITED  
25 STATES OF AMERICA

1 PROPOUNDING PARTY: Plaintiff Log Cabin Republicans  
2 RESPONDING PARTY: Defendant United States of America  
3 SET NO.: One  
4

5 **TO DEFENDANT UNITED STATES OF AMERICA AND ITS ATTORNEYS**  
6 **OF RECORD:**

7 Pursuant to Federal Rule of Civil Procedure 34, Plaintiff Log Cabin  
8 Republicans (“LCR”) hereby requests that Defendant, United States of America  
9 (“USA”), within thirty (30) days after the date of service of this request, produce the  
10 documents and things described below for inspection and duplication at 10:00 a.m.  
11 on October 20, 2009, at the offices of White & Case LLP, 633 West Fifth Street,  
12 Suite 1900, Los Angeles, California 90071.

13 USA shall comply with Federal Rule of Civil Procedure 34(b) by  
14 producing the requested documents as they are kept in the usual course of business  
15 or shall organize and label them to correspond with the categories in the Request.

16 The production shall be made in accordance with the “Definitions” and  
17 “Instructions” set forth below.

18 **I.**

19 **INSTRUCTIONS**

20 Each response must be made in accordance with the following  
21 instructions:

22 1. Each request herein extends to all Documents in the possession,  
23 custody or control of You or anyone acting on Your behalf. A Document is deemed  
24 to be in Your possession, custody, or control if it is in Your physical custody or if it  
25 is in the physical custody of any other Person and You: (1) own such Document in  
26 whole or in part; (2) have a right, by contract, statute, or otherwise, to use, inspect,  
27 examine, or copy such Document on any terms; (3) have an understanding, express  
28 or implied, that You may use, inspect, examine, or copy such Document on any

1 terms; or (4) as a practical matter, have been able to use, inspect, examine, or copy  
2 such Document when You sought to do so. If any requested Document was, but no  
3 longer is, in Your control, state the disposition of each such Document.

4 2. Provide the following information for each Document that is  
5 withheld on the grounds of attorney-client privilege, attorney work product  
6 protection, or any other claim of privilege:

- 7 (a) Its date;
- 8 (b) Its title;
- 9 (c) Its author;
- 10 (d) Its addressee(s);
- 11 (e) The identity of each Person who received and/or saw the  
12 original or a copy of it;
- 13 (f) The claim of privilege under which it is withheld; and
- 14 (g) A description sufficient to support Your contention that  
15 the Document is privileged.

16 3. If, after exercising due diligence to secure them, You cannot  
17 provide some or any of the requested documents, so state and provide all Documents  
18 to the extent possible, specifying the reason for Your inability to produce the  
19 remainder of the Documents, and stating whatever information or knowledge You  
20 have concerning each document not produced.

21 4. If any documents or things requested or identified were at one  
22 time in existence but are no longer in existence or have been lost or cannot be  
23 produced for any other reason, then so state, specifying for each document or thing:

- 24 (a) The type of document or thing, whether letter,  
25 memorandum, report, etc.;
- 26 (b) The date of its preparation;
- 27 (c) The authors of the document or thing;
- 28 (d) The addressees and recipients of the document or thing;

- 1 (e) The subject matter of the document or thing;  
2 (f) The information contained in the document;  
3 (g) The date upon which the document or thing ceased to exist  
4 or was lost;  
5 (h) The circumstances under which it ceased to exist or was  
6 lost;  
7 (i) The identity of all persons having knowledge of the  
8 circumstances under which it ceased to exist or was lost; and  
9 (j) The identity of all persons now having or who, at one  
10 time, had knowledge of the contents thereof.

11 5. If an objection is made to any request herein, state Your  
12 objection and the ground or grounds in Your written response. If an objection is  
13 made only to part of the request, identify that part in Your written response and state  
14 Your objection and the ground or grounds therefore.

15 6. Each request herein shall be construed conjunctively or  
16 disjunctively as necessary to make the request inclusive rather than exclusive.

17 7. Each request herein excludes any documents received through  
18 noticed formal discovery in this action from parties to this action.

19 8. For each term in each request herein, the singular shall be  
20 construed to include the plural, and the plural shall be construed to include the  
21 singular, as necessary to make the request inclusive rather than exclusive.

22 9. Documents provided in response to any of these discovery  
23 requests shall be produced as they are kept in the ordinary course of business or  
24 shall be organized and labeled to correspond with the categories in the Requests.

25 10. If any requested documents or things cannot be produced in full,  
26 produce such documents and things to the extent possible, specifying which  
27 documents or things were only partially produced.  
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1           11. File folders with tabs or labels identifying documents must be  
2 produced intact with all responsive documents.

3           12. The numbering, if any, of documents shall be performed in such  
4 a manner as to ensure that the source of each document may be determined, if  
5 necessary.

6           13. Documents attached to each other should not be separated.

7           14. In lieu of producing originals or copies thereof, you may, at your  
8 option, submit legible photographic or other reproductions of documents, provided  
9 that the originals or copies from which such reproductions are made are retained by  
10 you until the disposition of this litigation.

11           15. The singular of a word shall include the plural and vice versa; the  
12 masculine form of a pronoun shall include the feminine and indefinite form and vice  
13 versa.

14           16. All electronic documents must be produced in electronic form, in  
15 the original or true format of a given computer file or segment of data, as opposed to  
16 an imaged or copied format (the "Native Format"), including but not limited to:

17                   (a) Computerized Data:

- 18                           (1) Hard Disk Drives;  
19                           (2) Notebook Hard Drives;  
20                           (3) Internet Servers;  
21                           (4) Intranet Servers; and  
22                           (5) Palm Pilots.

23                   (b) Portable Digital Media:

- 24                           (1) Compact Disks (CDs);  
25                           (2) DVDs;  
26                           (3) Floppy Disks;  
27                           (4) Laser Disks; and  
28                           (5) Digital Tape Backup.

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(c) Email:

- (1) Email Storage Facilities;
- (2) Servers;
- (3) Networks; and
- (4) Internet Service Providers (ISPs).

(d) Ancient Storage Media:

- (1) Audiotape;
- (2) Videotape;
- (3) Microfilm; and
- (4) Microfiche.

(e) Product Specific Files:

- (1) Word processors (Word, WordPerfect, Notepad)
  - (A) Calendars;
  - (B) Daily Planners; and
  - (C) Microsoft Outlook Products.
- (2) Spreadsheets
  - (A) Excel;
  - (B) Access;
  - (C) Quattro Pro;
  - (D) Microsoft Works; and
  - (E) Quicken.
- (3) Microsoft PowerPoint

17. Electronic forms of documents shall be produced in such a way as to not hide the following information contained in most electronic files:

- (a) The filename, name, or identity of the actual author and the platform or software used to create the subject writing.

1 (b) The date that the writing was created and a revision  
2 history setting forth the dates that underlying or related files were written, modified,  
3 erased, or deleted.

4 (c) The dates and times that the file was opened or otherwise  
5 accessed.

6 (d) Comments, links, and other hidden components.

7 (e) The storage path of the underlying and related files.

8 (f) The identity and location of the other related authors and  
9 documents.

10 (g) The directories and subdirectories of the writing.

11 (h) Deleted files and temporary files that were erased and  
12 over-written.

13 18. With respect to the foregoing requests, to the extent possible, the  
14 documents are to be produced in all of the following formats listed below:

15 (a) Hard copies of all of the requested information;

16 (b) Native file format, including all metafiles and metatags;

17 (c) PDF (Portable Document Files); and

18 (d) TIFF Format (Tagged Image File format).

19 **II.**

20 **DEFINITIONS**

21 The following terms shall have the meanings set forth below:

22 1. "All" means each, every, any and all.

23 2. "Defendants," "You," or "Your" means United States of  
24 America, and its current and former employees, attorneys, accountants, agents,  
25 affiliates and representatives.

26 3. "Defensibility memorandum" refers to the memorandum, dated  
27 July 19, 1993, from Janet Reno, Attorney General of the United States, to the  
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1 President of the United States entitled "Defensibility of the new policy on  
2 homosexual conduct in the armed forces."

3 4. "Communications" means the transmission or transfer of  
4 information of any kind, orally, in writing, or in any other manner, at any time or  
5 place, and under any circumstances whatsoever, including without limitation  
6 telephone conversations, letters, memoranda, electronic mail, notes, notes of  
7 meetings, summaries, photographs, motion pictures, audio tapes, video tapes,  
8 computer telecommunications, electronic or magnetic media, or other materials or  
9 memorials or communications, meetings or any occasions of joint or mutual  
10 presence, as well as the transfer of any Documents from one person to another.

11 5. "Document(s)" means all written or graphic matter including all  
12 writings, however produced or reproduced, of every kind and description, however  
13 denominated, in the above-named Defendant's actual or constructive possession,  
14 custody, care or control, including, but not limited to the originals (or copies where  
15 originals are unavailable), of notices, correspondence, papers, including work  
16 papers, drafts, books, pamphlets, periodicals, accounts, letters, photographs, objects,  
17 microfilm, electronic mail, telegrams, telexes, facsimiles, notes, or sound recordings  
18 or other memorials of any type of personal or telephone conversations or of  
19 meetings or conferences, minutes of committee meetings, memoranda, inter- or  
20 intra-office communications, calendars, diaries, daily logs, records, reports, studies,  
21 estimates, surveys, written forecasts, analyses, contracts, licenses, agreements,  
22 charts, graphs, indexes, statistical records, data sheets, data processing cards,  
23 computer printouts, computer disks, computer drives, computer records of any kind,  
24 including backups, videotapes, motion pictures, or things similar to any of the  
25 foregoing, however, denominated.

26 6. The term "relating to" means consisting of, constituting,  
27 concerning, referring to, embodying, comprising, reflecting, identifying, stating,  
28 dealing with, commenting on, responding to, describing, evidencing, analyzing,

1 containing information concerning, or in any way pertaining to the subject matter of  
2 the Requests, whether directly or indirectly.

3 7. "Policy" shall mean the so-called "Don't Ask, Don't Tell, Don't  
4 Pursue" policy, codified as federal law in Title 10, Section 654 of the United States  
5 Code, entitled "Policy Concerning Homosexuality in the Armed Forces."

6 8. "DOD Regulations" shall mean the Department of Defense  
7 regulations and directives promulgated under the Policy.

8 9. The "Act" refers to section 571 of the National Defense  
9 Authorization Act for Fiscal Year 1994 codified as federal law in Title 10, Section  
10 654 of the United States Code.

11 10. "DOD" refers to the Department of Defense.

12 11. "DOD Act Regulations" refer to all regulations promulgated by  
13 the DOD pursuant to the Act as set forth in Documents including, but not limited to,  
14 the following:

15 (a) the memorandum dated February 5, 1994 from Defense  
16 Secretary Les Aspin to the service secretaries and the Chairman of the Joint Chiefs  
17 of Staff entitled "Implementation of DOD Policy on Homosexual Conduct in the  
18 Armed Forces" (referred to hereinafter as the "Implementation Memorandum");

19 (b) DOD Directive 1304.26 entitled "Qualification Standards  
20 for Enlistment, Appointment and Induction";

21 (c) the memorandum from Assistant Defense Secretary Edwin  
22 Dorn to the assistant service secretaries entitled "Briefing Armed Forces  
23 Applicants" (referred to hereinafter as the "Briefing Memorandum");

24 (d) DOD Directive 1332.14 entitled "Enlisted Administrative  
25 Separations";

26 (e) DOD Directive 1332.30 entitled "Separation of Regular  
27 Commissioned Officers";

28

1 (f) DOD Instruction 5505.8 entitled "Investigations of Sexual  
2 Misconduct by the Defense Criminal Investigative Organizations and Other DoD  
3 Law Enforcement Organizations";

4 (g) the memorandum from the Deputy Defense Secretary to  
5 the secretaries of the military departments entitled "Implementation of 'Policy  
6 Guidelines on Homosexual Conduct in the Armed Forces' in Personnel Security  
7 Investigation and Adjudication" (referred to hereinafter as the "Investigation and  
8 Adjudication Memorandum"); and

9 (h) the memorandum from Assistant Defense Secretary Edwin  
10 Dorn to the assistant service secretaries entitled "Training Guidance for DOD Policy  
11 on Homosexual Conduct in the Armed Forces," and the attached "DOD Policy on  
12 Homosexual Conduct Training Plan" (referred to hereinafter collectively as the  
13 "Training Plan Memorandum").

14 12. "GAO" refers to the United States Government Accounting  
15 Office.

16 13. "PERSEREC" refers to the Defense Personnel Security Research  
17 and Education Center.

18 14. "Policy Memorandum" refers to the memorandum, dated July  
19 19, 1993 from Defense Secretary Les Aspin service secretaries and the Chairman,  
20 Joint Chiefs of Staff entitled "Policy on Homosexual Conduct in the Armed Forces."

21 15. "Congress" refers to any committee, subcommittee, or member  
22 of the United States House of Representatives or United States Senate.

23 16. "United States Armed Forces" refers to all branches of the  
24 United States military including the Air Force, Army, Marines, Navy, the National  
25 Guard and any other special military forces.

1 III.

2 REQUESTS FOR PRODUCTION

3 DOCUMENT REQUEST NO. 1:

4 All Documents referring or relating to the United States Armed Forces'  
5 statement that "[h]omosexuality is incompatible with military service." DOD  
6 Directive 1332.14 (January, 1981).

7 DOCUMENT REQUEST NO. 2:

8 All drafts of the Policy.

9 DOCUMENT REQUEST NO. 3:

10 All Documents, including studies, research, and/or analysis, relating to  
11 the Policy.

12 DOCUMENT REQUEST NO. 4:

13 All Documents referring or relating to the drafting of the DOD  
14 Directives 1332.14, 1332.30, and 1304.26.

15 DOCUMENT REQUEST NO. 5:

16 All Documents, including studies, research, and/or analysis, relating to  
17 the Department of Defense Directives 1332.14, 1332.30 and 1304.26.

18 DOCUMENT REQUEST NO. 6:

19 All Documents referring or relating to the statement that the "presence  
20 in the armed forces of persons who demonstrate a propensity or intent to engage in  
21 homosexual acts would create an unacceptable risk to the high standards of morale,  
22 good order and discipline, and unit cohesion that are the essence of military  
23 capability." 10 U.S.C. § 654(a)(15).

24 DOCUMENT REQUEST NO. 7:

25 All Documents referring or relating to members of the Armed Forces  
26 discharged under the Policy and DOD Regulations whose primary mission was not  
27 "to engage in direct combat."  
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1 **DOCUMENT REQUEST NO. 8:**

2 All Documents, including studies, research, and/or analysis, relating to  
3 the application of the Policy.

4 **DOCUMENT REQUEST NO. 9:**

5 All Documents (dating from January 1, 2003 to the present), including  
6 studies, research, and/or analysis, relating to the application of the Policy to women  
7 in the United States Armed Forces.

8 **DOCUMENT REQUEST NO. 10:**

9 All Documents (dating from January 1, 2003 to the present) referring or  
10 relating to the compatibility or incompatibility of gay and lesbian Americans with  
11 service in the United States Armed Forces from January 1, 2003 to the present.

12 **DOCUMENT REQUEST NO. 11:**

13 All Documents (dating from January 1, 2003 to the present) relating to  
14 any effect or lack of effect on combat effectiveness caused by, resulting from,  
15 associated with, or accompanying the presence in the United States Armed Forces of  
16 gay or lesbian servicemembers.

17 **DOCUMENT REQUEST NO. 12:**

18 All Documents (dating from January 1, 2003 to the present) relating to  
19 any effect or lack of effect on combat effectiveness caused by, resulting from,  
20 associated with or accompanying the presence in the United States Armed Forces of  
21 servicemembers who engage in or have engaged in homosexual conduct.

22 **DOCUMENT REQUEST NO. 13:**

23 All Documents (dating from January 1, 2003 to the present) relating to  
24 any effect or lack of effect on unit cohesion caused by, resulting from, associated  
25 with, or accompanying the presence in the United States Armed Forces of gay or  
26 lesbian servicemembers.

1 **DOCUMENT REQUEST NO. 14:**

2 All Documents (dating from January 1, 2003 to the present) relating to  
3 any effect or lack of effect on unit cohesion caused by, resulting from, associated  
4 with, or accompanying the presence in the United States Armed Forces of  
5 servicemembers who engage in or have engaged in homosexual conduct.

6 **DOCUMENT REQUEST NO. 15:**

7 All Documents (dating from January 1, 2003 to the present) relating to  
8 any effect or lack of effect on unit morale caused by, resulting from, associated  
9 with, or accompanying the presence in the United States Armed Forces of gay or  
10 lesbian servicemembers.

11 **DOCUMENT REQUEST NO. 16:**

12 All Documents (dating from January 1, 2003 to the present) relating to  
13 any effect or lack of effect on unit morale caused by, resulting from, associated  
14 with, or accompanying the presence in the United States Armed Forces of  
15 servicemembers who engage in or have engaged in homosexual conduct.

16 **DOCUMENT REQUEST NO. 17:**

17 All Documents (dating from January 1, 2003 to the present) relating to  
18 any effect or lack of effect on good order caused by, resulting from, associated with,  
19 or accompanying the presence in the United States Armed Forces of gay or lesbian  
20 servicemembers.

21 **DOCUMENT REQUEST NO. 18:**

22 All Documents (dating from January 1, 2003 to the present) relating to  
23 any effect or lack of effect on good order caused by, resulting from, associated with,  
24 or accompanying the presence in the United States Armed Forces of  
25 servicemembers who engage in or have engaged in homosexual conduct.

26 **DOCUMENT REQUEST NO. 19:**

27 All Documents (dating from January 1, 2003 to the present) relating to  
28 any effect or lack of effect on discipline caused by, resulting from, associated with,

1 or accompanying the presence in the United States Armed Forces of gay or lesbian  
2 servicemembers.

3 **DOCUMENT REQUEST NO. 20:**

4 All Documents (dating from January 1, 2003 to the present) relating to  
5 any effect or lack of effect on discipline caused by, resulting from, associated with,  
6 or accompanying the presence in the United States Armed Forces of  
7 servicemembers with a homosexual orientation.

8 **DOCUMENT REQUEST NO. 21:**

9 All Documents (dating from January 1, 2003 to the present) relating to  
10 any effect or lack of effect on readiness to fight caused by, resulting from,  
11 associated with, or accompanying the presence in the United States Armed Forces of  
12 gay or lesbian servicemembers.

13 **DOCUMENT REQUEST NO. 22:**

14 All Documents (dating from January 1, 2003 to the present) relating to  
15 any effect or lack of effect on readiness to fight caused by, resulting from,  
16 associated with, or accompanying the presence in the United States Armed Forces of  
17 servicemembers who engage in or have engaged in homosexual conduct.

18 **DOCUMENT REQUEST NO. 23:**

19 The Implementation Memorandum and all drafts or prior versions of  
20 that Memorandum.

21 **DOCUMENT REQUEST NO. 24:**

22 The Policy Memorandum and all drafts or prior versions of that  
23 Memorandum.

24 **DOCUMENT REQUEST NO. 25:**

25 DOD Directive 1304.26 and all drafts or prior versions of that  
26 Directive.

1 **DOCUMENT REQUEST NO. 26:**

2 The Briefing Memorandum and all drafts or prior versions of that  
3 Memorandum.

4 **DOCUMENT REQUEST NO. 27:**

5 DOD Directive 1332.14 and all drafts or prior versions of that  
6 Directive.

7 **DOCUMENT REQUEST NO. 28:**

8 DOD Directive 1332.30 and all drafts or prior versions of that  
9 Directive.

10 **DOCUMENT REQUEST NO. 29:**

11 DOD Instruction 5505.8 and all drafts or prior versions of that  
12 Instruction.

13 **DOCUMENT REQUEST NO. 30:**

14 The Investigation and Adjudication Memorandum and all drafts or  
15 prior versions of that Memorandum.

16 **DOCUMENT REQUEST NO. 31:**

17 The Training Plan Memorandum and all drafts or prior versions of that  
18 Memorandum.

19 **DOCUMENT REQUEST NO. 32:**

20 All studies, reports, or other documents relied upon, presented to or  
21 considered, consulted or reviewed by Defendants in connection with the formation  
22 of the rules, policies, and guidelines set forth in the Act and the DOD Regulations.

23 **DOCUMENT REQUEST NO. 33:**

24 All studies, reports or recommendations of the “working group of  
25 senior officers in the Department of Defense” referred to in the Policy  
26 Memorandum, including drafts of each study, report, or recommendation and each  
27 document concerning any such study, report, or recommendation.  
28



1 **DOCUMENT REQUEST NO. 34:**

2 All studies, reports, or recommendations of the DOD staff working  
3 group responsible for drafting the DOD Regulations.

4 **DOCUMENT REQUEST NO. 35:**

5 All Documents concerning the "personnel policies" referred to in the  
6 Policy Memorandum.

7 **DOCUMENT REQUEST NO. 36:**

8 All studies, reports, or other documents (dating from January 1, 2003 to  
9 the present) concerning United States Armed Forces service and homosexual  
10 conduct or homosexual orientation, other than documents solely concerning specific  
11 servicemembers.

12 **DOCUMENT REQUEST NO. 37:**

13 All studies, reports, or other documents relied upon, presented to, in the  
14 files of or considered, consulted, or reviewed by Defendants (dating from January 1,  
15 2003 to the present) concerning the presence in the United States Armed Forces of  
16 gay or lesbian servicemembers, servicemembers with a homosexual orientation or  
17 servicemembers who engage in or have engaged in homosexual conduct.

18 **DOCUMENT REQUEST NO. 38:**

19 The Defensibility Memorandum and all drafts or prior versions of that  
20 Memorandum.

21 **DOCUMENT REQUEST NO. 39:**

22 All Documents prepared by the Attorney General of the United States,  
23 any attorney or any other employee of the DOD or the Department of Justice, or any  
24 attorney for Defendants concerning United States Armed Forces personnel and  
25 homosexual conduct or homosexual orientation, other than documents solely  
26 concerning specific servicemembers.  
27  
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1 **DOCUMENT REQUEST NO. 40:**

2 All Documents relating to Lawrence v. Texas, 539 U.S. 558 (2003) and  
3 its effect or lack of effect on the Policy, the implementation of the Policy, or the  
4 legality of the Policy.

5 **DOCUMENT REQUEST NO. 41:**

6 All Documents that concern United States Armed Forces personnel and  
7 homosexual conduct or homosexual orientation prepared by or under the direction  
8 of Defendants (dating from January 1, 2003 to the present), including but not limited  
9 to position papers, policy reports, and drafts of legislation.

10 **DOCUMENT REQUEST NO. 42:**

11 All rules, regulations, policies, directives, instructions, manuals,  
12 guidelines, memoranda, administrative decisions, handbooks, or reports concerning  
13 sexual conduct, sexual behavior or sexual orientation of servicemembers.

14 **DOCUMENT REQUEST NO. 43:**

15 All reports, interim reports, and drafts or summaries of reports prepared  
16 by the United States GAO concerning United States Armed Forces personnel and  
17 homosexual conduct or homosexual orientation, including but not limited to the  
18 reports entitled "Homosexuals in the Military: Policies and Practices of Foreign  
19 Countries," "Defense Force Management: DOD's Policy on Homosexuality," and  
20 "Financial Costs and Loss of Critical Skills Due to DOD's Homosexual Conduct  
21 Policy Cannot be Completely Estimated."

22 **DOCUMENT REQUEST NO. 44:**

23 All reports, interim reports, and drafts or summaries of reports prepared  
24 by the RAND Corporation's ("RAND") National Defense Research Institute  
25 concerning United States Armed Forces personnel and homosexual conduct or  
26 homosexual orientation, including but not limited to a report entitled "Sexual  
27 Orientation and U.S. Military Personnel Policy: Options and Assessment."  
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1 **DOCUMENT REQUEST NO. 45:**

2 All Documents concerning reports, interim reports, and drafts or  
3 summaries of reports prepared by RAND's National Defense Research Institute,  
4 including, but not limited to, all correspondence and communications between  
5 RAND and Defendants regarding the nature, scope and focus of "Sexual Orientation  
6 and U.S. Military Personnel Policy," "Individual Characteristics and Unit  
7 Performance: A Review of Research and Methods," and all other reports prepared  
8 by RAND.

9 **DOCUMENT REQUEST NO. 46:**

10 All reports, interim reports, and drafts or summaries of reports  
11 produced by or in countries other than the United States that were commissioned,  
12 requested, or consulted by the United States Army Research Office and that concern  
13 homosexual conduct or homosexual orientation within the armed forces of such  
14 countries, including but not limited to the report entitled "Homosexuality and  
15 Armed Forces in the Netherlands" produced by the Dutch Foundation on Armed  
16 Forces and commissioned by the European Research Office of the United States  
17 Army.

18 **DOCUMENT REQUEST NO. 47:**

19 All reports, interim reports, and drafts or summaries of reports relating  
20 to countries other than the United States' experience with, consideration of, or  
21 evaluation of military service by individuals with a homosexual orientation or by  
22 individuals who engage in homosexual conduct.

23 **DOCUMENT REQUEST NO. 48:**

24 All reports, interim reports, and drafts or summaries of reports prepared  
25 by the Walter Reed Army Institute of Research concerning United States Armed  
26 Forces personnel and homosexual conduct or homosexual orientation, including but  
27 not limited to a report entitled "Evaluating the Unit Manning System: Lessons  
28 Learned to Date" and "'Unit Reconstitution in a Wartime Scenario,' in David

1 Marlow, ed., Unit Manning System Field Evaluation: Technical Report 4” by the  
2 Department of Military Psychiatry, “Unit Manning System Field Evaluation:  
3 Technical Report No. 5” edited by Faris Kirkland and Linette Sparzcino, and all  
4 correspondence and communications between the Walter Reed Army Institute of  
5 Research and Defendants regarding the nature, scope, and focus of the above reports  
6 and all other reports prepared by the Walter Reed Army Institute of Research.

7 **DOCUMENT REQUEST NO. 49:**

8 All reports, interim reports and drafts or summaries of reports prepared  
9 by the Army Research Institute concerning United States Armed Forces personnel  
10 and homosexual conduct or homosexual orientation.

11 **DOCUMENT REQUEST NO. 50:**

12 All rules, regulations, policies, directives, instructions, manuals,  
13 guidelines, memoranda, administrative decisions, handbooks or reports formulated,  
14 prepared for or on behalf of the Bureau of Naval Personnel concerning homosexual  
15 orientation and homosexual conduct in the Navy, including but not limited to those  
16 Documents prepared for or on behalf of the office of the Chief of Naval Personnel  
17 for Personal Readiness and Community Support.

18 **DOCUMENT REQUEST NO. 51:**

19 All rules, regulations, policies, directives, instructions, manuals,  
20 guidelines, memoranda, administrative decisions, handbooks, or reports concerning  
21 the United States Armed Forces’ treatment of servicemembers who discriminate  
22 against others or whose conduct is motivated by a prejudice based on another’s race,  
23 gender, or religion, including but not limited to the anti-prejudice programs and  
24 procedures through which servicemembers are trained to act in a non-discriminatory  
25 manner and the formal procedures through which discriminatory behavior by  
26 servicemembers is addressed.

1 **DOCUMENT REQUEST NO. 52:**

2 All rules, regulations, policies, directives, instructions, manuals,  
3 guidelines, memoranda, administrative decisions, handbooks, or reports concerning  
4 the United States Armed Forces' implementation of the Policy or the Act, including,  
5 but not limited to, the Navy Manpower Analysis Center, "Homosexual  
6 Administrative Discharge Board/Show Cause Hearings," memorandum of  
7 Department of the Navy, June 1994, Judith Miller, General Counsel of the  
8 Department of Defense, "Memorandum for the General Counsels of the Military  
9 Departments, the Judge Advocate General of the Army, the Judge Advocate General  
10 of the Navy, the Judge Advocate General of the Air Force, the Staff Advocate to the  
11 Commandant of the Marine Corps: Policy on Homosexual Conduct in the Armed  
12 Forces," August 18, 1995, and Regulation 500-3-3. vol. 3, "Reserve Component  
13 Unit Commanders Handbook," U.S. Army, 1999, Table 2.1: "Personnel Actions  
14 During the Mobilization Process."

15 **DOCUMENT REQUEST NO. 53:**

16 All editions of the Pentagon's "Early Bird" in which articles  
17 concerning United States Armed Forces personnel and homosexual conduct or  
18 homosexual orientation were published.

19 **DOCUMENT REQUEST NO. 54:**

20 The "Report of the Board Appointed to Prepare and Submit  
21 Recommendations to the Secretary of the Navy for the Revision of Policies,  
22 Procedures and Directives Dealing with Homosexuals" (the "Crittenden Report"),  
23 any drafts of the Crittenden Report, and any Documents concerning the Crittenden  
24 Report.

25 **DOCUMENT REQUEST NO. 55:**

26 All reports, research, or analyses prepared or undertaken by the  
27 Defense Personnel Security Research and Education Center that concern United  
28 States Armed Forces personnel and homosexual conduct or homosexual orientation,

1 and drafts of such reports, research or analyses, and any Documents concerning such  
2 reports, research or analyses.

3 **DOCUMENT REQUEST NO. 56:**

4 All reports, research, or analyses prepared or undertaken by the office  
5 of the Surgeon General that concern United States Armed Forces personnel and  
6 homosexual conduct or homosexual orientation.

7 **DOCUMENT REQUEST NO. 57:**

8 All reports, research, or analysis concerning United States Armed  
9 Forces personnel and homosexual conduct or homosexual orientation  
10 commissioned, requested, or received by Defendants from any person or  
11 organization, including, but not limited to, the Family Research Council, the  
12 Defense Readiness Council, the Center for Military Readiness, TROA, the  
13 American Security Council Foundation, the Conservative Resource Center, Exodus  
14 International, Regeneration, the Jackson Institute, and the Homosexual Study  
15 Group.

16 **DOCUMENT REQUEST NO. 58:**

17 All public statements made by the Defendants (dating from January 1,  
18 2003 to the present), including but not limited to speeches, presentations, reports,  
19 and press releases, on the subject of United States Armed Forces personnel and  
20 homosexual conduct or homosexual orientation, and all drafts or prior versions of  
21 those public statements.

22 **DOCUMENT REQUEST NO. 59:**

23 All Documents upon which the Defendants intend to rely to support  
24 their position that the Act, the DOD Regulations, and the DOD Act Regulations are  
25 rationally related to a legitimate purpose.

1 **DOCUMENT REQUEST NO. 60:**

2 All Documents related to the GAO report entitled "Defense Force  
3 Management: DOD's Policy on Homosexuality," including but not limited to a  
4 draft report dated March 9, 1992.

5 **DOCUMENT REQUEST NO. 61:**

6 All correspondence and other documents transmitted between  
7 defendants and Congress related to GAO studies or reports related to DOD's policy  
8 on the service of gay men and lesbians in the United States Armed Forces.

9 **DOCUMENT REQUEST NO. 62:**

10 The PERSEREC report entitled "Nonconforming Sexual Orientations  
11 and Military Suitability," prepared by Theodore R. Sarbin and Kenneth E. Karols,  
12 dated December 1988 and all Documents relating thereto.

13 **DOCUMENT REQUEST NO. 63:**

14 The PERSEREC report entitled "Preservice Adjustment of Homosexual  
15 and Heterosexual Military Accessions: Implications for Security Clearance  
16 Suitability," prepared by Michael McDaniel, dated January 1989 and all Documents  
17 relating thereto.

18 **DOCUMENT REQUEST NO. 64:**

19 All Documents related to PERSEREC studies concerning the service of  
20 gay and lesbian servicemembers in the United States Armed Forces.

21 **DOCUMENT REQUEST NO. 65:**

22 All correspondence and other documents transmitted between  
23 Defendants and Congress related to PERSEREC studies and reports related to  
24 DOD's policy on the service of gay and lesbian servicemembers in the United States  
25 Armed Forces.

1 **DOCUMENT REQUEST NO. 66:**

2 All documents related to the policies, procedures, handbooks, rules,  
3 guidelines, or communications relating to deployment of known or suspected gay or  
4 lesbian servicemembers from the year 2001 to the present.

5 **DOCUMENT REQUEST NO. 67:**

6 All documents related to the deployment of gay or lesbian  
7 servicemembers in the process of discharge proceedings for homosexual conduct  
8 from the year 2001 to the present.

9 **DOCUMENT REQUEST NO. 68:**

10 All Documents related to any restriction on polling of service members  
11 on the subject of the service of gay men and lesbians (as described in RAND  
12 National Defense Research Institute, "Sexual Orientation and U.S. Military  
13 Personnel Policy: Options and Assessments," at 209 n.2 (1993)), during the period  
14 from January 1992 to the present.

15 **DOCUMENT REQUEST NO. 69:**

16 All Documents and communications referring or relating to the total  
17 number of enlisted members of the United States Armed Forces who were  
18 discharged from 1994 through the present pursuant to the Policy and DOD  
19 Regulations.

20 **DOCUMENT REQUEST NO. 70:**

21 All Documents and communications referring or relating to the number  
22 of officers of the United States Armed Forces that were discharged from 1994  
23 through the present pursuant to the Policy, DOD Regulations, and DOD Act  
24 Regulations.

25 **DOCUMENT REQUEST NO. 71:**

26 All Documents and communications referring or relating to the number  
27 of persons of the United States Armed Forces that were discharged from 1994  
28



1 through the present pursuant to the Policy and DOD Regulations that contested their  
2 discharge.

3 **DOCUMENT REQUEST NO. 72:**

4 All Documents and communications referring or relating to the  
5 Administrative Separation Board and/or Board of Inquiries' policies, guidelines,  
6 directives, handbooks, or other Documents as to the separation of servicemembers  
7 under the Policy or DOD Regulation.

8 **DOCUMENT REQUEST NO. 73:**

9 All Documents relating to any servicemembers' having demonstrated  
10 during a discharge proceeding all of the elements listed in 10 U.S.C. § 654(b)(1)(A)-  
11 (E).

12 **DOCUMENT REQUEST NO. 74:**

13 All Documents and communications referring or relating to the number  
14 of persons of the United States Armed Forces that were subjected to discharge  
15 proceedings, contested their discharge, and ultimately were not discharged from  
16 1994 through the present pursuant to the Policy and DOD Regulations.

17 **DOCUMENT REQUEST NO. 75:**

18 All Documents and communications referring or relating to all studies  
19 and assessments concerning service by gay and lesbian servicemembers in the  
20 United States Armed Forces.

21 **DOCUMENT REQUEST NO. 76:**

22 All Documents and communications referring or relating to all public  
23 opinion polls issued concerning service by gay or lesbian servicemembers in the  
24 United States Armed Forces.  
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1 **DOCUMENT REQUEST NO. 77:**

2 All documents received by Congress from 1992 through December 31,  
3 1993 concerning the service of gay and lesbian servicemembers in the United States  
4 Armed Forces.

5 **DOCUMENT REQUEST NO. 78:**

6 All Documents referring or relating to the section entitled "Personnel  
7 Actions During the Mobilization Process," Regulation 500-3-3. vol. 3, "Reserve  
8 Component Unit Commanders Handbook," U.S. Army, 1999, Table 2.1.

9 **DOCUMENT REQUEST NO. 79:**

10 The Reserve Component Unit Commanders Handbook, U.S. Army,  
11 1999.

12 Dated: September 15, 2009

WHITE & CASE LLP

13  
14 By: 

15 Patrick O. Hunnius  
16 Counsel for Plaintiff Log Cabin  
17 Republicans  
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PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 633 W. Fifth Street, Suite 1900, Los Angeles, CA 90071-2007. I am employed by a member of the Bar of this Court at whose direction the service was made.

On September 15, 2009, I served the foregoing document(s) described as LOG CABIN REPUBLICANS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS PROPOUNDED TO UNITED STATES OF AMERICA on the person(s) below, as follows:

Tony West  
Vincent M. Garvey  
Paul G. Freeborne  
U.S. Department of Justice  
Civil Division  
Federal Programs Branch  
P.O. Box 883  
Washington, D.C. 20044

Telephone: (202) 353-0543  
Facsimile: (202) 616-8460



(BY MAIL) I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the address(es) listed above and placed the envelope for collection and mailing at White & Case, LLP, Los Angeles, California, following our ordinary business practices. I am readily familiar White & Case's practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, the correspondence would be deposited in the United States Postal Service on that same day in the ordinary course of business.

Executed on September 15, 2009, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the above is true and correct.

  
Cynthia Gomez